

RESOLUTION NO. 2020-163

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE MAYOR AND THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE ATTACHED URBAN COUNTY COOPERATION AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF COCONUT CREEK FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE ACTIVITIES FUNDED THROUGH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS FOR FEDERAL FISCAL YEARS 2021-2023; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Housing and Community Development Act of 1974, as amended, authorizes counties to enter into cooperation agreements with other local governments to implement activities funded through the U.S. Department of Housing and Urban Development (“HUD”) Community Development Block Grant (“CDBG”) program funds; and

WHEREAS, Broward County has been designated by HUD as an “Urban County” pursuant to 24 C.F.R. Part 570.307 for the purpose of receiving an allocation of CDBG program funding from HUD; and

WHEREAS, the City is designated as an entitlement city pursuant to 24 C.F.R Part 570.4, with a population in excess of 50,000, entitling the City to receive CDBG funds directly from HUD and implement its own CDBG programs; and

WHEREAS, the City has instead elected to receive its CDBG funds through the County and be included in the County’s Urban County designation for receipt of CDBG funds from HUD; and

WHEREAS, the City desires for the County to receive the City’s allocation of CDBG Program funding and administer the CDBG Program funds pursuant to the cooperation agreement between the County and the City for the Preparation, Implementation and

Administration by the County for the City's CDBG Program for Federal Fiscal Years 2021-2023; and

WHEREAS, the City Commission find and determines it to be in the best interest of the residents of the City of Coconut Creek to enter into said cooperation agreement with Broward County.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution.

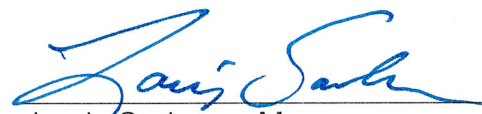
Section 2: That the City Commission has reviewed and hereby approves the attached agreement between Broward County and the City of Coconut Creek for the implementation and administration by the County for the City's CDBG program funds for the Federal Fiscal Years 2021-2023.

Section 3: That the Mayor and the City Manager, or designee, is hereby authorized to execute said agreement between Broward County and the City of Coconut Creek.

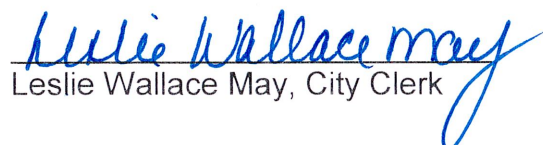
Section 4: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

Section 5: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 27th day of August, 2020.


Louis Sarbone, Mayor

Attest:


Leslie Wallace May, City Clerk

Sarbone	<u>Aye</u>
Rydell	<u>Aye</u>
Tooley	<u>Aye</u>
Belvedere	<u>Aye</u>
Welch	<u>Aye</u>



**URBAN COUNTY COOPERATION AGREEMENT
BETWEEN BROWARD COUNTY AND CITY OF COCONUT CREEK**

This Agreement (“Agreement”) is made and entered by and between Broward County, a political subdivision of the State of Florida (“County”), and City of Coconut Creek, a Florida municipal corporation (“City”) (each a “Party” and collectively referred to as the “Parties”).

RECITALS

A. The Housing and Community Development Act of 1974, as amended, authorizes counties to enter into cooperation agreements with other local governments to implement activities funded through the U.S. Department of Housing and Urban Development (“HUD”) Community Development Block Grant (“CDBG”) program funds.

B. County has been designated by HUD as an “Urban County” pursuant to 24 C.F.R. Part 570.307 for the purpose of receiving an allocation of CDBG program funding from HUD.

C. City is designated as an entitlement city pursuant to 24 C.F.R Part 570.4, with a population in excess of 50,000, entitling City to receive CDBG funds directly from HUD and implement its own CDBG programs.

D. City has instead elected to receive its CDBG funds through the County and be included in County’s Urban County designation for receipt of CDBG funds from HUD.

E. In accordance with HUD Notice CPD-20-03, issued March 9, 2020, a copy of which is incorporated herein by reference, the cooperation of the Parties is essential for the successful planning and implementation of County’s CDBG program under an Urban County designation by HUD for federal fiscal years 2021 through 2023.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.2. **Contract Administrator** means the Director of the Housing Finance and Community Redevelopment Division, or such other person designated by same in writing.

ARTICLE 2. COOPERATION

- 2.1. This Agreement covers the CDBG entitlement program during federal fiscal years 2021 through 2023.

2.2. City agrees to receive its CDBG funding through County's CDBG program in accordance with HUD's allocation formula for HUD eligible projects in City and further agrees to be included in County's Urban County designation for receipt of CDBG funds from HUD. For projects implemented by City, if HUD determines that City's proposed use of the CDBG funds is not eligible under HUD guidelines, City shall be required to repay County immediately any amounts determined by HUD not to have been properly expended.

2.3. City acknowledges and understands that by executing this Agreement City may not apply for grants from appropriations under the State CDBG program for fiscal years during the period in which it participates in County's CDBG program.

2.4 County has final responsibility for selecting CDBG activities and submitting the Consolidated Plan to HUD. However, if County is a member of a HOME consortium, the consortium will submit the Plan developed by County.

2.5 This Agreement prohibits Urban County funding for activities in, or in support of, any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes County's actions to comply with County's fair housing certification.

2.6 County and City agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.

2.7 County and City shall take all actions necessary to assure compliance with County's certification under Section 104(b) of Title I of the Housing and Community Development Act of 1974, and that the grant will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Fair Housing Act and will affirmatively further fair housing. County and City must comply with Section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973 of Title II of the Americans with Disabilities Act, the Age Discrimination Act of 1975, and Section 3 of the Housing and Urban Development Act of 1968, and will comply with other applicable laws.

2.8 City has adopted and is enforcing:

- (1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.
- (2) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

2.9 Pursuant to 24 C.F.R. 570.501(b), City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 C.F.R. Part 570.503.

2.10 City shall undertake any actions determined by County to be necessary to carry out a community development program and the approved Consolidated Plan, and to meet other requirements of the CDBG program and other applicable laws.

2.11 City may not sell, trade, or otherwise transfer all or any portion of CDBG funds to another metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

ARTICLE 3. TERM AND TIME OF PERFORMANCE

3.1. Term. This Agreement shall commence on October 1, 2021 and shall expire on September 30, 2024 (“Initial Term”).

3.2. Automatic Renewal. At the expiration of the Initial Term, this Agreement shall automatically renew for successive three (3) year terms (each, a “Renewal Term” and the Initial Term together with any Renewal Terms, the “Term”), unless County or City provide the other Party with written notice, at least ninety (90) days prior to expiration of the initial Term or the then-existing Renewal Term, that it elects not to participate in a new qualification period (“Nonrenewal Notice”). A copy of the Nonrenewal Notice must also be sent to HUD’s field office. County will notify City in writing of its right not to participate in a new qualification period (“Participation Notice”) by the date specified in HUD’s Urban County qualification notice provided to County for the new qualification period. A copy of the Participation Notice must also be sent to HUD’s field office by the date specified in the schedule in Section II of HUD’s Urban County qualification notice for the new qualification period.

3.3. Renewal Terms. For each Renewal Term, the Parties must execute an amendment as set forth in Section 4.14 incorporating any changes necessary to meet the requirements for cooperation agreements set forth in HUD’s Urban County qualification notice for such Renewal Term, and to submit such amendment to HUD as provided in Section IV of HUD’s Urban County qualification notice. Failure to amend this Agreement as set forth in the prior sentence shall void the automatic renewal for such Renewal Term.

3.4 Termination. Neither Party may terminate or withdraw from this Agreement while it remains in effect. Notwithstanding Sections 3.1 through 3.2, this Agreement remains in effect under the CDBG funds and program income received (with respect to activities carried out during the Initial Term, and any successive Renewal Terms) are expended and the funded activities completed.

ARTICLE 4. MISCELLANEOUS

4.1. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with City to manage and supervise the performance of this Agreement. Unless

expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement.

4.2. Public Records. The Parties shall comply with all applicable requirements of Chapter 119, Florida Statutes, including the requirements of Section 119.0701.

4.3. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement. County is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

4.4. Third-Party Beneficiaries. Neither City nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

4.5. Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Housing Finance and Community Redevelopment Division
Attn: Director
110 NE 3rd Street, Third Floor
Fort Lauderdale, Florida 33301
Email address: rstone@broward.org

FOR CITY:

City of Coconut Creek
Attention: City Manager
4800 West Copans Road
Coconut Creek, Florida 33063
Email address: kbrooks@coconutcreek.net

4.6. Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by City without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void

and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity.

4.7. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

4.8. Compliance with Laws. City must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

4.9. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

4.10. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

4.11. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

4.12. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 5 of this Agreement, the provisions contained in Articles 1 through 5 shall prevail and be given effect.

4.13. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in

the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT**

4.14. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and City.

4.15. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

4.16. Payable Interest

4.16.1. Payment of Interest. County shall not be liable to pay any interest to City for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof City waives, rejects, disclaims, and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

4.16.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, one quarter of one percent (0.25%) simple interest (uncompounded).

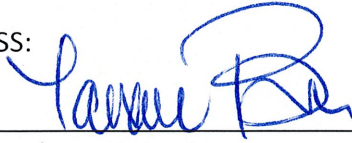
4.17. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

4.18. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)


IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its County Administrator authorized to execute same by Board action on the 16th day of June, 2020 (Item No. 33), and City, signing by and through its Mayor or Vice-Mayor, duly authorized to execute same.

COUNTY

WITNESS: 

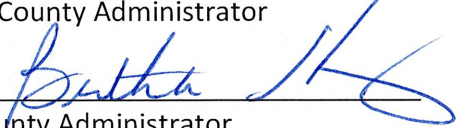
(Signature)
TAMARA BRANNON

(Print Name of Witness)



(Signature)
MATTHEW EATON

(Print Name of Witness)

BROWARD COUNTY, by and through
its County Administrator
By 
County Administrator
16th day of August, 2019₂₀

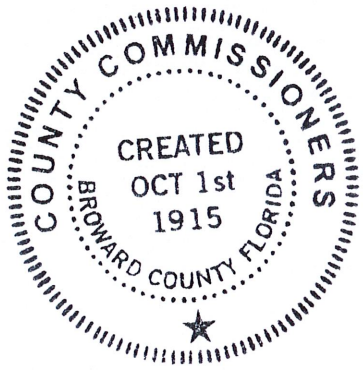
Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By **ALICIA C. LOBEIRAS** Digitally signed by ALICIA C. LOBEIRAS
Date: 2020.08.04 17:22:25 -04'00'

Alicia C. Lobeiras (Date)
Assistant County Attorney

By **ANNIKA E. ASHTON** Digitally signed by ANNIKA E. ASHTON
Date: 2020.08.05 14:54:54 -04'00'

Annika E. Ashton (Date)
Deputy County Attorney



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URBAN COUNTY COOPERATION AGREEMENT
BETWEEN BROWARD COUNTY AND CITY OF COCONUT CREEK

CITY


City of Coconut Creek

By:


Louis Sarbone, Mayor

27th day of August, 2020

By:

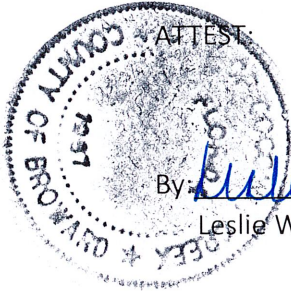

Karen M. Brooks, City Manager

27th day of August, 2020

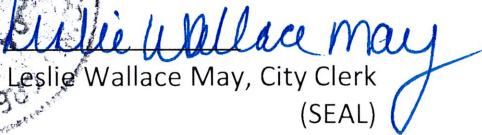
I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:

By: Terrill C. Pyburn, City Attorney





By:


Leslie Wallace May, City Clerk
(SEAL)