



AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF WILTON MANORS PROVIDING FOR ADMINISTRATION OF FUNDS FOR HOMEBUYER PURCHASE ASSISTANCE PROGRAM

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

RECITALS

A. Part E of Section 080-090 of City’s Code of Ordinances created the Affordable Housing Trust Account for the purpose of implementing an affordable housing program within City.

B. City desires to use a portion of the funds in the Affordable Housing Trust Account for purposes of funding a homebuyer purchase assistance program within City.

C. City desires that County use funds from the Affordable Housing Trust Account to administer the homebuyer purchase assistance program within City.

D. On December 11, 2018, the City Commission of City approved and authorized the funding required to administer the Project (as defined herein) and the execution of this Agreement.

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 Housing Finance and Community Redevelopment Division, or such other person designated by same in writing.
- 1.3 **Project** means the Homebuyer Purchase Assistance Program described in Exhibit A.
- 1.4 **Project Funds** means the City’s funds administered by County on behalf of City under this Agreement, as set forth in Exhibit B.

ARTICLE 2. EXHIBITS

The following exhibits are attached hereto and incorporated into this Agreement:

- Exhibit A** **Project Description**
- Exhibit B** **Costs/Budget for Project**

ARTICLE 3. SCOPE OF SERVICES

3.1 County shall administer for City the Project Funds under this Agreement to provide for purchase assistance to eligible homebuyers under the Project, in accordance with the specifications outlined in Exhibit A, Project Description.

3.2 County shall meet with City at reasonable times and with reasonable notice to discuss the Project.

3.3 County shall provide City with quarterly progress reports that will indicate the status of all outstanding work by County for the Project, including the planned versus actual progress of the Project. The Parties must cooperate in the preparation of any and all reports required under this Agreement, or as may be required by the Board or the City Commission of City.

ARTICLE 4. FUNDING

4.1 The maximum amount of funds to be administered for the Project under this Agreement is set forth in Exhibit B, Costs/Budget for Project, and includes a nonrefundable administration fee payable to County in an amount equal to fifteen percent (15%) of the total Project Funds ("Administration Fee"). Prior to County's commencement of the administration services under this Agreement, County shall submit an invoice to City for payment of the Administration Fee and City shall remit the Administration Fee to County.

4.2 County shall submit invoices to City to be reimbursed for "Direct Client Service Expenditures" set forth in Exhibit B, Costs/Budget for Project ("Direct Client Service Expenditures"), made by County under this Agreement. City must pay the invoiced amounts to County within thirty (30) days after receiving an invoice.

4.3 County shall ensure that the loan terms, including affordability restrictions, set forth in Exhibit A, Project Description, are enforced by requiring that each eligible household receiving purchase assistance under this Agreement execute a mortgage and promissory note in favor of County. County shall notify City within thirty (30) days after County's receipt of funds in satisfaction of any mortgage or note executed under the Project. Any amounts received by County in satisfaction of any mortgage or note executed under the Project will, at City's option, either be returned to City within ninety (90) days after receipt by County or be reallocated as Project Funding under this Agreement. County shall cooperate with City in any attempts by City to enforce the terms of any mortgage or note executed under the Project. This paragraph shall survive expiration or earlier termination of this Agreement.

ARTICLE 5. LIABILITY

The Parties are public entities subject to Section 768.28, Florida Statutes, and agree to be fully responsible for acts and omissions of their agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which

sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.

ARTICLE 6. INSURANCE

The Parties are self-insured governmental entities subject to the limitations set forth in Section 768.28, Florida Statutes, and each party shall provide the other party with written verification of liability protection in accordance with state law upon request.

ARTICLE 7. TERM OF AGREEMENT

7.1 The term of this Agreement shall begin on the date it is fully executed by the Parties, and shall end on the later of (a) December 31, 2020, or (b) the date the Project Funds are fully disbursed, unless terminated earlier or extended pursuant to the terms of this Agreement. Either party may submit a written request for an extension to the term of this Agreement to the other party no less than ninety (90) days prior to the expiration date. If the Parties mutually agree to an extension of the term of this Agreement, the Parties shall enter into an amendment as provided in Section 11.11. The Broward County Administrator or such other person designated by same in writing is authorized to execute all extensions of this Agreement.

7.2 Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 8. TERMINATION

8.1. This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by either party. Termination for convenience by either party shall be effective on the termination date stated in written notice provided by such party, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the Broward County Administrator upon such notice as the Broward County Administrator deems appropriate under the circumstances in the event the Broward County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause is provided.

8.2 Notice of termination of this Agreement shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the Broward County Administrator, which the Broward County Administrator deems necessary to protect the public health, safety, or welfare, may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

8.3 City shall be liable for reimbursement, in accordance with Section 4.2, of any Direct Client Service Expenditures made by County prior to the expiration or earlier termination of this Agreement.

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.

ARTICLE 10. 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 e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous e-mail 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. All documentation or payments required to be provided under this Agreement shall also be made at the address provided in this section.

For County:

Ralph Stone, Director
Broward County Housing Finance and
Community Redevelopment Division
110 N.E. 3rd Street - Third Floor
Fort Lauderdale, Florida 33301
E-mail address: rstone@broward.org

For City:

Leigh Ann Henderson, City Manager
City of Wilton Manors
202 Wilton Drive
Wilton Manors, Florida 33305
E-mail address: lhenderson@wiltonmanors.com

ARTICLE 11. MISCELLANEOUS

11.1 Public Records. Each party shall comply with all applicable requirements of Chapter 119, Florida Statutes, including the requirements of Section 119.0701.

11.2 Independent Contractor. County is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In administering the Project Funds under this Agreement, neither County nor its agents shall act as officers, employees, or agents of City. County shall not have the right to bind City to any obligation not expressly undertaken by City under this Agreement.

11.3 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.

11.4 Representation of Authority. Each party represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of such party, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that such party has with any third party or violates any law, rule, regulation, or duty arising in law or equity applicable to such party. Each party further represents and warrants that execution of this Agreement is within such party's legal powers, and each individual executing this Agreement on behalf of such party is duly authorized by all necessary and appropriate action to do so on behalf of such party and does so with full legal authority.

11.5 Compliance with Laws. In performing its duties, responsibilities, and obligations under this Agreement, County and City must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations, including, without limitation, the Americans 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.

11.6 Severability. In the event 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.

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

11.8 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.

11.9 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 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect.

11.10 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.**

11.11 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.

11.12 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.

11.13 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.

11.14 Force Majeure. If the performance of this Agreement, or any obligation hereunder is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or an ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of nonperformance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such nonperformance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the Parties may otherwise have to terminate this Agreement.

11.15 Use of County Logo. City shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

11.16 Designated Representative.

11.16.1 City's designated representative under this Agreement is Pamela Landi, Assistant City Manager.

11.16.2 County's designated representative under this Agreement is the Contract Administrator. The primary responsibilities of the Contract Administrator are to coordinate and communicate with City's designated representative to manage and supervise execution and completion of the Project and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, the Parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Project.

11.17 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.

11.18 Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by either party without the prior written consent of the other party.

IN WITNESS WHEREOF, the Parties have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by action of the Board on the ___ day of _____, 2019 (Agenda Item No. ___), and CITY OF WILTON MANORS, signing by and through its Mayor or Vice Mayor, duly authorized to execute same.

COUNTY

ATTEST:

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____
Mayor

___ day of _____, 20__

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 12/14/2018
Alicia C. Lobeiras (Date)
Assistant County Attorney

By: Annika E. Ashton 12/14/2018
Annika E. Ashton (Date)
Senior Assistant County Attorney

ACL/mdw
Wilton Manors ILA Purchase Assistance.docx
11/20/18
#387124


AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF WILTON MANORS PROVIDING FOR
ADMINISTRATION OF FUNDS FOR HOMEBUYER PURCHASE ASSISTANCE PROGRAM

CITY

ATTEST:

CITY OF WILTON MANORS

By: 
FAITH LOMBARDO
CITY CLERK (SEAL)

By: 
JUSTIN FLIPPEN, MAYOR
13 day of DECEMBER, 2018

By: 
LEIGH ANN HENDERSON,
CITY MANAGER
13th day of December, 2018



I HEREBY CERTIFY that I have approved this
AGREEMENT as to form:

By: 
KERRY L. EZROL
CITY ATTORNEY



EXHIBIT A Project Description

Project Name: Homebuyer Purchase Assistance (HPA) Program

Description: County will implement City's HPA Program with a portion of the funding from City's Affordable Housing Trust Account.

This activity will assist two (2) eligible first-time homebuyers with a deferred payment loan to be applied toward the cost of purchasing existing or newly constructed eligible affordable housing located in City, in a maximum principal amount of \$40,000 per eligible homebuyer. Eligible costs shall include direct purchase assistance, down payment, closing costs, mortgage principal reduction, interest rate buy down, housing rehabilitation, and such other costs which are considered eligible.

County will administer and monitor the program including but not limited to the following tasks:

- Prepare and update, as needed, a calendar of events and important dates for the program, such as eligibility window, application due dates, and audit dates.
- Establish and maintain a file system, administrative and bookkeeping requirements, and coordinate purchasing and check requests for audit compliance.
- Manage and supervise day-to-day operation of the program. Monitor program activities and prepare quarterly progress reports.
- Process loans/grants associated with the applicable program funded activities.
- Prepare appropriate documents including but not limited to applications, compliance check lists and certifications as required.
- Conduct income certifications included but not limited to reviewing applicant files in order to make such certifications.
- Coordinate responses to inquiries from City's residents about the program and funding activities.
- Attend appropriate meetings, and handle phone calls with applicants, property owners, lenders, and City staff, as reasonably requested.
- Ensure that the funds are expended in a timely manner.

City will be responsible for advertising and marketing the program, and for disbursing the Project Funds to County.

Eligible Homebuyers: Household Gross Annual Income must be certified by Broward County at or below 140% Area Median Income (AMI), adjusted annually.

- The homebuyer must qualify and obtain a first mortgage that meets County guidelines.
- The homebuyer may not have owned a home in the previous 3 years.
- The homebuyer must use the home as his or her primary domicile for the 15-year term.
- Buyer must complete a Homebuyer Education class from a HUD-approved counseling agency.

- Property may be a single family home, townhome, villa, or condominium located within Wilton Manors.

Loan Terms:

- Fifteen (15) year affordability period – Promissory note and mortgage will have a fifteen (15) year term. Repayment of 100% of outstanding principal due upon sale, transfer, or lease of home during the fifteen (15) year affordability period, unless the home is sold, transferred, or leased to a household that meets the income eligibility criteria for the HPA Program.
- Zero percent (0%) interest
- 100% of outstanding principal forgiven on maturity of promissory note and mortgage.

**Exhibit B
Costs/Budget for Project**

Funding Source	Program	Budget
Wilton Manors Affordable Housing Trust Account ("Trust")	Purchase Assistance	\$100,000

The maximum amount of Project Funds to be administered under this Agreement is \$100,000, comprised of:

- a. Direct Client Service Expenditures: \$85,000 in Trust funds will be allocated for purchase assistance to assist a minimum of two (2) eligible homebuyers with home ownership activities including but not limited to down payment assistance, closing costs, and principal write downs.
- b. Administration Fee: \$15,000 in Trust funds will be allocated to County for the administration of the program.