

Return recorded document to:
Broward County Housing Finance and
Community Development Division
110 NE 3rd Street, 3rd Floor
Fort Lauderdale Florida, 33301

Document prepared by:
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Governmental Center, Room 423
115 South Andrews Avenue
Fort Lauderdale, FL 33301

INTERLOCAL AGREEMENT

This is an Interlocal Agreement, made and entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida ("COUNTY"), and _____, a municipal corporation existing under the laws of the State of Florida ("CITY"), collectively referred to as the "parties."

RECITALS

A. This agreement is entered into pursuant to Section 163.01, Florida Statutes, also known as the "Florida Interlocal Cooperation Act of 1969"; and

B. The Board of County Commissioners of Broward County, Florida ("Board"), on April 23, 2013, approved the Broward Redevelopment Program, for the public purposes of removing blighting conditions, job creation, and economic development in Broward County; and

C. No Broward Redevelopment Program funds will be awarded to a community redevelopment area created pursuant to Chapter 163, Part III, Florida Statutes, that is receiving the COUNTY's tax increment financing, or to a specific project that has previously received funding through the Broward County Redevelopment Capital Program as set forth in Chapter 19, Part III, of the Broward County Administrative Code; and

D. All projects to be funded through the Broward Redevelopment Program are either within the boundaries of a community redevelopment area or areas that have been designated in a county or municipal resolution or ordinance defining the area boundary and determining that the area meets the blighting conditions as described in Chapter 163, Part III, Florida Statutes; and

E. Projects that are eligible to apply for Broward Redevelopment Program funding include public improvements; and

F. The Board approved Broward Redevelopment Program funding for Fiscal Year 2018 on June 6, 2017, and CITY submitted an application for funding for a project, said project having been reviewed and recommended for approval to the Board; and

G. The project is _____, for a total funding amount not to exceed _____ (the "Project"); and

H. The Board approved the Project on March 5, 2019, as part of Agenda Item # ___; and

I. The CITY and the COUNTY hereby agree that the Project, during the term of this agreement and any amendments hereto, shall be funded through non ad valorem revenue sources pursuant to the requirements of the Broward Redevelopment Program; and

J. The Project has been deemed to be eligible for the Broward Redevelopment Program as the Project addresses the public purposes of economic development, job creation, and removal of blighting conditions so as to have long-term positive impacts on the community by providing a decent, secure, and attractive living and working environment; and

K. The CITY has submitted design plans as part of the application, the cost estimate of the COUNTY staff compares favorably with the CITY's submitted cost estimate, and the submitted contributions from non-County sources appear reasonable for the estimated total project cost; and

L. The CITY, as part of the application, has submitted that _____ (___) new permanent jobs will be created as a result of this Project; and

M. The parties desire to enter into an agreement to delineate their areas of responsibility with respect to the Project and funding (the "Agreement"),

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the COUNTY and the CITY agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 **Application** means the application for funding for the Project under the Broward Redevelopment Program that was submitted to the COUNTY by the CITY. The terms, conditions, certifications, requirements, and statements contained within the application are specifically incorporated into this Agreement as obligations of the CITY. The Application is kept on file in the office of the Director, Broward County Housing Finance and Community Development Division.

1.2 **County Administrator** means the administrative head of Broward County appointed by the Board of County Commissioners.

1.3 **Economic development** means a project or activity that creates an identified number of new permanent jobs as detailed in the application for funding under the Broward Redevelopment Program.

1.4 **Public improvements** means improvements which further redevelopment including: Utility improvements (upsizing to accommodate development or redevelopment); Transportation improvements (roadways, turn lanes, crosswalks, etc.); Construction or expansion of public parking; Streetscaping to facilitate access to businesses, employment, and transit; and Landscaping and irrigation associated with the utility, transportation, public parking, or streetscaping improvement, not to exceed twenty percent (20%) of the cost of the improvement.

1.5 **Redevelopment** means projects which address public purposes of removing blighting conditions and facilitating economic development opportunities and job creation, which public purposes have long-term positive impacts on the community by providing a decent, secure, and attractive living and working environment.

ARTICLE 2 - SCOPE/PROJECT

2.1 The Project is located on _____, in _____, Florida, within the redevelopment area as described in Exhibit "A."

2.2 The CITY and the COUNTY hereby agree that the Project was approved by the COUNTY as follows:

2.3 The CITY hereby agrees to comply with all the terms, requirements, and conditions of this Agreement.

2.4 No Broward Redevelopment Program funds shall be used to clean up or remediate a contaminated site.

2.5 The CITY is responsible for implementing and conforming to the terms and conditions of this Agreement. The CITY shall provide to the COUNTY at least five (5) days' advance notice of all public meetings related to the Project. The CITY shall keep the COUNTY informed throughout the planning, design, and construction of the Project.

2.6 The CITY shall establish and maintain a separate account for each Project for funds received from the COUNTY pursuant to the Broward Redevelopment Program.

ARTICLE 3 - TERM OF AGREEMENT

3.1 The term of this Agreement shall begin on the date it is fully executed by the parties ("Effective Date").

3.2 The termination date of this Agreement shall be _____.

ARTICLE 4 - PAYMENTS/OBLIGATIONS

4.1 The total maximum financial grant of the COUNTY for the Project shall not exceed _____ and ___/100 Dollars (\$_____). Landscaping and irrigation costs associated with the Project shall not exceed _____ and ___/100 Dollars (\$_____), which is twenty percent (20%) of _____ and ___/100 Dollars (\$_____), or the actual cost of the landscaping and irrigation, whichever is less.

4.2 No COUNTY disbursement shall be made until each milestone identified for the approved Project is achieved. The milestones for this Project are as follows:

- a. The first milestone shall be submittal by the CITY to the COUNTY of evidence of Project site control acceptable to the COUNTY, an executed construction contract, approved plans to commence the Project, and all required development and permit approvals to commence construction of the Project.

Upon approval by the COUNTY of the construction contract, the plans, and the development and permit approvals for the Project, a disbursement in the amount of [1/3 of funding amount] Dollars (\$_____) shall be made to the CITY.

- b. The second milestone shall be at the completion of the Project, which shall be no later than three (3) years after the effective date of this Agreement. Completion will be deemed to have occurred when the CITY submits all receipts, approved permits, certificates of completion, if any, copies of all permits with all required sign-offs, and all other necessary documentation indicating the work for the Project has been completed in a satisfactory manner. Final required sign-off shall include a professional engineer's signing and sealing that the Project is complete and operational, in substantial conformance with the plans and specifications.

At the completion of the Project, the CITY shall provide verified actual costs satisfactorily demonstrated to have been expended by the CITY for completion of the Project, in the minimum amount of the initial disbursement of [1/3

of funding amount] _____ Dollars (\$ _____), and in an amount not to exceed [total funding amount] _____ Dollars (\$ _____). Upon satisfactory review and approval of all required documentation from the CITY, the COUNTY shall pay the CITY an amount not to exceed [2/3 of funding amount] _____ Dollars (\$ _____), the balance on the total contract amount after the initial disbursement.

- c. The CITY agrees that all COUNTY funds disbursed to the CITY for the Project shall be returned to the COUNTY if the Project is not completed and operational within three (3) years after the effective date of this Agreement.

4.3 At a minimum, documentation required for the COUNTY's payment shall include:

- a. A signed letter from the Mayor or City Manager certifying completion of the milestone;
- b. As applicable, all contracts entered into in connection with the Project, detailing the scope of work and Project costs;
- c. For the second milestone, itemized actual costs with copies of supporting invoices; and
- d. For the second milestone, evidence of payment of Project costs by the CITY, which at a minimum will include copies of canceled checks or wire transfers.

4.4 All documentation is subject to the COUNTY's review and approval prior to payment. The documentation shall be submitted in electronic format acceptable to the COUNTY. The COUNTY may require that the CITY furnish such additional materials and information as the COUNTY believes relevant to support the request for payment. Funds shall be processed for disbursement within thirty (30) days after completion of the COUNTY's review and approval of the complete documentation.

ARTICLE 5 - REPORTING REQUIREMENTS

In addition to the reporting requirements listed in Sections 163.356, 163.362, and 163.387, Florida Statutes, which are due by March 31 of each year, the CITY shall submit to the COUNTY on the anniversary date of the effective date of this Agreement, a detailed Annual Report of the progress made in carrying out the Project. This Annual Report shall include the Project development schedule, showing updates as appropriate, and a critical path timeline as to overall redevelopment within the declared redevelopment area. Additionally, the Annual Report shall include time frames and benchmarks including, but not limited to, accounting of COUNTY funding, enhancements to the tax base, any leverage of private or public funds, costs and revenues, growth in new business, number of jobs created and maintained, removal of blighting conditions, reduction in code violations, improvements to infrastructure, and ongoing benefits to the broader

community. Financial information must include both expenditures for the current fiscal year and cumulative financial information for the Project. Also, a detailed six (6) month Progress Report shall be delivered to the COUNTY every six (6) months after the effective date herein, except that the second Progress Report may be combined with the Annual Report. Each Progress Report shall contain Project performance information to include descriptions of the implementation activities undertaken, the achievement of milestones and benchmarks, the compliance with the established development schedule/time frames, the actual costs/expenditures, and the number of jobs created and maintained. The Annual Report and Progress Reports shall contain sufficient information for the COUNTY to determine if the Project conforms to this Agreement and the Broward Redevelopment Program, and shall be in a format acceptable to the COUNTY.

ARTICLE 6 - TERMINATION

6.1 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 the Board. Termination for convenience by the Board shall be effective on the termination date stated in a written notice provided by the COUNTY, 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 County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If the COUNTY erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

6.2 This Agreement may be terminated for cause for reasons including, but not limited to, the CITY's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if the CITY is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if the CITY provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

6.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the County Administrator, which the 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. In the event this Agreement is terminated for cause, the CITY shall return all sums paid by the COUNTY under the Agreement through the termination date specified in the written notice of termination.

6.4 In the event this Agreement is terminated for convenience, the CITY shall be paid for all work executed and actual expenses incurred prior to termination, including commitments which had become firm prior to the termination. All actual expenses incurred shall have sufficient back-up documentation acceptable to the COUNTY, in its sole discretion, to verify that such expenses were actually incurred by the CITY. The CITY acknowledges that it has received good, valuable, and sufficient consideration from the COUNTY, the receipt and adequacy of which are hereby acknowledged by the CITY, for the COUNTY's right to terminate this Agreement for convenience.

ARTICLE 7 - MISCELLANEOUS PROVISIONS

7.1 The parties and their counsel have participated fully in the drafting of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

7.2 Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. Pursuant to Section 768.28, Florida Statutes, CITY shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

7.3 The CITY is an entity subject to Section 768.28, Florida Statutes, and shall furnish the COUNTY with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

7.4 The COUNTY shall have the right to audit the books, records, and accounts of the CITY and its subcontractors that are related to this Project. The CITY and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of the CITY and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, the CITY or its subcontractors, as applicable, shall make same available at no cost to the COUNTY in written form.

The CITY and its subcontractors shall preserve and make available, at reasonable times for examination and audit by the COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the COUNTY to be applicable to the CITY and its subcontractors' records, the CITY

Fort Lauderdale, Florida 33301

With a copy to: Broward County Attorney's Office
Suite 423, Governmental Center
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

FOR THE CITY: _____

With a copy to: _____

7.9 The parties may amend this Agreement to conform to changes in federal, state, or local laws, regulations, directives, and objectives. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed with the same formality and of equal dignity herewith or other delegated authority to or otherwise authorized to execute same on their behalf.

7.10 Each party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

7.11 The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.

7.12 In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the CITY or the COUNTY elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) calendar days after notice of the court's final determination. For the purposes of this section, final shall mean the expiration of time within which to file an appeal or the conclusion of any appellate proceeding and the granting of an order. In such event, the parties agree to cooperate fully with each other to effectuate a smooth transition of services.

7.13 The COUNTY and the CITY are each an independent contractor under this Agreement. Services provided by each party pursuant to this Agreement shall be subject to the supervision of said party. In providing such services, neither the CITY nor its agents shall act as officers, employees, or agents of the COUNTY. No partnership, joint venture, or other joint relationship is

created hereby. The COUNTY does not extend to the CITY or its agents any authority of any kind to bind the COUNTY in any respect whatsoever.

7.14 This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties acknowledge that jurisdiction of any controversies or legal disputes arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, THE CITY AND THE COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, ARISING FROM, OR IN CONNECTION WITH THIS AGREEMENT.**

7.15 The truth and accuracy of each "Whereas" clause set forth above are acknowledged by the parties and each clause is hereby incorporated into this Agreement. The attached Exhibit(s) are incorporated into and made a part of this Agreement.

7.16 This Agreement shall be recorded in the Public Records of Broward County, in accordance with the Florida Interlocal Cooperation Act of 1969.

7.17 Multiple copies of this Agreement may be fully executed by all parties, each of which shall be deemed to be an original.

7.18 Neither the CITY nor the COUNTY intends that any person shall have a cause of action against either of them as a third party beneficiary under this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.19 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.

7.20 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.

7.21 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.

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

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the _____ day of _____, 2019; and the CITY OF _____, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its County Administrator

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By _____
Bertha Henry, County Administrator

____ 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 _____
Damaris Y. Henlon (Date)
Assistant County Attorney

By _____
Maite Azcoitia (Date)
Deputy County Attorney

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF _____

CITY OF _____

ATTEST:

CITY OF _____

City Clerk

By: _____

_____ day of _____ 20 _____

Approved as to form:

By: _____
City Attorney

_____ day of _____ 20 _____

EXHIBIT "A"

Redevelopment Area