

MEMORANDUM

Agenda Item No. 8(L)(3)

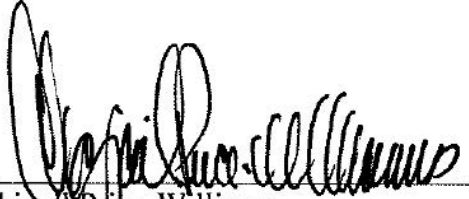
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving agreement between Miami-Dade County and Dade Heritage Trust, Inc. in the amount of \$1,000,000.00 for management of Historic Preservation Revolving Fund for Affordable Housing; authorizing the County Mayor to execute the agreement, exercise all rights therein, and execute future amendments if additional funding is authorized by the Board; approving Historic Preservation Revolving Fund for Affordable Housing Guidelines and Rental Regulatory Agreement; authorizing the County Mayor to negotiate, execute, and record such agreement for properties acquired with Historic Preservation Revolving Fund monies; directing the County Mayor to provide the Miami-Dade County Property Appraiser with a copy of such agreement pursuant to Resolution No. R-791-14

The accompanying resolution was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.


Abigail Price-Williams
County Attorney

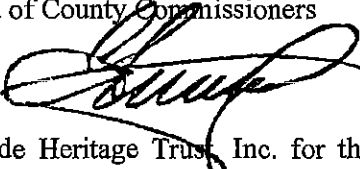
APW/uw

Memorandum



Date: May 5, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Agreement with Dade Heritage Trust, Inc. for the Historic Preservation Revolving Fund for Affordable Housing

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution, which does the following:

- Approves the Grant Agreement, attached as Exhibit 1 to the resolution, with Dade Heritage Trust, Inc. (DHT) to manage the Historic Preservation Revolving Fund for Affordable Housing (Revolving Fund);
- Authorizes the County Mayor or the County Mayor's designee to execute the Grant Agreement and further authorizes the County Mayor or the County Mayor's designee to exercise all rights contained therein;
- Approves the Historic Preservation Revolving Fund for Affordable Housing Guidelines (Guidelines), attached as Attachment A to the Grant Agreement, which sets the organization oversight, eligible uses, affordable housing requirements, and payment procedures of the Revolving Fund;
- Approves the Rental Regulatory Agreement, attached as Attachment B to the Grant Agreement, and authorizes the County Mayor or the County Mayor's designee to negotiate, execute, and record such Rental Regulatory Agreement for each property acquired with Revolving Fund monies; and
- Provides the County Mayor or the County Mayor's designee delegated authority to execute corresponding future amendments to the Grant Agreement when additional funding has been allocated by this Board to DHT to manage the Revolving Fund.

Scope

The potential impact of this item is countywide.

Fiscal Impact/Funding Source

The Board appropriated \$1,000,000.00 from the Countywide General Fund for the Revolving Fund in the FY 2019-20 Adopted Budget. Should no property be acquired within 18 months of the disbursement of County funds, such funds shall be returned to the County.

Track Record/Monitor

The Board of DHT, along with Christine Rupp, Executive Director of DHT, will be responsible for managing the Revolving Fund. The Department of Regulatory and Economic Resources' Planning Division, headed by Jerry Bell, Assistant Director, will manage this Grant Agreement and ensure properties acquired with Revolving Fund monies meet the historic preservation and restoration outcomes of the Revolving Fund.

The Public Housing and Community Development Department will ensure any properties acquired with Revolving Fund monies are appropriate for affordable housing and will monitor compliance with the Rental Regulatory Agreement to ensure that housing standards and the tenant eligibility requirements are met.

DHT will provide the County with an annual financial audit of the Revolving Fund by an independent certified public accountant as well as comply with other financial and compliance reporting requirements stipulated for each property, as outlined in the Rental Regulatory Agreement.

Additionally, DHT will provide, separate from the annual financial audit, an annual report summarizing the status of acquisition, renovation, marketing, and leasing of properties acquired, or to be acquired with, Revolving Fund monies that will be transmitted by the County Mayor to the members of the Board.

Background

As part of the FY 2019-20 Adopted Budget, the Board allocated \$1,000,000.00 to the Revolving Fund. Staff from the Department of Regulatory and Economic Resources and DHT developed the Grant Agreement, along with the program Guidelines for the management of the historic preservation revolving fund intended to preserve properties that meet criteria for historic designation and also provide an environment of affordable housing.

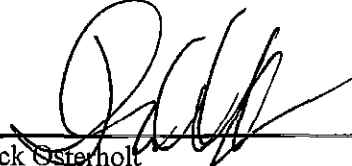
The County will disburse up to \$1,000,000.00 to DHT upon written request by the DHT, and the DHT will have decision-making authority over all future uses of Revolving Fund monies, property acquisition(s) subject to County requirements, rehabilitation and residential/management requirements, as well as entering into agreements or contracts to purchase or acquire apartment buildings, request historic designation of properties, manage the rehabilitation efforts, work with a property management company to ensure proper on-going operations and maintenance of such properties, and, importantly, work with local affordable housing and neighborhood non-profits to determine the resident application and selection process. Prior to the acquisition of a property, the County will review the property for adherence to criteria set forth in the Guidelines pertaining to financial viability.

Any property acquired with Revolving Fund monies, as defined in the Guidelines, will require the execution of a Rental Regulatory Agreement that, when recorded in the public records, will ensure the subject project maintains its respective affordability thresholds for a 30-year period. The unit(s) in acquired and refurbished properties stemming from the Revolving Fund will be limited to individuals or households earning no more than 140 percent of the area median income, but priority will be given to those earning less than 80 percent, when feasible as DHT will be responsible for also ensuring that all potential tenants can meet their rental obligations.

Pursuant to the Guidelines, no monies from the Revolving Fund, or associated rental income from a previously purchased and refurbished property acquired with Revolving Fund monies, shall be used to cover DHT staff time. Furthermore, any rent received from the lease associated with a property purchased with monies from the Revolving Fund shall be reinvested to maintain and upgrade the purchased property, and excess funds can be used to acquire other qualifying properties that will also be subject to the Guidelines and the execution and recordation of a Rental Regulatory Agreement. Any purchased properties shall not be used as collateral for any loan applications sought by Dade Heritage Trust, Inc. in connection with any other projects funded from the Revolving Fund.

Any amount or portion of Revolving Fund monies found not in compliance with the Guidelines, as a result of the aforementioned annual financial audit of the Revolving Fund or certified annual operating statement for each property acquired with Revolving Fund monies, must be refunded to the County.

Attachment



Jack Osterholt
Deputy Mayor

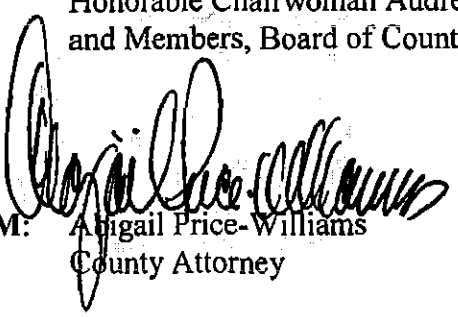


MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: May 5, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(L)(3)

Please note any items checked.

_____ "3-Day Rule" for committees applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Statement of social equity required

_____ Ordinance creating a new board requires detailed County Mayor's report for public hearing

_____ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(3)
5-5-20

RESOLUTION NO. _____

RESOLUTION APPROVING AGREEMENT BETWEEN MIAMI-DADE COUNTY AND DADE HERITAGE TRUST, INC. IN THE AMOUNT OF \$1,000,000.00 FOR MANAGEMENT OF HISTORIC PRESERVATION REVOLVING FUND FOR AFFORDABLE HOUSING; AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE THE AGREEMENT, EXERCISE ALL RIGHTS THEREIN, AND EXECUTE FUTURE AMENDMENTS IF ADDITIONAL FUNDING IS AUTHORIZED BY THE BOARD; APPROVING HISTORIC PRESERVATION REVOLVING FUND FOR AFFORDABLE HOUSING GUIDELINES AND RENTAL REGULATORY AGREEMENT; AUTHORIZING THE COUNTY MAYOR OR DESIGNEE TO NEGOTIATE, EXECUTE, AND RECORD SUCH AGREEMENT FOR PROPERTIES ACQUIRED WITH HISTORIC PRESERVATION REVOLVING FUND MONIES; DIRECTING THE COUNTY MAYOR OR DESIGNEE TO PROVIDE THE MIAMI-DADE COUNTY PROPERTY APPRAISER WITH A COPY OF SUCH AGREEMENT PURSUANT TO RESOLUTION NO. R-791-14

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recital is approved and incorporated as if fully set forth herein.

Section 2. This Board hereby approves the agreement between Miami-Dade County and Dade Heritage Trust, Inc. (DHT), in substantially the form attached hereto and made a part hereof as Exhibit 1, under which the County shall provide up to \$1,000,000.00 to DHT for management of the Historic Preservation Revolving Fund for Affordable Housing (the

“Agreement”). This Board hereby further authorizes the County Mayor or County Mayor’s designee to execute same and exercise all rights contained herein.

Section 3. This Board hereby approves the Historic Preservation Revolving Fund for Affordable Housing Guidelines (“Guidelines”), attached as Attachment A to Exhibit 1, that sets forth the organization oversight, eligible uses, affordable housing requirements, and payment processes.

Section 4. This Board hereby approves the Rental Regulatory Agreement, in substantially the form attached as Attachment B to Exhibit 1, and authorizes the County Mayor or the County Mayor’s designee to negotiate, execute, and record such Rental Regulatory Agreement for each property acquired with Revolving Fund monies. This Board further authorizes the County Mayor or County Mayor’s designee, in accordance with Resolution No. R-791-14, to provide the Miami-Dade County Property Appraiser with a copy of the rental regulatory agreement.

Section 5. Pursuant to Resolution No. R-974-09, the County Mayor or County Mayor’s designee shall record the rental regulatory agreement in the public record and such other covenants creating or reserving a real property interest in favor of the County and to provide a copy of such recorded instruments to the Clerk of the Board within 30 days of execution and final acceptance. This Board directs the Clerk of the Board, pursuant to Resolution No. R-974-09, to attach and permanently store a recorded copy of any instrument provided in accordance herewith together with this resolution.

Section 6. This Board authorizes the County Mayor or the County Mayor’s designee to execute corresponding future amendments to the Agreement if additional funding is allocated by this Board to DHT for management of the Historic Preservation Revolving Fund for Affordable Housing.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

James Eddie Kirtley



EXHIBIT 1

GRANT AGREEMENT HISTORIC PRESERVATION REVOLVING FUND FOR AFFORDABLE HOUSING

This Grant Agreement (hereinafter referred to as Agreement), made on the ____ day of _____, 2020, is entered into by and between **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida (hereinafter the "County"), and **DADE HERITAGE TRUST, INC.**, a Florida not-for-profit corporation (hereinafter "DHT") (collectively, hereinafter the "Parties"), pursuant to, and in order to implement, Ordinance No. 19-85 (herein after referred to as the "Ordinance") adopted by the Board of County Commissioners.

WHEREAS, the mission of DHT is to preserve the architectural, cultural and environmental heritage of Miami-Dade County through education and advocacy.

WHEREAS, the County is experiencing an affordable housing crisis and local governments and public and private large-scale developers are unable to meet the increasing demand for affordable housing.

WHEREAS, The Miami-Dade Board of County Commissioners, as part of the FY 2019-20 Adopted Budget, allocated \$1,000,000.00 to DHT to assist with bridging the gap between the supply and demand in affordable housing and meet the organization's historic preservation mission.

WHEREAS, DHT will support naturally occurring affordable housing in Miami-Dade County by preserving properties that meet criteria for historic designation, or are already designated as historic, and also provide an environment of affordable housing.

Now, therefore, the parties hereby agree as follows:

1. DHT and the County shall adhere to the **HISTORIC PRESERVATION REVOLVING FUND FOR AFFORDABLE HOUSING GUIDELINES** (hereinafter referred to as the "Guidelines"), a copy of which is attached hereto as Exhibit A and incorporated herein by reference. It is understood by the parties that DHT shall be solely responsible for compliance with DHT's obligations under this Agreement.

2. The County shall transfer DHT up to \$1,000,000.00 (the "Funds") awarded to DHT into the Historic Preservation Revolving Fund for Affordable Housing (hereinafter referred to as "Revolving Fund") as a one-time advance payment within two working days upon request by DHT. Such payment shall be made by one or more checks payable to DHT at DHT's address specified below unless the parties agree to have the Funds wired to one or more bank accounts established by DHT for such purpose.

3. The County reserves the right to review any property prior to acquisition by DHT for appropriateness, in accordance with the Guidelines. Upon acquisition approval by the County, the County and DHT shall enter into a Rental Regulatory Agreement, a copy of which is attached hereto as Exhibit B, which sets forth the terms delineated in the Guidelines. The Rental Regulatory Agreement shall be recorded on the property and should the acquisition of the property require non-County financing, the Rental Regulatory Agreement shall be recorded in first order prior to obtaining any non-County financing to ensure the property retains its affordability status. Any purchased

properties shall not be used as collateral for any loan applications sought by DHT in connection with the acquisition of another property acquired with the Revolving Fund.

4. Should no property be acquired with monies from the Revolving Fund within 18 months of the effective date of this Grant Agreement, the Funds shall be returned to the County.

5. DHT will provide the Directors of the Department of Regulatory and Economic Resources and the Department of Public Housing and Community Development, or successor agencies, an annual financial audit of the Revolving Fund by an independent certified public accountant for each fiscal year ending June 30 and comply with other financial and compliance reporting requirements stipulated for each property. Any amount or portion of Revolving Fund monies found not in compliance with the Guidelines, as a result of an annual financial audit or certified annual operating statement for each property acquired with Revolving Fund monies, as stipulated in their respective Rental Regulatory Agreement, shall be refunded to the County.

6. DHT will provide, in addition to an annual financial audit, an annual report from the Executive Director of DHT summarizing the status of acquisition, renovation, marketing, and leasing of properties acquired, or to be acquired, with Revolving Fund monies.

7. **Term.** This Agreement shall commence on the effective date of full execution and recordation with the Clerk of the Board and terminate at the close of business on September 30, 2024, regardless of when this Agreement is executed.

8. **Public Records.** The Public Records Law, set forth in Chapter 119, Florida Statutes, provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. The Parties recognize and agree that the Public Records Law applies to documents and records exchanged between DHT and the County, and that such documents and records are subject to disclosure pursuant to a public records request, unless an exemption applies. DHT shall keep and maintain at all times complete and accurate books of accounts and records of DHT's administration and use of the Funds and any interest earned thereon and other moneys received in connection therewith, which books and records shall be maintained at DHT's administrative office located at 190 SE 12th Terrace, Miami, Florida 33131, or successor location. In addition to the annual audit provided for under the Guidelines, the County shall have the right, upon 10 days prior written notice to DHT, to inspect such books and records at DHT's administrative offices.

9. DHT shall assist the County in complying with the Florida public records law, as follows:

- i. Keep and maintain public records required by the County to perform the service.
- ii. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if DHT does not transfer the records to the County.

- iv. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of DHT or keep and maintain public records required by the County to perform the service. If DHT transfers all public records to the County upon completion of the Agreement, DHT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If DHT keeps and maintains public records upon completion of the Agreement, the DHT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

A request to inspect or copy public records relating to this Agreement for services must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify DHT of the request, and DHT must provide the records to the County or allow the records to be inspected or copied within a reasonable time.

- i. If DHT does not comply with the County's request for records, the County shall enforce these requirements in accordance with the Agreement.
- ii. If DHT fails to provide the public records to the County within a reasonable time, DHT may be subject to penalties under Florida Statutes, Section 119.10.
- iii. DHT shall be liable in any civil action brought due to DHT's violation of Florida's public records laws, and shall indemnify the County in accordance with Section II(d) herein.

IF THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE GRANTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE RER CUSTODIAN OF PUBLIC RECORDS AT:

**Miami-Dade County
Department of Regulatory and Economic Resources
Attention: Tere Florin
111 NW 1 Street, 11th Floor
Miami, FL 33128
305-375-2805
Email: RERPublicRecords@miamidade.gov**

10. **Indemnification.** DHT shall indemnify, defend, and hold harmless the County and its officers, employees, agents, and instrumentalities from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by DHT or its employees, agents, servants, partners principals, or subcontractors. Additionally, DHT shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. DHT expressly understands and agrees that any insurance protection required by this Agreement or

otherwise provided by DHT shall in no way limit the responsibility to indemnify, keep, and save harmless and defend the County or its officers, employees, agents, and instrumentalities as herein provided. The provisions of this paragraph 10 shall survive the expiration or termination of this Agreement.

11. **Civil Rights.** DHT agrees to abide by Chapter 11A of the County Code, as amended, which prohibits discrimination in employment, housing and public accommodations on the basis of race, creed, religion, color, sex, familial status, marital status, sexual orientation, gender identity, gender expression, status as a victim of domestic violence, dating violence or stalking, pregnancy, age, ancestry, national origin, disability, or source of income; Title VII of the Civil Rights Act of 1968, as amended, which prohibits discrimination in employment and public accommodation; the Age Discrimination Act of 1975, 42 U.S.C. § 6101, as amended, which prohibits discrimination in employment because of age; the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, which prohibits discrimination on the basis of disability; the Americans with Disabilities Act, 42 U.S.C. § 1201 et seq., which prohibits discrimination in employment and public accommodations because of disability; the Federal Transit Act, 49 U.S.C. § 1612, as amended; and the Fair Housing Act, 42 U.S.C. § 3601 et seq. It is expressly understood that DHT must comply with such Acts and provide proof of compliance to the County, when requested. If DHT or any owner, subsidiary, or other firm affiliated with or related to DHT is found by the responsible enforcement agency, the Courts, or the County to be in violation of these Acts, the County may, in its sole discretion, conduct no further business with DHT. Any contract entered into based upon a false affidavit shall be voidable by the County. If DHT violates any of the Acts during the term of any contract DHT has with the County, such contract shall be voidable by the County, even if DHT was not in violation at the time it submitted its affidavit. The DHT agrees that it is in compliance with the Domestic Violence Leave, codified as § 11A-60 et seq. of the Miami-Dade County Code, which requires an employer, who in the regular course of business has fifty (50) or more employees working in Miami-Dade County for each working day during each of twenty (20) or more calendar work weeks to provide domestic violence leave to its employees. Failure to comply with this local law may be grounds for voiding or terminating this Agreement or for commencement of debarment proceedings against DHT.

12. **Notice.** The DHT agrees to notify the County of any changes that may affect the County supported program(s) under this Agreement within ten (10) days from the date of such a change's occurrence. It is also understood and agreed between the parties that any written notice addressed to the County, which is delivered by U.S. Mail or emailed to the County, and any written notice addressed to DHT, which is delivered by U.S. Mail or by email, shall constitute sufficient notice to either party. All notices required or permitted under this Agreement which are delivered by U.S. Mail shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or by email. All notices to the County shall be delivered to the following address:

(1) To the County

Miami-Dade County
Attn: Sarah Cody, Chief Historic Preservation Officer
111 1st Street, 11th Floor
Miami, FL 33128-1902
Phone: (305) 375- 4438
Email: Sarah.CodyAdelman@miamidade.gov

(2) To DHT

Dade Heritage Trust
Attn: Christine Rupp
190 SE 12 Terrace
Miami, FL 33131
Phone: (305) 358-9572
Email: chris@dadeheritagetrust.org

Either party may at any time designate a different mail or email address and/or contact person by giving written notice as provided above to the other party.

13. **Autonomy.** Both parties agree that this Agreement recognizes the autonomy of the contracting parties and implies no affiliation between the contracting parties. It is expressly understood and intended that DHT is only a recipient of funding support and is not an agent or instrumentality of the County. Furthermore, DHT's agents and employees are not agents or employees of the County.

14. **Survival.** The parties acknowledge that any of the obligations in this Agreement, including but not limited to DHT's obligation to indemnify the County, will survive the term, termination, and cancellation hereof. Accordingly, the respective obligations of DHT and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

15. **Breach.** A breach by DHT shall have occurred under this Agreement if: (1) DHT fails to provide the Services outlined in the Scope of Work or fails to meet expected performance levels within the effective term of this Agreement and in the sole discretion of the County; (2) DHT ineffectively or improperly uses the County funds allocated under this Agreement; (3) DHT does not furnish the Certificates of Insurance required by this Agreement or as determined by the County's Risk Management Division; (4) if applicable, DHT does not furnish the County proof of licensure/certification or proof of background screening; (5) DHT fails to submit, or submits incorrect or incomplete (a) proof of expenditures to support disbursement requests or advance funding disbursements, or (b) detailed reports of expenditures or final expenditure reports; (6) DHT does not submit, or submits incomplete or incorrect, required reports, or submits reports that indicate that expected performance levels are not being met; (7) DHT refuses to allow the County access to records or refuses to allow the County to monitor, evaluate, and review DHT's program; (8) DHT discriminates under any of the laws outlined in Article 11 of this Agreement; (9) DHT attempts to meet its obligations under this Agreement through fraud, misrepresentation, or material misstatement; (10) DHT fails to correct deficiencies found during a monitoring, evaluation, or review within the specified time as described in communication from County; (11) DHT fails to issue prompt payments to small business subcontractors or follow dispute resolution procedures regarding a disputed payment; (12) DHT fails to submit the Certificate of Corporate Status, Board of Directors Requirements, or proof of tax status, as required by Article 20 of this Agreement; (13) DHT fails to meet any of the terms and conditions of the Miami-Dade County Vendor Registration, including any and all required County affidavits, or the State Affidavit (Attachment D-1); or (14) DHT fails to fulfill in a timely and proper manner any and all of its obligations, covenants, agreements and stipulations in this Agreement. Waiver of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this

Agreement.

16. **County Remedies.** If DHT breaches this Agreement, the County may pursue any or all of the following remedies:

- (i) The County may terminate this Agreement by giving written notice to DHT of such termination and specifying the effective date thereof. In the event of termination, the County may: (a) request the return of all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared and secured by DHT with County funds under this Agreement; (b) recapture a proportionate amount of County funding or seek reimbursement of County funds allocated to DHT under this Agreement; (c) terminate or cancel any other contracts entered into between the County and DHT. The DHT shall be responsible for all direct and indirect costs associated with such termination, including attorney's fees.
- (ii) The County may suspend payment in whole or in part under this Agreement by providing written notice to DHT of such suspension and specifying the effective date thereof, at least five (5) days before the effective date of suspension. If payments are suspended, the County shall specify in writing the actions that must be taken by DHT as condition precedent to resumption of payments and shall specify a reasonable date for compliance. The County may also suspend any payments in whole or in part under any other contracts entered into between the County and DHT. The DHT shall be responsible for all direct and indirect costs associated with such suspension, including attorney's fees. The County may also, in the County's sole discretion, recapture a proportionate amount of funding if expected performance levels under this Agreement are not met by DHT in the County's sole discretion.
- (iii) The County may seek enforcement of this Agreement including but not limited to filing an action in a court of appropriate jurisdiction. The DHT shall be responsible for all direct and indirect costs associated with such enforcement, including attorney's fees.
- (iv) The County may debar DHT from future County contracting.
- (v) If, for any reason, DHT should attempt to meet its obligations under this Agreement through fraud, misrepresentation, or material misstatement, the County shall, whenever practicable, terminate this Agreement by giving written notice to DHT of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. The County may terminate or cancel any other contracts which such individual or entity has with the County. Such individual or entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees. Any individual or entity who attempts to meet its contractual obligations with the County through fraud, misrepresentation, or material misstatement may be debarred from County contracting for up to five (5) years.

(vi) Any other remedy available at law or equity.

17. **Authorization to Terminate Agreement.** The County Mayor or the Mayor's designee is authorized to terminate this Agreement on behalf of the County. Failures or waivers to insist on strict performance of any covenant, condition, or provision of this Contract by the County shall not be deemed a waiver of any rights or remedies, nor shall it relieve DHT from performing any subsequent obligations strictly in accordance with the term of this Agreement. No waiver shall be effective unless in writing and signed by the parties. Such waiver shall be limited to provisions of this Agreement specifically referred to therein and shall not be deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.

18. **Damages Sustained.** Notwithstanding the above, DHT shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement, and the County may withhold any payments to DHT until such time as the exact amount of damages due the County is determined. The County may also pursue any remedies available at law or equity to compensate for any damages sustained by the breach. The DHT shall be responsible for all direct and indirect costs associated with such action, including attorney's fees.

19. **Termination by Either Party.** Notwithstanding anything herein, both parties agree that this Agreement may be terminated for convenience and without cause by either party hereto by written notice to the other party of such intent to terminate at least thirty (30) days prior to the effective date of such termination. The County Mayor or the Mayor's designee is authorized to terminate this Agreement on the behalf of the County.

20. **Office of the Inspector General.** The DHT understands that it may be subject to an audit, random or otherwise, by the Office of the Miami-Dade County Inspector General or an Independent Private Sector Inspector General retained by the Office of the Inspector General, or the County Commission Auditor. The DHT may also be subject to an internal review, random or otherwise, by the County. The attention of DHT is hereby directed to the requirements of Section 2-1076 of the County Code in that the Office of the Miami-Dade County Inspector General (IG) shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions. The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to DHT from IG, DHT shall make all requested records and documents available to the IG for inspection and copying.

The IG shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG may, on a random basis, perform audits on all County contracts throughout the duration of said contract (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County. Grant recipients are exempt from paying the cost of the audit which is normally ¼ of 1% of the total contract amount.

The IG shall have the power to audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

The IG is authorized to investigate any alleged violation by a DHT of its Code of Business Ethics, pursuant to Section 2-8.1 of the County Code.

The provisions in this section shall apply to DHT, its subcontractors, and their respective officers, agents, and employees. The DHT shall incorporate the provisions in this section in all contracts and all other agreements executed by its subcontractors in connection with the performance of this Agreement. Any rights that the County has under this Section shall not be the basis for any liability to accrue to the County from DHT, its subcontractors, or third parties for such monitoring or investigation of for the failure to have conducted such monitoring or investigation and the County shall have no obligation to exercise any of its rights for the benefit of DHT, its contractors or third parties.

Nothing in this Agreement shall impair any independent right of the County to conduct audit or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the County by DHT or third parties.

21. Publicity. It is understood and agreed between the parties hereto that the DHT Revolving Fund is funded by Miami-Dade County. Further, by the acceptance of these funds, DHT agrees that events funded by this Agreement shall recognize and adequately reference the County as a funding source. The DHT shall ensure that all publicity, public relations, advertisements and signs recognizes and references the County for the support of all contracted activities. This is to include, but is not limited to, all posted signs, pamphlets, wall plaques, cornerstones, dedications, notices, flyers, brochures, news releases, media packages, promotions, and stationery. The use of the official County logo is permissible for the publicity purposes stated herein and must adhere to the standards established at <https://www.miamidade.gov/branding/logo.asp>. DHT shall submit sample or mock up of such publicity or materials to the County for review and prior approval, which shall not be unreasonably withheld. The DHT shall ensure that all media representatives, when inquiring about the activities funded by this contract, are informed that the County is its funding source.

22. Governing Law and Venue. This Agreement is made in the State of Florida and shall be governed according to the laws of the State of Florida. Venue for this Agreement shall be Miami-Dade County, Florida.

23. Modifications. Any alterations, variations, modifications, extensions, or waivers of provisions of this Agreement including, but not limited to, amount payable and effective term shall only be valid when they have been reduced to writing, duly approved and signed by both parties and attached to the original of this Agreement. The County Mayor or the Mayor's designee is authorized to make modifications to this Agreement as described herein on behalf of the County. The Office of the Inspector General shall have the power to analyze the need for, and the reasonableness of proposed modifications to this Agreement.

24. **Counterparts.** This Agreement is executed in three (3) counterparts, and each counterpart shall constitute an original of this Agreement.

25. **Headings, Use of Singular and Gender.** Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement. Wherever used herein, the singular shall include the plural and plural shall include the singular, and pronouns shall be read as masculine, feminine, or neuter as the context requires.

26. **Pre-condition to County's Execution of this Agreement.** The DHT acknowledges that prior to the County Mayor or Mayor's designee executing this Agreement, the County shall engage in a due diligence effort and review ("the Due Diligence Effort and Review") which includes but is not limited to researching background information on the DHT, ensuring DHT is not in non-compliance with other County contracts, and reviewing the DHT's Scope of Work, budget, affidavits, responses to affidavits and any other proposed or required attachments to this Agreement. If the County, through the County, in consultation with the County Mayor or Mayor's designee is concerned regarding findings of the Due Diligence Effort and Review, the County Mayor or Mayor's designee shall present findings of the Due Diligence Effort and Review to the Miami-Dade Board of County Commissioners with the County Mayor or Mayor's designee's recommendation as to how to proceed, and the Miami-Dade Board of County Commissioners shall then direct the County Mayor or Mayor's designee whether or not to execute this Agreement with DHT by taking action on the recommendation. All services undertaken by DHT before the County's execution of this Agreement shall be at the DHT's risk and expense.

27. **No Third Parties.** The parties expressly agree there are no intended or unintended third party beneficiaries to this Agreement.

28. **Sovereign Immunity.** Nothing in this contract shall be considered a waiver of sovereign immunity.

29. **Review of this Agreement.** Each party hereto represents and warrants that they have consulted with their own attorney concerning and participated in the drafting of each of the terms contained in this Agreement. No inference, assumption, or presumption shall be drawn from the fact that one party or its attorney prepared this Agreement. It shall be conclusively presumed that each party participated in the preparation and drafting of this Agreement.

30. **Entirety Of Agreement.** This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. No alteration, change, or modification of the terms of the Agreement shall be valid unless made in writing and signed by both parties hereto and approved by appropriate action of DHT. This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the County and DHT have caused this Agreement to be executed by their respective and duly authorized officers the day and year first above written. This Agreement and attached Guidelines have been reviewed and approved for form and legal sufficiency by the Miami-Dade County Attorney's Office.

MIAMI-DADE COUNTY, FLORIDA

BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. _____

James Eddie Kirtley

[Execution Page Follows]

DADE HERITAGE TRUST, INC.

By: Christine Rupp
Name: Christine Rupp
Title: Executive Director
Date: February 25, 2020

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, on this 25th day of February, 2020, by (name) Christine Anna Rupp as Executive Director (title) Dade (name of agency) Heritage Trust. Said person is ☐ personally known or ☒ produced the following identification

FL Driver License

Attest:

[Signature]
Notary Public – State of
Florida, Miami-Dade
County Dade

Print
Name:

Michel Nicolas

Notary Seal/Stamp:



MIAMI-DADE COUNTY

By: _____
Name: _____
Title: _____
Date: _____

Attest:

HARVEY RUVIN, Clerk

Board of County Commissioners

By: _____
Print Name: _____

**HISTORIC PRESERVATION REVOLVING FUND
FOR AFFORDABLE HOUSING GUIDELINES**

**ATTACHMENT A
to Grant Agreement**

A. Mission of Dade Heritage Trust Inc.

The mission of Dade Heritage Trust Inc. (DHT) is to preserve the architectural, cultural, and environmental heritage of Miami-Dade County through education and advocacy.

B. Mission of the Historic Preservation Revolving Fund for Affordable Housing

Miami-Dade County (the County) is experiencing an affordable housing crisis. Currently, both local governments and public and private large-scale developers are unable to meet the increasing demand for affordable housing. To assist with bridging the gap between the supply and demand in affordable housing, pursuant to Ordinance No. 19-85 enacted by the Miami-Dade Board of County Commissioners as part of the FY 2019-20 Adopted Budget, the County allocated \$1,000,000 to DHT to establish the Historic Preservation Revolving Fund for Affordable Housing (the Revolving Fund). Understanding that partnership between the non-profit community and local government can make an impact by creatively responding to the crisis, DHT is committed to partnering with the County to assist in providing affordable housing within the organization's historic preservation mission.

DHT will support naturally occurring affordable housing in the County by preserving buildings or single-family homes (properties) that meet criteria for historic designation, or are already designated as historic, and also provide an environment of affordable housing. Re-using, rehabilitating, and preserving the existing historically significant inventory maintains and enhances neighborhood aesthetics, maintains the density of the property, services more residents in need, and is environmentally and financially efficient because rehabilitation tends to be less expensive than new construction. The County or DHT shall not cause the displacement of residents as a result of the acquisition and restoration of a property.

This document, Historic Preservation Revolving Fund for Affordable Housing Guidelines (Guidelines), delineates the criteria that the County and DHT will abide by to meet the mission of the Revolving Fund that is to be funded through the Grant Agreement between the County and DHT.

The Department of Regulatory and Economic Resources, or its successor agency, is responsible for ensuring any properties acquired with Revolving Fund monies meet the historic preservation and restoration outcomes of the Revolving Fund, whereas Public Housing and Community Development, or its successor agency, will ensure any properties acquired with Revolving Fund monies are appropriate for affordable housing and will also enforce the Rental Regulatory Agreement recorded on each acquired property.

C. Eligible Uses of the Revolving Fund

For purposes of these Guidelines, Revolving Fund monies are inclusive of the initial Grant Agreement funds deposited into the Revolving Fund plus, but not limited to, any future income, interest, or proceeds generated back into the Revolving Fund.

Pursuant to these Guidelines, DHT will purchase buildings, request historic designation of the property when not already designated, manage the rehabilitation efforts, and work with a property management company to ensure proper on-going operations and maintenance of the building. No monies from the Revolving Fund shall be used to cover DHT staff time.

Furthermore, any rent received from the lease associated with a property purchased with monies from the Revolving Fund, shall be reinvested to maintain and upgrade the purchased property and excess funds shall be placed in the Revolving Fund to acquire other qualifying properties. Any purchased properties will be precluded for use as collateral for any loan applications sought by DHT in connection with any other projects funded by the Revolving Fund.

However, a property acquired by DHT with monies from the Revolving Fund can be sold to a new owner as long as: 1) the requirements in Section D of these Guidelines remain with the property under the

new owner and any successor ownership, and 2) the net proceeds obtained from the sale are deposited into the Revolving Fund and solely used to purchase another property whereby the numbers of units of the new property are greater than the units of the sold property and used to advance historic preservation and affordable housing under the requirements of these Guidelines

D. Affordable Housing Requirements on Properties Acquired with Revolving Fund Monies

Upon the purchase of a building, the Rental Regulatory Agreement between the County and DHT, in substantially the form attached as Exhibit B to the Grant Agreement between the County and DHT, must be executed to serve as a recorded restrictive covenant on the property and building. Should the acquisition of the property require any non-County financing, the Rental Regulatory Agreement shall be recorded prior to obtaining such non-County financing to ensure the property retains its affordability status. The Rental Regulatory Agreement shall include, but not be limited to, the following requirements:

1. Properties acquired with funding, or rental income resulting, from the Revolving Fund shall maintain their historic and affordability status running with the property, regardless of owner, the last day of the 30th year after the year in which the project is completed.
2. The application process for the designated number of affordable housing unit(s) in a property(s) acquired with Revolving Fund monies will be limited to individuals or households whose income does not exceed 140 percent of the area median income (AMI) for Miami-Dade County as published by the United States Department of Housing and Urban Development or the Florida Housing Finance Corporation, with priority given to those earning less than 80 percent of AMI, to the extent feasible.
3. For purposes of ensuring the financial viability of a property acquired with Revolving Fund monies, at least one unit or 10 percent of the units, whichever is higher, in the property must remain affordable for an individual or family as noted in paragraph D.2. above. However, the Mayor or the Mayor's designee is authorized to negotiate a higher number of affordable housing units depending on the financial viability and capacity of a property.
4. Subject to paragraphs D.2. and D.3. above, DHT will work with local affordable housing and non-profits to determine the resident application and selection process, based on income and employment (workforce/industry) status, which shall be transmitted to the Miami-Dade Public Housing and Community Development or its successor agency. DHT must ensure tenants will be able to meet their rent requirements.
5. The units in all properties acquired with Revolving Fund monies shall be inspected for compliance with regulatory housing standards and adherence to the Rental Regulatory Agreement by Miami-Dade Public Housing and Community Development, or its successor agency.
6. DHT shall transmit to the Directors of the Miami-Dade Public Housing and Community Development and the Department of Regulatory and Economic Resources, or their successor agencies, a certified annual operating statement for each property acquired with Revolving Fund monies.

E. Financial Procedures and Property Acquisition Oversight

Initial Grant Agreement monies will be paid to DHT and deposited in a separate account upon DHT making a one-time advance request for the full \$1,000,000. DHT will be responsible for decision-making of the Revolving Fund's property acquisition, rehabilitation, and residential/management requirements. The DHT Executive Director will assist in carrying out any directives proposed to meet the mission of the Revolving Fund.

However, acquisitions must be approved by the County in advance in order to ensure compliance with the Guidelines. Prior to the acquisition of a property, DHT must submit documentation to demonstrate compliance with Section E.1. below and provide an executed Rental Regulatory Agreement for the subject property. The County shall not approve any acquisition that is not financially viable as an affordable housing property for a 30-year period, consistent with Section E.1.(a) below. The County shall notify DHT Executive Director of any additional requests for information necessary to provide a final approval. Any objections to the acquisition of a property shall be notified in writing.

Should no property be acquired within 18 months of the date of the full execution of the Grant Agreement between the County and DHT the entire amount of funds shall be returned to the County.

1. Documentation for Approval of Use of Revolving Fund Monies

- a) The notification of a request to acquire a property must be sent to the Director of the Public Housing and Community Development or its successor agency and accompanied with a 30-year pro forma outlining the sources (i.e., County and/or other public funding, grant funding, private financing, and future rental income) and uses to rehabilitate and maintain the property. Rental rates factored into the 30-year pro forma must be consistent with paragraphs D.1. and D.2. of the Guidelines.
- b) The notification of a request to acquire a property must be accompanied with an estimate from a contractor demonstrating the costs necessary to rehabilitate or restore the historic features of the property, if Revolving Fund monies will be used for this purpose. The estimate for rehabilitation and restoration will be reviewed by historic preservation staff in the Department of Regulatory and Economic Resources, or its successor agency.
- c) Future actions to utilize monies already in the Revolving Fund shall be consistent with all aforementioned provisions of these Guidelines.

The pro forma will serve as a guide to determine, based on estimates at a certain point in time, the financial viability of a property; however, it is understood that future circumstances outside of the County and DHT's control, such as, but not limited to, the cost of utilities and the amount of rent to charge on market-rate units, is subject to change. To ensure financial stability going forward, the following section will provide for annual financial audit of the Revolving Fund and a certified annual operating statement for each property.

2. Annual Financial Audit of the Revolving Fund

DHT will provide the Director of the Department of Regulatory and Economic Resources or its successor agency an annual financial audit of the Revolving Fund by an independent certified public accountant for each fiscal year ending June 30 and comply with other financial and compliance reporting requirements stipulated for each property as outlined in the Rental Regulatory Agreement. The annual financial audit of the Revolving Fund is separate and apart from the certified annual operating statement required under the Rental Regulatory Agreement for any property acquired with Revolving Fund monies.

The annual financial audit of the Revolving Fund should be provided no later than 90 days from the end of the fiscal year ending June 30 and shall be accompanied by a separate report from the Executive Director of DHT summarizing the status of acquisition, renovation, marketing, and leasing of properties acquired, or to be acquired, with Revolving Fund monies. The report from the Executive Director summarizing the status of acquisition, renovation, marketing, and leasing of properties acquired, or to be acquired, with Revolving Fund monies shall be transmitted to the Board of County Commissioners by the County Mayor or designee.

The Revolving Fund is subject to audit by the Miami-Dade Audit and Management Services, the Miami-Dade Office of Inspector General, and the Miami-Dade Commission Auditor, or an external auditor of the County's choosing.

Any amount or portion of Revolving Fund monies found not in compliance with the Guidelines, as a result of the aforementioned annual financial audit of the Revolving Fund or certified annual operating statement for each property acquired with Revolving Fund monies, will be deemed refundable to the County. The Director of the Department of Regulatory and Economic Resources or its successor agency shall request the specific amount to be returned to the County and DHT shall furnish the payment within 30 days of the notification.

F. Florida Public Records Law

The Public Records Law, set forth in Chapter 119, Florida Statutes, provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. DHT recognizes and agrees that the Public Records Law applies to documents and records exchanged between it and the County, and that such documents and records are subject to disclosure pursuant to a public records request, unless an exemption applies.

**ATTACHMENT B
to Grant Agreement**

This Instrument Was Prepared By:
Terrence A. Smith
Assistant County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

Record and Return to:

**MIAMI-DADE COUNTY
RENTAL REGULATORY AGREEMENT**

WHEREAS, pursuant to Resolution No. _____ adopted by the Miami-Dade County Board of County Commissioners, on _____, **MIAMI-DADE COUNTY** (hereinafter referred to as the "County") was authorized to enter into a grant agreement (hereinafter referred to as "Grant") with the Dade Heritage Trust, Inc. (hereinafter referred to as "DHT") in an amount not to exceed one million dollars (\$1,000,000.00) for the purposes of DHT managing a Historic Preservation Revolving Fund for Affordable Housing (hereinafter referred to as the "Revolving Fund");

WHEREAS, the Grant between the County and DHT included the Historic Preservation Revolving Fund for Affordable Housing Guidelines (hereinafter referred to as the "Guidelines") that, among other things, established the review and acquisition criteria for properties that can be used to further historic preservation and affordable housing goals;

WHEREAS, pursuant to Resolution No. _____, the Miami-Dade County Board of County Commissioners provided the County Mayor or the County Mayor's designee delegated authority to execute this Rental Regulatory Agreement (hereinafter referred to as the "Agreement") upon the approval of the acquisition by DHT of property, in accordance with the Guidelines, suitable for affordable housing;

WHEREAS, DHT, whose address is _____, and its heirs, successors and assigns are hereinafter referred to as the "Owner," for the purposes outlined in that certain County Deed, dated _____, 2020 and recorded in Official Records Book _____, Page _____ of the Public Records of Miami-Dade County, Florida, executed simultaneously with this Agreement;

WHEREAS, in connection with receipt of the County Deed, the Owner agrees to maintain the rents at certain prescribed rates, as set forth in this Agreement,

NOW, THEREFORE, for and in consideration of Ten dollars (\$10.00), the promises and covenants contained in this Agreement and for other good and valuable consideration received and acknowledged this _____ day of _____, 20____, the Owner and the County hereby agree as follows:

PROPERTY ADDRESS: _____

**LEGAL DESCRIPTION
OF PROPERTY:**

The real property legally described and attached hereto in Exhibit A and located in Miami-Dade County (hereinafter referred to as the "Property")

DWELLING UNITS: _____ units

WITNESSETH:

- I. Owner agrees with respect to the Property for the period beginning on the date of recordation of the Loan Documents, and ending on the last day of the thirtieth (30th) year after the year in which the Project is completed, that:
- a) _____ unit(s) will be limited to individuals or households with a median average income (hereinafter referred to as "MAI") for Miami-Dade County that does not exceed 140 percent, but will prioritize to the extent feasible on those earning less than 80 percent of MAI, regardless of family size. Accordingly, the maximum initial approved rental rates for this property are indicated in Exhibit B attached hereto.
 - b) This Agreement shall be a recorded restrictive covenant on the Property, and all buildings and other improvements constructed or to be constructed thereon (collectively, the "Project"). The subject matter of this Agreement and the covenants set forth herein touch and concern the Property. It is the intent of the parties that this Agreement and the covenants set forth herein run with the Property. This Agreement shall be binding on the Property, the Project, and all portions thereof, and upon any purchaser, grantee, transferee, owner or lessee or any portion thereof, and on the heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner or lessee and on any other person or entity having any right, title or interest in the Property, the Project, or any portion thereof, for the length of time that this Agreement shall be in force. Owner hereby makes and declares these restrictive covenants which shall run with the title to said Property and be binding on the Owner and its successors in interest, if any, for the period stated in the preamble above, without regard to payment or satisfaction of any debt owed by Owner to the County or the expiration of any Contract between the Owner and the County.
 - c) The above rentals will include the following services to each unit: **[INSERT TERMS]**
 - d) Owner agrees that upon any violation of the provisions of this agreement, the County, through its agent, the County may give written notice thereof to the Owner, by registered mail, at the address stated in this agreement, or such other address or addresses as may subsequently be designated by the Owner in writing to the County, and in the event Owner does not cure such default (or take measures reasonably satisfactory to the County to cure such default), within thirty (30) days after the date of notice, or within such further time as the County may determine is necessary for correction, the County may, without further notice, declare a default under this Agreement, and effective upon the date of such default, the County may:

- i) Declare the amount or a portion thereof of the Grant funds transferred under this Agreement due and payable;
- ii) Apply to any court, County, State or Federal, for any specific performance of this agreement; for an injunction against the violation of this agreement; or for such relief as may be appropriate since the injury to the County arising from a default remaining uncured under any of the terms of this agreement would be irreparable, and the amount of damage would be difficult to ascertain.

Notwithstanding the foregoing, the County hereby agrees that any cure of any default made or tendered by the Owner's investor limited partner/managing member, _____, shall be deemed to be a cure by Owner and shall be accepted or rejected on the same basis as if made or tendered by Owner. Copies of all notices which are sent to Owner under the terms of this Agreement shall also be sent to _____.

- e) Owner further agrees that it will, during the term of this Agreement: furnish each resident at the time of initial occupancy, a written notice that the rents to be charged for the purposes and services included in the rents are approved by the County pursuant to this Agreement; that they will maintain a file copy of such notice with a signed acknowledgment of receipt by each resident; and, that such notices will be made available for inspection by the County during regular business hours.
- f) Owner agrees that the unit shall meet the energy efficiency standards promulgated by the Secretary of the United States Department of Housing and Urban Development (hereafter "HUD").
- g) Owner agrees that all residential tenant leases of the Units shall (a) be for an initial term of not less than one year, (b) be renewed at the end of each term except for good cause or mutual agreement of Owner and residential tenant.

II. The County and Owner agree that rents may increase as median income increases as published by HUD. Any other adjustments to rents will be made only if the County (and HUD if applicable), in their sole and absolute discretion, find any adjustments necessary to support the continued financial viability of the project and only by an amount that the County (and HUD if applicable) determine is necessary to maintain continued financial viability of the project.

Owner will provide documentation to justify a rental increase request not attributable to increases in median income. Within thirty (30) days of receipt of such documentation, the County will approve or deny, as the case may be, in its sole and absolute discretion, all or a portion of the rental increase in excess of the amount that is directly proportional to the most recent increase in MAI. In no event, however, will any increase directly proportional to an increase in MAI be denied.

III. Except as otherwise noted, all parties expressly acknowledge that the County shall perform all actions required to be taken by Miami-Dade County pursuant to Paragraphs 4, 5, 6 and 7, hereof for the purpose of monitoring and implementing all the actions required under this Agreement.

In addition, thirty (30) days prior to the effective date of any rental increase, the Owner shall furnish the County with notification provided to tenants advising them of the increase.

IV. Occupancy Reports.

The Owner shall, on an annual basis, furnish PHCD with an occupancy report, which provides the following information:

- A) At the end date of each reporting period, a list of all occupied apartments to include but not limited to the following:
 - 1. Composition of each resident family,
 - 2. Families moving into, already living in, or who have recently lived in Public Housing; or the Section 8 Rental Certificate, Rental Voucher, or Moderate Rehabilitation Programs,
 - 3. Income requirements,
 - 4. Eligibility factors, e.g. credit history, criminal background, etc.
 - 5. Demographic information to include racial and ethnic makeup of the tenants, and
 - 6. Steps taken to make the Property accessible to the disable, including but not limited to the steps taken by the Owner to comply with all applicable laws and regulations such as the federal, state and local fair housing laws, the Americans with Disabilities Act and the Uniform Federal Accessibility Standards requirements.
- B) A list of all vacant apartments, as of the end date of the reporting period.
- C) The total number of vacancies that occurred during the reporting period.
- D) The total number of units that were re-rented during the reporting period, stating family size and income.
- E) The Owner shall upon written request of PHCD allow representatives of PHCD to review and copy any and all of tenant files, including but not limited to executed leases and tenant income information.

V. Inspections

Pursuant to 42 U.S.C. § 12755, the Owner shall maintain the Property in compliance with all applicable federal housing quality standards, receipt of which is acknowledged by the Owner, and contained in Sec. 17-1, et seq., Code of Miami-Dade County, pertaining to minimum housing standards (collectively, "Housing Standards").

- A) PHCD shall annually inspect the Property, including all dwelling units and common areas, to determine if the Property is being maintained in compliance with federal

Housing Quality Standards and any applicable Miami-Dade County Minimum Housing Codes. Annual inspections shall be at the rates and for the activities noted in the Rental Regulatory Agreement, Compliance, and Monitoring Unit Per Unit Cost Schedule attached as Exhibit C. The Owner will be furnished a copy of the results of the inspection within thirty (30) days, and will be given thirty (30) days from receipt to correct any deficiencies or violations of the property standards of the Miami-Dade County Minimum Housing Codes or Housing Standards.

- B) At other times, at the request of the Owner or of any tenant, PHCD may inspect any unit for violations to the property standards of any applicable Miami-Dade County Minimum Housing Codes or Housing Standards. The tenant and the Owner will be provided with the results of the inspection and the time and method of compliance and corrective action that must be taken.
- C) The dwelling units shall contain at least one bedroom of appropriate size for two persons.

VI. Lease Agreement, Selection Policy and Management Plan

Prior to initial rent-up and occupancy, the Owner will submit the following documents to PHCD:

- A) Proposed form of resident application.
- B) Proposed form of occupancy agreement.
- C) Applicant screening and tenant selection policies.
- D) Maintenance and management plan which shall include the following information:
 - 1. A schedule for the performance of routine maintenance such as up-keep of common areas, extermination services, etc.
 - 2. A schedule for the performance of non-routine maintenance such as painting and reconditioning of dwelling units, painting of building exteriors, etc.
 - 3. A list of equipment to be provided in each dwelling unit.
 - 4. A proposed schedule for replacement of dwelling equipment.
 - 5. A list of tenant services, if any, to be provided to residents.
- E) At any time (monthly, quarterly, annually), the Owner agrees that the County has the right to:
 - 1. Evaluate and test the Waiting List Policies.
 - 2. Pull records to review and assess any and all abnormalities relative to the demographic mix..

3. Ensure fair and equal access to the units were offered by the Owner and its agents.

The Owner agrees that the County has the right to refer eligible applicants for housing. The Owner shall not deny housing opportunities to eligible, qualified families, including those with Section 8 Housing Choice Vouchers, unless the Owner is able to demonstrate a good cause basis for denying the housing as determined by PHCD in its sole and absolute discretion.

Pursuant to the Miami-Dade Board of County Commissioners' Resolution No. R-34-15, the Owner, its agents and/or representatives, shall provide written notice to the County related to the availability of rental opportunities, including, but not limited to, the number of available units, bedroom size, and rental prices of such rental units at the start of any leasing activity, and after issuance of certificate of occupancy. The Owner, its agents and/or representatives shall also provide the County with the contact information for the Owner, its, agents and/or representatives.

VII. Affirmative Marketing Plan

- A) Owner shall forward to PHCD within fifteen (15) days of execution of this Agreement an Affirmative Marketing Program for PHCD's approval which incorporates the requirements as set forth by the County to attract and identify prospective renters or homebuyers (as applicable), regardless of sex, of all minority and majority groups, to the Project, particularly groups that are not likely to be aware of the Project. The Affirmative Marketing Program should include efforts designed to make such persons/groups aware of the available housing, including, but not limited to the following activities:
 1. Annually submit proof of advertising in a newspaper of general circulation, and newspapers representing significant minorities and non-English speaking persons in an effort to afford all ethnic groups the opportunity to obtain affordable housing; and
 2. The Owner shall provide proof of other special marketing efforts including advertising Multiple Listings Service (MLS) through a licensed real estate professional.
- B) The Affirmative Marketing Program shall be submitted to PHCD for approval at least every five (5) years and when there are significant changes in the demographics of the project or the local housing market area.

VIII. Financial Reports

- A) Annually, the Owner shall transmit to the County a certified annual operating statement showing project income, expenses, assets, liabilities, contracts, mortgage payments and deposits to any required reserve accounts (the "Operating Statement"). PHCD will review the Operating statement to insure conformance with all provisions contained in this Agreement.
- B) The Owner will create a reserve for maintenance to be funded \$300 per unit per year. This reserve may be combined with reserve accounts required by any other parties

making loans to Owner and will be deemed satisfied by any deposits made by Owner in accordance with loan documents which contain a maintenance reserve requirement of at least \$300 per unit per year.

IX. Action By or Notice to the County

Unless specifically provided otherwise herein, any action to be taken by, approvals made by, or notices to or received by the County required by this Agreement shall be taken, made by, given or delivered to:

County Mayor
Miami-Dade County
111 NW 1st Street, 29th Floor
Miami, Florida 33128
Attn: County Mayor

Copy to:

Department of Public Housing and Community Development
701 N. W. 1 Court
14th Floor
Miami, Florida 33136
Attn: Director

Copy to:

Miami-Dade County Attorney's Office
111 N.W. 1 Street
Suite 2810
Miami, Florida 33128
Attn: Terrence A. Smith, Esq.

or any of their successor agencies or departments.

X. Recourse:

In the event of a default by the Owner under this Agreement, Lender shall have all remedies available to it at law and equity.

XI. Rights of Third Parties:

Except as provided herein, all conditions of the County hereunder are imposed solely and exclusively for the benefit of the County and its successors and assigns, and no other person shall have standing to require satisfaction of such conditions or be entitled to assume that the County will make advances in the absence of strict compliance with any or all conditions of County and no other person shall under any circumstances, be deemed to be a beneficiary of this Agreement or the loan documents associated with this Agreement, any provisions of which may be freely waived in whole or in part by the County at any time if, in their sole discretion, they deem it desirable to do so. In particular, the County make no representations and assume no duties or obligations as to third parties concerning the quality of the construction by the Owner of the Property or the absence therefrom of defects.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, County and Owner have caused this Agreement to be executed on the date first above written.

By: _____
NAME AND TITLE

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing Rental Regulatory Agreement was sworn to, subscribed and acknowledged before me this _____ day of _____, 20__, by on behalf of the _____ . He is personally known to me _____ or has produced identification _____.

Notary Public
State of Florida at Large

My commission expires:

MIAMI-DADE COUNTY, FLORIDA

By: _____
COUNTY MAYOR OR DEPUTY MAYOR

ATTEST:

HARVEY RUVIN, CLERK

By: _____
DEPUTY CLERK

Approved as to form and legal sufficiency:

By: _____
Terrence A. Smith
Assistant County Attorney

EXHIBIT A
to Rental Regulatory Agreement

LEGAL DESCRIPTION

FOLIO	DESCRIPTION
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EXHIBIT B
to Rental Regulatory Agreement

Initial Rents:

Number of Units	Type	Gross Rent*	Utility	Net Rent

Note: *Gross Rents are based upon year 2021 maximum rent as published by HUD and Florida Housing Finance Corporation. Net rents are subject to change upon annual increase in the County median income and utility costs. The applicable utility allowance for any utilities paid by the tenant are to be adjusted annually as required by applicable laws and adopted County policies uniformly applied.

If the units receive federal or state project-based rental subsidies and are occupied by very-low income families paying no more than 30% of their monthly adjusted income toward rent, then the maximum rent (i.e. tenant contribution plus project-based subsidy) is the rent allowable under the project-based subsidy program.

At the discretion of the County, up to twenty percent (20%) of the rental units, per project, may be designated for Housing Choice Voucher (Section 8) subsidy, either project-based or tenant-based. The Owner shall not deny housing opportunities to eligible, qualified Housing Choice Voucher (Section 8) applicants referred by the County, unless good cause is documented by the Owner and submitted to the County.

NOTE:

**LOAN DOCUMENT INFORMATION TO BE
PROVIDED FOLLOWING RECORDING OF
MORTGAGE**

Mortgage Document No: _____

Date Recorded: _____

Book Number: _____

Page Number: _____

County: MIAMI-DADE
State: FLORIDA

EXHIBIT C
to Rental Regulatory Agreement

Public Housing and Community Development		
Rental Regulatory Agreement, Compliance, and Monitoring Unit		
Cost Per Unit*		
Fiscal Year 2019-2020		
Activity	Unit Cost**	Comments
Inspection	\$32.45	Housing Quality Standards Review
File Review	\$55.86	Eligibility, Income, and Rental Calculation Review
Administrative	\$32.78	Supervisory Oversight
Travel	\$5.74	Car and Public Transportation Pass
Overhead	\$8.59	Rent, Phone, Supplies
Total Per Unit Cost*	\$135.41	
**Cost shall increase at the rate of 3% each year.		
Examples:		
A: Cost to conduct a 10 Unit Review for a project would be \$1,354.14		
B: Cost to conduct a 30 Unit Review for a project would be \$4,062.42		

** The Unit Cost in Exhibit C is a Fiscal Year 2019-20 sample for illustration purposes only. The applicable cost per unit schedule in each Rental Regulatory Agreement will match the amounts set for the respective fiscal year in which the Rental Regulatory Agreement is executed.*

*** The unit cost for each activity will increase by three percent each year.*