

**CITY OF FORT LAUDERDALE
REHABILITATION/REPLACEMENT HOUSING PROGRAM
PARTICIPATION AGREEMENT**

THIS AGREEMENT, entered into this 3rd day of MARCH, 2022
by and between:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida,
hereinafter referred to as "City"

and

Clover Cohen and O'Brian S. Adams, Husband and Wife, hereinafter referred to as
"Property Owner(s)" and/or "Participant(s)"

WHEREAS, the City Commission of City, at its meeting of May 7, 2019, approved CAM 19-0363, which includes substantial amendments to the 2015-2018 Annual Action Plans policies and guidelines and the allocation of Community Development Block Grant (CDBG) funds for the City of Fort Lauderdale Substantial Rehabilitation/Replacement Program.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. PURPOSE. The purpose of this Agreement is to establish the requirements for the City to loan money to Property Owner(s) for the purpose of owner-occupied substantial rehabilitation/replacement construction of a house on Property Owner(s)'s property. The construction loan financing and this Agreement are subject to compliance with the existing City of Fort Lauderdale Housing Program Policy and Guidelines ("Program").

2. SCOPE. The loan proceeds obtained in conjunction with this Agreement shall be used solely in connection with the rehabilitation, replacement, construction, and related soft costs for the house on Property Owner(s)'s property ("Project") having the address of:

851 S.W. 39th Avenue
Fort Lauderdale, Florida 33312

Legally described as:

Lot 19, Block 6, of MELROSE PARK SECTION 7, according to plat thereof as recorded in Plat Book 39, Page 35, of the Public Records of Broward County, Florida ("Property").

This is a third mortgage, subject to the interest of Home Funds Direct, mortgagee as assigned, by virtue of that Assignment of Mortgage recorded on September 26, 2011, in Official Records Book 48201, Page 446, of the Public Records of Broward County, Florida, and that second mortgage to Broward County, mortgagee(s), recorded in O.R. Book

32965, Page 1385, as subordinated in O.R. Book 35352, Page 630, Public Records of Broward County, Florida.

3. FORM OF ASSISTANCE. The amount of the loan shall not exceed Thirty Thousand Dollars and Zero Cents (\$30,000.00). Upon execution of this Participation Agreement, the Program Maximum amount of the loan shall be earmarked and set aside for the Property Owner(s) to be used solely for the Property Owner(s)' Project. The monies provided shall be withdrawn and used on behalf of the Property Owner(s) by City solely to pay for the Project costs. Payments shall be made in accordance with the procedures provided in the form Contractor Agreement and Construction Contract Addendum used by and on file with the City's administrator of the Program ("Construction Contract").

Participant(s) shall execute a promissory note in the full amount of the loan as provided in this Paragraph 3 that will be secured by the mortgage as provided in paragraph 6 of this Agreement, recorded in the Public Records of Broward County in the maximum amount of the loan provided in this Paragraph.

This Agreement may be modified by the parties during construction to increase the loan to cover additional costs of construction if additional funds become available. Upon completion of the Project, or if this Agreement is terminated for any reason prior to completion of the Project and funds remain in Property Owner(s)' Project account that are unencumbered, a modification of the mortgage reducing the amount secured by the Mortgage will be executed by the City and recorded in the Public Records of Broward County.

Upon execution of this Agreement, Participant(s) agrees to execute the note in the full amount of the loan as provided in this Paragraph covering all Project costs to be incurred in order to secure and implement the Construction Contract and the mortgage securing the maximum loan amount, which Mortgage will be recorded in the Public Records of Broward County and constitute a lien against the Property.

(a) Interest Rate. The interest rate on the principal amount of the loan shall be zero percent (0%) per annum, except in any event of default as described in Paragraph 7.

(b) Term of Repayment. Payment on the principal amount of the loan shall be deferred, so long as the property is occupied as the principal residence of the Property Owner(s), for a ten (10) year period. The ten (10) year period shall commence on the date the City issues a final certificate of occupancy or final inspection, whichever is applicable evidencing the house may be occupied by Participant(s). Repayment of the full loan amount will become due and payable upon sale, lease, or transfer of the Property during the ten (10) year period. If no sale, lease, transfer, or other event of default occurs during the ten (10) year period, the terms of this encumbrance shall be satisfied and the Property Owner(s) shall be issued a Satisfaction of Mortgage. The City will recapture the entire amount of the direct subsidy provided to the Property Owner(s), or net sale proceeds.

4. OCCUPANCY. Property Owner(s) must provide annual certification to the City which confirms that the Property is the principal residence of Property Owner(s).

5. INSPECTION. Property Owner(s) shall permit reasonable inspection of the Property by inspectors of the City or its agents, for determining compliance with all applicable governmental regulations.

6. SECURITY. City shall secure the loan for this Agreement with a Mortgage on the Property.

7. DEFAULT. The Property Owner(s) acknowledges and understands that the provisions as specified below constitute events of default under this Agreement:

(a) Nonperformance by Property Owner(s) of any covenant, agreement, term, or condition of this Agreement, or of any other agreement heretofore, herewith, or hereinafter made by the Property Owner(s) with the City in connection with this Program, after the Property Owner(s) has been given due notice by the City of such non-performance;

(b) Failure of the Property Owner(s) to perform any covenant, agreement, term or condition in any instrument creating a lien upon the Property;

(c) The City's discovery of Property Owner(s)' failure in the Application to the City to disclose any fact, or the City's subsequent discovery of any fact, deemed by the City to be material, and one upon which the City relied in order to enter into this Agreement, or any other agreements entered into by the City with Property Owner(s) (including, but not limited to, any other agreements arising in connection with this Agreement and entered into by the Property Owner(s)), or City's discovery of any misrepresentation by, on behalf of, or for the benefit of the Property Owner(s);

(d) Property Owner(s)' non-residential use or disposition of the Property without the prior written consent of the City;

(e) Property Owner(s)' failure to maintain the Property in a standard habitable condition;

(f) Property Owner(s) acquiring additional indebtedness upon the Property without the specific written consent by the City; and/or

(g) The transfer of the Property to another, other than Property Owner(s)' legal heirs.

In the event of default, the entire sum due is payable immediately and interest may be charged at the maximum rate allowed by law. Participant(s) acknowledges that if the Project is terminated before completion, either voluntarily or otherwise, it will constitute an ineligible activity and any funds invested in the Project must be repaid by the Property Owner(s) to the City.

8. CLOSING. The closing on this property loan shall occur within thirty (30) days after the date of execution of this Agreement. The closing shall be conducted at the City of Fort Lauderdale, Housing and Community Development Division, 914 Sistrunk Boulevard, Suite 103, Fort Lauderdale, Florida, 33311 or such other place as may be selected and designated by the City.

9. ADMINISTRATION. As an administrative function, the City shall serve in the capacity of an escrow agent for Property Owner(s) in the event that the Property Owner(s) selects a contractor whose costs otherwise exceed the policies and guidelines on determining the maximum reasonable costs for this Program, or for contract items or additional work which are at the sole cost of, and payment by the Property Owner(s). In such case, the deposit from the Property Owner(s) shall be provided to the City at the closing on the loan for the additional funds or the cost differential plus contingency reserve necessary to fully fund the work being undertaken in connection with this Agreement. Any escrowed funds shall be promptly deposited by the City and the Property Owner(s) shall not be entitled to receipt of any interest on any such required sum deposited and held in escrow. The City shall return to the Property Owner(s) any unused portion of the contingency reserve within ten (10) working days from the date of completion and acceptance of the work, which shall be the date of the Certificate of Completion for the Project.

10. ASSUMPTION. This Agreement may be assumed only by the legal heirs of Property Owner(s), under the same terms and conditions of the original agreement. Assumption is only valid after written notice is given to the City and only after execution of such assumption documents as deemed necessary by the City.

11. DISBURSEMENTS. Charges incurred in connection with closing the loan made pursuant to this Agreement shall be paid directly to the charging party and the Property Owner(s) shall receive a written record of these charges on the disclosure statement provided at the closing.

Disbursements for hard costs to the General Contractor shall be made payable to the General Contractor, requiring the Property Owner(s)' signature in countersigning and releasing the check for payment(s) to the General Contractor. The Property Owner(s) shall not unreasonably withhold approval of any partial or final payments to General Contractor, subject to the requirements set forth or referred to in the City's Program Guidelines.

12. CONDITIONS PRECEDENT. The City's administrative obligations under this Agreement to disburse funds shall be conditioned upon, and no portion of any of the loan proceeds shall be disbursed until, the Property Owner(s) delivering the following documents to the City:

Copies of insurance policies or certificates or insurance evidencing Standard Fire and Extended Coverage Insurance and Flood Insurance with coverage in the Maximum loan amount specified in Paragraph 3 for the Property plus the remaining principal balance of any existing mortgages, unless a lesser amount is otherwise determined acceptable at the sole discretion of the City. Such policies shall be issued by a company, or companies of such financial responsibility acceptable to the City, and the policies shall be endorsed to reflect the City's legal interest in the Property. In the event any sum of money becomes payable under such policy or policies, City shall have the option to receive and apply the same on account of the indebtedness hereby secured, after satisfaction of the Property Owner(s)' similar obligation to superior mortgages, if any, or else the City may permit the Property Owner(s) to receive and use the same or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under or by virtue of this Agreement and the Mortgage.

Policies issued pursuant to this Paragraph of the Agreement shall initially be for at least a one (1) year term for Standard Fire and Extended Coverage Insurance and for Flood Insurance, which shall be prepaid in full upon the Closing of this loan as a condition precedent to the disbursement of any loan proceeds; said insurance coverage shall be maintained by the Property Owner(s) in full force and effect during the term of this Agreement.

13. INSURANCE. The City shall obtain a title insurance policy in an American Land Title Association (ALTA) form in the amount of the loan as it appears in Paragraph 3 of this Agreement and as it appears on the Note and the Mortgage used to secure the loan that secures this Agreement, unless the City determines that a lesser amount is acceptable. Such policy shall insure that the Mortgage will be a valid lien on the premises, free and clear of all code defects and encumbrances not approved by the City and shall contain no survey exceptions unless waived at the discretion of the City.

14. TERMINATION. This Agreement may be terminated by the Property Owner(s) by providing written notice to the City within three (3) business days from the date of closing.

15. COMMUNICATIONS. Any and all communications arising under this Agreement shall be transmitted as follows:

(a) All notices, demands, requests, instructions, approvals, proposals, and claims shall be in writing.

(b) Notice by either party under this Agreement should be deemed sufficient if given in writing and hand delivered and return receipt requested or sent by registered or certified mail, postage prepaid and return receipt requested, to the appropriate parties indicated below:

AS TO THE CITY:
City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

AS TO THE PROPERTY OWNER(S):

Clover Cohen and O'Brian S. Adams
851 S.W. 39TH Avenue
Fort Lauderdale, Florida 33312

(c) Any such notices shall be deemed to have been given as of the time of actual delivery or, in the case of mailing, when the same has been deposited in the mail.

16. SEVERABILITY. If any section, subsection, clause, sentence, or provision of this Agreement shall be held invalid for any reason, the remainder of the Agreement shall not be affected thereby.

17. INTEGRATION. This Agreement and all exhibits attached hereto, specifically referenced within, shall constitute the entire agreement between City and Participant(s); no prior written, prior, or contemporaneous oral promises or representations shall be binding. This Agreement shall not be amended except by written instrument signed by both parties.

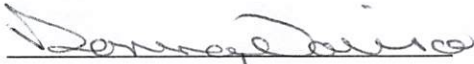
18. GOVERNING LAWS. This Agreement shall be governed by the laws of the State of Florida with venue lying in Broward County for the purpose of any litigation that may arise out of this Agreement.

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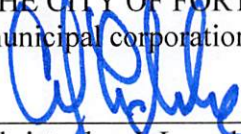
IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:


Aimee Llauro
Witness Name - Printed or Typed

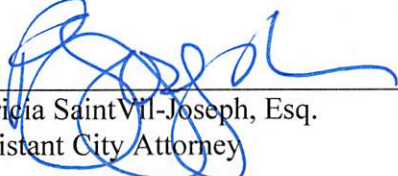

Donna Varisco
Witness Name - Printed or Typed

THE CITY OF FORT LAUDERDALE, a
municipal corporation of the State of Florida

By: 
Christopher J. Lagerbloom, ICMA-CM
City Manager

Date: March 3, 2022

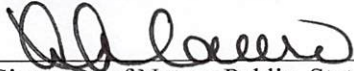
APPROVED AS TO FORM:
Alain E. Boileau, City Attorney

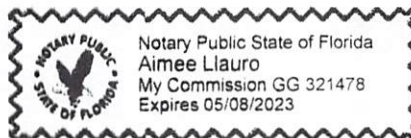
By: 
Patricia Saint-Vil-Joseph, Esq.
Assistant City Attorney

Date: 2/28/22

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 3rd day of March, 2022, by Christopher J. Lagerbloom, ICMA-CM, as City Manager of the City of Fort Lauderdale, a municipal corporation of the State of Florida.


Signature of Notary Public, State of Florida
Aimee Llauro
Name of Notary Typed, Printed or Stamp



Personally Known ☒ OR Produced Identification
Type of Identification Produced

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

Russell Casteel

Russell Casteel
Print Name

Akilah Grant

Akilah Grant
Print Name

PROPERTY OWNER(S)/PARTICIPANT(S):

By: Clover Cohen

Clover Cohen
851 S.W. 39th Avenue
Fort Lauderdale, Florida 33312

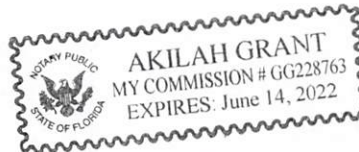
Date: 2/28/22

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 28th day of February, 2022, by **Clover Cohen**.

Akilah Grant
Signature of Notary Public, State of Florida

Akilah Grant
Name of Notary Typed, Printed or Stamped



Personally Known _____ OR Produced Identification ☒ _____
Type of Identification Produced Driver License

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

Russell Casteel
Russell Casteel
Print Name

Akilah Grant
Akilah Grant
Print Name

PROPERTY OWNER(S)/PARTICIPANT(S):

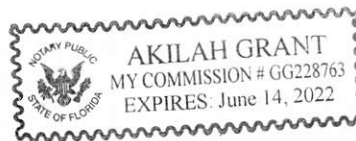
By: O'BRIAN ADAMS
O'Brian S. Adams
851 S.W. 39th Avenue
Fort Lauderdale, Florida 33312

Date: 2/28/22

STATE OF
COUNTY OF Broward

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 28th day of February, 2022, by O'Brian S. Adams.

Akilah Grant
Signature of Notary Public, State of
Akilah Grant
Name of Notary Typed, Printed or Stamped



Personally Known _____ OR Produced Identification ☒
Type of Identification Produced Driver License



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

Today's Date: February 28, 2022

11
3/13/2022

DOCUMENT TITLE: REHABILITATION/REPLACEMENT HOUSING PROGRAM/CDBG – Clover Cohen And O'Brian – Participation Agreement, Promissory Note and Mortgage

COMM. MTG. DATE: 05.07.2019 CAM #: 19-0363 ITEM #: CM-4 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: S.Sierra x5598 Action Summary attached: ☒ YES ☐ NO

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) Dept: HCD Router Name/Ext: DENEICE G. # of originals routed: 1 Date to CAO: 02.28.2022

2) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 1

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 2/28/22 Patricia Saint Vil- Joseph
Attorney's Name

[Signature]
Initials

3) City Clerk's Office: # of originals: 1 Routed to: Donna V./Aimee L./CMO Date: 3/1/2022

4) City Manager's Office: CMO LOG #: Mar-2 Document received from: 3-1-22

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH ☐ GREG CHAVARRIA ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: T. Smith (Initial/Date) PER ACM: G. Chavarria (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward _____ originals to ☐ Mayor ☐ CCO Date: _____

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Forward 1 originals to CAO for FINAL APPROVAL Date: 3/13/2022

7) CAO forwards _____ originals to CCO Date: _____

8) City Clerk: Scan original and forward 1 original to: Sonia Sierra x 5598 CAO

Attach _____ certified Reso # _____ ☐ YES ☐ NO

Original Route form to ssierra./CAO

TM21-1342

Rev. 9/9/2020