

EMPLOYEE SHARING AGREEMENT

THIS EMPLOYEE SHARING AGREEMENT, made and entered into as of this ____ day of _____, 2018, is by and between United Way of Broward County, Inc., a Florida not for profit corporation, ("United Way"), whose principal address is 1300 South Andrews Avenue, Fort Lauderdale, Florida, 33316, and the City of Fort Lauderdale, a Florida municipality, ("City"), whose principal address is 100 North Andrews Avenue, Fort Lauderdale, Florida, 33301.

WHEREAS, United Way administers the Broward Business Council on Homelessness, United We End Homelessness initiative to end homelessness in Broward County, Florida, which assists homeless individuals in the City of Fort Lauderdale with housing and emergency needs such as emergency food, clothing, and shelter; and

WHEREAS, the Broward Business Council on Homelessness consists of local business leaders who are working together to end chronic homelessness (people homeless for one year or longer) in Broward County; and

WHEREAS, the City employs an Administrative Assistant II as its Homeless Interventions Administrator, who administers programs to reduce homelessness and assist homeless individuals in the City of Fort Lauderdale; and

WHEREAS, the City wishes to cooperate with United Way by assigning a City employee to work as the Manager of the Broward Business Council on Homelessness, United We End Homelessness initiative, and provide administrative support to the Senior Director of the Broward Business Council on Homelessness; and

WHEREAS, the City's exercise of its police powers to eliminate or reduce homelessness in the City of Fort Lauderdale by cooperating with United Way and expending City funds to assist United Way in reducing homelessness in the City of Fort Lauderdale will enhance the public health, safety, and welfare, and thereby serve a legitimate public and municipal purpose;

NOW, THEREFORE, for and in consideration of the the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the United Way hereby agree as follows:

1. Unless terminated earlier pursuant to Section 11 or Section 23 of this Agreement, the term of this Agreement shall commence on November 7, 2018, and end on November 6, 2019, with an option to extend one additional year by mutual agreement of the City and United Way.

2. The City agrees to assign to the United Way's United We End Homelessness initiative free of charge an Administrative Assistant II Homeless Intervention Administrator ("City Employee") to help execute the United We End Homelessness initiative and provide administrative support to the Senior Director of The

Broward Business Council on Homelessness, as described in Exhibit A, which is attached hereto and incorporated herein, (the "Work").

3. The City Employee shall perform the Work under the supervision and direction of United Way's management and supervisory employees in accordance with City's rules, policies, Charter, and ordinances governing the City Employee as an employee in the nonclassified service of the City.

4. United Way shall provide the City Employee with office space, support services, materials, supplies, tools, and equipment necessary to perform the Work, (collectively, "Working Conditions"), not inferior to those ordinarily provided by the City to the City's employees. The City may inspect the Working Conditions at any reasonable time.

5. In the event the City Employee incurs any travel expenses in connection with the Work, United Way shall be responsible for payment or reimbursement of such expenses in accordance with the City's Travel Allowance and Subsistence Policy.

6. When either of the parties desires to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, personal delivery, or overnight courier, addressed as follows or as may be changed by written notice in compliance with the provisions of this paragraph:

To United Way: Kathleen Cannon, President
United Way of Broward County, Inc.
1300 South Andrews Avenue
Fort Lauderdale, Florida 33316

To the City: Lee R. Feldman, City Manager
City of Fort Lauderdale
100 North Andrews Avenue
7th Floor
Fort Lauderdale, Florida 33301

7. United Way shall protect and defend at United Way's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City and the City's officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the City Employee while performing the Work or acting under United Way's supervision or direction. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement.

8. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. Neither party intends to directly or substantially benefit any third party by this Agreement. The parties agree that there are no third party beneficiaries to this

Agreement and that no third party shall be entitled to assert a claim against either of the parties based upon this Agreement. Nothing herein shall be construed as consent by the City to be sued by any third party in any matter arising out of this Agreement.

9. Each party to this Agreement shall at all times be acting in the capacity of independent contractor and not as an officer, employee or agent of the other. Neither party shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. The CITY shall at all times be responsible for all aspects of the employment of the City Employee. Nothing in this Agreement is intended to create an agency or employment relationship between United Way and the City Employee. All compensation, wages, salaries, benefits and other emoluments of employment payable to the City Employee shall be the sole responsibility of the CITY.

10. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression, marital status, national origin, religion, sex, or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

11. This Agreement may be terminated with or without cause by either party upon thirty (30) days' written notice to the other party. The City or the City's City Manager ("City Manager") may terminate this Agreement immediately in the event the City Employee transfers to another employment position with the City or ceases City employment for any reason.

12. IF UNITED WAY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO UNITED WAY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301.

United Way shall:

a. Keep and maintain public records related to this Agreement and the City Employee's performance of the Work.

b. Upon request from the City's custodian of public records, provide the City 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 Chapter 119, Florida Statutes (2018), as may be amended or revised, or as otherwise provided by law.

c. 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 the Contractor does not transfer the records to the City.

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

13. As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the United Way, at the United Way's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the United Way. The United Way shall provide the City a certificate of insurance evidencing such coverage. The United Way's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the United Way shall not be interpreted as limiting the United Way's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of A-, VII or better. All insurance policies are subject to approval by the City's Risk Manager.

The coverages, limits, and endorsements required herein protect the interests of the City, and these coverages, limits, and endorsements may not be relied upon by the United Way for assessing the extent or determining appropriate types and limits of coverage to protect the United Way against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the United Way under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The City and the City's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional

Insured Coverage with respect to liability arising out of activities performed by or on behalf of the United Way. The coverage shall contain no special limitation on the scope of protection afforded to the City or the City's officers, employees, and volunteers.

Insurance Certificate Requirements

- a. The United Way shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- b. The United Way shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the United Way to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the United Way shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. The City shall be named as an Additional Insured on the general liability policy.
- g. The title of the Agreement or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

The United Way has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the United Way's expense.

If the United Way's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the United Way may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The United Way's insurance coverage shall be primary insurance as applied to the City and the City's officers, employees, and volunteers. Any insurance or self-insurance maintained by the City covering the City, the City's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the United Way that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, United Way must provide to the City confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of United Way's insurance policies.

The United Way shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the United Way's insurance company or companies and the City's Risk Management office, as soon as practical.

It is the United Way's responsibility to ensure that any and all of the United Way's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the United Way.

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

15. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in the courts in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

16. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, the parties agree that no deviation from the terms of this Agreement shall be predicated upon any prior representation or agreement, whether oral or written.

17. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

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

19. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable, or void, such holding shall not affect the remaining portions of this Agreement, which shall remain in full force and effect.

20. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

21. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

22. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term. Either party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

23. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, tropical storm, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("*Force Majeure*"). In the event of a *Force Majeure* event the City or the City Manager may immediately suspend for any period of time or terminate this Agreement.

24. All representations and warranties made herein regarding indemnification obligations, obligations to reimburse the City Employee, and obligations to maintain and allow inspection of records and property, shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Employee Sharing Agreement on the date first above written.

ATTEST:

CITY OF FORT LAUDERDALE

Jeffrey A. Modarelli, City Clerk

By: _____
Dean J. Trantalis, Mayor

By: _____
Lee R. Feldman, City Manager

Approved as to form:

Assistant City Attorney

WITNESSES:

United Way of Broward County, Inc.

Print Name:

By: _____
Kathleen Cannon, President

Print Name:

ATTEST:

(Corporate Seal)

Print Name of Corporate Officer:
Title:

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Kathleen Cannon as President for United Way of Broward County, Inc., a Florida not for profit corporation.

(SEAL)

Notary Public, State of
(Signature of Notary Public)

(Print, Type, or Stamp Commissioned
Name of Notary Public)

Personally Known _____ OR Produced Identification _____
Type of Identification Produced: _____

Exhibit 'A'
Scope of Work
City/United Way Employee Sharing

General Description:

The Manager of the Business Council on Homeless will help execute United Way of Broward County's "*United We End Homelessness*" initiative to end homelessness in Broward County. The Manager, Business Council on Homelessness, will also provide administrative support to the Senior Director, The Business Council on Homelessness.

Primary Job Responsibilities & Duties:

1. Coordinate with the Senior Director, The Business Council on Homelessness, to ensure continuity and comprehensiveness of services to those experiencing chronic homelessness in Broward County.
2. Perform outreach to realtors, landlords, housing developers and other housing providers through in person meetings, presentations and community networking events to identify new and existing housing opportunities for the homeless community.
3. Tactfully provide all aspects of administrative support to the Senior Director, The Business Council on Homelessness including but not limited to: managing calendar and schedule, preparing and sending agendas and meeting materials, and taking and transcribing meeting minutes.
4. Build and maintain the County's centralized database of available landlords and housing units.
5. Regularly participate in networking events to promote participation in United Way's "*United We End Homelessness*" initiative.
6. Ensure directly and indirectly, that relationships between United Way of Broward County and contracted/other partners including Broward County government, the City of Fort Lauderdale, housing authorities, and centers are built and maintained.
7. Assist Senior Director with strategic forecasting and planning.

Other Job Duties:

- Assist with requests for data and reporting to ensure compliance with grants and funders.
- Build and maintain relationships with key stakeholders and partners.

- Perform other duties and assume other responsibilities as assigned by the Senior Director, The Business Council on Homelessness.
- Flexibility to work evenings and weekends in order to attend meetings and fundraising events.

Supervises: This position does not have supervisory responsibilities.

Education & Experience Requirements:

- Bachelor's Degree plus at least two years of experience identifying and addressing community priorities regarding homelessness in Broward County.
- Prior experience serving on a committee or as a board member to Broward County's homelessness initiative.
- Strong interpersonal skills and the ability to build external relationships and motivate a team of accomplished professionals in their efforts to reach established goals through committee work.
- Proficiency required in MS Word, Excel and other related computer programs required.

Environment & Physical Demands:

The environment is climate controlled (i.e., heated and air-conditioned). Lighting is adequate through overhead lighting as well as windows and blinds. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. Physical demands include sitting and/or standing for extended periods of time, bending, lifting approximately 25 pounds, regular use of the telephone, copier, fax and computer. Demands also involve protracted concentration.