



**SUBAWARD AGREEMENT BETWEEN BROWARD COUNTY  
AND CITY OF FORT LAUDERDALE  
FOR FUNDING OF COVID-19 NON-CONGREGATE HOTEL PROGRAM**

This Agreement ("Agreement") is made and entered by and between Broward County, a political subdivision of the State of Florida ("County"), and City of Fort Lauderdale, a Florida municipal corporation ("Municipality") (each a "Party" and collectively referred to as the "Parties").

**RECITALS**

A. Pursuant to Section 3201 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) ("ERA"), County was allocated \$46,656,620.30 in funding, of which \$26,980,368 was received by County from the U.S. Department of the Treasury ("Treasury") as the first tranche under the Emergency Rental Assistance Program, Catalog of Federal Domestic Assistance ("CFDA") No. 21.023.

B. County wishes to subaward a portion of the ERA funds it received to Municipality as provided in this Agreement.

C. Municipality is a sub-recipient as defined under 2 CFR 200.93; and County desires to provide funding for Municipality's COVID-19 Non-Congregate Hotel Program through reimbursement of housing expenses that are eligible for reimbursement under the Emergency Rental Assistance Program, CFDA No. 21.023.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1. DEFINITIONS**

1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, executive orders, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2. **Board** means the Board of County Commissioners of Broward County, Florida.

1.3. **Contract Administrator** means the Director of County's Community Partnership Division or such other person designated by the Director of County's Community Partnership Division in writing.

1.4. **Eligible Expenditures** means expenditures that are eligible for reimbursement using ERA Funds, in accordance with the ERA and the ERA Guidance.

1.5. **ERA** means Section 3201 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021), and all rules and regulations relating thereto, as amended, including but not limited to the ERA Award Terms.

1.6. **ERA Award Terms** means the U.S. Department of the Treasury Emergency Rental Assistance Award Terms and Conditions executed by County on May 7, 2021.

1.7. **ERA Funds** means the funding provided to County pursuant to the ERA and which is subject to the restrictions and requirements of the ERA.

1.8. **ERA Guidance** means any guidance issued by the U.S. Department of the Treasury regarding the ERA or the ERA Funds, including but not limited to the Emergency Rental Assistance Frequently Asked Questions, Revised May 7, 2021, as may be further amended or revised.

1.9. **Project** means the COVID-19 Non-Congregate Hotel Program that will be implemented by Municipality as described in Exhibit A to this Agreement.

1.10. **Treasury** means the U.S. Department of the Treasury.

## **ARTICLE 2. EXHIBITS**

The following exhibits are attached hereto and fully incorporated herein:

<b>Exhibit A</b>	<b>Project Description</b>
<b>Exhibit B</b>	<b>Budget</b>
<b>Exhibit C</b>	<b>Project Timelines</b>
<b>Exhibit D</b>	<b>Request for Payment Documentation Requirements</b>
<b>Exhibit E</b>	<b>Federal Provisions</b>

## **ARTICLE 3. TERM AND TIME OF PERFORMANCE**

3.1. **Term.** The term of this Agreement shall begin on the date it is fully executed by the Parties ("Effective Date") and shall end on August 31, 2021 ("Initial Term"), unless earlier terminated pursuant to the terms of this Agreement. County may extend this Agreement for up to one (1) additional thirty (30) day term ("Extension Term") by sending notice of extension to Municipality at least fifteen (15) days prior to the expiration of the then-current term (the Initial Term and the Extension Term, if any, is the "Term").

3.2. **Fiscal Year.** The continuation of this Agreement beyond the end of any County fiscal year (October 1 through September 30) is subject to both the appropriation and the availability of ERA Funds in accordance with Chapter 129, Florida Statutes.

3.3. **Time of the Essence.** Unless expressly waived by the Contract Administrator in writing, time is of the essence in Municipality's performance of its duties, obligations, and responsibilities under this Agreement.

## ARTICLE 4. PROJECT

4.1. ERA Funds. Municipality shall implement the Project stated in Exhibit A attached hereto, as may be amended from time to time. Unless otherwise stated in Exhibit A, the Project shall not be eligible for any funding under this Agreement unless all of the Project's elements are Eligible Expenditures. Municipality certifies that each expenditure for the Project that is funded with ERA Funds is an Eligible Expenditure, and covenants that each such expenditure will at all times be an Eligible Expenditure.

4.2. Reserved.

4.3. Project Timeline. Municipality must comply with the Project Timeline set forth in Exhibit C for the Project, which Project Timeline shall not extend past the deadline for expenditures stated in Section 5.5. If Municipality fails to meet any of the deadlines for the Project set forth in Exhibit C by fifteen (15) days or more, upon written notice by the Contract Administrator and effective as of the date of such written notice, the Project will become ineligible for funding under this Agreement and County shall have no further obligation to fund the Project. The County Administrator is authorized to reallocate the ERA Funds to other purposes including to other County projects, as determined in the sole discretion of the County Administrator.

4.4. Monitoring and Reporting. County will carry out periodic subrecipient monitoring and evaluation activities as determined necessary in County's sole discretion or as required by Uniform Grant Guidance, 2 CFR §§ 200.329 through 332. County has the right to conduct a full review of the Project at any time. County's evaluation of the Project may include, but not be limited to, compliance with the terms of this Agreement and comparisons of planned versus actual progress relating to the Project's scheduled expenditures. Upon County's request, Municipality shall promptly furnish to County such records and information requested by County related to the Project. Municipality shall meet with County at reasonable times and with reasonable notice to discuss the Project. Municipality shall collect all data required by the ERA Guidance and any other information required by County in order for County to comply with the Treasury's reporting and recordkeeping requirements.

4.5. Monthly Reports. During the Term of this Agreement and for the month immediately following the expiration or termination of this Agreement, Municipality shall provide County with monthly progress reports in a form provided by County to Municipality, in County's discretion ("Monthly Progress Reports"), which shall include, at a minimum, the number of persons assisted, the number of hotel rooms and number of nights booked, and the number of persons transitioning from the hotel to other housing situations. The Monthly Progress Reports must be submitted to County no later than the fifth (5th) calendar day following the end of the preceding month, provided that, if such date is a Saturday, Sunday, or holiday, the Monthly Progress Report may be submitted on the business day immediately following such Saturday, Sunday, or holiday.

**ARTICLE 5. FUNDING AND METHOD OF PAYMENT; PROVISIONS  
RELATING TO THE USE OF ERA FUNDS**

5.1. Maximum Funds Payable. The maximum amount payable to Municipality under this Agreement is the Total ERA Funds amount stated in the Budget (Exhibit B). All financial obligations of County under this Agreement are subject to the availability of ERA Funds, as more specifically described herein. No County funds other than ERA Funds shall be due or payable to Municipality under this Agreement.

5.2. Invoicing.

5.2.1. Monthly Expenditures. No later than ten (10) calendar days after the end of each month during the Term, Municipality shall request payment from County for all Eligible Expenditures in accordance with Exhibit B that were incurred by Municipality during the prior month by furnishing to County a request for payment in the form approved by the Contract Administrator and supporting documentation as provided in Exhibit D (collectively, "Request for Payment"), including a certification by Municipality and the chief financial officer of Municipality, or such other persons as designated by Municipality with authority to act in similar capacities, (i) that all funds received and utilized to date under this Agreement were utilized only for Eligible Expenditures, and (ii) that there is no other program or funding source with narrower eligibility criteria that can provide similar assistance for hotel or motel stays. Following receipt of a Request for Payment, County shall review the Request for Payment to determine whether the Request for Payment complies with the terms of this Agreement. If a Request for Payment includes subcontractor expenses, whether paid by Municipality on a "lump sum" or other basis, such expenses must be included in the Request for Payment with no markup and stated in the actual amount paid by Municipality. County may, in its discretion, deny a Request for Payment to Municipality if Municipality fails to comply with this section or provide any of the documentation set forth in Exhibit D.

5.2.2. Expenditures Prior to the Effective Date. For Eligible Expenditures incurred prior to the Effective Date, Municipality shall submit a Request for Payment no later than twenty (20) calendar days after the Effective Date.

5.3. Payment; Deadline to Request Payment. If Municipality is in compliance with the terms of this Agreement, including the procedures for Requests for Payment set forth in this article, County shall reimburse Municipality (subject to all terms and conditions of this Agreement) in accordance with Exhibit B for Project expenses that are determined by the County to be Eligible Expenditures, unless a suspension of payment as provided for in Section 5.6 has occurred. Municipality shall not be entitled to reimbursement for any Requests for Payment received by County after August 30, 2021.

5.4. Withholding by County. Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to ensure utilization of ERA Funds in accordance with this Agreement, Applicable Law, and the ERA. The amount

withheld shall not be subject to payment of interest by County. Upon written notice by County, payment may be withheld by County for the duration of any failure of Municipality to comply with a term, condition, or requirement of this Agreement; County shall promptly pay the amount withheld to Municipality when Municipality's noncompliance is cured to the reasonable satisfaction of Contract Administrator, provided that at such time Municipality is in full compliance with all other material terms and conditions of the Agreement.

5.5. Deadline for Expenditures. Municipality shall not submit Requests for Payment, and shall not be reimbursed, for any expenditures incurred after August 31, 2021. If after August 31, 2021, any ERA Funds allocated to Municipality under this Agreement have not been previously requested by Municipality pursuant to a Request for Payment ("Remaining Funds"), County shall be relieved of any further financial obligation to Municipality for the Remaining Funds.

5.6. Suspension of Payment. County may suspend payment, in whole or in part, to Municipality under this Agreement upon the occurrence of any of the following events: (a) ineligible use by Municipality of ERA Funds under this Agreement or the ERA; (b) Municipality's failure to comply with terms of this Agreement; (c) failure to submit reports as required by this Agreement; (d) submission of incorrect or incomplete reports or Requests for Payment in any material respect; or (e) Municipality's failure to comply with the indemnification obligations under this Agreement. If County elects to suspend payment to Municipality pursuant to this section, County shall provide written notice to Municipality specifying the actions that must be taken by Municipality as a condition precedent to resumption of payments and specifying a reasonable date by which Municipality must take such actions. If County determines that the specified actions were taken by Municipality by the date set forth in the notice, County shall resume payments under this Agreement.

5.7. Recoupment. Municipality shall be required to repay to County any ERA Funds determined by County, in County's reasonable discretion, to be ineligible for reimbursement under the terms of this Agreement, or determined by the Treasury to be ineligible use(s) of ERA Funds. Municipality shall also be required to repay to County: (a) any ERA Funds overpaid to Municipality by County; (b) any ERA Funds expended by Municipality, or any of its subcontractors, in violation of this Agreement; or (c) any ERA Funds County is required to refund that were paid to Municipality under this Agreement. Municipality shall repay any amounts required to be repaid to County under this Agreement from nonfederal sources within thirty (30) days after written notice is provided by County. If such amounts are not timely repaid, County may, in its sole discretion, withhold payment on any pending or subsequent Requests for Payment by Municipality, or offset Municipality's obligation to repay County under this Agreement by applying it as a credit against any other funds (except ad valorem tax revenues derived from Municipality's voter-approved debt service millage) owed by County to Municipality under this or any other agreement or any other payment obligation. Municipality agrees that the repayment obligations under this section shall apply regardless of whether ERA Funds were believed or determined by County to be eligible for reimbursement to Municipality prior to the occurrence of the event triggering the repayment obligation hereunder. Municipality waives any present or future defense, counterclaim, or setoff, regardless of the basis, known or unknown,

that Municipality may have to any action by County in enforcing the repayment obligation set forth in this section.

5.8. Security. In addition to County's rights under this Agreement, and notwithstanding any distribution requirement otherwise provided in Florida law, the Florida Administrative Code, the Florida Department of Revenue's rules and procedures, or any other law, rule, regulation or procedure, if Municipality fails to repay County as required in Section 5.7, Municipality authorizes County to withhold from any revenues, including taxes (except ad valorem tax revenues derived from Municipality's voter-approved debt service millage) and fees, that County collects on behalf of Municipality an amount equal to the amount owed by Municipality, which shall be held in a separate account as security until Municipality repays to County all sums owed pursuant to this Agreement.

## **ARTICLE 6. MUNICIPALITY COVENANTS**

6.1. ERA Eligibility Criteria. Municipality acknowledges and agrees that ERA Funds may only be utilized to cover Eligible Expenditures under the ERA and the ERA Guidance. Municipality warrants and represents that Municipality will only request, receive, or accept ERA Funds under this Agreement for Eligible Expenditures that comply with all of these requirements and limitations and all requirements and limitations of the ERA and the ERA Guidance, including as such may be amended.

6.2. Use of ERA Funds. Municipality represents and agrees that the funding provided by County to Municipality under this Agreement will be utilized by Municipality only for the Project, each of which is an Eligible Expenditure as permitted under the ERA, as specified in Exhibit A and in accordance with the Project budget set forth in Exhibit B and the Project Timeline set forth in Exhibit C.

6.3. Reserved.

6.4. Reserved.

6.5. Conflict of Interest. Municipality acknowledges and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. Part 200.318(c), and that such conflict of interest policy is applicable to each project funded under this Agreement. Municipality must disclose in writing to County any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. Part 200.112.

6.6. Publications. Any publications produced with ERA Funds must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number ERAE0262 or ERAE0263 awarded to Broward County by the U.S. Department of the Treasury."

6.7. No Independent Funding Obligation. Municipality acknowledges and agrees that County is not obligated by the ERA or any other law, rule, or regulation to provide any ERA Funds to Municipality, that County voluntarily has elected to distribute a portion of ERA Funds to

Municipality, and that County's obligation to provide ERA Funds to Municipality shall be limited to the ERA Funds as set forth in Exhibit B and subject to the terms and conditions of this Agreement.

## **ARTICLE 7. INDEMNIFICATION**

To the extent permitted by law, Municipality shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Municipality, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Municipality shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Municipality under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

## **ARTICLE 8. AUDITING**

8.1. Audit Rights. In addition to the audit requirements of Section 8.4, County shall have the right to audit the books, records, and accounts of Municipality and any subcontractors (collectively, "Audited Entities") providing goods or services for which funding or reimbursement is sought under this Agreement ("Contract Records"). Audits, reviews, monitoring, inspections, and investigations conducted pursuant to this Agreement may include, but are not limited to, on-site visits by County staff, interviews of staff of any of the Audited Entities, review of performance and financial reports, determining and monitoring appropriate corrective action, and issuing management letters on deficiencies or weaknesses identified. Audited Entities shall fully comply and cooperate with any auditing and monitoring activities deemed appropriate by County.

8.2. Retention of Records. Audited Entities shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and

upon request by the Contract Administrator to do so, Audited Entities shall make same available in written form at no cost to County.

Contract Records include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers and memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance relating to the Project. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations or performance relating to the Project of any of the Audited Entities.

Audited Entities shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to the Project or this Agreement for at least five (5) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). The Project and all expenditures relating to the Project shall be subject to County's review, critique, and analysis for the duration of the Project. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Municipality in order to conduct audits or other investigations.

8.3. Audit Results. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment made or based upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to County by Municipality in addition to any required adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made by Municipality to County within thirty (30) days after presentation of County's findings to Municipality.

8.4. Audit Requirements. Municipality shall comply with the requirements, standards, and the applicable provisions set forth in the Single Audit Act (31 U.S.C. Sections 7501-7507) and the related provisions of 2 C.F.R. Part 200 (Uniform Guidance), including 2 C.F.R. Part 200.303, 2 C.F.R. Part 200.330 through 332, and Subpart F, Audit Requirements. Municipality shall comply with the audit requirements set forth in 2 C.F.R. Part 200, Subpart F, Audit Requirements, Section 215.97, Florida Statutes, applicable Rules of the Department of Financial Services, and Chapters 10.550 (local government entities) or Chapter 10.650 (non-profit and for profit organizations), Rules of the Auditor General, State of Florida, as applicable. Copies of the reporting package required under 2 C.F.R. Part 200 must be filed with County the earlier of thirty (30) calendar days



after receipt of the Auditor's Report(s), or nine (9) months after the end of the audit period. All ERA Funds provided by County must be shown via explicit disclosure in Municipality's annual financial statements or the accompanying notes to the financial statements.

8.5. Municipality shall comply with all requirements of the U.S. Department of Treasury Office of Inspector General, including any requirement to register with SAM.gov.

## **ARTICLE 9. TERMINATION**

9.1. County's obligations under this Agreement are subject to the availability of ERA Funds. If ERA Funds become unavailable, County may terminate this Agreement upon written notice to Municipality no less than three (3) days prior to the effective termination date stated in the notice. This Agreement may also be terminated by the Board upon fifteen (15) days' prior written notice to Municipality if the Board determines that the emergency circumstances of the COVID-19 crisis require that the ERA Funds be otherwise allocated. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare.

9.2. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach.

9.3. This Agreement may be terminated for cause by County for reasons including, but not limited to any of the following:

9.3.1. Repeated submission by Municipality (whether negligent or intentional) for payment of false or incorrect Requests for Payment;

9.3.2. Fraud, misrepresentation, or material misstatement in the performance of this Agreement by Municipality or its subcontractor(s);

9.3.3. Municipality's failure to comply with applicable federal, state, or local law or regulations; or

9.3.4. Municipality's utilization of the ERA Funds provided under this Agreement in a manner that violates Applicable Law, the ERA, or for uses or purposes other than the Project.

9.4. This Agreement may be terminated for convenience by either Party, which termination date shall be not less than thirty (30) days after the date of such written notice.

9.5. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

9.6. If this Agreement is terminated for any reason, County may, in County's reasonable discretion, reimburse Municipality upon receipt of a Request for Payment in accordance with the terms of this Agreement for documented and committed Eligible Expenditures related to the Project incurred by Municipality prior to the date of Municipality's receipt of the written notice of termination. For purposes of this Agreement, documented and committed Eligible Expenditures related to the Project means any verifiable expense that has already been incurred by Municipality and cannot be recovered, including, but not limited to a purchase order for payment of materials and supplies, executed by Municipality or subcontractor on Municipality's behalf, for the Project under this Agreement. Notwithstanding the above, Municipality shall not expend, or commit to expend, any funds for Eligible Expenditures related to the Project after written notice of termination is provided by Municipality to County or received by Municipality from County. Any payment by County pursuant to this section is subject to all applicable provisions of this Agreement, including the sections surviving termination of this Agreement as set forth in Section 11.22. In addition to any right of termination stated in this Agreement, County shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity, all such remedies being cumulative.

#### **ARTICLE 10. INSURANCE**

10.1. Municipality is a governmental entity and is fully responsible for the acts and omissions of its agents or employees, subject to any applicable limitations of Section 768.28, Florida Statutes.

10.2. Upon request by County, Municipality must provide County with written verification of liability protection that meets or exceeds any requirements of Florida law. If Municipality holds any excess liability coverage, Municipality must ensure that Broward County is named as an additional insured and certificate holder under such excess liability policy and provide evidence of same to County.

10.3. If Municipality maintains broader coverage or higher limits than the minimum coverage required under Florida law, County shall be entitled to such broader coverage and higher limits on a primary and noncontributory basis. County's insurance requirements shall apply to Municipality's self-insurance.

10.4. If Municipality contracts with a subcontractor to provide any of the services for the Project, Municipality shall require that each subcontractor procure and maintain insurance coverage that adequately covers each subcontractor's exposure based on the services provided by that subcontractor. Municipality must ensure that all such subcontractors name "Broward County" as an additional insured and certificate holder under the applicable insurance policies. Municipality shall not permit any subcontractor to provide services for the Project until the insurance requirements of the subcontractor under this section are met. If requested by County, Municipality shall furnish evidence of insurance of all such subcontractors.

10.5. County reserves the right, but not the responsibility, to periodically review any and all insurance policies.

## ARTICLE 11. MISCELLANEOUS

11.1. Nondiscrimination. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Municipality shall comply with all applicable statutes and regulations prohibiting discrimination, including without limitation: (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) and implementing regulations at 31 C.F.R. Part 22, (ii) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101 et seq.) and implementing regulations at 31 C.F.R. Part 23, and (v) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. Sections 12101 et seq.). Municipality shall include the foregoing or similar language in its contracts with subcontractors for goods or services that constitute Eligible Expenditures.

11.2. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Municipality to manage and supervise the performance of this Agreement. Any determination by the Contract Administrator that this Agreement authorizes the Contract Administrator to make shall be binding on the Parties. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement.

11.3. Public Records. The Parties agree and stipulate that both Parties are subject to Florida public records laws and shall fully comply with same. At the request of County, Municipality shall, in accordance with Applicable Law, respond to any request for public records received by County relating to the Project. Any other public records request shall be responded to by the receiving party. Each Party shall cooperate upon request by the other Party and provide any requested records to enable the Party to respond to a public records request.

Any material submitted to County that Municipality contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, Municipality must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by Municipality as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Municipality. Municipality shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind,

including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a public records request by a third party.

11.4. Independent Contractor. Nothing in this Agreement constitutes or creates a partnership, joint venture, or any other relationship between the Parties or between County and any subcontractor. Neither Party nor its agents shall act as officers, employees, or agents of the other Party. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by that Party under this Agreement.

11.5. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County or Municipality, nor shall anything included herein be construed as consent by County or Municipality to be sued by third parties in any matter arising out of this Agreement. County and Municipality are subdivisions of the State of Florida, as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of their respective employees pursuant to Section 768.28, Florida Statutes.

11.6. Third-Party Beneficiaries. Neither Municipality nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.7. Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County  
Attn: Director, Community Partnership Division  
115 South Andrews Avenue, Room 303  
Fort Lauderdale, Florida 33301  
Email address: [dacunningham@broward.org](mailto:dacunningham@broward.org)

With a copy to:

Broward County  
Attn: County Attorney  
115 South Andrews Avenue, Room 423  
Fort Lauderdale, Florida 33301  
Email address: [ameyers@broward.org](mailto:ameyers@broward.org) and [aashton@broward.org](mailto:aashton@broward.org)

FOR MUNICIPALITY:

City of Fort Lauderdale  
Christopher J. Lagerbloom  
City Manager  
100 N Andrews Ave  
Fort Lauderdale, Florida 33301  
Email address: [clagerbloom@fortlauderdale.gov](mailto:clagerbloom@fortlauderdale.gov)

11.8. Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Municipality without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section (unless County subsequently consents thereto in writing) shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity, all such remedies being cumulative.

11.9. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's or Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.10. Compliance with Laws. Municipality must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related

federal, state, or local laws, rules, and regulations. Municipality hereby accepts and shall comply with the additional terms for federally funded contracts set forth in Exhibit E, to the extent applicable, and shall include such applicable federal provisions in any contracts with subcontractors.

11.11. Representation of Authority. The Parties represent and warrant that this Agreement constitutes the legal, valid, binding, and enforceable obligation of each Party, that execution of this Agreement is within each Party's legal powers, and that each individual executing this Agreement is duly authorized by all necessary and appropriate action to do so on behalf of that Party and does so with full legal authority.

11.12. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

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

11.14. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated. To be effective, any approval under this Agreement made by or on behalf of County must be in writing.

11.15. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect unless otherwise expressly stated herein.

11.16. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, EACH OF MUNICIPALITY AND COUNTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.17. Amendments. Except as expressly authorized herein, no modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and Municipality. County Administrator is authorized to execute amendments to this Agreement that do not cause the Total ERA Funds amount stated in the Budget (Exhibit B) to exceed \$1,200,000 in the aggregate (June 15, 2021, Agenda Item No. 130).

11.18. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

11.19. Payable Interest

11.19.1. Payment of Interest. Unless prohibited by Applicable Law, County shall not be liable for interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and Contractor waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.19.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.20. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.21. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.22. Survivability. Notwithstanding any expiration or termination of this Agreement, the following provisions shall survive expiration and termination: Section 4.5 (Monthly Reporting); Section 5.5 (Deadline for Expenditures); Section 5.7 (Recoupment); Section 5.8 (Security); Article 6 (Municipality Covenants); Article 7 (Indemnification); Article 8 (Auditing); Section 11.3 (Public Records); Section 11.5 (Sovereign Immunity); Section 11.6 (Third-Party Beneficiaries); Section 11.16 (Law, Jurisdiction, Venue, Waiver of Jury Trial); and Section 11.19 (Payable Interest); and this Section 11.22 (Survivability).

(The remainder of this page is intentionally blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the 15th day of June, 2021, and CITY OF FORT LAUDERDALE, signing by and through its Mayor or Vice-Mayor, duly authorized to execute same.

COUNTY

WITNESS:

BROWARD COUNTY, by and through  
its County Administrator

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
County Administrator

\_\_\_\_\_  
(Print Name of Witness)

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Signature)

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

\_\_\_\_\_  
(Print Name of Witness)

By: \_\_\_\_\_  
Alicia C. Lobeiras  
Assistant County Attorney

By: \_\_\_\_\_  
Annika E. Ashton  
Deputy County Attorney



**SUBAWARD AGREEMENT BETWEEN BROWARD COUNTY  
AND CITY OF FORT LAUDERDALE  
FOR FUNDING OF COVID-19 NON-CONGREGATE HOTEL PROGRAM**

**CITY OF FORT LAUDERDALE**

ATTEST:

CITY OF FORT LAUDERDALE

By: \_\_\_\_\_  
City Clerk (SEAL)

By: \_\_\_\_\_  
Mayor

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_  
City Manager

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

I HEREBY CERTIFY that I have approved this Agreement as to form and legal sufficiency subject to execution by the parties:

By: \_\_\_\_\_  
City Attorney

## **EXHIBIT A**

### **PROJECT DESCRIPTION**

Municipality's COVID-19 Non-Congregate Hotel Program ("Program") is a temporary hotel housing program for members of Municipality's unsheltered homeless population who are unable to comply with social distancing requirements and recommendations included in guidance from the Center for Disease Control (CDC) because of COVID-19.

The Program consists of a maximum of 111 hotel rooms at The Plaza Hotel located at 5100 N. State Road 7, Fort Lauderdale, Florida 33319. The contracted hotel room rate is \$75 per night / tax exempt, which includes an upgraded room with microwave and refrigerator.

In addition to shelter, and at no cost to County, food services, 24-hour security, and case management are being provided. Routine COVID-19 testing, health care screenings and access to COVID vaccinations are also provided.

While a total of 131 individuals have participated in the program since April, there are currently 45 participants and 43 hotel rooms in use. Municipality agrees that Case Management is continuing to work collaboratively with clients to identify needs and associated referrals for continued support and transition from their non-congregate hotel housing program into various other housing assistance programs.

Municipality acknowledges and agrees that costs of a hotel or motel room sought to be reimbursed must be occupied by an "eligible household" as defined in the Section 3201(f) of the ERA and comply with the following conditions: (i) the household has been temporarily or permanently displaced from its primary residence or does not have a permanent residence elsewhere; (ii) the total months of assistance provided to the household do not exceed the applicable time limit described in Question 10 of the ERA Guidance; and (iii) documentation of the hotel or motel stay is provided and the other applicable requirements provided in the ERA and the ERA Guidance are met.

An "eligible household" under the ERA means a household of 1 or more individuals who are obligated to pay rent on a residential dwelling and with respect to which the eligible grantee involved determines that—

(A) 1 or more individuals within the household has—

(i) qualified for unemployment benefits; or

(ii) experienced a reduction in household income, incurred significant costs, or experienced other financial hardship during or due, directly or indirectly, to the coronavirus pandemic;

(B) 1 or more individuals within the household can demonstrate a risk of experiencing homelessness or housing instability; and

(C) the household is a low-income family (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))).

Expenses incidental to the charge for the hotel or motel room may not be submitted for reimbursement.

Municipality must develop and maintain policies and procedures detailing under what circumstances assistance under Municipality's COVID-19 Non-Congregate Hotel Program and deliver such policies and procedures to County upon execution of this Agreement. The Program's policies and procedures must be provided to County prior to disbursement to Municipality of any amounts under this Agreement.

**EXHIBIT B  
BUDGET**

**[CITY: PLEASE FILL IN DETAILS BELOW]**

<b>Number of Households Assisted</b>	<b>Number of Nights for Hotel Stay per Household</b>	<b>Cost per room per night</b>	<b>Total ERA Funds</b>
<b>[ ]</b>	<b>[ ]</b>	<b>\$75.00</b>	<b>\$800,000</b>

**TOTAL ERA FUNDS: \$800,000**

**EXHIBIT C  
PROJECT TIMELINE**

<b>Activity</b>	<b>Start Date</b>	<b>End Date</b>
Deliver monthly reports to County	Date of Execution	Date of Termination / Expiration of Agreement
Deliver final close-out report to County	N/A	Fifth (5 <sup>th</sup> ) calendar day of the month immediately following date of Termination / Expiration of Agreement

**EXHIBIT D**  
**REQUEST FOR PAYMENT DOCUMENTATION REQUIREMENTS**

**Required Documentation**

- Documentation of the hotel or motel stay, including the cost and duration of stay.
- Documentation evidencing that each recipient of assistance qualifies as an “Eligible Household” pursuant to the ERA and ERA Guidance, including that they meet income requirements, which can be provided in the form of an attestation.

**EXHIBIT E**  
**FEDERAL PROVISIONS**

1. Municipality shall comply with the following Federal provisions, if applicable, and shall include such applicable Federal provisions in Municipality's contracts with subcontractors, including all applicable provisions set forth in 2 C.F.R. Appendix II to Part 200:

a. Municipality shall comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements" and any implementing regulations issued by the federal funding agency.

b. Municipality agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

c. Municipality shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

d. Municipality agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C until the termination or expiration of this Agreement. Municipality further agrees to include a provision requiring such compliance in its lower tier covered transactions relating to this Agreement. Municipality affirms and verifies that neither Municipality, nor any of its principals (defined at 2 C.F.R. § 180.995) or affiliates (defined at 2 C.F.R. § 180.905), are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

e. The foregoing subsections are material representations of fact relied upon by County. If it is later determined that Municipality did not comply with 2 C.F.R. Part 180, subpart C or 2 C.F.R. Part 3000, subpart C, in addition to remedies available to County, the federal government may pursue available remedies, including, but not limited to suspension and/or debarment.

f. Municipality shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Among other things, Municipality shall procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recover materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000.00; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

2. By execution of this Agreement, Municipality certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. Municipality shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

d. This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Municipality certifies or affirms the truthfulness and accuracy of each statement of the foregoing certification and disclosure, if any. In addition, Municipality understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

3. Federal regulations applicable to the ERA Funds, including without limitation, the following:

a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to the ERA Funds and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to the ERA Funds.

b. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

c. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.



d. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180 including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

e. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

f. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

g. New Restrictions on Lobbying, 31 C.F.R. Part 21.