

**CITY OF NORTH MIAMI
HOME INVESTMENT PARTNERSHIP PROGRAM
HOMEOWNERSHIP AGREEMENT**

This AGREEMENT is entered into this 11th day of April 2017, by and between the following parties: the **CITY OF NORTH MIAMI** (City), a Florida municipal corporation, having its principal office at 776 N.E. 125th Street, North Miami, Florida 33161 and **AUSLER JN BATHARD and MIRLAINE DELVA** (Purchaser), whose principal address is, 325 NW 127 Street, North Miami, FL 33168, and who is attempting to purchase real property located within North Miami, Florida, more particularly and legally described as:

All Of Lot 14 Except The West 65 Feet And The West 52.5 Feet Of Lot 13 Of Block 49 Of Alhambra Heights Section 5, According To The Plat Thereof, As Recorded In Plat Book 46 At Page 84 Of The Public Records Of Miami-Dade County, Florida a/k/a 325 NW 127 Street, North Miami, Florida 33168

In the CITY OF NORTH MIAMI (City), a Florida municipal corporation, having its principal office at 776 N.E. 125th Street, North Miami, Florida 33161; **M & M TITLE SERVICES, INC. c/o Carol McBride** (Escrow Agent), closing agent for the purchase transaction, whose offices are located at 16800 NE 2nd Avenue, North Miami Beach, Florida 33162 (Parties).

WITNESSETH:

WHEREAS, the Federal Department of Housing and Urban Development (HUD) has provided HOME Investment Partnership Program (HOME) funds to local governments designed to address housing, economic development and infrastructure needs of the community that primarily benefit very low and low income persons; and

WHEREAS, the City has determined through its Consolidated Plan for HOME funds (Program), adopted by the Mayor and City Council in June, 2005, to provide assistance to eligible homeowners within the City for the purpose of purchasing property (Project), in accordance with HOME criteria specifically described in Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990; 24 CFR Part 570; 42 U.S.C. 5301 et seq.; and

WHEREAS, this Agreement is entered into after compliance by the parties with all applicable provisions of federal, state, and local laws, statutes, rules and regulations.

WHEREAS, the Purchaser(s) and Escrow Agent have agreed to the Project in accordance with Program specifications; and

NOW, THEREFORE, in consideration of the mutual promises and the grant money in the amount of \$25,000.00, which is acknowledged, the Parties agree as follows:

1. **HOME** funds in the amount of **Twenty-Five Thousand and 00/100 Dollars (\$25,000.00)** are being utilized in this real transaction as down payment assistance, for the purpose of purchasing the subject property.
2. The Purchase and Sale Agreement and other documents related to the real transaction (Contract Documents), attached as Composite Exhibit "A", represent the rights and responsibilities of the parties under the Program, and that the parties agree to abide by and comply with their roles and responsibilities.
3. In cases of disagreement or ambiguity, the City shall decide all questions, difficulties, and disputes of whatever nature that may arise under or by reason of this Agreement. The City's decision on all questions and disputes shall be final.
4. The real estate transaction shall be conducted in accordance with any and all applicable codes, ordinances and statutes of the City of North Miami, Miami-Dade County and the City of Florida.
5. The Purchaser(s) agree to maintain the property in good condition after the purchase is completed. If the property is located in a Federal Emergency Management Act 100-year flood plain zone, the Purchaser(s) must have an active flood insurance policy.
6. The Parties acknowledge and agree that the funding provided by the City derives from **HOME** Program funds appropriated to the City by the Florida Department of Community Affairs for the uses and purposes referred to in this Agreement.
7. The Purchaser(s) acknowledge and represent that the Seller, Real Estate Broker/Agent, Escrow Agent and third party financing entity, if any, have been informed that the funds provided by the City derive from the **HOME** Program and that the funds shall be secured by a non-interest bearing Note and a Purchase Money Second Mortgage, which shall have priority over all other encumbrances, except a Purchase Money First Mortgage. The Parties agree that the indebtedness shall be partially forgiven in the amount of **\$2,500.00** each year over a ten (10)- year term, until fully forgiven. The Purchaser acknowledges that the property is a residence, and agrees to continually occupy the property as a primary residence for the **affordability period** based on the amount of subsidy, commencing at the execution of this Agreement. The affordability period for the HOME Program is as follows: Up to \$14,999=5 years, **\$15,000-\$40,000=10 years** and over \$40,000=15 years. If the Purchaser fails to continually occupy this residence for the entire affordability period the funds provided shall be immediately reimbursed on a pro-rata basis for the time period remaining.
8. The Purchaser(s) and Escrow Agent understand and agree, and acknowledge and represent that the Seller, Real Estate Broker/Agent and third party financing entity,

if any, have been informed, that should the real estate transaction not be completed or the subject property not be purchased by Purchaser(s), for whatever reason, funds provided by the City shall be returned in full despite any other contractual obligations.

9. The Purchaser(s) acknowledge and agree to continually occupy the property as their primary residence for at least five (5) years following this Agreement's execution.
10. If any interest in the property is sold, conveyed or transferred, or the Note and Mortgage created by this Agreement is subordinated, whether voluntarily or involuntarily, including bankruptcy or foreclosure, within five (5) years of this Agreement's execution, such an event shall be considered a default. The indebtedness shall become payable at a rate of four percent (4%) simple interest per year on the unpaid principal amount. Any person or entity, who, subsequent to the execution of this Agreement, purchases or receives any interest in the subject property, shall be bound by the terms and conditions of this Agreement and shall execute any and all documents required by the City.
11. The foregoing restrictions shall be considered and construed as restrictions running with the land, and the same shall bind all successors, assigns and persons claiming ownership of all or any portion of the subject property for a period of ten (10) years from the date this Agreement is recorded.
12. The City of North Miami may seek civil action and penalties including court costs, attorney's fees and reasonable administrative expenses should Purchaser(s) or Escrow Agent fail to comply with the foregoing covenants and restrictions.
13. The City may, periodically, inspect the real property for the purpose of assuring compliance with this Agreement.
14. Purchaser(s) and Escrow Agent shall not release or amend this Agreement without the prior written consent of the City.
15. The City shall provide the funding for the real estate transaction as described in Exhibit "B". Once the funding is provided, the City shall be automatically discharged from any and all obligations, liabilities and commitments to Purchaser(s) or any third person or entity.
16. The City desires to enter into this Agreement only if by so doing the City can place a limit on its liability for any cause of action arising out of this Agreement, so that its liability never exceeds **\$25,000.00**. Purchaser(s) and Escrow Agent express their willingness to enter into this Agreement with recovery from the City for any action

arising out of this Agreement to be limited to the total amount of **\$25,000.00** Accordingly, and notwithstanding any other term or condition of this Agreement, the Purchaser(s) and the Escrow Agent agree that the City shall not be liable to the Purchaser(s) nor to the Escrow Agent for any cause of action arising out of this Agreement in an amount in excess of **\$25,000.00** Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed on the City's liability as set forth in Section 768.28, Florida Statutes.

17. Purchaser(s) and Escrow Agent shall hold harmless, indemnify and defend the City, its officers and employees from any and all obligations, liabilities, actions, claims, causes of action, suits or demands arising or accruing by virtue of this Agreement
18. Purchaser(s) and Escrow Agent shall not assign any interest in this Agreement.
19. In the event of the Purchaser(s) or Escrow Agent's default, the City may mail a notice of default to Purchaser(s) and Escrow Agent. If the default is not fully and satisfactorily cured within **thirty (30)** calendar days of the mailing of the notice of default, the City may cancel and terminate this Agreement without liability to any other party to this Agreement.
20. In the event of the Purchaser(s) or Escrow Agent's default, the City shall additionally be entitled to bring any and all legal and/or equitable actions in Miami Dade County, Florida, in order to enforce the City's right and remedies against the defaulting party. The City shall be entitled to recover all costs of such actions including a reasonable attorney's fee, at trial and appellate levels, to the extent allowed by law.
21. A default shall include but not be limited to the following acts or events of the Purchaser(s), Escrow Agent and their agents or employees:
 - Failure to comply with any and all applicable building, fire, life safety, housing or zoning law, rule, regulation or code.
 - Default by Purchaser(s) or Escrow Agent on any of the terms and conditions of the note, mortgage or other document executed in connection with this real estate transaction.
 - Insolvency or bankruptcy by the Purchaser or Escrow Agent.
22. This Agreement shall be governed by the laws of Florida, and venue shall lie in Miami-Dade County, Florida.

23. The Purchaser(s) and Escrow Agent shall comply with all applicable uniform administrative requirements as described in Chapter 420, Florida Statutes and Chapter 67-37, Florida Administrative Code.
24. Notices and Demands: All notices, demands, correspondence and communications between the Parties shall be deemed sufficient if dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the City: City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161
Attn: Director, Community Planning & Development

With a copy to: City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161
Attn: City Attorney

If to Escrow Agent: M & M Title Services, Inc.
c/o Carol McBride
16800 NE 2nd Avenue
North Miami Beach, FL 33162

If to Purchaser(s): Ausler Jn Bathard & Mirlaine Delva
325 NW 127 Street
North Miami, FL 33168


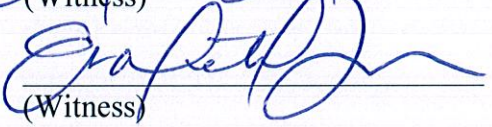
or to such address and to the attention of such other person as the Parties may from time to time designate by written notice to the other.

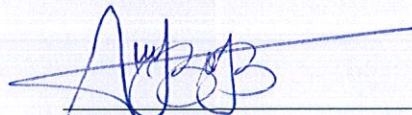
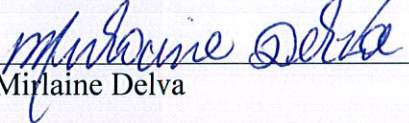
25. It is understood and agreed that all parties, personal representatives, executors, successors and assigns are bound by the terms, conditions and covenants of this Agreement.
26. Any amendments, alterations or modifications to this Agreement will be valid when they have been reduced to writing and signed by the Parties.
27. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision, and no waiver shall be effective unless made in writing.

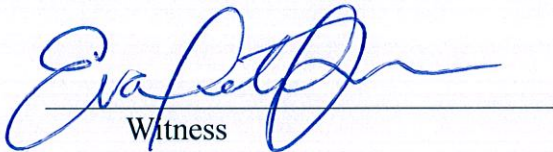
28. Should any provision, paragraphs, sentences, words or phrases contained in the Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the City of Florida or the City of North Miami, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws; or, if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

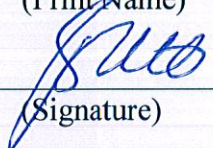
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IN WITNESS WHEREOF, of the parties have caused this Agreement to be executed on the date on which the last of the parties initials or signs.



(Witness)

(Witness)

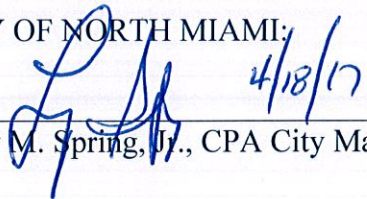

Ausler Jn Bathard

Mirlaine Delva


Witness

M & M Title Services, Inc.
By: MARILYN STEELE
(Print Name)

(Signature)
Title: PRESIDENT

APPROVED

Tanya Wilson-Sejour, A.I.C.P.
Planning, Zoning & Development Director

ATTEST: 
Michael Etienne, Esq., City Clerk

CITY OF NORTH MIAMI:
 4/18/17
Larry M. Spring, Jr., CPA City Manager

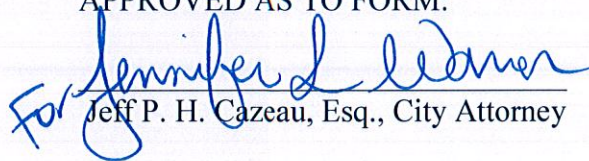
APPROVED AS TO FORM:
 For Jennifer L. Warner
Jeff P. H. Cazeau, Esq., City Attorney

EXHIBIT A

PURCHASE AGREEMENT AND RELATED DOCUMENTS

EXHIBIT B

The City, upon receipt of the Purchase and Sale Agreement and other related documents and its final approval of the SHIP Application, shall provide funds in the form of a check made payable to the Escrow Agent. The City shall deliver to the Escrow Agent the original mortgage and note for recording, and the Escrow Agent shall provide the City with the original recorded mortgage and note and a copy of any and all other recorded instruments related to this real estate transaction.

If there is a first purchase money mortgage and note to be recorded pursuant to this real estate purchase, the Escrow/Closing Agent shall contemporaneously record the City's original mortgage and note with the first mortgage and note.

The City's mortgage and note shall not be considered subordinate to any second mortgage or other encumbrance. If the City's mortgage and note are attempted to be subordinated to a second mortgage or other encumbrance, funds will be withheld.