

**INTERLOCAL COOPERATION AGREEMENT
AMONG THE CITY OF MIAMI BEACH, FLORIDA,
THE NORTH BEACH COMMUNITY REDEVELOPMENT AGENCY, &
MIAMI-DADE COUNTY, FLORIDA**

THIS INTERLOCAL COOPERATION AGREEMENT (the “Interlocal Agreement”), made this day of_, 2021, by and among Miami-Dade County, Florida, a political subdivision of the State of Florida (the “County”), the City of Miami Beach, a municipal corporation under the laws of the State of Florida (the “City”), and the North Beach Community Redevelopment Agency, a public body corporate created pursuant to Section 163.357, Florida Statutes (hereinafter, referred to as the “NBCRA”); and

WHEREAS, the Florida Legislature enacted the Community Redevelopment Act of 1969, which is presently codified in the Florida Statutes at Part III of Chapter 163, Sections 163.330 through 163.463, as amended, (the “Act”); and

WHEREAS, the Act provides “the governing body of any county which has adopted a home rule charter may, in its discretion, by resolution delegate the exercise of the powers conferred upon the county by [the Act] within the boundaries of a municipality to the governing body of such a municipality;” and

WHEREAS, the Act further provides that “[s]uch a delegation to a municipality shall confer only such powers upon a municipality as shall be specifically enumerated in the delegating resolution;” and

WHEREAS, on July 7, 2019, the City Commission adopted Resolution No. 2019-30892, approving the Finding of Necessity for the North Beach Area (the “study”), and subsequently submitted the study to the County for consideration to create the NBCRA, which area is generally bounded on the north by 87th Terrace, on the west by Rue Notre Dame, on the south by 65th Street and on the east by the Atlantic Ocean, which is referred to as the North Beach Community Redevelopment Area (“Redevelopment Area”); and

WHEREAS, on July 8, 2020, the Miami-Dade County Board of County Commissioners (the “County Commission”), adopted Resolution No. R-619-20, accepting the Finding of Necessity for the Redevelopment Area, declaring the Redevelopment Area as slum or blighted, as defined in section 163.340 (7) and (8) of the Act, and delegating the power to create the NBCRA to the City for the purpose of adopting a redevelopment plan to be presented to the County Commission for consideration; and

WHEREAS, the City Commission through Resolution No. 2021-31596, adopted on February 10, 2021, created the NBCRA; and

WHEREAS, additionally, the North Beach Community Redevelopment Agency Board of Commissioners adopted a redevelopment plan (“the Plan”) for the Redevelopment Area through Resolution No. _____, on May 12, 2021; and

WHEREAS, on _____, the City Commission adopted Resolution No. _____, approving the Plan and transmitting the Plan to the County Commission; and

WHEREAS, the County Commission, in accordance with the Act, wishes to delegate certain powers conferred on the County Commission by the Act to the City and the NBCRA to implement the Plan for the Redevelopment Area, as described in the Plan; and

WHEREAS, the County, the City, and the NBCRA desire to delineate their areas of responsibility with respect to the redevelopment of the Redevelopment Area, as described in the Plan; and

WHEREAS, on _____, the County Commission also enacted Ordinance No. _____, which among other things, established a trust fund (“Fund” or “Trust Fund”) to fund improvements in the Redevelopment Area; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants recorded herein, the County, the City, and the NBCRA agree as follows:

I. Delegation of Powers

A. With the exception of the community redevelopment powers that continue to vest in the County Commission pursuant to section 163.358 of the Act, the NBCRA shall have the right and sole responsibility to exercise the following redevelopment powers specifically delegated by the County Commission pursuant to section 163.370 of the Act:

- (1) The power to make and execute contracts and other instruments necessary or convenient to the exercise of its powers pursuant to the Act.
- (2) The power to disseminate information regarding slum clearance and community redevelopment.
- (3) The power to undertake and carry out community redevelopment and related activities within the Redevelopment Area, which redevelopment may include:
 - (a) Acquisition of a slum area or a blighted area or portion thereof by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition;
 - (b) Demolition and removal of buildings and improvements;
 - (c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways, and other improvements necessary for carrying out in the Redevelopment Area the community redevelopment objectives of the Act in accordance with the Plan;
 - (d) The power to dispose of any property acquired in the Redevelopment Area at its fair value as provided in section 163.380 of the Act, for uses in accordance with the Plan;

- (e) The power to carry out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the Plan;
 - (f) The power to acquire real property in the Redevelopment Area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition which, under the Plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property, or otherwise put to use for the public good as set forth in the Plan;
 - (g) The power to acquire any other real property in the Redevelopment Area by purchase, lease, option, gift, grant, bequest, devise, or other voluntary method of acquisition, when necessary to eliminate unhealthful, unsanitary or unsafe conditions; eliminate obsolete or other uses detrimental to the public welfare; or otherwise to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities;
 - (h) The power to acquire, without regard to any requirement that the area be a slum or blighted area, air rights in an area consisting principally of land over highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income;
 - (i) The power to construct the foundations and platforms necessary for the provision of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.
- (4) The power to provide, or to arrange or contract for, the furnishing or repair by any qualified, licensed person or agency, public or private, of services, privileges, works, streets, roads, bridges, public utilities, or other facilities for, or in connection with, the Plan; to install, construct, and reconstruct streets, bridges, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it deems necessary and appropriate, which are attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out the Plan and related activities, and to include in any contract authorized by the NBCRA in connection with such redevelopment and related activities, provisions to fulfill such of the conditions as it deems reasonable and appropriate;
- (5) The power to enter into any building or property in the Redevelopment Area in order to make inspections, surveys, appraisals, soundings, test borings, or contamination tests, with the permission of the owner(s) and to request an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

- (6) The power to acquire by purchase, lease, option, gift, grant, bequest, devise or otherwise any real property within the redevelopment area (or personal property for its administrative purposes), together with any improvements thereon;
- (7) The power to hold, improve, clear or prepare for redevelopment any property within the Redevelopment Area acquired by the NBCRA;
- (8) The power to mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real property acquired by the NBCRA within the Redevelopment Area;
- (9) The power to insure or provide for the insurance of any real or personal property acquired by the NBCRA within the Redevelopment Area or operations of the NBCRA against any risks or hazards, including the power to pay premiums on any such insurance;
- (10) The power to enter into any contracts necessary to effectuate the purposes of the Act;
- (11) The power to solicit requests for proposals for redevelopment of parcels of real property within the Redevelopment Area contemplated by the Plan to be acquired for redevelopment purposes by the NBCRA and, as a result of such requests for proposals, to advertise for the disposition of such real property to private persons or entities pursuant to section 163.380 of the Act, prior to acquisition of such real property by the NBCRA;
- (12) The power to invest any community redevelopment funds held in reserves or sinking funds or any such funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to their control and to redeem such bonds as have been issued pursuant to section 163.385 of the Act, at redemption price established therein or to purchase such bonds at less than the redemption price, all such bonds so redeemed or purchased to be canceled;
- (13) Subject to prior approval of the City Commission and the County Commission, which approval or disapproval shall be in the sole and absolute discretion of the City Commission and County Commission, the power to borrow money and to apply for and accept advances, loans, contributions, and any other form of financial assistance from the Federal Government or the state, county, or other public body or from any sources, public or private, for the purposes of the Act, and as a condition of the award of such loan or contribution, to give such security as may be required and to enter into and carry out contracts or agreements in connection therewith; and to include in any contract for financial assistance with the Federal Government for or with respect to community redevelopment and related activities such conditions imposed pursuant to federal laws as the NBCRA deems reasonable and appropriate which are not inconsistent with the purposes of the Act. It is the expressed intent of the NBCRA not to issue bonds or use any other form of indebtedness until such time as required by a development when bonding or indebtedness is required to complete the project.
- (14) The power to make or have made all surveys and plans necessary to the carrying out of the purposes of the Act; to contract with any person, public or private, in

making and carrying out such plans; and to adopt or approve, modify, and amend such plans, which plans may include, but are not limited to:

- (a) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation or buildings and improvements; and
 - (b) Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and
 - (c) Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of community redevelopment and related activities; and
- (15) The power to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and developing and demonstrating new or improved means of providing housing for families and persons of low income; and
 - (16) The power to apply for, accept, and utilize grants of funds from the Federal Government for such purposes; and
 - (17) The power to prepare plans for and assist in the relocation of persons (including individuals, families, business concerns, nonprofit organizations, and others) displaced from the Redevelopment Area and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government; and
 - (18) The power to appropriate such funds and make such expenditures as are necessary to carry out the purposes of the Act; to make a request to the City or the County to rezone any part of the Redevelopment Area or make exceptions from, or revisions to, building regulations; and to enter into agreements with a housing authority, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by such county or municipality pursuant to any of the powers granted by the Act; and
 - (19) The power to make a request to the appropriate authority to close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and to plan or replan any part of the City or the County located within the Redevelopment Area; and
 - (20) The power to provide funding to support the development and implementation of community policing innovations, subject to any budgetary limitations set forth in this Agreement; and
 - (21) The right to exercise any other power that the Florida Legislature grants to community redevelopment agencies after the date of this Agreement, subject to approval of the exercise of such power by the City Commission, and if approved by the City Commission, subsequent approval by Miami-Dade County.

- (22) Nothing in this Agreement is intended to prohibit the County and the City from exercising their sovereign powers as prescribed by law.

B. The following powers may not be paid for or financed by increment revenues:

- (1) Construction or expansion of administrative building for public bodies or police and fire buildings, unless each taxing authority agrees to such method of financing for the construction or expansion, or unless the construction or expansion is contemplated as part of a community policing innovation.
- (2) Installation, construction, reconstruction, repair or alteration of any publicly owned capital improvements or projects, if such projects or improvements were scheduled to be installed, constructed, reconstructed, repaired, or altered within three years of the approval of the Plan by the County Commission pursuant to a previously approved public capital improvement or project schedule or plan of Miami-Dade County as the governing body which approved the Plan, or the City, unless and until such projects or improvements have been removed from such schedule or plan of Miami-Dade County or the City and three years have elapsed since such removal or such projects or improvements were identified in such schedule or plan to be funded, in whole or in part, with funds on deposit within the community redevelopment tTrust Fund.
- (3) General government operating expenses unrelated to the planning and carrying out of the Plan.

II. Miami-Dade County or Other Taxing Authority Representation

Pursuant to section 163.357 of the Act, one member of the County Commission, or a County Commission designee, may be appointed to serve on the NBCRA's Board (in addition to the other members appointed to the NBCRA Board of Commissioners (the "NBCRA Board" or "Board"). Said County Commissioner, or designee, shall be vested with the same rights, duties and obligations as any other NBCRA Board member. Said membership on the NBCRA's Board shall be considered an additional duty of office as prescribed by section 163.357(1)(d) of the Act. Such appointment by the County Commission shall be immediate and will become part of the NBCRA's Board without requiring further action from the NBCRA. **[Note to County: City requests that County please specify the County Commissioner/District to be appointed to the NBCRA]**

III. Implementation of the Plan

A. The redevelopment powers listed in Section I herein may be exercised only with respect to the Redevelopment Area and only with respect to the Plan as approved by the County Commission, together with any supplements or amendments to the Plan, provided that any amendments and supplements to the Plan must also be approved by the County Commission. Notwithstanding anything in the Plan to the contrary, it is agreed that the Plan as approved by the County Commission pursuant to Resolution R-_____ is approved and effective through _____.

B. For purposes of this Interlocal Agreement, tax increment funds are such funds or revenues as defined by section 163.387(1)(a) of the Act.

C. No more than twenty percent (20%) of the total tax increment funds deposited annually into the trust fund by the City and the County (“NBCRA TIF”) shall be used for total administrative expenses allowable under section 163.387(6)(c) of the Act (including indirect and overhead expenses which may not exceed six percent (6%) of the total contemplated administrative expenses to be spent under the Plan). Administrative expenses include all compensation, including benefits, paid to or for the NBCRA’s Executive Director and its employees. All expense items chargeable to the twenty (20%) administrative expense cap shall be shown as individual line items in the annual budget prepared by the NBCRA and submitted to the Board of County Commissioners with sufficient detail on individual salaries, etc. The twenty percent (20%) cap on administrative expenses shall be calculated based on the NBCRA TIF funding for that particular year and shall not include any carryover or other funding or revenue sources for this calculation. The County shall charge, and the NBCRA shall pay to the County, no later than March 31, an annual administrative fee (“County Administrative Fee”). This County Administrative Fee shall be 1.5% of the County’s payment to the NBCRA. The County Administrative Fee shall not be included in the (20%) limit on administrative expenses defined in this section.

D. The City and the County hereby agree to contribute 60 percent (60%) of the tax increment funds derived from the Redevelopment Area on an annual basis. Such contribution levels comply with County Commission Ordinance No. [].

E. In each year in which the County and City shall make the tax increment fund contribution required by paragraph III D of this interlocal agreement, the NBCRA shall budget for expenditures funded by tax increment revenues shall be capped, so that an amount equal to the TIF revenues paid into the Trust Fund by the County and the City attributable to 10 percent (10%) of the incremental value in the Area, shall remain un-appropriated and un-expended, except for the purpose of funding projects associated with affordable and workforce housing and infrastructure improvements.

F. The NBCRA shall ensure that the staff of the NBCRA shall be racially and ethnically diverse, in accordance with applicable law.

IV. City/County Coordination

A. The County Mayor or the County Mayor’s designee shall designate a Redevelopment Area Coordinator (the “Redevelopment Area Coordinator”). The Redevelopment Area Coordinator shall serve as the County’s liaison to the NBCRA for the Redevelopment Area. The Redevelopment Area Coordinator shall carry out the day-to-day County responsibilities for the Redevelopment Area and shall be the designated person to receive all data and reports pertaining to the Plan. Additionally, the NBCRA shall provide prior notice for all NBCRA Board meetings to the Redevelopment Area Coordinator, and shall deliver copies of all NBCRA Board meeting agendas and agenda items to the Redevelopment Area Coordinator prior to each NBCRA Board meeting. Additionally, on a yearly basis the NBCRA shall transmit to the County a copy of the NBCRA’s annual report and certified financial statements.

B. The NBCRA shall be responsible for implementing and conforming to the Plan, including developing and implementing proposals for indebtedness and bond financing which has received the prior approval of the City Commission and the County Commission, acquisition, disposition and relocation activities, coordination and implementation of the design and construction of public improvements necessary to support the redevelopment of the Redevelopment Area, and such other projects and activities as are contemplated by the Plan. The NBCRA shall deliver copies of all accepted proposals for the Redevelopment Area to the Redevelopment Area Coordinator.

C. All proposals related to amendments to the Plan and proposals for indebtedness, loans or bond financing pledging tax increment revenues shall be subject to review and approval first by the City Commission and then by the County Commission. No such amended plan or indebtedness, loan or bond financing shall be considered approved until the NBCRA Board, the City Commission and the County Commission have taken official legislative action in accordance with the Act approving the plan or indebtedness. The Redevelopment Area Coordinator shall submit all proposals related to amendments to the Plan and proposals for indebtedness and bond financing to the County for review and recommendation and the Mayor or the Mayor's designee shall submit said recommendation to the County Commission for its final approval. The Redevelopment Area Coordinator shall review all proposals prior to review by the County Administration and the County Commission.

D. After approval by the NBCRA's Board and the City Commission, and in accordance with state law, the annual budget and progress report shall be submitted to the County. Such budget shall be submitted by the NBCRA and the City to the County within 10 days after the adoption of such budget and NBCRA and the City shall submit amendments of its annual budget to the County within 10 days after the adoption date of the amended budget in accordance with section 163.387(6) of the Act. Such budget shall be submitted in a format approved by the County with sufficient detail including a description of any proposed project, grant, loan or any other program anticipated to be funded by the NBCRA in that fiscal year. Additionally, the budget shall include a section outlining the accomplishments of the prior fiscal year. The annual budget for the NBCRA shall be subject to review and approval by the County Commission. The annual budget shall be submitted to the County no later than October 15th of each fiscal year. With the exception of the debt service payment on current bond obligations financed by tax increment revenues (only if such obligations have been approved by the City Commission and County Commission), no funds on deposit in the fund may be expended by the NBCRA based on the new budget until the annual budget has been approved by the County Commission. However, as long as the NBCRA's annual budget which has been adopted and approved in compliance with the terms of this Interlocal Agreement is submitted to the County no later than October 15th, the NBCRA may continue to make expenditures provided they do not exceed the fund appropriation in the previous year's budget. However, if expected revenue decreases from the previous fiscal year, the prior year's budget appropriation shall be reduced accordingly for the purpose of limiting expenditures until the new annual budget is approved by the County. At the request of the County, the NBCRA shall submit additional progress reports on the Plan and Redevelopment Area activities. The annual budget must be accompanied by official legislation from the NBCRA and the City approving the budget and including a statement that all NBCRA expenses are in accordance with the approved Plan and State law. The City and the NBCRA shall transmit such legislation to the County.

E. The NBCRA shall not budget in any fiscal year more than ten percent (10%) of the value of the City and County tax increment payment for that year on capital maintenance activities or community policing, respectively.

F. Should the NBCRA Board, the City Commission and the County Commission approve and/or adopt any amendments and modifications to the Plan, such amendments and modifications shall become a part of the Plan and the powers delegated to the NBCRA pursuant to this Agreement shall be exercisable with respect to such amendments and modifications.

G. Beginning FY 2049-50, the County, NBCRA and City will negotiate an interlocal agreement to account for the sunset of the North Beach Community Redevelopment Agency and Area. Such agreement shall include but not limited to the methodology for disbursement of Trust Fund revenues remaining in the Trust Fund on the sunset date to the taxing authorities (County and City), the disposition of real and personal property purchased with NBCRA funds, and any other issues associated with the dissolution of the NBCRA. In FY 2049-50, the NBCRA will not fund any new projects, grants, initiatives, etc. in order to complete all previously funded projects, etc. to provide for the proper closeout of the NBCRA prior to the sunset.

V. Land Disposition

Any disposition of land by the NBCRA shall be accomplished in accordance with applicable provisions of federal, state and local laws, the Plan and this Agreement pursuant to the Act. The provisions of the City Charter and City Code regarding the sale or lease of City property, including, without limitation, the provisions of Section 1.03 of the City Charter, shall apply to the NBCRA in the same manner as such provisions apply to the City.

VI. Project Financing

A. The City, either directly or through the NBCRA, shall establish and maintain the Trust Fund, as required by applicable law.

B. The City, either directly or through the NBCRA, shall develop and promulgate rules, regulations and criteria whereby the Trust Fund may be promptly and effectively administered, including the establishment and the maintenance of books and records and adoption of procedures whereby the NBCRA may expeditiously and without undue delay, utilize such funds in accordance with the County Commission approved budget for the NBCRA.

C. The NBCRA, only if approved by the City Commission and the County Commission, may sell bonds and execute notes and other forms of indebtedness, as well as collateral documents, to finance capital improvements deemed necessary for the Redevelopment Area; **however, the City Commission's and the County Commission's approval as to amount, duration, and purpose of such bonds, notes, or other indebtedness, and advances pledging or obligating tax increment revenues, must be obtained prior to issuance of any such bond, note, or other form of indebtedness and advances pledging or obligating tax increment revenues.** Notwithstanding any provision of this Interlocal Agreement, the duration of such bonds, notes, or other indebtedness and advances pledging or obligating tax increment revenues which may be approved by the City Commission and the County Commission, shall not extend past the last day of the fiscal year of the NBCRA's legal existence.

The County's and the City's obligation to annually appropriate to the Fund shall continue until all properly approved loans, advances, and indebtedness, if any, and interest thereon, if any, of the NBCRA incurred as a result of redevelopment activities in the Redevelopment Area, have been paid, or for as long as required by applicable law, whichever is later. In no year shall the County's and the City's obligation to the Fund exceed the amount of that year's tax increment as determined pursuant to Ordinance No. _____. On the last day of the last fiscal year of the NBCRA, any money which remains in the Fund after payment of expenses pursuant to section 163.387(6) of the Act, for such year shall be: (1) returned to each taxing authority which paid the increment in the proportion that the amount of the payment of such taxing authority bears to the total amount paid into the Fund by all taxing authorities within the Redevelopment Area for the year; (2) used to reduce the amount of any indebtedness to which increment revenues are pledged; (3) deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or (4) appropriated to a specific redevelopment project listed herein pursuant to the Plan. The funds appropriated for such project may not be changed unless the project is amended, redesigned, or delayed, in which case the funds must be re-appropriated pursuant to the next annual budget adopted by the NBCRA Board, subject to approval by the City Commission and the County Commission.

VII. Community Benefits Agreements, Contracting and Procurement,

A. Community Benefits Agreement. All entities or contractors contracting with or receiving grants, property, or other consideration from the NBCRA, for new commercial and/or residential developments to be constructed within the Redevelopment Area, in an amount of \$200,000.00, or more, or such other amount as may be established by the County Commission, shall enter into a community benefits agreement with the NBCRA which will benefit primarily the residents of the Redevelopment Area. To the extent allowed by law, a community benefits agreement shall include provisions for hiring qualified labor workforce for the project financed by the grant or agreement from residents of the Redevelopment Area that are qualified but unemployed or underemployed. Depending on the worker or employee to be hired, the NBCRA will be required to ensure that such entity or contractor complies with wage requirements, as applicable, established by Miami-Dade County's Living Wage or Responsible Wage Ordinances, pursuant to Section 2-8.9 and 2-11.16, respectively, of the Code of Miami-Dade County, Florida (the "Code") or pay higher wages and benefits, as are feasible.

B. Contract Requirements. All entities or contractors contracting with or receiving a grant, property, or other consideration from the NBCRA in an amount of \$500,000.00 or more, or such other amount as may be established by the County Commission, shall comply with the following Miami-Dade County ordinances contained in the Code, as may be amended, as if expressly applicable to such entities:

- (1) Small Business Enterprises (Section 2-8.1.1.1.1 of the Code);
- (2) Community Business Enterprises (Section 2-10.4.01 of the Code);
- (3) Community Small Business Enterprises (Section 10-33.02 of the Code);
- (4) Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code);
and/or
- (5) Living Wage Ordinance
- (6) Responsible Wage Ordinance (Section 2-11.16 of the Code)

C. Procurement. Pursuant to section 163.370(5) of the Act, the NBCRA shall procure all commodities and services pursuant to the same purchasing procedures and requirements that apply to the City, including provisions of the City Charter and any procurement ordinances, as modified to reflect that such requirements are applicable to the NBCRA.

VIII. Recovery of Grant Funds

A. The NBCRA shall include in their contracts or grant agreements a “clawback” provision that will require the NBCRA or the City to “claw back” or rescind and recover funding from any entity or contractor to which it provides funding which does not substantially comply with the provisions of its agreement. The clawback provision shall provide that the NBCRA shall demand repayment of such funds in writing, including recovery of penalties or liquidated damages, to the extent allowed by law, as well as attorney’s fees and interest, and authorizing the collection of such funds, or legal action, to the fullest extent allowable by law, if feasible.

IX. Required Reasonable Opportunity to Be Heard and Project Related Findings

A. The NBCRA Board shall delegate authority to its Executive Director or his or her designee to oversee projects and shall set the amount of the Executive Director’s or designee’s authority. If the NBCRA proposes to fund a proposed new or rehabilitated commercial or residential project and such project amount is above the delegated person’s authority for approval thus requiring approval of the NBCRA Board, a duly noticed public meeting must be held where the public has a reasonable opportunity to be heard, and a finding by the NBCRA Board must be made that:

- (1) The proposed project or program will primarily and substantially benefit residents or business owners within the Redevelopment Area for the purpose of raising the viability and strength within the NBCRA boundary.
- (2) The non-public entity or contractor requesting funding may, with approval of a funding agreement by the NBCRA Board, use the NBCRA’s funds to fill in any financial gaps when all other funding has been identified for the project and that, but for the NBCRA’s funding, the project cannot be undertaken.

X. Safeguards for Residents from Displacement and Affordable Housing

A. In the event the NBCRA funds a redevelopment project authorized by the Plan that may displace persons (including individuals, families, business concerns, nonprofit organizations and others) located in the Redevelopment Area, the NBCRA shall prepare plans for and assist in the relocation of such persons, including making any relocation payments under the Act and applicable laws and regulations. Further, the NBCRA shall make or provide for at least a “one-for-one” replacement of each affordable housing unit demolished pursuant to a redevelopment project to ensure that such demolished unit is replaced by a new comparable, affordable housing unit. However, the before-mentioned requirement shall not apply to substandard affordable housing that has been declared unsafe by a governmental entity and subsequently demolished. The NBCRA

shall ensure that individuals and families who are displaced from affordable housing units have a right of first refusal to return to comparably priced affordable housing units located within the Redevelopment Area.

B. Subject to compliance with Paragraph (A) above, to the extent that the NBCRA's Redevelopment Plan has a housing component, the NBCRA shall serve an income mix of extremely low, very low, low, moderate, and workforce housing up to 140 percent of area median income, as may be defined by the U.S. Department of Housing and Urban Development. Developer incentives may be established by the County Commission that may assist in accomplishing these housing goals. If, however, this Board adopts guidelines for mixed income housing, such projects shall comply with the adopted guidelines. Further, the NBCRA shall ensure that prior to funding any non-housing project authorized by the Redevelopment Plan, priority shall be given to rehabilitation, conservation or redevelopment of housing for extremely low, very low, low or moderate income persons that is authorized by the Plan, subject to compliance with the applicable comprehensive development plan for the area.

C. The NBCRA shall include a statement in its annual budget that describes its expenditures for the provision of affordable housing in the previous year and that are anticipated in upcoming fiscal years, if applicable.

XI. Project Management, Administration, and Coordination

A. The City/and or the NBCRA shall consider any reasonable request of the County with respect to implementing any plan of action related to the Plan. The City/and or the NBCRA shall develop implementation schedules and timetables for all significant Redevelopment Area activities as determined by the City/and or the NBCRA, copies of which shall be delivered to the Redevelopment Area Coordinator beginning one year from the implementation of this Agreement. The City/and or the NBCRA shall also deliver additional interim reports to the County upon request.

- (1) The Redevelopment Area Coordinator shall receive from the City/and or the NBCRA advance notice of all public meetings and materials related to development of projects pursuant to this Agreement and on a regular basis, information regarding the progress of all such development through the design and construction of such projects.
- (2) During construction, the County shall have the right to attend all such public meetings and inspect the projects being developed at all reasonable times subject to reasonable restrictions imposed by the contractor.
- (3) The City/and or the NBCRA shall consult regularly with the Redevelopment Area Coordinator in order to keep the County reasonably informed throughout the duration of the planning, design and construction of such redevelopment projects. The City/and or the NBCRA shall be required to have an outside independent audit on an annual basis to monitor and investigate compliance with the terms of this Agreement. The right of the auditor to investigate, monitor, inspect, copy, review, verify and check operations and records of the NBCRA shall include, but not be limited to, all of its employees, consultants, agents or authorized contractors and

subcontractors, as well as all administrative and operational facilities used by the NBCRA and the County in connection with all matters arising under this Agreement. Records include, but are not limited to, construction, financial, correspondence, instructions, memoranda, bids and contract documents, as well as all other records pertaining to the planning, development and construction of projects pursuant to this Agreement. Any rights that the County has under this provision shall not be the basis for any liability to accrue to the County from the NBCRA or third parties for such monitoring or investigation or for the failure to have conducted such monitoring or investigation.

XII. Indemnification

To the extent permitted by law, the City and NBCRA shall indemnify and hold harmless the County and its officers, employees, agents, and instrumentalities from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of this Agreement by the City and NBCRA or its employees, agents, servants, partners principals or subcontractors. The NBCRA, on its behalf and on behalf of the City, shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be issued thereon. In the absence of the NBCRA, the City shall be responsible for such expenditures, provided, however, this indemnification shall only be to the extent and within the limitations of section 768.28, Florida Statutes, as may be amended from time to time. Specifically, the City and NBCRA are entitled to the protections of sovereign immunity, and shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the statutory maximum, or any claim or judgment or portions thereof, which, when totaled with all other claims or judgment payable by the City or NBCRA arising out of the same incident or occurrence, exceed the statutory maximum from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the NBCRA or City.

XIII. Inspector General Review and Ethics Training

A. The County shall have the right to retain, at its sole cost, the services of an independent private sector inspector general whenever the County deems it appropriate to do so, in accordance with Miami-Dade County Administrative Order No. 3-20. Upon written notice from the County, the NBCRA shall make available to the independent private sector inspector general retained by the County all requested records and documentation for inspection and reproduction. Additionally, the NBCRA shall submit to the County's Inspector General's review in accordance with Section 2-1076 of the Code. The County's Inspector General shall be empowered to review the NBCRA's past, present and proposed contracts, transactions, accounts, records, agreements and programs and audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to, project design, specifications, proposal submittals, activities of the NBCRA, its officers, agents and employees, lobbyists, staff and elected officials to ensure compliance with contract specifications and to detect any fraud and/or corruption.

B. The NBCRA agrees to comply with Miami-Dade County's Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the Code). Additionally, upon their appointment or reappointment, all NBCRA Board members, all of the NBCRA's advisory board members, and the persons who staff the NBCRA Board or the NBCRA's advisory boards shall be required to complete ethics training to be conducted by the Miami-Dade Commission on Ethics and Public Trust, and comply with any other ethicstraining requirements in accordance with section 163.367 of the Act.

C. The City shall have the right to utilize the services of the City's Inspector General, at its sole cost, whenever the City deems it appropriate to do so in accordance with Section 2-276, of the City's Code of Ordinances. Upon written notice from the City, the NBCRA shall make available to the City's Inspector General all requested records and documentation for inspection and reproduction. The City's Inspector General shall be empowered to review the NBCRA's past, present and proposed contracts, transactions, accounts, records, agreements and programs and audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to, project design, specifications, proposal submittals, activities of the NBCRA, its officers, agents and employees, lobbyists, staff and elected officials to ensure compliance with contract specifications and to detect any fraud and/or corruption.

XVI. Miscellaneous

A. Third Party Beneficiaries. None of the parties intend to directly or substantially benefit any third party by this Agreement. Therefore, 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 them based upon this Agreement.

B. Construction of Agreement. All parties have substantially contributed to the drafting and negotiation of this Agreement and this Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other. The parties hereto acknowledge that they have thoroughly read this Agreement, including all exhibits and attachments hereto, and have sought and received whatever competent advice and counsel was

necessary for them to form a full and complete understanding of all rights and obligations herein.

C. Jurisdiction. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Miami-Dade County, Florida.

D. Severance. Should any clause or provision of this Agreement be determined to be illegal, invalid, or unenforceable under any present or future law by final judgment of a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a legal, valid, and enforceable provision that is as similar as possible in terms to the illegal invalid or unenforceable provision, which is agreed to by all parties.

E. Waiver. No consent or waiver by a party to, or of, any breach, or default, by the other party in the performance by such other party of its obligations under this Agreement will be deemed or construed to be a consent or waiver to, or of, any other breach or default in the performance by such other party of the same or any other obligations of such other party hereunder. No action or inaction shall be construed as a consent or waiver and all consents and waivers must be in writing signed by the party against whom enforcement of the consent or waiver is sought. Failure by a party to complain of any act, or inaction, of the other party or to declare the other party in default, irrespective of how long such failure continues, will not constitute a waiver by such party of its rights hereunder. The giving of consent by a party in any one instance will not limit or waive the necessity to obtain such party's consent in any future instance.

F. This Agreement may be amended only by the written agreement signed by the NBCRA, the City, and the County.

G. This Agreement, or any part thereof, is not assignable by the NBCRA without the express written consent of the County.

H. The recitals in this Agreement are incorporated in the Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed in their names by their duly authorized officers and the corporate seals to be affixed hereto, all as of the day and year first above written.

CITY OF MIAMI BEACH

MIAMI-DADE COUNTY

By: _____
Dan Gelber
Mayor

By: _____
Mayor

ATTEST

ATTEST

By: _____
City Clerk

By: _____
Deputy Clerk

Approved for form and legal sufficiency

Approved for form and legal sufficiency

By: _____
City Attorney

By: _____
Assistant County Attorney

CITY OF MIAMI BEACH
NORTH BEACH COMMUNITY
REDEVELOPMENT AGENCY

By: _____
Chairperson

By: _____
Executive Director

ATTEST:

By: _____
Secretary

Approved for form and legal sufficiency

By: _____
NBCRA General Counsel