

LOAN AGREEMENT

THIS LOAN AGREEMENT (herein referred to as “Loan Agreement” or “Agreement”) is made and entered into as of the ____ day of April, 2018, by and between the BREVARD COUNTY HOUSING FINANCE AUTHORITY (herein referred to as “BCHFA” and “Lender”) and COMMUNITY OF HOPE, INC., a Florida not-for-profit corporation (herein referred to as “CoH” and “Borrower”).

WHEREAS, the BCHFA is a public body corporate and politic of the State of Florida, created and existing pursuant to Part IV of Chapter 159, Florida Statutes (the “Act”);

WHEREAS, pursuant to the Act, the Board of County Commissioners of Brevard County, Florida (the “County”), enacted County Ordinance No. 79-09 on March 15, 1979 and enacted County Ordinance No. 84-16 on May 10, 1984 (collectively, the “Enabling Ordinance”), creating the BCHFA for the purpose of addressing a housing shortage within the County by stimulating the construction and rehabilitation of housing through the use of public financing;

WHEREAS, the BCHFA has authority pursuant to Section 159.608(10)(a), Florida Statutes, to make loans or grant surplus funds to corporations that qualify as not-for-profit corporations under Section 501 (c)(3) of the Internal Revenue Code, as amended, and under the laws of the State of Florida, for the development of affordable housing;

WHEREAS, at a duly noticed and held meeting of the BCHFA on April 12, 2018, the BCHFA found that its participation with CoH as described below would have a substantial public benefit to the residents of Brevard County, Florida, and authorized the execution and delivery of this Agreement;

WHEREAS, CoH has represented that it has the staff, facilities and knowledge to manage, rent, operate and rehabilitate single family and multifamily housing units in Brevard County to provide transitional and permanent housing to homeless and low income persons and families (the “Project” or “Projects”);

WHEREAS, CoH has represented to the BCHFA that it has assets of over \$_____, and annual funding of over \$_____, which will provide adequate funding for the repayment of the loan from BCHFA to CoH; and,

WHEREAS, CoH has requested and the BCHFA wishes to provide financing of \$513,000.00, to CoH to aide in its operation to provide shelter, transitional and permanent housing to homeless and low income families and to fund its Projects, and to refinance and consolidate its outstanding loans with this new loan.

NOW, THEREFORE, for valuable consideration and the mutual agreements set forth below, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

The following words and phrases shall have the following meanings:

“Default Interest Rate” means the interest rate to be charged to CoH in the event of default under the Loan Agreement or Promissory Note, as defined in the Promissory Note.

“Eligible Persons and Families” means a person or persons and family or families (i) intending to temporarily or permanently reside in single family or multifamily housing funded under this Loan Agreement, and (ii) whose total income does not exceed the Maximum Current Annual Family Income.

“Maximum Current Annual Family Income” means 50% of the median family income in the Program Area, as published from time to time by the United States Department of Housing and Urban Development. As of this date, the median family income is \$70,955 for a family of four.

“Program” means CoH’s program for providing transitional and permanent housing to persons and families in the Program Area, including low income families, veterans, the disabled and the homeless.

“Program Area” means any incorporated or unincorporated areas of Brevard County, Florida.

“Project” means acquisition, construction and/or rehabilitation of single family and multifamily housing units in Brevard County to provide transitional and permanent housing to homeless and low income persons and families.

“Promissory Note” means the promissory note of even date and all subsequent promissory notes from CoH to BCHFA evidencing the loan from BCHFA to CoH and CoH’s obligation to repay BCHFA.

ARTICLE II REPRESENTATIONS

2.01 Representations of CoH. CoH represents and warrants to and covenants with the BCHFA that:

- (A) CoH is currently a duly organized and existing not-for-profit corporation organized under the laws of the State of Florida, and it is and will remain in good standing throughout the term of this Agreement.

- (B) CoH qualifies as a not-for-profit corporation under Section 501 (c)(3) of the Internal Revenue Code, as amended, has received written notification from the Internal Revenue Service of such status, and shall maintain such status throughout the term of this Agreement.
 - (C) CoH will not dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it, without the prior written consent of the BCHFA.
 - (D) CoH has the power and authority to execute and deliver this Agreement and the Mortgage and Promissory Note of even date, to enter into the transactions contemplated by this Agreement, and the acceptance and performance of this Agreement has been duly authorized by all necessary corporate and other action.
 - (E) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, shall conflict with or result in any breach or violation of any of the terms, conditions or provisions of any applicable laws, including regulations, or any agreement or instrument to which CoH is now a party or by which it is bound, or constitute a default under any of the foregoing.
- 2.02. Representations of BCHFA. The BCHFA represents and warrants to, and covenants with CoH that:
- (A) It is a public body corporate and politic, duly organized and created by the Board of County Commissioners of Brevard County, Florida, under the Act. Pursuant to the Act and the Enabling Ordinance, the BCHFA has duly authorized the execution and delivery of this Agreement.
 - (B) It has complied with the Constitution and laws of the State of Florida, including the Act and the Enabling Ordinance, has full power and authority to consummate all transactions contemplated by this Agreement, and any and all other documents, agreements and instruments relating thereto.

ARTICLE III BCHFA LOAN TERMS

3.01. Loan Funds. On or before _____, 2018, the BCHFA shall disburse directly to Regions Bank the sum of \$61,000.00, and to SteadyTown the sum of \$377,000.00 as payment in full of the Mortgages described in attached Exhibit "A", and to CoH, or on behalf of CoH, additional loan funds of \$75,000.00, which equals a total loan amount of \$513,000.00. The loan funds of \$75,000.00 shall be applied to _____ as described in attached Exhibit "B". The loan

funds hereunder shall not be co-mingled with other CoH funds and shall be used solely for the purposes described in attached Exhibit "B", and not for the payment of any administrative or other expenses.

Prior to the disbursement of loan funds from BCHFA to CoH, CoH shall provide to BCHFA payoff statements from the mortgagees for each of the Mortgages, which shall provide the amounts necessary to pay the Mortgages in full as of _____, 2018. The BCHFA shall remit the funds to the mortgagees in satisfaction of the Mortgages by _____, 2018. Within forty five (45) days of full payment of the Mortgages, CoH shall provide to the BCHFA copies of the recorded satisfactions of the Mortgages.

3.02. Repayment of Funds. CoH shall repay the BCHFA in equally monthly installments of principal in the amount of \$ _____, commencing the 1st day of June, 2018, and continuing on the 1st day of each month thereafter for a term of fifteen years, or until payment in full of the loan funds. The entire \$513,000.00 loan balance shall be repaid to the BCHFA, interest free, by making payment in full to the BCHFA, on or before May 1, 2033, in accordance with the terms of the Promissory Note. The BCHFA shall be under no obligation to loan additional funds to CoH.

3.03. Collateral. This Agreement and the loan hereunder shall be collateralized by a Mortgage on the real properties described in attached Exhibit C. CoH agrees to obtain subordination agreements from the City of Melbourne and Brevard County, Florida, in reference to the mortgages described in attached Exhibit D, to the Mortgage provided hereunder.

ARTICLE IV ADMINISTRATION AND LOAN COVENANTS

4.01. Administration of Loan Funds. CoH shall monitor the use and application of the funds disbursed hereunder. The parties acknowledge and agree that the BCHFA, after disbursement of the funds to CoH, shall not have any responsibility to ensure or monitor CoH's compliance with this Agreement, nor to collect or seek reimbursement of funds from third parties to CoH, nor to expend any additional funds whatsoever for the costs of collecting or seeking reimbursement of funds to CoH. CoH shall diligently monitor and enforce the proper application of the funds disbursed hereunder. However, CoH shall be obligated unconditionally to the repayment of the loan to BCHFA, regardless of any defaults in payment by any funding sources.

4.02 CoH Covenants. CoH agrees, as a condition of this loan, during the entire term of this Loan Agreement, to the following covenants and terms:

- (A) CoH shall not incur additional unsecured debt in excess of \$200,000.00, without the express written consent of BCHFA;
- (B) CoH shall not incur additional indebtedness for any purpose other than the acquisition of real property or the repair and/or improvement of real property;

- (C) CoH shall not acquire additional real property, by purchase, gift or otherwise, without the express written consent of BCHFA;
- (D) CoH shall not permit any lien, mortgage or other encumbrance to attach to any real property owned by CoH, without the express written consent of BCHFA; and,
- (E) CoH shall provide to BCHFA an annual certification in the form attached hereto as Exhibit "E" stating that CoH is in compliance with the terms of this Loan Agreement and the Mortgage. The annual certification shall be provided to BCHFA on or before May 1st of each year during the term of this Agreement.

4.03. CoH Not to Resign. Except as otherwise consented to in writing by the BCHFA, CoH shall not resign from the obligations and duties imposed under this Agreement.

4.04. Prohibition of Discrimination. CoH will conduct its operations on a fair and equal basis, and shall not reject any housing applicant because of the race, color, religion, nation origin, age, sex or marital status of such applicant. CoH shall not enter into any agreement or arrangement with any person or firm or corporation, to prefer any applicant or group of applicants over any other applicant or group of applicants, without the express written approval of the BCHFA. In accepting, evaluating and acting upon such applications, CoH shall comply, if applicable, with the Federal Equal Credit Opportunity Act and Regulation B promulgated thereunder.

ARTICLE V DEFAULT

5.01. Default; Notice of Default; Opportunity to Cure. In the event that CoH defaults under the terms of this Agreement or the Promissory Note, the BCHFA may elect to terminate this Agreement immediately. No default under this Agreement shall constitute an event of default until actual notice of such default shall be given by a party hereunder to the allegedly defaulting party, and the allegedly defaulting party shall have had ten (10) days after receipt of such notice to cure such default. No party shall have the right to require or compel the exercise of the ad valorem taxing power of Brevard County, Florida, or any other political subdivision of the State, for the payment, obligations or other liability due hereunder.

In the event that CoH defaults in the payments required under the terms of this Loan Agreement, the Mortgage and/or the Promissory Note, or defaults under the covenants and terms of this Agreement, and fails to cure said default, then BCHFA shall have the following options:

- (A) to require immediate payment in full of the balance due under the Promissory Note;
- (B) to require payment of interest on the balance due at a rate of five percent per annum from the date of disbursement; and,
- (C) to exercise its rights under the Mortgage, including foreclosure any and all real properties of CoH.

5.02. Indemnification of BCHFA. CoH shall hold harmless and fully indemnify the BCHFA from any liability, claims, actions, expenses, and costs, including reasonable attorney's fees, incurred by the BCHFA as a result of claims made by third parties related to or arising out of this Agreement and the Mortgage.

ARTICLE VI MISCELLANEOUS PROVISIONS

6.01. Amendments, Changes and Modifications. This Agreement may be amended, changed, modified, altered or terminated only by a written document signed by all parties.

6.02. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

6.03. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed as set forth below:

BREVARD COUNTY HOUSING FINANCE AUTHORITY
c/o Angela A. Abbott, Esquire
4420 S. Washington Avenue
Titusville, FL 32780

COMMUNITY OF HOPE, INC.
ATTN: Stephanie T. Hopper, President
4515 Babcock Street NE
Palm Bay, Fl. 32905

The parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

6.04. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

6.05. Assignment. Neither party shall have the right to assign its rights, or delegate its responsibilities, under this Agreement, without the prior written consent of each other party to this Agreement, which consent shall not be unreasonably withheld.

6.06. Waiver. No waiver of any provision of this Agreement, nor consent to any departure by any party therefrom, shall in any event be effective, unless the same shall be in writing and signed

by the waiving party(s), and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.07 Attorneys' Fees. In the event of any litigation related to or arising out of this Agreement, the prevailing party shall be entitled to recover its court costs and reasonable attorneys' fees.

6.08. Further Assurances and Corrective Instruments. To the extent permitted by law, the parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement.

6.09. Term of Agreement. This Agreement shall be in full force and effect from the date hereof until May 1, 2033, or until all sums due under the Promissory Note are fully repaid, whichever occurs later, unless earlier terminated by the parties.

6.10. No Rights Conferred on Others. Nothing in this Agreement shall confer any right upon any person other than the parties hereto.

6.11. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

In witness whereof, the parties have set their hands and seals.

BREVARD COUNTY HOUSING FINANCE
AUTHORITY OF BREVARD COUNTY,
FLORIDA

(SEAL)

Attest:

By: _____
Barry Forbes, Secretary

By: _____
_____, _____ Chairman

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by _____, as _____ Chairman and Barry Forbes, as Secretary/Treasurer of Brevard County Housing Finance Authority, on behalf of the Authority. Such persons did _____ or did not _____ take an oath and: (notary must check applicable box)

X _____ are personally known to me; or
_____ produced a current Florida driver's license as identification; or
_____ produced _____ as identification.

NOTARY PUBLIC

(SEAL)

Print Name: Angela A. Abbott

My Commission expires:

COMMUNITY OF HOPE, INC., a Florida not-for-profit corporation

(SEAL)

By: _____
Stephanie T. Hopper, President

**STATE OF FLORIDA
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by Stephanie T. Hopper, as President of Community of Hope, Inc., a Florida not-for-profit corporation, on behalf of the corporation. Such person did _____ or did not _____ take an oath and: (notary must check applicable box)

_____ is/are personally known to me; or
_____ produced a current Florida driver's license as identification; or
_____ produced _____ as identification.

NOTARY PUBLIC

(SEAL)

Print Name:

My Commission expires:

EXHIBIT "A"
DESCRIPTION OF MORTGAGES

| <u>Lender Name</u> | <u>OR Book/Page</u> | <u>Original Loan Amount</u> | <u>Property Encumbered</u> |
|--------------------|---------------------|---------------------------------|---|
| Regions Bank | 5807/9118 | \$170,000 | 1415 & 1417 Roosevelt & 1416, 1418, 1420 & 1422 Hoag Ave. , Melbourne |
| Steady Town | 7147/2763 | \$500,000 | 1785, 1795 1805 & 1815 Avocado, Melbourne |

EXHIBIT "B"

APPLICATION OF \$75,000.00 LOAN PROCEEDS

Acquisition of Real Property:
1868 Southland Avenue
Melbourne, FL 32935

EXHIBIT "C"

Legal description of real properties securing HFA Mortgage

EXHIBIT "D"

Description of Mortgages to be subordinated to HFA mortgage

EXHIBIT "E"

Certification to Brevard County Housing Finance Authority

BEFORE ME, the undersigned authority, this day personally appeared Affiant, Stephanie T. Hopper, President of Community of Hope, Inc., a Florida not-for-profit corporation (herein referred to as "CoH"), who being by me first duly sworn, on oath, deposes and says that CoH is currently, and has been continuous since April _____, 2018, in full compliance with the terms, conditions and covenants of the Loan Agreement dated as of _____, 2018, between Brevard County Housing Finance Authority and Community of Hope, Inc. (the "Loan Agreement"), and the Mortgage, including, but not limited to, the following covenants:

1. CoH has not incurred additional unsecured debt in excess of \$200,000.00;
2. CoH has not acquired additional real property, by purchase, gift or otherwise, since April, 2018; and,
3. CoH has not permitted any lien, mortgage or other encumbrance to attach to any real property owned by CoH.
4. CoH has maintained its 501 (c) (3) status and remains in good standing with the Florida Department of State.

Dated this _____ day of _____, 20____.

COMMUNITY OF HOPE, INC., a Florida not-for-profit corporation

(SEAL)

By: _____
Stephanie T. Hopper, President

**STATE OF FLORIDA
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Stephanie T. Hopper, as President of Community of Hope, Inc., a Florida not-for-profit corporation, on behalf of the corporation. Such person did _____ or did not _____ take an oath and: (notary must check applicable box)

_____ is/are personally known to me; or
_____ produced a current Florida driver's license as identification; or
_____ produced _____ as identification.

NOTARY PUBLIC

(SEAL)

Print Name:
My Commission expires: