



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>					

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes  No   
 Does this Item include the use of Federal funds? Yes  No

Budget Account No.:

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

All costs will be borne by the Housing Finance Authority. No fiscal impact to Palm Beach County.

**C. Departmental Fiscal Review:**

N/A *NO Fiscal Impact*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

*[Handwritten signatures and dates]*  
 OFMB *1/23/18* *1/23/18* *1/22* Contract Development and Control *1/25/18* *1/25/18*

**B. Legal Sufficiency:**

*[Handwritten signature]*  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director



## **PROGRAM ADMINISTRATION AGREEMENT**

**Between**

**Housing Finance Authority of  
Palm Beach County, Florida**

**and**

**HOUSING AND DEVELOPMENT SERVICES, INC.**

**d/b/a**

**eHousingPlus**

# PROGRAM ADMINISTRATION AGREEMENT

This Program Administration Agreement (the "Agreement") is entered into as of February 9, 2018 (the "Effective Date") by and between the Housing Finance Authority of Palm Beach County, Florida (the "Agency"), located at 100 Australian Avenue, Suite 410, West Palm Beach, FL 33406 and Housing and Development Services, Inc. d/b/a eHousingPlus (the "Administrator"), a Florida corporation, located at 3050 Universal Boulevard, Suite 190, Weston, Florida 33331, (singularly, a "Party" and, together, the "Parties").

## 1. PURPOSE

The purpose of this Agreement is to provide program administration and compliance services for the Agency's single family programs. This Agreement describes the Parties' respective rights, duties, and obligations under this Agreement.

## 2. TERM

The initial term of this Agreement shall be from the Effective Date until December 31, 2020, and shall thereafter be renewed for two additional three-year terms at the consent of the Parties. Either Party may cancel the Agreement for any reason with ninety (90) calendar days' written notice provided prior to the end of the current term. Notice should be provided to the individuals stated in Paragraph 8 - Notices.

## 3. DEFINITIONS

Unless otherwise indicated, all words and terms defined in this Agreement, as of the Effective Date hereof, are used herein as so defined.

"Administrator's Guidelines" means the manual prepared by the Administrator addressing the Program and compliance requirements and processes to be utilized by Lenders.

"Code" means Section 25 and/or Section 143 of the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

"DPA" means down payment assistance.

"Fee" means the fee earned by the Administrator for services rendered herein.

"First-Time Homebuyer" means an individual determined to be of low or moderate income that has not had an ownership interest in a principal residence three years prior to the date of purchase as defined by the IRS and/or the Agency.

"HDS" means Housing and Development Services, Inc. or any of its subsidiaries.

"IRS" means the Internal Revenue Service, a U.S. Department of the Treasury tax collection agency that administers the Code.

"IRS Form 8329" means the IRS form used by Lenders to report all MCC Mortgage Loans originated under that program on an annual basis.

"IRS Form 8330" means the IRS form used by Agencies (states, districts, and political subdivisions) of MCCs issued on a quarterly basis.

"Lender(s)" means a home mortgage lending institution approved by the Agency, Master Servicer and Administrator for the Program.

"MBS" means Mortgage Backed Securities.

"MCC" means a certificate issued under a qualified mortgage credit certificate program by Agencies having the authority to issue qualified mortgage revenue bonds to provide financing for the acquisition, qualified rehabilitation, or qualified home improvement of a taxpayer's principal residence.

"Mortgage" means the written instrument creating a lien on real property to provide security for the payment of a Mortgage Loan.

"Mortgage Loan(s)" means a first lien and, if applicable, a second lien qualified Mortgage Loan originated by a Lender under the Program with respect to real property, evidenced by a Mortgage Note and secured by a Mortgage. For the purposes of this Agreement, the Mortgage Loan requirements are related to compliance with Program requirements and the Administrator's Guidelines.

"Mortgage Note" means the promissory note evidencing the obligation to repay a Mortgage Loan.

"MRB" means tax-exempt and taxable mortgage revenue bonds.

"Program" means the Agency's single family homeownership program.

"Program Documents" means the Administrator's Guidelines, Program forms, and this Agreement.

"Recapture Notice" or "Recapture Brochure" means the notification to First-Time Homebuyers of the specific Recapture Tax regulation.

"Recapture Tax" means the IRS tax liability for a homebuyer who utilizes MRB or MCC proceeds if they sell or cease to occupy a home purchased under the Program before the required nine-year occupancy period expires.

"Re-Issued MCC" means an MCC which has been re-designated to a First-Time Homebuyer, wherein the First-Time Homebuyer has acquired a qualified property that was previously eligible for a tax credit.

"System" means the web-based software system, any derivatives thereof, and all rights, owned by HDS and licensed to the Administrator to carry out its duties herein. The System refers to any part thereof, the Administrator's website, reports, forms, schematics, database, scripts, code and/or any derivatives thereof.

"Working Group Professionals" means specific professionals who are directly involved in the Program, and who are authorized by the Agency and the Administrator to access on-line Program information. This may include Agency, Master Servicer (if applicable), financial advisors, underwriters, investment bankers, and others.

#### 4. RESPONSIBILITIES

At the onset of each new program, the Administrator and the Agency shall execute a "Program Scope of Work and Fees" in the form attached hereto as Addendum A which will identify specific areas of responsibility for the Administrator and the Agency, if they are different from what is provided herein.

- A. Agency's Responsibilities. The Agency shall provide the Program scope and requirements at least fourteen (14) calendar days prior to Program start date, including, without limitation, (i) determining the amount and type of funding available for the Program and the timing and uses of such funding; (ii) determining the Mortgage Loan products to be offered through the Program; (iii) setting rates, terms, loan sizes, and other product-related decisions for the Program; (iv) selecting and approving the Lenders to participate in the Program, (v) setting income and acquisition limits; and (vi) providing any information and or requirement of Program forms, documents, and notifications.

As compensation for the performance of its duties hereunder, the Administrator is entitled to receive a Fee(s) as identified in Addendum A – Program Scope of Work and Fees, and the Agency agrees to pay such Fee(s).

- B. Administrator's Responsibilities. The Administrator shall have the general responsibility for administering the Program(s) on behalf of the Agency in accordance with this Agreement and the Administrator's Guidelines. The Administrator shall be and is hereby irrevocably authorized and empowered by the Agency to execute and deliver for and on behalf of the Agency any and all instruments, documents and writings necessary or desirable to fulfill the Administrator's duties and responsibilities hereunder; provided, that the consummation of the foregoing shall not be inconsistent with or prejudice the rights and interests of the Agency. The Administrator shall collaborate with the Agency regarding the Program goals and structure, and will provide the services listed herein, in its capacity as Administrator.
- C. For additional specific responsibilities, please see Addendum A - Program Scope of Work and Fees.

The Administrator will follow its process guidelines and utilize System features to provide the services detailed herein. Any request for changes to these processes or the System will be analyzed for feasibility and cost, and the Agency will be advised accordingly.

- i. Compliance Review Duties. The Administrator will be provided files from each Lender after closing, which file(s) will contain all documents required by the Program. The Administrator will, in its capacity as compliance agent review all submitted documents for loans originated in the Program for accuracy and compliance. The Administrator shall document any deficiencies and or eligibility concerns and communicate those to the originating Lender. The Administrator will work with the Lenders and provide them guidance and program support so that the Lender may correct all outstanding deficiencies until the file is compliance approved.
- ii. The Administrator will utilize its internal System and workflow tools to provide ongoing updated status information related to the Mortgage Loans originated in the program via its web based lender portal.
- iii. Available System Functions for Lenders. Lenders are provided secure access to portions of the System, including the eHP Lender Portal and eHP Digital Docs Portal, whereby they can process, review, deliver, and manage their Mortgage Loans. Lenders' authorized access to the System is available 365/24/7 with the exception of specific maintenance times. Through use of the System, Lenders may:
  - a. View available Program rates and products,
  - b. Reserve loans, DPA, and MCC as applicable with instant verification of eligibility (see Addendum A – Program Scope of Work and Fees),
  - c. Loan Cancellation features,
  - d. Access and update or edit loan information with ongoing verification of eligibility,
  - e. Perform a pre-closing certification / pre-compliance check,
  - f. Access auto-populated Program forms,
  - g. Access the eHousingPlus Digital Docs® file delivery portal,
  - h. View and monitor their own Lender loan pipeline,
  - i. Monitor timeline requirements for the loan,
  - j. View file deficiencies on a loan basis and access deficiency reports,
  - k. Access Administrator Program Guidelines,
  - l. Access, view, print and download a varied selection of e-reports and download tools,
  - m. Access to eHousingPlus Program website; and
  - n. Manage individual user names and passwords.

The Administrator reserves the right in its sole discretion to modify the System functions and limit Lenders' access to the System as needed.

- iv. Third Party Access. Approved Working Group Professionals who are direct participants in the Agency's Program(s) shall execute the attached Addendum B - Confidentiality and

Non-Disclosure Agreement for the Working Group Professionals in order to access the System and data on behalf of the Agency. The Agency shall convey to authorized users that the data they have access to is in part private, non-public and confidential, and that they must take strict measures to protect it from improper disclosure. The Agency shall have the responsibility of ensuring that approved Working Group Professionals execute the Confidentiality and Non-Disclosure Agreement for the Working Group Professionals (Addendum B). The Agency agrees that third party System users, including any Working Group Professionals, shall not derive a monetary benefit from their access and use of the System beyond that intended by the Parties through this Agreement.

- v. No Liability. The Administrator shall not be liable for any access approvals granted by the Agency, nor any breach of Program-related confidential data based on the negligence or misuse of the Agency's approved Working Group Professionals or any third party to which the Agency has allowed System access.
- vi. Systems. The Administrator provides certain technology to carry out its duties under this Agreement. The Administrator reserves the right to modify its System, processes and available features as part of its on-going System improvements, and to schedule maintenance and upgrades as needed.
- vii. Training. The Administrator will provide web-based Program and System training tools for Lender access on an ongoing basis. Lenders may be required to complete training activities prior to gaining System access. Access to training information and materials can be found on the Administrator's website at [www.ehousingplus.com](http://www.ehousingplus.com). Support is provided by the Administrator when Lenders are in the System and are having technical difficulties.

The Administrator will not conduct one-on-one trainings for Lenders, nor provide support to users who do not attend trainings. At the discretion of the Administrator, any Lender who shows continuous deficiencies or inability to understand processes will be required to attend additional trainings to ensure that they are both promoting the Program accurately and taking the necessary steps to ensure compliance with the Administrator's Guidelines.

- viii. Customer Support and Holiday Schedule. The Administrator, as part of its duties, provides on-going support to the Lenders who need assistance in processing Program loans. This includes assistance in determining eligibility factors such as income, total acquisition costs, System assistance, documents, and additional support Lenders require in the successful origination of these loans. Lenders will be required to attend trainings in order to become better educated on eligibility factors and how to efficiently navigate the process, including the System.

Direct assistance is available during standard business hours 8:30 am to 5:30 pm Weston, Florida time, excluding the Administrator's recognized holidays. The Administrator's holiday schedule can be found online at [www.ehousingplus.com](http://www.ehousingplus.com).



- ix. File Retention. The Administrator agrees to keep Program-related documents and files (which may, in the Administrator's sole discretion, be converted to and retained solely in a digital format) for a period of three (3) years from loan approval date. Program specific information is maintained off-site at secure data and document storage centers. At the end of the three (3) year retention period, the Administrator shall have the right to destroy the files. In the event this Agreement is terminated for any reason, the Administrator's obligation to retain Program-related documents and files shall be determined as part of the termination transition plan (see paragraph 6 below).

Any requests for changes to file retention shall result in a direct cost to the Agency. Should the Agency require file retention beyond the three (3) year period, it must communicate this prior to execution of this Agreement and Addendum A – Program Scope of Work and Fees, which shall contain this additional scope of service and related fees.

- x. Books and Records. The Administrator agrees to keep appropriate books, records and accounts for the Program, which it can make available for audit purposes by the Agency staff only with thirty (30) calendar days advance written request. The books, records, and accounts shall be available for the Agency's inspection during normal business hours and under reasonable conditions.

## 5. WARRANTIES

The Administrator warrants that work performed by the Administrator under this Agreement shall be performed by qualified personnel in a professional, workmanlike manner, consistent with the prevailing standards of the industry, and it will use commercially reasonable efforts to perform its obligations under this Agreement. The Administrator shall not be held responsible for carrier, telecommunications, or Internet access outages.

The Administrator shall not be liable for unauthorized access to, or alteration, theft or destruction of data files, programs, procedures or any other information, data, or documents through accident, fraudulent conduct, or any other method, unless such access, alteration, theft or destruction is caused as a result of the Administrator's negligence or intentional misconduct. The Administrator agrees to protect said information, data, and documents in a manner and at a level that is consistent with prevailing industry standards.

The Administrator shall not be held responsible for the breach of any warranty or indemnification provided by third party software providers, however, the Administrator agrees it shall attempt to enforce all warranties and indemnifications provided by third party software providers, if requested to do so by the Agency. The Administrator shall not be held responsible for and does not warrant the feasibility of the Agency's programs to lenders or homebuyers, nor is it responsible for or warrant any product offered by Lenders originating loans in the Program.

THE ADMINISTRATOR DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE SERVICES RENDERED UNDER THIS AGREEMENT, THE SYSTEM, OR ANY MAINTENANCE, TECHNICAL SUPPORT, OR SYSTEM ENHANCEMENTS PROVIDED INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## 6. TERMINATION

- A. The Agency shall have the right to terminate this Agreement at any time and for any reason with 90 calendar days' prior written notice to the Administrator's Contract Representative, as specified in Paragraph 8.
- B. The Administrator shall have the right to terminate this Agreement at any time and for any reason with 90 calendar days' prior written notice to the Agency's Contract Representative, as specified in Paragraph 8.
- C. In order to conduct the transition to a substitute administrator, the Agency shall have the responsibility to provide a detailed transition plan to the Administrator within thirty (30) calendar days of the termination notice. The Administrator shall review the proposed plan, and provide a response in writing related to the scope, dates and costs to the Agency for any services to be rendered, and a timeline of activities to be finalized.
- D. Termination may cause loans to be active in the pipeline on the date of termination. The Agency shall advise any substitute administrator that any loans in the pipeline will be cancelled and will need to be transferred by that date. Additionally, the Agency shall communicate to the Administrator how the transfer of activities will be communicated to Lenders in order to afford the Lenders with the opportunity to re-direct their inquiries and questions related to the transition and thereafter. The Administrator shall not be responsible to communicate any transfer activities to the Lenders.
- E. On or after the date of termination, all authority and power of the Administrator under this Agreement shall pass to and be vested in a substitute administrator, which such substitute administrator may be the Agency.
- F. In the event that this Agreement is terminated for any reason, the Agency shall provide the Administrator written instructions related to any loan files that are in the possession of the Administrator. Any such transfer costs, including third party storage facility costs, shall be borne by the Agency, unless the Agreement is terminated by the Administrator. If the Agreement is terminated by the Administrator, the Administrator shall bear the cost of transferring the loan files in the possession of the Administrator. If the Agency is responsible for the cost of transfer, the Administrator will provide the Agency a cost estimate of any such transfer, and/or destruction of files, at the expense of the Agency. The Agency shall have the option to request the loan files, and the Administrator, if so requested, shall provide an estimate of costs to the Agency. Files retained and transmitted electronically shall be transmitted in a secure format.

- G. Any designated substitute program administrator shall not be entitled to any of the systems, work product, or confidential information that the Administrator owns or has developed under the terms and during the time of this Agreement.
- H. All Services and System access shall cease on the date of termination, and the Agency shall be solely responsible to administer the transfer of any pending loans and communication with Lenders and others thereafter.

## 7. LIMITATION OF LIABILITY, DEFAULT, AND REMEDIES

The Administrator shall not have any liability under this Agreement, for: (a) any punitive or exemplary damages, or (b) any special, consequential, incidental or indirect damages, including lost profits, lost data, lost revenues and loss of business opportunity, whether or not the Agency was aware or should have been aware of the possibility of these damages.

No director, officer, employee or agent of the Administrator shall be under any personal liability to the Agency or Lender for any action taken in good faith or for refraining from taking any action in good faith pursuant to this Agreement, or for errors in judgment. In the event of the Administrator's failure to perform as required by this Agreement, the Agency shall notify the Administrator in writing of such failure to perform and provide the Administrator a reasonable amount of time to cure the deficiency.

Unless otherwise expressly provided, no remedy herein conferred upon or reserved is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or existing at law or in equity. No delay or omission to exercise any right or power accruing under this Agreement upon the happening of any event set forth herein shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed pertinent.

## 8. 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, or electronic mail, return receipt requested, addressed to the appropriate notice address below. The Agency or the Administrator may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

- i. As to Administrator, all notices shall be addressed to:

For Contract Modifications, Fees and Change in Scope of Services:

Lorena Hernandez  
Housing and Development Services, Inc. d/b/a eHousingPlus  
3050 Universal Boulevard, Suite 190  
Weston, FL 33331

[Lorena.Hernandez@hdsoftware.com](mailto:Lorena.Hernandez@hdsoftware.com)

and

Elena Miranda  
Housing and Development Services, Inc. d/b/a eHousingPlus  
3050 Universal Boulevard, Suite 190  
Weston, FL 33331  
[Elena.Miranda@hdsoftware.com](mailto:Elena.Miranda@hdsoftware.com)

For Program, Rate and Lender Notifications:

Paloma Miranda  
eHousingPlus  
3050 Universal Boulevard, Suite 190  
Weston, FL 33331  
[Paloma.Miranda@ehousingplus.com](mailto:Paloma.Miranda@ehousingplus.com)

and

Patricia Denihan  
eHousingPlus  
3050 Universal Boulevard, Suite 190  
Weston, FL 33331  
[Patt@ehousing.cc](mailto:Patt@ehousing.cc)

and

Sue Denihan  
eHousingPlus  
3050 Universal Boulevard, Suite 190  
Weston, FL 33331  
[Sue@ehousing.cc](mailto:Sue@ehousing.cc)

ii. As to the Agency:

David Brandt, Executive Director  
Housing Finance Authority of Palm Beach County  
100 Australian Ave, Suite 410  
West Palm Beach, Florida 33406  
561-233-3652  
[dbrandt@pbcgov.org](mailto:dbrandt@pbcgov.org)

## 9. CONFIDENTIAL INFORMATION; NON-DISCLOSURE

### A. Confidential and Proprietary Information.

The data collected by the System is in part private, non-public information, and the Parties will use their best efforts to protect it at all times. Through normal administration activities, including the tracking of file deficiencies, the Parties may sometimes obtain non-public personal and financial information concerning the mortgagors and their single family residences. Such information or non-public personal and financial information may be used by the Parties or by their designated and approved officers, employees, agents or affiliates, only as contemplated by the Program, this Agreement, and any applicable laws or regulations regarding disclosure of credit information and/or non-public personal and financial information. Access to data will be restricted to the Administrator and Agency approved participants. It shall be the responsibility of the Agency to notify the Administrator of any such approvals/denials/updates as required. The Agency shall provide the Administrator approvals for any Working Group Professionals. The Administrator shall not be liable for any access approvals granted by the Agency.

At times, the Agency, its assigns, or authorized agents may obtain confidential information of the Administrator. Confidential information includes any information, not generally known in the relevant trade or industry, obtained from the Administrator, HDS, or their affiliates, vendors, or licensors or which falls within any of the following general categories: (a) information relating to trade secrets of the Administrator, HDS, or their vendors or licensors; (b) information relating to existing or contemplated products, services, technology, designs, processes, formulae, computer systems, including the System, computer software, reports, algorithms in research or developments of the Administrator, HDS, or their vendors or licensors; (c) information related to the business of the Administrator, HDS, or their vendors or licensors, including but not limited to, business forms, handbooks, policies, documents, business plans, business processes and procedures, sales or marketing methods, methods of doing business, customer lists, customer usage and/or requirements; (d) information marked "Confidential" or "Proprietary;" and (e) this Agreement.

The Administrator shall have the right in its sole and absolute discretion to deny access to any third party user(s) who it deems to be a competitor, and/or whose access could compromise the Administrator's confidential and proprietary work product.

### B. Duty to Maintain Confidentiality.

The Agency and the Administrator each agree to and shall instruct their respective employees, agents and representatives, to the extent permitted by law, to keep the confidential information referenced in this Agreement in the strictest confidence and in the manner set forth below. The Parties agree:

- i. Neither Party shall copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer confidential information or anything containing or embodying such confidential information of the other Party (except as permitted to provide the services contemplated by this Agreement) and shall not directly or indirectly, disclose, divulge, reveal, report or transfer such confidential information of the other to any person other than a Permitted Party. Permitted Party(ies) include any officers, directors, managers, administrators, executive directors, and employees of the Parties and authorized users who sign a Confidentiality and Non-Disclosure Agreement.
- ii. Neither Party shall use any confidential information of the other, including all proprietary systems and material accessed via the System, the Administrator's website, or distributed materials, for its own benefits or for the benefit of a third party or for any purpose other than the purpose for which such confidential information is being disclosed. The Agency shall accept responsibility to maintain confidentiality on its behalf, and on behalf of those it authorizes to act on its behalf, including any Working Group Professionals designated to access such information.
- iii. Neither Party shall remove any proprietary legends or notices, including copyright notices, appearing on or in the confidential information of the other Party.
- iv. Each Party shall take appropriate action with respect to each and every person who is permitted access to any confidential information of the other to ensure that each such person complies with the confidentiality provisions hereof. Each Party shall use its best efforts to enforce the proprietary rights of the other Party (including but not limited to seeking injunctive relief or other reasonably necessary action) against any person who has possession of or discloses confidential information in a manner not permitted by this Agreement. The Agency agrees that it shall notify the Administrator within two (2) working days of any requests for copies of this Agreement.
- v. Any materials which are, or which relate to or derive from any confidential information of the other Party shall be kept confidential, and all such materials shall be returned to the disclosing Party (or destroyed, if return is not possible or economically feasible) upon satisfaction of the purpose for the disclosure of such information.
- vi. The Parties may disclose confidential information to their attorneys in the course of representation on a matter reasonably requiring the attorneys to receive the confidential information and may also disclose confidential information to their certified public accountants and to the extent necessary to enable those accountants to prepare financial statements or reports required by law.

- vii. In the event that any demand is made in litigation, arbitration or other proceeding for disclosure of confidential information, the Party upon which the demand is made shall not disclose the confidential information, and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of confidential information and shall notify the disclosing Party of the demand within three (3) business days of receipt of the request.
- viii. Should the Administrator discover any breach of confidentiality or disclosure related to the Administrator's System and/or data, the Administrator shall notify the Agency in writing of the event within three (3) business days of its findings, and the Agency shall be responsible to provide immediate relief. This relief may include, among other things, immediate denial of access to System from source of known risk.
- ix. Notwithstanding the requirements of this section to maintain the confidentiality of this Agreement, the Administrator acknowledges and agrees that the Agency may provide a copy of this Agreement to Palm Beach County for its review and approval process, and the Administrator agrees to hold the Agency harmless for any subsequent use or release of the Agreement by Palm Beach County.

#### **10. MISCELLANEOUS PROVISIONS**

- A. Addendums. Any and all attachments, addendums and exhibits are incorporated into this Agreement as if fully set forth herein.
- B. Copies. Fully executed copies (including electronic copies) of this Agreement shall have the same force and effect as the original executed Agreement.
- C. Counterparts. This Agreement may be executed in any number of counterparts and it shall not be necessary that each Party execute each counterpart. Each counterpart so executed (or, if all Parties do not sign on the same counterpart, each group of counterparts signed by all Parties) shall be deemed to be an original, but all such counterparts together shall constitute one and the same instrument.
- D. Severability. The determination by any court of competent jurisdiction that any provision of this Agreement is not enforceable shall not affect the remaining provisions of this Agreement, rather such unenforceable provisions shall be stricken or modified in accordance with such court's decision and this Agreement, as modified, shall continue to bind the Parties.
- E. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties with respect to the rights and obligations contemplated hereby. It supersedes all prior written or oral commitments, arrangements or understandings between the Parties. This

Agreement may only be modified or amended by mutual agreement of the Parties, in writing, which specifically refers to this Agreement and is signed by all Parties.

- F. **Governing Law.** This Agreement shall be governed by the internal laws of the State of Florida and not the law of conflicts of the State of Florida, and venue for any action related to the judicial enforcement or interpretation of this Agreement shall be in a court of competent jurisdiction over the matter located in either: (a) the Federal District Court for the Southern District of Florida; or (b) the state courts located in Palm Beach County, Florida, and the Agency waives any right to have any such action or proceeding heard elsewhere. In the event of any dispute between the Parties related to this Agreement, the Agency specifically agrees that it is subject to personal jurisdiction in Palm Beach County, Florida.
- G. **Members of Agency Not Liable.** This Agreement is executed by the directors, officers, or executive directors of the Agency in their capacities as said directors, officers, or executive directors. No covenant, stipulation, obligation, or agreement contained herein shall be deemed to be a covenant, stipulation, obligation, or agreement of any present or future directors, counsel, officers, employees or executive director of the Agency in his or her individual capacity, and none of the directors of the Agency, any officers, or executive directors executing this Agreement shall be liable personally with respect to this Agreement or be subject to any personal liability by the execution thereof.
- H. **Public Records.** To the extent records are created and/or maintained by the Administrator that meet the definition of "Public Records" in Section 119.011(12), Florida Statutes, the Administrator agrees that it shall comply with the applicable provisions of Section 119.0701, Florida Statutes. Specifically, the Administrator shall:
- (1) Keep and maintain public records that ordinarily and necessarily would be required by the Agency in order to perform the services provided for in this Agreement ("Public Records");
  - (2) Provide the public with access to Public Records on the same terms and conditions that the Agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
  - (3) Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law;
  - (4) Meet all requirements for retaining Public Records and transfer, at no cost to the Agency, all Public Records in possession of the Administrator upon termination of this Agreement or as otherwise provided herein and destroy any duplicate Public Records that are exempt or confidential from Public Records disclosure requirements. All records stored electronically must be provided to the Agency in a commonly accepted industry format; and



(5) Promptly notify the Agency upon receipt of a Public Records request.

**IN WITNESS WHEREOF**, we have set our hands as of the date first written above.

**HOUSING AND DEVELOPMENT SERVICES, INC. d/b/a eHousingPlus**

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

Cristina Miranda Gilson, its CEO

**IN WITNESS WHEREOF**, we have set our hands as of the date first written above.

Housing Finance Authority of Palm Beach County, Florida

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

Print Name: David Brandt

Its: Executive Director

**ADDENDUM A  
PROGRAM SCOPE OF WORK AND FEES**

The Program Scope Exhibit # 1, details the specific requirements, and fees related to the Program, extensions, or services described below. This form is similar to the one used in the PAA contract and will allow us to collect the relevant information needed to proceed with contract activity with the most efficiency.

**Agency:** Housing Finance Authority of Palm Beach County

**Agency contact name:** David Brandt, Executive Director  
**contact phone:** 561-233-3652  
**contact e-mail:** [dbrandt@pbcgov.org](mailto:dbrandt@pbcgov.org)

**Agency contract contact:** Greenspoon Marder, LLP  
**contact name:** Skip Miller  
**contact phone:** [Click here to enter text.](#)  
**contact e-mail:** [Skip.Miller@gmlaw.com](mailto:Skip.Miller@gmlaw.com)

**contact name:** Bob Reid  
**contact phone:** [Click here to enter text.](#)  
**contact e-mail:** [breid@gmlaw.com](mailto:breid@gmlaw.com)

**Program type: (select all that apply)**

MCC      stand-alone MCC      MCC with DPA  
MCC with a current Program or new Program [name of Program.](#)  
other (specify): [Click here to enter text.](#)

**Program details: (complete all that apply)**

**Program name:** 2018 Single Family Mortgage Credit Certificate Program

**source of funding allocation:** [Click here to enter text.](#)

**Income limits: targeted:** Families of 1 or 2 persons - \$86,280. Families of 3 or more persons \$100,660

**non-targeted:**Families of 1 or 2 persons - \$72,544. Families of 3 or more persons - \$83,426

**acquisition limits: targeted:**one unit - \$388,235; two unit - \$496,997; three unit - \$600,751; four unit - \$746,593

**non-targeted:**one unit \$317,646; two unit - \$406,634; three unit - \$491,524; four unit - \$618,948

**first-time homebuyer requirement:** Each homebuyer must be a first-time homebuyer. This requirement does not apply to loans in certain areas designated as targeted areas.

**eligible loan types:** [Click here to enter text.](#)

**MCC start date:** 1/1/2018

**MCC final certificate date:** [Click to enter a date.](#)

**amount of private bonds:** [Click here to enter text.](#)

**credit rate offered:** [Click here to enter text.](#)

**non-issued bond amount:** [Click here to enter text.](#)

**amount of MCC authority:** [Click here to enter text.](#)

**MCC fees**

MCC standalone - \$275

MCC combination files/rate tiers (select tier)

1 – 3 rates - \$400

4 – 6 rates - \$425

7 – 10 rates - \$450

Per file second mortgage program fee -\$75

Re-issue is only available within two years from original issue date per file fee - \$300

Lost MCC certificate reprint - \$75

Lender fee for chronically deficient file(s), as applicable - \$100

Funding administration fee per file - \$25

**scope of work notes:**

(eligible areas, co-signers, loan timeline requirements, FICO score requirements, program fees)

[Click here to enter text.](#)

**additional special services or considerations:**

(eHP Agency fee administration)

[Click here to enter text.](#)

participating Lenders will be approved and provided by: [Click here to enter text.](#)

**Program financial advisers contact:**

**company:** [Click here to enter text.](#)  
**contact name:** [Click here to enter text.](#)  
**contact phone:** [Click here to enter text.](#)  
**contact e-mail:** [Click here to enter text.](#)

**Program investment banker contact:**

**company:** [Click here to enter text.](#)  
**contact name:** [Click here to enter text.](#)  
**contact phone:** [Click here to enter text.](#)  
**contact e-mail:** [Click here to enter text.](#)

**Program Servicer contact:**

**company:** [Click here to enter text.](#)  
**contact name:** [Click here to enter text.](#)  
**contact phone:** [Click here to enter text.](#)  
**contact e-mail:** [Click here to enter text.](#)

HOUSING AND DEVELOPMENT SERVICES, INC.  
d/b/a eHousing Plus

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Cristina M. Gilson  
CEO

Housing Finance Authority of Palm Beach County

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By: David Brandt  
Title: Executive Director

**ADDENDUM B**

**Confidentiality and Non-Disclosure Agreement for the Working Group Professionals**

This Confidentiality and Non-Disclosure Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 2018, between Housing and Development Services, Inc. (“HDS”), a private company having an address at 3050 Universal Boulevard, Suite 190, Weston, FL 33331 and the entities whose names and addresses are set forth below (the “System Users”). HDS is performing certain professional services (the “Services”) on behalf of the \_\_\_\_\_ (the “Agency”) for the administration of the Agency’s \_\_\_\_\_ programs; and

WHEREAS during the term of this Agreement, the System Users and their representatives shall have the occasion to access the proprietary web-based software and system, related processes, and confidential data owned by HDS; and

WHEREAS HDS wishes to take additional steps to ensure the protection of its proprietary and other Confidential Information (hereafter defined) which may be accessed during the normal course of business by third parties performing work on behalf of the Agency and its \_\_\_\_\_ programs.

NOW, THEREFORE, in consideration of the performance of the Services by HDS, and for other valuable consideration, the receipt and sufficiency of which is acknowledged, the System Users and HDS agree to the following:

The above Recitals are incorporated into the body of this Agreement as if stated in their entirety.

1. Definitions.

- a. “Confidential Information” is herein defined as all proprietary information, whether in tangible or intangible form, whether disclosed or obtained by the Agency and its affiliates orally, in writing, in graphic or machine-readable form, and whether or not it is designated as confidential, including but not limited to proprietary processes, source code, technology, computer programs, computer systems, software, designs, inventions, trade secrets, specifications, techniques, data, documentation, manuals, non-public financial information and other business information, third-party information that any party to this Agreement is obligated to keep confidential, oral statements, notes, analysis, compilations, studies, interpretations, or other documents prepared by HDS or its representatives which contain, reflect, or are based upon, in whole or in part, the information furnished to the System Users or their representatives by HDS, and any other information, tangible or intangible, that is disclosed or made available to the System Users and their representatives by HDS as a result of the performance of the Services. Per HDS information security program, confidential information shall also include, in any and all forms, any non-public personal

information, consumer reports, or other information pertaining to individuals, protected by federal or State law.

- b. "State" is herein defined as the State of Florida.

2. Information Security Program.

- a. Federal and State laws require that HDS maintain an information security program to protect certain personal information related to individuals whose information is collected in HDS systems, and where HDS is the Administrator of the Agency's single family programs. This information includes the following: (1) non-public personal information protected by the Safeguards Rule of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et. seq.) and implementing regulations (16 C.F.R. Part 314); (2) consumer reports protected under the federal Fair Credit Reporting Act, as amended by the 2004 FACT Act (15 U.S.C. § 1681 et. seq.); and (3) any other information pertaining to individuals subject to data security, data security breach notification, and identity theft prevention laws.
- b. If HDS grants the System Users and their representatives access to its systems and to view personal information related to individuals who are customers, business partners, vendors, or others, the System Users shall comply with and ensure that any representatives acting on its behalf comply with all federal and State laws protecting such information while utilizing any HDS systems, while using HDS protected information, and while connected to any HDS system or website.
- c. The System Users shall comply by (1) implementing and maintaining measures designed to meet the information security objectives of federal and State laws; (2) using and disclosing customer information solely for the purposes of performing this Agreement; and (3) providing HDS with the results of any internal and external audits or findings of any breach thereof.

3. Disclosure. The Agency agrees that any and all Confidential Information of HDS is the sole property of HDS, is to be held in strict confidence, and shall not be disclosed by the System Users or any of their employees or agents to any third party, or for any benefit other than the fulfillment of this Agreement. The System Users further agree to notify HDS of any actual or suspected misuse, misappropriation, or unauthorized disclosure by any party of Confidential Information that may come to the System Users' attention. Disclosure of Confidential Information does not include the disclosure of information which is known or made known to the public through no act or failure to act on the part of the System Users, but only to the extent such information is known to the public through the act or failure to act on the part of the System Users or their representatives. Disclosure of Confidential Information does not include any information required by law or court order to be disclosed, but only to the extent of such required disclosure, and provided HDS is first given notice of such required disclosure and an opportunity to contest such required disclosure.

4. Use of Information. The System Users and their representatives shall use the Confidential Information solely as required in the performance of the Services, unless HDS provides express written consent authorizing use of the Confidential Information for other purposes, and shall use



the Confidential Information only during the term of this Agreement. The System Users agree that they shall not derive a monetary benefit from their access and use of the Confidential Information beyond that intended by this Agreement.

5. Return of Materials. Confidential Information shall continue to remain the sole property of HDS even after the completion of the Services and shall be held in the strictest confidence by the System Users and their representatives. Confidential Information furnished in tangible form shall not be duplicated by the System Users except as may be permitted by this Agreement. The System Users agree to return to HDS any Confidential Information in tangible form (including copies thereof) within 10 days of request by HDS or within 10 days of termination of the Services by either party, whichever is sooner, or to certify that such Confidential Information has been destroyed.
6. Remedies. If HDS becomes aware of any breach of confidentiality or disclosure of the Confidential Information, HDS shall notify the Agency in writing of the event within three (3) business days of its findings, and the Agency shall be responsible to provide immediate relief. The parties agree that a breach of this Agreement shall result in damages to HDS that may not be measurable. As such, the Agency and the System Users agree that, in the event of a breach of this Agreement, HDS shall be entitled to injunctive relief (without bond) in addition to any and all other remedies available to HDS.
7. Modifications. No amendments or modifications to this Agreement may be made without the written agreement of HDS and the System Users.
8. Entire Agreement. This Agreement is the entire and complete understanding between the parties in regard to the covered subject matter. The certain terms of this Agreement replace and supersede all predecessor agreements between the parties whether written or oral.
9. Severability. If any provision or provisions of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions of this Agreement shall not be affected thereby.
10. Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Florida. Any dispute related to this Agreement shall be resolved by the state or federal courts located in Palm Beach County, Florida.
11. Authority. Each person executing this Agreement on behalf of HDS and the System Users, respectively, warrants his or her authority to do so.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties to this Agreement have, by their duly authorized officers, executed this Agreement under seal and on the date first above written.

HOUSING AND DEVELOPMENT SERVICES, INC.  
(HDS) d/b/a eHousingPlus

By: \_\_\_\_\_  
Name: Cristina M. Gilson  
Title: CEO

[AGENCY]

By: \_\_\_\_\_  
Name:  
Title:

SYSTEM USERS (3rd party to Agency):

\_\_\_\_\_  
(System User signature)  
Name:  
Title:  
Company Name:  
Email:  
Address:

\_\_\_\_\_  
(System User signature)  
Name:  
Title:  
Company Name:  
Email:  
Address:

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(System User signature)

Name:

Title:

Company Name:

Email:

Address:

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(System User signature)

Name:

Title:

Company Name:

Email:

Address:

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(System User signature)

Name:

Title:

Company Name:

Email:

Address:

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(System User signature)

Name:

Title:

Company Name:

Email:

Address: