

Orig. 15

RESOLUTION NO. 2017- 67

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CDBG LOAN SERVICING AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND STONEGATE BANK, TO PROVIDE SERVICING OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) LOANS; PROVIDING AN EFFECTIVE DATE.


BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That a CDBG Loan Servicing Agreement between the City of Pompano Beach and Stonegate Bank, to provide servicing of community development block grant (CDBG) loans, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Stonegate Bank.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 13th day of December, 2016.



LAMAR FISHER, MAYOR

ATTEST:



ASCELETA HAMMOND, CITY CLERK

CDBG Loan Servicing Agreement

This Loan Servicing Agreement is entered into on the day of December 20, 2016 by and between the City of Pompano Beach, a Florida municipal corporation ("COPB") and Stonegate Bank ("Stonegate").

RECITALS:

WHEREAS, the U.S. Department of Housing and Urban Development ("HUD") has allocated the City of Pompano Beach Community Development Block Grant ("CDBG") funds to stimulate economic development and to facilitate the retention and creation of jobs; and,

WHEREAS, the Office of Housing and Urban Improvement for the City of Pompano Beach ("OHUI") is offering the aforementioned CDBG funds to Pompano Beach businesses through a Revolving Loan Fund ("RLF"); and,

WHEREAS, repaid RLF loans are to be used to fund additional loans, thereby creating a "revolving" loan program; and,

WHEREAS, in order to service the CDBG loans, it is deemed prudent and advisable to arrange for the servicing of the loans with a banking institution; and,

WHEREAS, COPB desires to enter in to a business arrangement to have Stonegate Bank act as loan servicer and Stonegate Bank is willing to serve as loan servicer on the terms and conditions set forth in this Agreement,

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the parties hereto intending to be legally bound agree as follows:

1. Recitals. All of the foregoing recitals are true and correct and are incorporated by reference.
2. Appointment; General Obligation to Service. Stonegate Bank is appointed (and accepts the appointment as) servicer of the CDBG loans.
3. Loan Servicing. Stonegate Bank shall service all CDBG loans referred to it by COPB. Servicing of a loan shall include the following:
 - A. Close and set loan account, upon receipt of notice of loan approval from COPB;
 - B. Demanding, receiving and collecting loan payments;
 - C. Printing and mailing statement notices;
 - D. Depositing loan payments to the COPB designated account no later than one business day after receipt of payment;

- E. Providing borrowers with a dedicated phone number to call should they have questions or concerns about their loan;
 - F. Printing and mailing past due notice on accounts that remain unpaid beyond the grace period;
 - G. Printing and mailing a second past due notice when a loan is 10 days past the grace period;
 - H. Annual verification of insurance required by the loan documents;
 - I. All other collection efforts shall be the responsibility of COPB, after second notice;
 - J. Submission of management, reconciliation reports and deposit for the “net of fees due” by the 15th of the following month. “Net of Fees Due” shall mean all monies received from borrowers during the calendar month minus the service and processing fees described below and payments received in prior month(s) as insufficient and not collected during the current month yet previously paid to COPB.
 - K. Contacting COPB when a loan payoff for any borrower has been requested by an outside organization or company and providing payoff information;
4. Monthly Bank Statements/Reports. Stonegate shall provide to COPB monthly bank statements and/or reports on account transactions. These reports will include:
- A. An account summary report showing all accounts being serviced by Stonegate;
 - B. A payment summary report showing all payments made during the month for each account;
 - C. A reconciliation report summarizing monies received during the month, servicing charges charged and Net Amount Due;
 - D. The monthly bank statements/reports shall be furnished to the COPB Treasury Division and to the Office of Housing and Urban Improvement (“OHUI”). The statements may be delivered by mail or by email (until further notice by COPB) to Miriam.Carillo@copbfl.com and Suzette.Sibble@copbfl.com.
5. **Servicing Fees**. For its services, Stonegate shall be paid an initial fee of one percent (1%) of the loan amount for setting up and establishing the loan account and shall receive an annual fee for each loan of one-half of one percent (0.5%) of the current balance for each loan serviced, plus reimbursement for out of pocket expenses incurred (postage, overnight delivery charges, long distance telephone charges, etc.). All payments to Stonegate shall be deducted from the balance in the bank account of COPB. At all times COPB shall maintain appropriate bank accounts at Stonegate to facilitate the deposits,

collections, remittances and payments due. In the event of a shortage in any month, the difference shall be deducted from the next ensuing month's payment.

6. Interest Statements. Stonegate shall print and mail to each borrower and to COPB appropriate IRS 1098 Interest Paid forms, as required, and electronically submitting the same information to the IRS, if applicable.

7. Record Retention/Audit and Review Rights.

A. Stonegate shall retain its records pertaining to the loans in accordance with its standard policies and procedures for record retention in the ordinary course of its business.

B. COPB shall have the right to access all books and records pertaining to the loan accounts serviced, upon 15 days prior notice, during normal business hours.

C. At the time a loan is paid in full and satisfied or if sooner terminated or discharged for whatever reason, Stonegate shall make the records available to COPB, upon request of COPB within 12 months from the date the loan is terminated or discharged, to be retained by COPB according to its policies, procedures and the applicable provisions of Chapter 119 Florida Statutes.

D. In the event Stonegate performs periodic audits of the loan servicing operations established by this Agreement, it agrees to provide to COPB a copy of the report of such audit to the COPB Finance Director. However, Stonegate shall be under no obligation to perform such audit and it shall be performed within the sole discretion of Stonegate. However, if Stonegate elects not to perform such audits(s), Stonegate agrees to grant designated agents of COPB access to such records of the loans serviced pursuant to this Agreement, within the time set forth above, to allow COPB auditor's to conduct the financial audit of COPB.

8. Public Records.

A. The City of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.
2. Upon request from the City's custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time 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 for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.
5. Failure of the Contractor to provide the above described public records to the City within a reasonable time may subject Contractor to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060
(954) 786-4611**

9. Compliance with Law/Indemnity.

A. Stonegate agrees to indemnify and hold COPB harmless from any and all claims, demands, actions or charges from loss or damage due to the negligence or willful misconduct of Stonegate with respect to its obligations under the terms of this Agreement.

B. COPB agrees to indemnify and hold Stonegate harmless from any and all claims, demands, actions or charges arising from the loan documents used by COPB in connection with the loans being serviced pursuant to this Agreement or by reason of any violation of the law by COPB arising from the loan program to which this Servicing Agreement relates, including by not limited to claims asserted by borrowers, U.S. Dept. of Housing and Urban Development ("HUD"), Federal Housing Administration ("FHA"), Federal Housing Finance Agency ("FHFA"), Real Estate Settlement Procedures Act ("RESPA"), Truth in Lending Act ("TILA"), Equal Credit Opportunity Act ("ECOA"), Home Mortgage Disclosure Act ("HMDA"), Community Reinvestment Act ("CRA"), Fair Credit Reporting Act ("FCRA"), Homeowner's Protection Act ("HPA"), Fair Debt Collection Practices Act, Gramm-Leach-Bliley Act and /or any other applicable federal, state or local statute, law rule, regulation, pronouncement or activity upon which any such claim is predicated.

C. Such indemnification shall include fees and costs incurred arising from such claims.

10. Assignment. Shall not transfer or assign any of its duties and obligations without the prior consent COPB.

11. Term of Agreement / Cancellation of Agreement. This Agreement shall be in effect for a term of five (5) years from the date of execution at which time it shall terminate. Notwithstanding, however, this Agreement may be cancelled by either party upon issuance or written notice of cancellation to the other party. The notice of cancellation shall be submitted in writing no later than 30 days prior to the effective date indicated on the notice of cancellation.

12. Amendments. This Agreement shall not be amended or otherwise modified except in a writing executed by both parties.

13. Captions. The titles and heading of the paragraphs of this Agreement have been inserted for convenience of reference only and are not intended to summarize or otherwise describe the

subject matter of the paragraphs and shall not be given any consideration in the construction of this Agreement.

14. Governing Law and Severability. This Agreement shall be governed and interpreted in accordance with the laws of the United States of America and the State of Florida. If any provision of this Agreement is found by a court to be unenforceable, that provision of the Agreement shall be enforced to the maximum extent permissible so as to give affect to the intention of the parties and the remainder of this Agreement shall continue in force and effect.

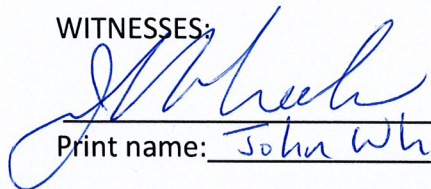
15. Notices. All notices required hereunder shall be given by (a) telephone (confirmed in writing if the sender on the same day send a confirmation copy of such notice by reputable overnight delivery service (charges prepaid) or shall be in writing and personally delivered (b) facsimile transmission or email, if the sender on the same day sends a confirming copy of such notice by reputable overnight delivery service (charges prepaid), (c) reputable overnight delivery.

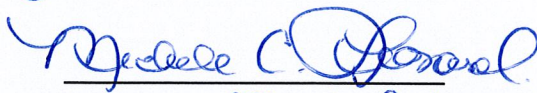
16. Integration. The Agreement constitute the entire agreement of the parties with respect to the loan servicing addressed in this Agreement and no prior contemporaneous understandings with respect thereto, oral or written, shall be binding.

17. Independent Verification. Each party to this Agreement is solely responsible agreeing to the terms stated herein. Neither party is relying on the other to ascertain or determine the legality or appropriateness of the terms contained herein; and each party has had an opportunity to engage counsel of its own choosing to ensure that the terms that this Agreement are compliant with such local, state and federal laws as may be applicable.

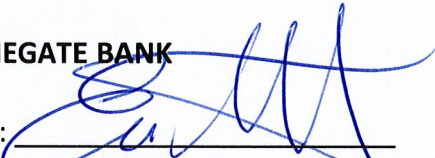
IN WITNESS WHEREOF, the parties hereto have caused this Loan Servicing Agreement to be executed and delivered as of the date first set forth above.

WITNESSES:


Print name: John Wheeler


Print name: Michele C. Leonard

STONEGATE BANK

By: 
ERIC SERVAITES, EVP, Market President

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Betty J. Moses

By: [Signature]
LAMAR FISHER, MAYOR

[Signature]

By: [Signature]
DENNIS W. BEACH, CITY MANAGER

Attest:

[Signature]
ASCELETA HAMMOND, CITY CLERK

(SEAL)

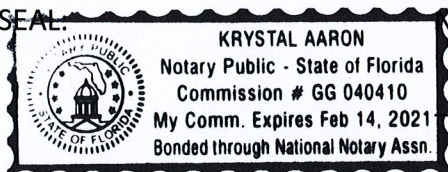
Approved As To Form:

[Signature]
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 20th day of December, 2016 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number