

AGREEMENT BETWEEN LEON COUNTY, FLORIDA AND THE CITY OF
TALLAHASSEE FOR THE FFY 2008 DISASTER RECOVERY PROGRAM

THIS AGREEMENT, entered this 12th day of August, 2010 by and between the LEON COUNTY, a charter county and political subdivision of the State of Florida (herein referred to as the "COUNTY") and the City of Tallahassee, a Florida Municipal corporation (herein referred to as the "CITY").

WHEREAS, the COUNTY has applied for and received funds from the United States Government under the Consolidated Security, Disaster Assistance and Continuing Appropriations Act, 2009; and

WHEREAS the COUNTY has entered into Contract Number 10DB-K4-02-47-01-K21 with the Florida Department of Community Affairs that sets forth the rules, regulations and policies governing the uses of these grant funds; and

WHEREAS, the COUNTY wishes to engage the CITY to assist the COUNTY in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF WORK

A. Activities

The CITY shall perform the work as agreed upon in the Inter-local Agreement between the COUNTY and the CITY dated January 15th, 2010 and which attached to this agreement (Attachment #1) and made a part hereof. The CITY shall perform the work in accordance with the Activity Work Plans as submitted and approved by the Florida Department of Community Affairs (Attachment #2), including future amendments to this agreement that are agreed upon by both parties and approved by the Florida Department of Community Affairs. The CITY shall administer those identified projects in a manner satisfactory to the COUNTY and consistent with any standards required as a condition of providing these funds.

B. National Objectives

All activities funded with CDBG funds must meet one of the CDBG program's National Objectives: benefit low and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208. The CITY certifies that the activities carried out under this Agreement will meet the Benefit to Low to Moderate Income Person Criteria.

C. Performance Monitoring

The COUNTY will monitor the performance of the CITY against goals and performance standards as stated above. Substandard performance as determined solely

by the COUNTY shall constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the CITY within a reasonable period of time after being notified by the COUNTY, contract suspension or termination procedures will be initiated.

II. PERIOD OF AGREEMENT

Services of the CITY shall start on the day this agreement is fully executed and will end twenty four (24) months following the end date of Contract Number 10DB-K4-02-47-01-K21 between the County and the Florida Department of Community Affairs. The term of this Agreement and the provisions herein shall be extended only upon receiving approval from the Florida Department of Community Affairs.

III. BUDGET

The CITY shall pay all the administrative costs for the City Projects through sources other than the FFY 2008 Disaster Recovery Program. The funds request from the FFY 2008 Disaster Recovery Program shall only be used for engineering, design, permitting and other similar program delivery costs and the actual construction necessary to complete the projects. The COUNTY agrees to make available to the CITY the following maximum sums:

Affordable Rental Housing Activities	\$712,546
Franklin Blvd. Stormwater Project	\$4,200,000
Total	\$4,912,546

In addition, the COUNTY may require a more detailed budget breakdown than the one contained herein, and the CITY shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the COUNTY. Any amendments to the budget must be approved in writing by both the COUNTY and the CITY.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the COUNTY under this Agreement shall not exceed \$712,546 for the rental housing activities, and not to exceed \$4,200,000 for the Franklin Blvd. Stormwater project as outlined in the COUNTY CDBG Disaster Recovery grant application, as amended. The COUNTY agrees to reimburse the CITY within thirty (30) working days after receipt of a complete reimbursement request. The CITY shall submit quarterly reimbursement requests to the Leon County Grants Office no later than 30 calendar days following the end of each quarter in which expenditures occurred. Said requests shall contain a detailed description of each line item expenditure incurred during the reporting period, shall be accompanied by supporting documentation, and shall be signed by the appropriate authorized representative.

The COUNTY reserves the right at its sole discretion to deny approval of a reimbursement request, or any portion thereof, if the request is inconsistent with the type of expenditure listed as allowable in Section III, Budget, if documentation in support of the expenditure is insufficient, if the amount requested exceeds the amount of funds budgeted for each program as set forth in Paragraph 1, above, or if the request is not consistent with the Special Conditions noted in Section VI below.

Payments may be contingent upon certification of the CITY's financial management system in accordance with the standards specified in 24 CFR 84.21.

VI. SPECIAL CONDITIONS

In accordance with the provisions of this grant award pursuant to the CDBG Disaster Recovery grant, the CITY shall comply with all terms, conditions, and procedures and any special condition(s) included as part of the grant award, as required by the U.S. Department of Housing and Urban Development and the Florida Department of Community Affairs and which attached to this agreement (Attachment #3 and Attachment #4) and made a part thereof.

V. MODIFICATION OF CONTRACT

The COUNTY or CITY may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, and signed by a duly authorized representative of each organization. Such amendments shall not invalidate this Agreement, nor relieve or release the COUNTY or CITY from its obligations under this Agreement.

The COUNTY may, in its discretion, unilaterally amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both COUNTY and CITY.

VI. RECORDKEEPING

A. Documentation and Record Keeping

1. The CITY shall be subject to Federal OMB Circular No. A-102, "Common Rule: Uniform Administrative Requirement for State and Local Governments".

2. Records to be Maintained

The CITY shall maintain sufficient records to show its compliance with the terms of this agreement as applicable. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;

- b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21-28;
- g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

3. Retention

The CITY shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of six (6) years. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the six-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

4. Client Data

The CITY shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to COUNTY monitors or their designees for review upon request.

VII. AUDIT REQUIREMENTS

A. Financial Records

The CITY agrees to maintain financial records and support documents in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this agreement.

B. Inspection of Records

All CITY records with respect to any matters covered by this Agreement shall be made available to the COUNTY, grantor agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the CITY within 30 days after receipt by the CITY. Failure of the CITY to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The CITY hereby agrees to have an annual agency audit conducted in accordance with current COUNTY policy concerning CITY audits and OMB Circular A-133.

VIII. REPORTS

The CITY shall submit monthly progress reports and a close-out report to the COUNTY. These reports shall include the current status and progress by the CITY and all sub-recipients and subcontractors in completing the work described in the Activity work Plans and the expenditure of funds under this agreement, in addition to any other information requested by the COUNTY.

IX. MONITORING

The City shall monitor its performance under this Agreement as well as that of its sub-recipients, subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that time schedules are being met and the projects are being accomplished in a timely fashion and other performance goals are being achieved. Within 30 days of the execution of this Agreement, the CITY shall submit a Monitoring Plan to the COUNTY.

In addition to reviews of audits conducted in accordance with Section VI. above, monitoring procedures may include, but not limited to, on-site visits by COUNTY staff, limited scope audits, and/or other procedures. The City agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the County

X. LIABILITY

To the extent permitted by law, the CITY shall hold harmless, defend and indemnify the COUNTY from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the CITY's performance or nonperformance of the services or subject matter called for in this Agreement.

XI. DEFAULT

A. Suspension or Termination

In accordance with 24 CFR 85.43, the COUNTY may suspend or terminate this Agreement if the CITY materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the CITY to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or

4. Submission by the CITY to the COUNTY reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the COUNTY or the CITY, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the COUNTY determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the COUNTY may terminate the award in its entirety.

X11. NOTICE AND CONTACT

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

COUNTY

Mr. Don Lanham, AICP
Leon County Grants Program Coordinator
Leon County Courthouse
301 South Monroe Street
Tallahassee, Florida 32301

CITY

Mr. Michael Parker
Assistant Director, Economic and Community Development
City of Tallahassee
435 N Macomb Street
Tallahassee, Florida 32301

XIII. SUBCONTRACTS

If the City subcontracts out any of the work required under this Agreement, a copy of the signed contract must be forwarded to the County for review. Said contract will then be forwarded to the Florida Department of Community Affairs for review and approval.

The CITY shall include the provisions set forth in this agreement in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subcontractors.

The CITY shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance

The COUNTY shall review and approve any construction project plans developed by the CITY under this agreement, according to the customary plans development schedule. These plans will be submitted to the Leon County Public Works Department for review and comment prior to approval.

XIV. GENERAL CONDITIONS

A. General Compliance

The CITY shall comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the CITY does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the CITY does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The CITY also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The CITY further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The CITY shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The COUNTY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the CITY is an independent contractor.

XV. ATTACHMENTS

A. Incorporation of Attachments

All attachments to this agreement are incorporated as if set out fully.

B. Inconsistencies or Conflict

In the event of any inconsistencies or conflict between the language of this agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

C. This agreement has the following attachments:

1. Inter-local Agreement
2. Activity Work Plans
3. Program Statutes and Regulations
4. Program and Special Conditions

XVI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The CITY shall comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. [The COUNTY may preempt the optional policies.] The CITY shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The CITY also agrees to comply with applicable COUNTY ordinances, resolutions and policies concerning the displacement of persons from their residences.

XVII. LABOR STANDARDS

The CITY shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The CITY agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The CITY shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the COUNTY for review upon request.

The CITY agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements.

XVIII. LOBBYING PROHIBITIONS

A. Use of Federal Funds

No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee

of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

B. Disclosure Form

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

C. Inclusion of Certification Language

It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all City shall certify and disclose accordingly:

D. Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XIX. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XX. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the COUNTY and the CITY for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the COUNTY and the CITY with respect to this Agreement.

IN WITNESS THEREOF, the COUNTY and the CITY have executed this Agreement as of the date first above written.

ATTEST:

GARY HERNDON, TREASURER-CLERK
CITY OF TALLAHASSEE

CITY OF TALLAHASSEE

BY: *Gary Herndon*

BY: *Anita Favors Thompson*
Anita Favors Thompson, City Manager

APPROVED AS TO FORM:

CITY OF TALLAHASSEE ATTORNEY'S OFFICE

James R. English
James R. English, Esq.
City Attorney



ATTEST:

BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY: *Bob Inzer*

BY: *Parwez Alam*
Parwez Alam, County Administrator

APPROVED AS TO FORM:

LEON COUNTY ATTORNEY'S OFFICE

Herbert W.A. Thiele
Herbert W.A. Thiele, Esq.
County Attorney