

FIRST AMENDMENT
to
CDBG SUBRECIPIENT AGREEMENT
Between
CITY OF LAUDERHILL
and
WINDERMERE CONDOMINIUM ASSOCIATION, INC.
for
PROVIDING A DIRECT LOAN FOR REHABILITATION SERVICES – PROJECT 1

This is a Subrecipient Agreement (“Agreement”), made by and between CITY OF LAUDERHILL, a municipal corporation of the State of Florida, hereinafter referred to as (“GRANTEE”), and WINDERMERE CONDOMINIUM ASSOCIATION, INC. a not-for-profit of the State of Florida, hereinafter referred to as (“SUBRECIPIENT”), collectively referred to as the “Parties.”

WHEREAS, the parties entered into this Agreement as of the 1st day of October, 2008, pursuant to Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, Parties entered into an Agreement dated October 1, 2008, pursuant to 24 CFR 570, as may be amended from time to time for administration of Community Development Block Grant Funds from the U.S. Department of Housing and Urban Development (“HUD”) allocated to the City; and

WHEREAS, The Parties agree to amend and revise as stated herein; and

WHEREAS, Subrecipient is to partner with Grantee to manage improvements to privately-owned buildings in an low-mod service area relating to multi-family housing hereinafter referred to as the “Project”; and

WHEREAS, Parties agree to extend the term of the original contract for sixty (60) days to complete the eligible activities and closeout said Project; and

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

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

1. For the purpose of this Agreement, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:

Agreement means this document, Article 1 through 14, the exhibits and documents that are expressly incorporated by reference.

City Attorney means the chief legal counsel for GRANTEE who directs and supervises the Office of the City Attorney.

Division means the City of Lauderhill Grants Division.

Income means the gross amount of income for all adult household members that receive or is anticipated to be received during the coming 12-month period which shall include wages, salaries, tips, bonuses, commissions, dividends, interest and any other form of income generally considered as gross income as defined in 24 CFR 5.609, referred to as "Part 5 annual income".

CDBG means the Community Development Block Grant Program.

CDBG funds means funds made available under this contract, plus all repayments and interest or other return on the investment of these funds.

Direct Loan means funds Grantee lends directly to Subrecipient.

HUD means the United States Department of Housing and Urban Development.

Loan Forgiveness means forgiving of the remaining principal and interest balance of the direct loan after making 120 on-time payments.

Low-Mod Income Household means a household whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families.

Project means the Project consists of the services described in Article 2.

ARTICLE 2

SCOPE OF SERVICES

2. SUBRECIPIENT shall accomplish the general scope of services under this Agreement by managing the performance of the scope of work or project for multi-family rehabilitation deemed qualified by GRANTEE in accordance with this Agreement and consistent with the Rules and Regulations of HUD related to CDBG eligible activities.

2.2 In accordance with 24 C.F.R. Part 570 Subpart C, Eligible Rehabilitation and Preservation Activities § 570.202(a)(1), "CDBG eligible activities" are privately owned buildings. The Project to be implemented by SUBRECIPIENT under this Agreement are improvements for residential purposes. Eligible cost shall be in accordance with § 570.202(b)(1) and 570.202(b)(2).

2.3 In accordance with 24 C.F.R. Part 570 Subpart C, Basic Eligible Activities § 570.201(a), "CDBG eligible activities" are privately owned building improvements for residential purposes. The Project to be implemented by SUBRECIPIENT under this Agreement is public modernization. Eligible cost shall be in accordance with § 570.202(b)(1) and 570.202(b)(2).

2.4 Upon execution of this Agreement, SUBRECIPIENT shall be authorized by GRANTEE to disburse CDBG FY 2007-2008 funding for the purpose of administering the referenced "CDBG eligible activities" GRANTEE in accordance with this Agreement and as more specifically described in Exhibit "A",

SUBRECIPIENT does hereby agree to implement and administer the above project relating to CDBG within the City in accordance with the Statement of Work, attached hereto as "**Exhibit A-1**" (as amended) and is incorporated herewith.

SUBRECIPIENT certifies that the activity (ies) carried out under this Agreement will meet the slum/blight area National Objective. SUBRECIPIENT will undertake health and safety activities that will eliminate slum/blight in the Lauderhill Central CRA designated area.

SUBRECIPIENT agrees to provide privately owned building improvements for residential purposes to assist no more than 120 units or 30 buildings or some combination of the two.

ARTICLE 3

BUDGET

3. Funding Amount. The maximum amount of FY 2007-2008 CDBG Funds in the form of a direct loan shall be provided by GRANTEE to SUBRECIPIENT under this Agreement shall be set forth in the applicable category below, and further described in Exhibit "B," Costs/Budget for Project. The CDBG Funds shall be administered by SUBRECIPIENT in accordance with Exhibit "B."

Applicable Category: Regular CDBG Dollars - \$781,000.00

- 3.1 SUBRECIPIENT agrees to assist the City in its monitoring and review of the Project implementation with respect to the following.

3.1.1. Promise to Pay:

SUBRECIPIENT promise to pay GRANTEE within 240 months beginning on March 1, 2011, Seven Hundred and Eighty-One Thousand dollars (\$781,000.00), with interest as well as other charges in accordance with Exhibit H.

3.1.2 Loan Breakdown:

SUBRECIPIENT shall pay:

Loan Amount \$781,000.00

Finance Charges: \$167,277.72

Total Payment: \$948,227.72

3.1.3 Interest Rate: 2% Per Annum

- 3.2** Repayment: SUBRECIPIENT will repay the amount of this note in 240 equal, continuous monthly payments of \$3,905.95 each on the 1st day of each month preliminary on March 1, 2011 ending on February 1, 2031.

SUBRECIPIENT may request for loan forgiveness in writing for forgiveness of remaining principal and interest after the completion of one hundred and twenty (120) on-time payments.

- 3.3** Late Charges: Any payment not remunerated within fifteen (15) days of its due date may be subject to a penalty of five (5%) percent of the payment, not to exceed \$100.00 for such late installment.

- 3.4** Default: If for any reason the SUBRECIPIENT does not make any payment on time, SUBRECIPIENT shall be in default. The GRANTEE may then order instant payment of the entire remaining unpaid balance of the loan, without further notice. This balance may be placed as a lien for payment on the takes of each unit in Windermere.

In the event HUD reduces the CDBG funding allocation to the GRANTEE, GRANTEE shall reduce SUBRECIPIENT's allocation proportionately.

Payments may be contingent upon certification of SUBRECIPIENT's financial management system in accordance with the standards specified in 2 CFR Part 200.

ARTICLE 4 CONTRACTS WITH THIRD PARTY(IES)

4. If SUBRECIPIENT elects to contract with a third party to perform any CDBG eligible activities with CDBG funds provided by GRANTEE under this Agreement, it shall enter into a written agreement which contains the provisions specified in 24 C.F.R. 570.503. In addition, any agreement between SUBRECIPIENT and third party for the use of CDBG Funds provided by GRANTEE under this Agreement shall comply with all applicable CDBG Rules and Regulations as described in Section 4 herein. SUBRECIPIENT shall provide the Division with a copy of any agreement(s) it enters into for CDBG eligible activities funded by this Agreement.

ARTICLE 5 COMPLIANCE WITH REQUIREMENTS

5. In addition to the general compliance with laws provision set forth in Section 14.11 herein, SUBRECIPIENT shall comply with all requirements imposed by HUD for the CDBG Program set forth in 24 C.F.R. Part 570, any other applicable federal and local regulations, as well as, requirements which may be imposed by the GRANTEE and/or the Consortium, collectively referred to herein as "CDBG Rules and Regulations." Such CDBG Rules and Regulations, as may be amended from time to time, shall be incorporated herein by reference.

- 5.1 SUBRECIPIENT agrees to maintain all documents, time sheets, records of accounts, and financial reports, and to submit such financial reports as are required by the GRANTEE and the Secretary of HUD to assure a proper accounting for all project funds, consistent with the requirements of 24 CFR Part 85, OMB Circular No. A-87, A-110, A-122, and A-133 as applicable under federal regulations, the financial report shall account for all funds received and expended by the SUBRECIPIENT from other private and public sources for the project implementation, the financial, report shall be submitted to the City by the 15th of each month. If the 15th day of the month falls on a Saturday, Sunday or holiday, the report shall be due the first business day following.

- 5.2 SUBRECIPIENT agrees to assist the City in it monitoring and review of the Project implementation with respect to the following:

- 5.2.1. Review of reports and records of the SUBRECIPIENT;

- 5.2.2. Review of certification of the SUBRECIPIENT's conformance to applicable laws and regulations;

5.2.3. Site visits and inspections on a routine sampling basis including interviews with citizens and local citizen groups; and

5.2.4. Compliance with any and all regulations which may be published by the GRANTEE.

5.3 “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. SUBRECIPIENT shall at all times remain an “independent contractor” with respect to the services to be performed under this agreement. GRANTEE shall be exempt from payment of all Unemployment compensation, FICA, retirement, life and/or medical insurance and Workers; Compensation Insurance, as SUBRECIPIENT is an independent contractor.

5.4 Client Data

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

5.5 Disclosure

SUBRECIPIENT understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of GRANTEE’S or SUBRECIPIENT’S responsibilities with respect to services provided under this contract, is prohibited by state of Florida laws unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5.6 Procurement

OMB Standards – Unless specified otherwise within this agreement, SUBRECIPIENT shall procure all materials, property, or services in accordance with the requirements of 2 C.F.R. Part 200.

5.7 Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 C.F.R. Part 200 and 24 C.F.R. 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

5.7.1. SUBRECIPIENT shall transfer to GRANTEE any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

5.7.2. Real Property under SUBRECIPIENT's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to benefit low- to moderate- income person(s) until five (5) years after expiration of this Agreement. If SUBRECIPIENT fails to use CDBG assisted real property in a manner that meets a National Objective for the prescribed period of time, SUBRECIPIENT shall pay GRANTEE an amount equal to the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to GRANTEE. SUBRECIPIENT may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

5.7.3. In all cases in which equipment acquired, in whole or part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by SUBRECIPIENT for activities under this Agreement shall be:

- (a). Transferred to GRANTEE for the CDBG program; or
- (b). Retained after compensating GRANTEE amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

5.8 Relocation, Real Property Acquisition and One-For-One Housing Replacement

SUBRECIPIENT agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and

implementing regulations at 49 C.F.R. Part 24 and 24 C.F.R. 570.606 (b); (b) the requirements of 24 C.F.R. 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 C.F.R. 570.606 (d) governing optional relocation policies. SUBRECIPIENT shall provide relocation assistance to displace as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. SUBRECIPIENT also agrees to comply with applicable GRANTEE ordinances, resolutions and policies concerning the displacement of persons from their residents.

ARTICLE 6 TIME OF PERFORMANCE

6. The term of this Agreement shall be extended by GRANTEE from September 30, 2009, to end May 30, 2019, as further described in Exhibit "C," Timetable/Schedule for project. This Agreement may not be extended for additional term(s). SUBRECIPIENT shall expend the CDBG Funds allocated to the Project within the term of this Agreement. All CDBG Funds not expended within the term of this Agreement shall remain in the custody and control of GRANTEE.

ARTICLE 7 METHOD OF PAYMENT

7. Contractor(s) of the SUBRECIPIENT shall be paid directly by GRANTEE for the Project expenses incurred as provided for in Exhibit "B," Costs/Budget for Project, provide a suspension of payment as provided for in Section 7.6 herein has not occurred, and provided further that the SUBRECIPIENT complies with the procedures for invoiced and payments as set forth in this Section.

7.2 SUBRECIPIENT shall invoice GRANTEE monthly for Eligible Costs, as described in 24 C.F.R. 570.201 Basic Eligible Activities and 24 C.F.R. 570.202 Eligible Rehabilitation and Preservation Activities and , in accordance with Exhibit "F" Request for Payment, and as follows:

7.2.1 SUBRECIPIENT shall provide GRANTEE with an executed original of any contracts or subcontracts authorizing the work to be done on the Project.

7.2.2. SUBRECIPIENT shall submit a certified copy of the purchase order authorizing the services for which it is invoicing.

7.2.3. If SUBRECIPIENT has awarded a contract to an independent contractor

to perform Project services, SUBRECIPIENT shall submit to GRANTEE a certified copy of the contractor's invoice stating the services rendered and the date the services were rendered.

7.2.4. SUBRECIPIENT's administrator or the administrator's authorized representative shall certify that the work that is being invoiced has been completed.

7.3 Upon receipt of invoices, reports, and other materials as described in Section 7.2, the Division shall audit such bid awards, contract, reports, and invoices, to determine whether the items invoiced have been completed and that the invoiced items are proper for payment.

7.4 Upon determination by the Division that the services or material invoices have been received or completed, the Division shall make payment to the Contractor(s) of the SUBRECIPIENT for the amount it determines, pursuant to the audit, to be payable.

7.5 For purposes of this Article 7, invoices, reports, and other materials as described in Section 7.3, shall not be honored by GRANTEE if received later than sixty (60) days after expiration or termination of this Agreement; however, invoices for impact fees will be honored by GRANTEE up to twelve (12) months after expiration or termination of this Agreement.

7.6 Events which shall be sufficient cause for suspension of payments include, but are not limited to:

7.6.1 Ineligible use of CDBG Funds;

7.6.2. Failure to comply with the terms of this Agreement;

7.6.3. Failure to submit reports as required including a favorable audit report; and

7.6.4. Submittal of incorrect or incomplete reports in any material respect.

7.7 SUBRECIPIENT shall not request disbursement of CDBG Funds under this Agreement until the CDBG Funds are needed for the payment of Eligible Costs as described in 24 CFR 570.201 and C.F.R. 570.202. Program Income, interest earned or loan repayments, as determined in 24 CFR 570.504, as amended from time to time, hereinafter collectively referred to as ("recaptured monies"), derived from any projects set forth in this Agreement shall be accounted for by

SUBRECIPIENT and reported to the GRANTEE in the Monthly Progress Report described in Article 8 herein. Program Income received by SUBRECIPIENT from CDBG eligible activities shall be GRANTEE from any invoice submitted by SUBRECIPIENT for deducted first by the Eligible Costs. The remaining balance of Eligible Costs shall be requested from GRANTEE on a properly completed billing form attached hereto as Exhibit "F," Request for Payment. At the expiration of this Agreement, SUBRECIPIENT shall transfer the monies referenced in this Section 7.7 to GRANTEE within sixty (60) days, unless HUD has designated SUBRECIPIENT as a Participating Jurisdiction, wherein SUBRECIPIENT will retain the CDBG Funds for use in its own CDBG Program.

- 7.8 SUBRECIPIENT shall send direct loan and program income payments to GRANTEE at:

City of Lauderdale
Attn: Grants Division
5581 West Oakland Park Blvd.,
Lauderhill, FL 33313

- 7.9 If SUBRECIPIENT, or any of its third party contractors or providers, cause any CDBG Funds provided by GRANTEE under this Agreement to be expended in violation of this Agreement, or if SUBRECIPIENT fails to complete the Project in accordance with this Agreement, whether voluntary or otherwise, such event constitutes a material breach of this Agreement, and SUBRECIPIENT shall be provided notice in accordance with Section 14.8 herein, Specifying the nature of the default and providing SUBRECIPIENT with an opportunity to cure said default within thirty (30) calendar days of the date of the notice. In the event SUBRECIPIENT fails to cure the default to the reasonable satisfaction of the GRANTEE, GRANTEE shall have the right to terminate this Agreement or suspend payment to SUBRECIPIENT in whole or part. If payments are withheld, the Division shall specify in writing the actions that must be taken by SUBRECIPIENT as a condition precedent for resumption of payments and specify a reasonable date for compliance. In the event of termination of the Agreement by GRANTEE for cause, SUBRECIPIENT shall be responsible to refund such CDBG Funds to GRANTEE from nonfederal resources, and if this Agreement is still in force, any subsequent request for payment shall be withheld by GRANTEE until paid.

ARTICLE 8

REPORTS

8. GRANTEE and SUBRECIPIENT shall cooperate in the preparation of any and all reports required by this Agreement. SUBRECIPIENT shall furnish to GRANTEE any information

GRANTEE requests for preparation of reports required under the CDBG Rules and Regulations, specifically 24 C.F.R. Part 570 and 2 C.F.R. Part 200 including, but not limited to, the Consolidated Plan and the Annual Performance Report.

- 8.2 SUBRECIPIENT shall complete and submit to GRANTEE on a monthly basis the information required in Exhibit "D," Monthly Progress Report, attached hereto. The first Monthly Progress Report shall be due one (1) month after the execution of this Agreement by GRANTEE. Upon completion of the Project described in this Agreement, SUBRECIPIENT shall complete and furnish to GRANTEE, the information required in Exhibit "E," Project Completion Report, attached hereto.
- 8.3 SUBRECIPIENT shall insure recognition of the role of the GRANTEE in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the SUBRECIPIENT will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.
- 8.4 Close-outs. The SUBRECIPIENT's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control over CDBG funds, including program income.

ARTICLE 9 TERMINATION

9. In accordance with 2 CFR Part 200, this Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach, or for convenience by the Board of SUBRECIPIENT upon not less than thirty (30) days' written notice to the other party pursuant to Section 14.9 herein. If SUBRECIPIENT elects to terminate this Agreement, SUBRECIPIENT shall not be entitled to a refund or return of any unused portion of the CDBG funding allocation. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health, safety or welfare. An erroneous termination for cause shall be considered a termination for convenience.

- 9.2 Termination of this Agreement for cause by GRANTEE shall include, but not be

limited to, multiple breaches of this Agreement which have a material adverse effect on the efficient administration of the Project notwithstanding whether any such breach was previously waived or cured.

- 9.3 Notice of termination shall be provided in accordance with the “notices” section of this Agreement except that notice of termination by the City Manager which the City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with the “Notices” section of this Agreement.

ARTICLE 10

LIABILITY AND INDEMNIFICATION

10. The Parties are state agencies or political subdivisions of the state of Florida as defined in Chapter 768.28, Florida Statutes and each party shall be fully responsible for acts and omissions of its agents, contractors, or employees in the performance of its obligations under this Agreement, to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the state of Florida to be sued by third parties, in any manner, arising out of this Agreement or any other contract.

10.2 Third Party Indemnification.

10.2.1 Construction related services. In the event SUBRECIPIENT enters into an agreement with a Contractor(s) to perform construction related services for the Project referenced herein, SUBRECIPIENT shall include in its contract the requirements set forth below in favor of GRANTEE, in addition to any SUBRECIPIENT requirements.

10.2.1.1 To the fullest extent permitted by law, Contractor shall indemnify and hold harmless GRANTEE, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney’s fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Contractor, and other persons employed or utilized by Contractor in the performance of this Agreement. These indemnifications shall survive the terms of this Agreement.

10.2.2 General services. In the event SUBRECIPIENT enters into an agreement with a third Party Provider to perform general services for the Project referenced herein, SUBRECIPIENT shall include in its contract the

requirements set forth below in favor of GRANTEE, in addition to any SUBRECIPIENT requirements.

10.2.2.1 To the fullest extent permitted by law, Provider shall at all times hereafter indemnify, hold harmless and, at the City's Attorney's option, defend or pay for an attorney selected by the City Attorney to defend GRANTEE, its offices, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by intentional reckless, or negligent act or omission of Provider, its employees, agents, servants, or officers, or accruing, resulting from, or related to the services provided by Provider under SUBRECIPIENT's agreement with GRANTEE, including, without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is against GRANTEE by reason of any such claim, cause of action or demand, Provider shall, upon written notice from GRANTEE, resist and defend such lawsuit or proceeding by counsel satisfactory to GRANTEE or, at GRANTEE's option, pay for any attorney selected by the City Attorney to defend GRANTEE. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

10.2.3 In order to ensure the indemnification obligation noted above, Contractor or Provider(s), as applicable, shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverage set forth in Article 11 herein.

10.3 Performance Bond. Performance bond requirements are unrealistic for such small jobs contemplated by the Project; therefore, in lieu of any performance bond requirements, GRANTEE shall be paid on a reimbursement basis. Upon the satisfactory monthly completion of each individual Project and after GRANTEE's review and approval, GRANTEE shall remit payment to Contractor(s) OF SUBRECIPIENT for previous expended funds by SUBRECIPIENT. The GRANTEE may elect to pay vendor directly once work is completed, city inspected, and approved by SUBRECIPIENT and GRANTEE.

ARTICLE 11 INSURANCE

11. The Parties are self-insured governmental entities subject to the limitations set forth in Section 768.28, Florida Statutes, as may be amended from time to time. The Parties have instituted and shall maintain a fiscally sound and prudent risk management programs with regards to the obligations under this Agreement and in accordance with the provisions of Section 768.28 Florida Statutes, as amended from time to time. Nothing herein is intended to serve as a waiver of either party's sovereign immunity. Each party shall provide the other with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

11.2 In the event the SUBRECIPIENT elects to purchase excess liability coverage, City of Lauderhill, Florida, shall be named as an additional insured and certificate holder under said policy and GRANTEE shall be notified of said coverage and provided evidence of the same.

11.3 At a minimum, SUBRECIPIENT shall maintain Worker's Compensation and Employer's Liability coverage. Workers' Compensation insurance shall apply for all employees in compliance with Chapter 440, Florida Statutes, as amended from time to time, "Workers' Compensation Law" of the State of Florida, and all applicable federal laws. In addition, the policy(ies) must include Employers' Liability with a minimum limit of Five Hundred Thousand and 00/100 dollars (\$500,000.00) each accident. If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.

11.4 Insurance Requirements for SUBRECIPIENT's Provider(s).

11.4.1 In the event SUBRECIPIENT elects to enter into an agreement with a third PARTY PROVIDER(S) ("Provider") to perform any work/activities for the Project referenced herein, SUBRECIPIENT shall include in its contract with the successful Provider the requirements set forth below in favor of GRANTEE in addition to any SUBRECIPIENT requirements and SUBRECIPIENT shall provide GRANTEE, prior to commencement of any activities, Certificates of Insurance evidencing compliance with the following requirements:

11.4.2 Provider shall maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following insurance coverage, limits, including endorsements described herein. The requirements contained herein, as well as SUBRECIPIENT's or GRANTEE's review or acceptance of insurance maintained by Provider is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Provider under this Agreement.

- a. Commercial General Liability: Provider shall maintain Commercial General Liability coverage with a limit of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) each occurrence combined single limit and property damage. Provider's coverage shall not contain any restrictive endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, Contractual Liability or Cross Liability. Coverage must also include Premises and/or Operations Coverage, and Explosion, Collapse and Underground Hazards.
- b. Business Automobile Liability: Provider shall maintain Business Automobile Liability coverage at a limit of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) each occurrence combined single limit for bodily injury and property damage. Coverage shall include liability for Owner, Non-Owned, Hired and Any Auto if applicable.
- c. Workers' Compensation Insurance and Employers' Liability: Provider shall maintain Worker's Compensation Insurance for all employees in compliance with Chapter 440, Florida Statutes, as amended from time to time, and Employers' Liability Insurance with minimum limits of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) each accident. Note: Elective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement.
- d. Builder's Risk Insurance: Provider performing construction or remodeling services shall maintain Builder's Risk insurance and provided an all risk Completed Value form Builder's Risk Policy with a deductible not to exceed The Thousand and 00/100 Dollars (\$10,000.00) each claim for all perils except wind and flood. For the peril of wind, Provider shall maintain a deductible that is commercially feasible which does not exceed five percent (5%) of the value of the Contract Price said percentage to be determined at the sole discretion of GRANTEE's Risk Manager. For the peril of flood, Provider shall maintain a deductible that is commercially feasible which does not exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00). Such Policy shall reflect City of Lauderhill, as an additional loss payee. Provider shall be responsible for all deductibles.
- e. Additional Insured: Provider shall endorse SUBRECIPIENT and CITY

as additional insured to the Commercial General Liability Policy and any Excess Policies. The additional insured endorsements shall read "Windermere Condominium Association, Inc." and City of Lauderhill, Florida."

f. Waiver of Subrogation: Provider agrees by entering into this Contract to Waiver of Subrogation in favor of SUBRECIPIENT and GRANTEE for each required policy herein. When required by the insurer, or should a policy condition not permit Provider to enter into a pre-loss agreement to waive subrogation without an endorsement, then Provider agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others or its equivalent.

g. Certificates of Insurance: Provider shall provide SUBRECIPIENT a Certificate(s) of Insurance evidencing that all coverage, limits and endorsements required herein are maintained and in full force and effect.

h. Such policy or policies shall be without any deductible amount unless otherwise specified and shall be issued by approved companies authorized to do business in the state of Florida, and having agents upon whom services of process may be made in Broward County, Florida.

11.5 In the event of loss, SUBRECIPIENT shall give prompt notice to the insurance carrier and GRANTEE. GRANTEE may make proof of loss if not made promptly by SUBRECIPIENT.

11.6 SUBRECIPIENT shall furnish to GRANTEE Certificates of Insurance or endorsements evidencing the insurance coverage specified in this Article prior to beginning performance of work under this Agreement.

11.7 All policies shall be endorsed to provide GRANTEE with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverage will expire prior to the required term, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

11.8 Right to Revise or Reject: SUBRECIPIENT and GRANTEE reserve the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverage and endorsement based on insurance market conditions affecting the availability of coverage; or changes in the scope of work/specifications affecting the applicability or coverage. Additionally, SUBRECIPIENT and GRANTEE reserve the right, but not the obligation, to review and reject any insurance policies failing to

meet the criteria stated herein or any insurer providing coverage due of its poor financial condition or failure to operate legally.

ARTICLE 12
FINANCIAL STATEMENTS

12. SUBRECIPIENT shall comply with the requirements and standards of OMB Circular A-122, "Cost Principle for Non-Profit Organizations," "Cost Principles for State, Local, and Indian Tribal Governments" and 2 C.F.R. Part 200, incorporated herein by reference.

12.2 If SUBRECIPIENT has caused any CDBG Funds provided under this Agreement to be expended in violation of this Agreement, it shall be responsible to refund such monies in full to GRANTEE from nonfederal resources, or if this Agreement is still in force, any subsequent request for payment shall be withheld by GRANTEE.

12.3 SUBRECIPIENT shall comply with the audit requirements of OMB Circular A-133, entitled "Audits of States, Local Government and Non-Profit Organization." The audit shall cover the entire operations of the local government or, at the option of that government, may cover only the department or agency that received, expended, or otherwise administered the federal funds. Such audit must be filed with GRANTEE within one hundred eighty (180) days after the close of the fiscal years which SUBRECIPIENT received funds under this Agreement. All CDBG Funds from GRANTEE should be shown via explicit disclosure in the annual financial statements or the accompanying notes to the financial statements.

12.4 SUBRECIPIENT shall disclose to GRANTEE any and all third party funding, whether public or private, for the Project. No GRANTEE funding shall be used to supplant existing third party funding.

12.5 Late submission of financial statements or management letters shall result in suspension of payment under this Agreement until the required documentation is received and accepted by GRANTEE. Suspension of Payment shall not excuse SUBRECIPIENT from continued delivery of service, although GRANTEE will pay no invoices during the period of suspension. Any corrections to the financial statements requested by GRANTEE shall be made by SUBRECIPIENT and submitted to GRANTEE within sixty (60) days after GRANTEE's written request is received by SUBRECIPIENT.

12.6 If SUBRECIPIENT has caused any CDBG funds provided under this Agreement to be expended in violation of this Agreement, it shall be responsible for refund such monies in full to GRANTEE from nonfederal resources, or if this Agreement

is still in force, any subsequent request for payment shall be withheld by GRANTEE.

ARTICLE 13 EEO COMPLIANCE

13. Equal Employment Opportunity Compliance. No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.

SUBRECIPIENT shall include the foregoing or similar language in its contracts with any subcontractors or sub-consultants, except that any projects assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as GRANTEE deems appropriate.

SUBRECIPIENT shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. SUBRECIPIENT shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by GRANTEE, including Titles I and II of the ADA (regarding non-discrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, SUBRECIPIENT shall take affirmative steps to ensure non-discrimination in employment against disabled persons.

ARTICLE 14 MISCELLANEOUS

14. AUDIT RIGHTS AND RETENTION OF RECORDS

GRANTEE shall have the right to audit the books, records, and accounts of SUBRECIPIENT and its subcontractors that are related to this Project or the CDBG Program for the period of time required by C.F.R. 570, if such retention period is greater than required by the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time. SUBRECIPIENT and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. All books, records, and accounts of SUBRECIPIENT and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, SUBRECIPIENT or its subcontractor, as applicable, shall make same available at no cost to GRANTEE in written form.

SUBRECIPIENT and its subcontractors shall preserve and make available, at reasonable times for examination and audit by GRANTEE, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period. If any audit has been initiated and audit findings have not been resolved at the end of the retention period of five (5) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by GRANTEE to be applicable to SUBRECIPIENT's and its subcontractors' records, SUBRECIPIENT and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by SUBRECIPIENT or its subcontractors. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for GRANTEE'S disallowance of and recovery of any payment upon such entry.

SUBRECIPIENT shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 14.

14.2 PUBLIC ENTITY CRIMES

No CDBG Funds provided by GRANTEE to SUBRECIPIENT under this Agreement shall be subcontracted by SUBRECIPIENT to any entity which has been placed on the discriminatory vendor list, as provided in Section 287.134, Florida Statutes, or which has been debarred under the City of Lauderhill's competitive procurement activities. A violation of this Section 14.3 by SUBRECIPIENT shall entitle GRANTEE to terminate this agreement and recover from SUBRECIPIENT all monies paid by GRANTEE pursuant to this Agreement which have been expended in violation of this Section.

14.3 RECAPTURE AND AFFORDABILITY

SUBRECIPIENT shall ensure that the recapture and affordability restrictions set forth in 24 C.F.R. 570.504 are enforced.

14.4 INDEPENDENT CONTRACTORS

SUBRECIPIENT is an independent contractor under this Agreement. Services provided by SUBRECIPIENT pursuant to this Agreement shall be subject to the supervision of SUBRECIPIENT. In providing such services, neither SUBRECIPIENT nor its agents shall act as officers, employees, or agents of GRANTEE. No partnership, joint venture, or other joint relationship is created hereby. GRANTEE does not extend to SUBRECIPIENT or SUBRECIPIENT's agents any authority of any kind to bind GRANTEE in any respect whatsoever.

14.5 THIRD PARTY BENEFICIARIES

Neither SUBRECIPIENT nor GRANTEE intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

14.6 NOTICES

Notice must be in writing, delivered personally, wired, sent by certified United States Postal Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

GRANTEE

City of Lauderhill
Mr. Charles Faranda,
City Manager
5581 W. Oakland Park Blvd.
Lauderhill, FL 33313
(954)730-3000

SUBRECIPIENT

Windermere Condo Association, Inc.
Mr. Elisha Mauda, or current Chairperson
C/o: Property Management Partners
7112 West McNab Road
Tamarac, FL 33321
(954) 720-0911

14.7 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party. SUBRECIPIENT is permitted to subcontract the performance of services required by this Agreement in accordance with the terms and conditions set forth herein.

SUBRECIPIENT represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

SUBRECIPIENT shall perform its duties, obligations, and services under the Agreement in a skillful and respectable manner. The quality of SUBRECIPIENT's performance and all interim and final products(s) provided to or on behalf of GRANTEE shall be comparable to the best local and national standards.

14.8 MATERIALITY AND WAIVER OF BREACH

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties in exchange for quid pro quo. Each requirement, duty, and

obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof.

GRANTEE's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

14.9 COMPLIANCE WITH LAWS

SUBRECIPIENT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

14.9.1 Civil Rights

Compliance – SUBRECIPIENT agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1970, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

Nondiscrimination – SUBRECIPIENT agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations and executive orders referenced in 24 C.F.R. 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

Section 504 – SUBRECIPIENT agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. GRANTEE shall provide the SUBRECIPIENT with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

14.9.2 Employment Restrictions

Prohibited Activity - SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

Labor Standards - SUBRECIPIENT agrees to 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 Subrecipient 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. SUBRECIPIENT shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to GRANTEE for review upon request.

SUBRECIPIENT 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 adopted by GRANTEE pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve SUBRECIPIENT of its obligation, if any, to require payment of the higher wage. SUBRECIPIENT shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

14.9.3

“Section 3” Clause

Compliance - Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon GRANTEE, the SUBRECIPIENT and any of SUBRECIPIENT's subrecipients and subcontractors. Failure to fulfill these requirements shall subject GRANTEE, SUBRECIPIENT and any of SUBRECIPIENT's subrecipients

and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. SUBRECIPIENT certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

SUBRECIPIENT and Subcontractors further agrees to comply with these “Section 3” requirements and to include the following language in all subcontracts executed under this Agreement:

“The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

SUBRECIPIENT certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

Notifications - SUBRECIPIENT agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

Subcontracts - SUBRECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. SUBRECIPIENT will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

14.9.4 Conduct

14.10.4.1 Assignability - SUBRECIPIENT shall not assign or transfer any interest in this Agreement without the prior written consent of GRANTEE thereto; provided, however, that claims for money due or to become due to SUBRECIPIENT from GRANTEE under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to GRANTEE.

14.9.4.2 Subcontracts

- a. **Approvals** - SUBRECIPIENT shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of GRANTEE prior to the execution of such agreement.
- b. **Monitoring** - SUBRECIPIENT will 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.
- c. **Content** - SUBRECIPIENT shall cause all of the provisions of this contract in its entirety to be included in

and made a part of any subcontract executed in the performance of this Agreement.

- d. **Selection Process** - SUBRECIPIENT shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.
- e. **Payment Process** - SUBRECIPIENT shall ensure collection of contracts, invoices, partial and final releases, warranties, no lien affidavits, and proof of payment by selected contractors for their subcontractors. Payments which involve reimbursements for subcontractors require proof of payment in the form of written acknowledgement or cleared check.

14.9.4.3 Hatch Act - SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

14.9.4.4 Conflict of Interest - SUBRECIPIENT agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

- a. SUBRECIPIENT shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b. No employee, officer or agent of SUBRECIPIENT shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such

activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of GRANTEE, SUBRECIPIENT, or any designated public agency.

14.9.4.5. Lobbying

SUBRECIPIENT hereby certifies that:

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

d. Lobbying 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.

14.9.4.6. Copyright - If this contract results in any copyrightable material or inventions, GRANTEE and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

14.9.4.7. Religious Activities - SUBRECIPIENT agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j)(2), such as worship, religious instruction, or proselytization.

14.9.5 Environmental Conditions

14.9.5.1. Air and Water

SUBRECIPIENT agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;

- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

14.9.5.2. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

14.9.5.3. Lead-Based Paint

SUBRECIPIENT agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

14.9.5.4 Historic Preservation

SUBRECIPIENT agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

14.10 CONFLICT

Neither SUBRECIPIENT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with SUBRECIPIENT's loyal and conscientious exercise of judgment and care related to its performance under this Agreement.

None of SUBRECIPIENT officers or employees shall, during the term of this Agreement, serve as an expert witness against GRANTEE in any legal or administrative proceeding in which he, she or SUBRECIPIENT is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of GRANTEE in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude SUBRECIPIENT or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

SUBRECIPIENT shall require its subcontractors, by written contract to comply with the provisions of this section to the same extent as SUBRECIPIENT.

14.11 CONFLICT OF INTEREST

SUBRECIPIENT shall comply with the requirements of 24 C.F.R. 570.611 relative to the Conflict of Interest provisions. SUBRECIPIENT, its officers, employees, agents, or consultants who exercise or have exercised any functions or responsibilities with respect to the Project or who are in a position to participate in a decision making process or gain inside information with regards to the Project, shall not obtain a financial interest or benefit from the Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. SUBRECIPIENT, its officers, employees, agents, or consultants shall not occupy any CDBG Assisted Unit provided for under this Agreement. Any possible conflicting interest on the part of SUBRECIPIENT, its employees, or agents, shall be disclosed in writing to the Division.

14.12 SURVIVAL

Either party's right to monitor, evaluate, enforce, indemnify and insure, audit and review and any assurances and items of financial responsibility shall survive the expiration or earlier termination of this Agreement. Any provision of this Agreement which contains a restriction or requirement which extends beyond the date of termination or expiration set forth herein shall survive termination or expiration of this Agreement and be enforceable.

14.13 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless either party elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

14.14 JOINT PREPARATION

The Parties and their counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not solely, as a matter of judicial construction, be construed more severely against one party than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

14.15 INTERPRETATION

The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa unless the context otherwise requires. Terms such as "herein," "hereto," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such section or Article.

14.16 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement,

requirement, or provision of Articles 1 through 14 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 14 shall prevail and be given effect.

14.17 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties acknowledge that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, SUBRECIPIENT AND GRANTEE HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

14.18 AMENDMENTS

This Agreement may only be amended by written consent of the Parties in a form of equal dignity and formality as this Agreement. Such amendments shall be subject to approval of the Board, except the City Attorney shall be authorized to execute amendments that change the term of the Agreement, or that change the Project, provided such Project consists of CDBG eligible activities under CDBG Rules and Regulations and does not result in an increase in the funding amount set forth herein. The Division Deputy Director shall be authorized to approve line item changes to the budget information set out in Exhibit "B," Costs/Budget for Project, in the form of an amendment to this Agreement, provided such changes do not result in an increase in the funding amount set forth herein.

14.19 PRIOR AGREEMENTS

This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. There is not commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

14.20 DESIGNATED REPRESENTATIVE

SUBRECIPIENT's Designated Representative under this Agreement shall be the Chairperson.

14.21 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the Parties. The attached Exhibits "A" – "H" are incorporated into and made a part of this Agreement.

14.22 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this agreement, on behalf of such party and does so with full legal authority.

14.23 AFFIRMATIVE MARKETING POLICY

Subrecipient shall comply with the County's Affirmative Marketing Policy, attached hereto as Exhibit "G," as it relates to marketing the Project to Income Eligible Households.

14.24 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all Parties, each of which bearing original signatures, shall have the force and effect of an original document.

ARTICLE 15
MALL PRIOR AGREEMENTS SUPERSEDED

This document incorporated and includes all prior negotiations, correspondence, conversations, agreement, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: CITY OF LAUDERHILL through the City Manager, authorized to execute same by action of the Board on _____ month _____ day, _____ year, and Windermere Condominium Association, Inc. signing by and through its Chairperson duly authorized to execute same.

GRANTEE, CITY

ATTEST:

CITY OF LAUDERHILL, thorough the City Manager

Andrea M. Anderson, City Clerk

By:_____
Charles Faranda, Jr. , City Manager

_____ day of _____, 20____

Approved as to form by
W. Earl Hall
City of Lauderhill Attorney
5581 West Oakland Park Boulevard
Lauderhill, Florida 33313
Telephone: (954) 730-3010

Insurance requirements approved
by City of Lauderhill Risk Management Division

By:_____
Revlon Fennell Date

By:_____
W. Earl Hall Date

By:_____
Print Name and Title above

AGREEMENT BETWEEN CITY OF LAUDERHILL AND WINDERMERE CONDOMINIUM ASSOCIATION, INC. FOR DISBURSEMENT OF CDBG PROGRAM FUNDS FOR ADMINISTRATIVE AND MANAGEMENT SERVICES FOR MULTI-FAMILY REHABILITATION SERVICES.

SUBRECIPIENT, AGENCY

WITNESSES: WINDERMERE CONDOMINIUM ASSOCIATION, INC

Signature By: _____
Elisha Mauda, Chairperson

Print Name _____ day of _____, 20____

Signature

Print Name

Approved as to form:

Windermere Condominium Association, Inc. Attorney

EXHIBIT "A"

PROJECT DESCRIPTION

Program Description: Multi-Family Building Improvements

The Windermere Condominium Association will administer and manage a privately owned multi-family rehabilitation project through the use of CDBG funds up to \$781,000.00. The \$781,000.00 deferred loan includes all construction costs associated with the rehabilitation activity. The program will be administered in accordance with the City of Lauderdale's Fiscal Year 2007-2008 Annual Action Plan (AAP).

Windermere Condominium Association, Inc. Authority Responsibilities:

- CDBG funding amount **\$781,000.00**
- Submit all copies of purchase orders, invoices, and corresponding backup for payment (i.e. permits, before and after pictures, etc.).
- Administer program in accordance with City of Lauderdale guidelines established in 24 CFR 570 and the City's CDBG Annual Action Plan.
- CDBG regulations governing program include, but not limited to:
 - Davis Bacon and Labor Standards Requirements.
 - Lead based paint testing and abatement as needed.
 - Maximum low mod area income must be less than 80% of County median.
 - Federal procurement procedures apply to selection of contractor.
 - Pull Wage Decisions and Lock-in Date.
 - Verify and document debarment status of selected contractor(s).
- Provide City with scope of services and tax assessment prior to committing CDBG funds.
- Maintain documentation of the boundary area and the conditions and standards used that qualified the area at the time of designation.
- Maintain and retain records to substantiate how the area met the slums or blighted criteria.

City Responsibilities:

- Review tax assessed value and scope of work to determine after rehab value of property meets CDBG guidelines
- Provide verification of debarment status from online SAM database
- Collect signed Federal Labor Standards Provision form HUD-4010
- Collect all original copies of Certified Payroll for the duration of the project from WCA
- Disburse funds upon submittal of Exhibit F and all applicable attachments
- Complete the Environmental Review Record.

EXHIBIT "A-1"

PROJECT DESCRIPTION, cont.

STATEMENT OF WORK

ITEM	QUANTITY	TOTAL
Balcony railing repairs	Thirty (30) Buildings	\$109,373.30
Repair/Replacement of meter/storage rooms, electrical work, roof, and common area ceiling	Thirty (30) Buildings	\$289,108.75
Replacing of bay windows	Ninety (90) Buildings	\$344,517.95
Extermination of bay windows	Eighty-Eight (88) Windows	\$3,000.00
Initial deposit for painting of buildings – (No further payments)	Thirty (30) Buildings	\$35,000.00
	TOTAL:	\$781,000.00

EXHIBIT "B"

COSTS/BUDGET FOR PROJECT

FUNDING SOURCE

Category	(1) CDBG	(2) TOTAL
A. Staff Cost		
B. Inspections		
C. Direct client Subsidy		
D. Inspections		
E. Supplies		
F. Contractual Services		
G. Construction	\$781,000.00	\$781,000.00
H. Other/ Lien Recordings		
I. TOTALS	\$781,000.00	\$781,000.00

Budget Narrative 2007 - 2008

<u>Category</u>	<u>Funding Source CDBG</u>
A. Rehabilitation – Multi-Family Construction Cost	\$781,000.00
TOTAL	\$781,000.00

EXHIBIT "C"

TIMETABLE/SCHEDULE FOR PROJECT

<u>WORK TASKS</u>	<u>START-UP</u>	<u>COMPLETION</u>
Project completion		April 30, 2019
Provide monthly reports to City	On-going	May 30, 2019
Provide final report to City		May 30, 2019

EXHIBIT "D"

MONTHLY PROGRESS REPORT

Period Covered: _____ to _____ Date of Report: _____

A. Project Information.

Agency: _____

Person Preparing the Report: _____

Signature & Title: _____

Project Title: _____

Project Start-up Date: _____

Project Completion Date: _____

Amended Completion Date: _____

B.1 Project Cost.

<u>Expended</u>	<u>Percentage</u>	<u>Budget</u>	<u>Funds</u>	<u>Percentage</u>
Total Project		\$ _____	\$ _____	_____ %
CDBG Funding		\$ _____	\$ _____	_____ %
Other Funding		\$ _____	\$ _____	_____ %

B.2 Declaration of Agency Budget Changes.

Program Income/ Recapture: N/A

Source of Program Income/Recapture: N/A

B.3 Other Grant Awards.

Date(s): _____ Dollar Amt _____

Funding Source _____

B.4 Percent of Project Completed to date. _____

EXHIBIT "D"
(Continued)

C. 1 Describe specific work tasks and qualified accomplishments completed this month:

<u>Task</u>	<u>Qualified Accomplishments This Month</u>
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C.2 Describe success or problems encountered with the Project:

C.3 Anticipated problems or concerns with the Project: Please identify technical assistance needed and/or requested from Housing and Community Development Division staff.

C.4 Anticipated advertisements and/or other contractual services: If applicable, has Housing and Community Development Division staff been advised and appropriate steps taken to assure compliance?

D. Program Objectives:

<u>Work Tasks</u>	<u>Projected Yearly/ Total Performance</u>	<u>Monthly Progress</u>	<u>Progress YTD</u>	<u>Supporting Documentation</u>
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EXHIBIT "E"
COMPLETION REPORT

NAME (First Initial & Last Name)	ADDRESS (City, State, Zip Code)	No. of Bedrooms	Race	Size of Household	Type of Household: (single non elderly, elderly, single parent, two parents, other)	\$ CDBG Subsidy Amount	\$ CDBG Value After Rehab

EXHIBIT "F"

REQUEST FOR PAYMENT

City of Lauderhill, Broward County, Florida
Grants Division

CDBG PROGRAM REQUEST FOR PAYMENT

FY 2007-2008 YEAR FUNDING

CONTRACT PERIOD _____ THROUGH _____

CDBG Funding Amount: \$ 781,000.00

1. Project: Multi-Family Rehabilitation
2. City: City of Lauderhill
3. Billing #: _____ 4. Billing Period Covered: _____
5. % of Total Contract Expended Through this Billing: _____
6. Project Costs: (Itemized per Exhibit B)

Cost Categories	Total Expenditures up to Last Billing	Expenditures This Billing	Total Expenditures to Date
Construction			
Youth Activities			
TOTALS:			

EXHIBIT “F”
(continued)

Detail of request for Payment (attach copies of backup for billing):

[illegible]

Certification: I certify that this billing is correct and just and based upon obligations of record for this project; that the work and services are in accordance with City of Lauderhill approved agreement including any amendments there to; and that the progress of the work and services under the project agreement are satisfactory and are consistent with the amount billed.

Signature and Title of Authorized Official

Date _____

EXHIBIT "G"

AFFIRMATIVE MARKETING POLICY

A. AFFIRMATIVE MARKETING:

Rental and homebuyer projects containing five (5) or more CDBG assisted units must comply with the affirmative Marketing Policy described below, or an affirmative marketing policy approved by HUD or adopted by a local government if such policy is more restrictive than that which is set forth below or approved by HUD. If a CDBG assisted unit is advertised for rental, it will be done in a manner to inform persons who would otherwise not be likely to apply for a unit. Owners of properties who participate in this program shall not refuse to rent to tenants holding Section 8 Housing certificates except for cause, such as: refusal to rent to tenants who previously failed to pay their rent and/or maintain their units or those who otherwise were in violation of the terms and conditions of their tenancy.

1. DISSEMINATION OF INFORMATION

The following methods shall be used to inform the public, owners and potential tenants about Federal Fair Housing Laws and the marketing policy of the Lauderhill Housing Grants Program.

From time to time, developer or owner will canvass the eligible areas disseminating g program and fair housing information flyers to tenant associations, civic associations, public service agencies, tenant groups, civic and fraternal organizations, churches, housing counseling, consumer affairs, business and non-profit groups.

Public service announcements will be made on radio and television stations. Press releases will be placed in newspapers and other publications circulated widely in target areas.

The Equal Housing Opportunity logo will be used on all printed materials.

2. OWNER PRACTICES & PROCEDURES

EXHIBIT "G"

AFFIRMATIVE MARKETING POLICY

(continued)

Each owner must adhere to the following requirements and practices in order to carry out the affirmative marketing policies of the City of Lauderhill Grants Program.

Advertise in circulars and periodicals having wide distribution in target areas. Display leaflets, brochures and other printed materials containing the equal housing logo in conspicuous locations at places frequented by potential tenants and persons least likely to apply for the rental housing.

3. SPECIAL OUTREACH

Special contracts will be made by owners with programs providing services to legal aliens and refugees, at churches frequented by legal aliens and refugees and other groups least likely to apply without these special efforts.

4. FAILURE TO COMPLY WITH REQUIREMENTS

Failure on the part of an owner to comply with affirmative marketing requirements as provided herein and/or set out by Lauderhill, or to cure or remedy identified violations within thirty (30) days of notification of violations shall result in the loan becoming immediately due and payable.

B. CIVIL RIGHTS

The borrower shall not discriminate upon the basis of race, color, sex, age, marital status, handicap, religion or national origin in the rental lease, sale or use of the property to be constructed with CDBG Investment Partnership Program (CDBG) Funds obtained through this program in accordance with Title 8 of the Civil Rights Act of 1968 42 USC 3601-3619

and the HUD Fair Housing Code 24 C.F.R. Parts 14, 100, 103-106, 109, 110 115 and 121.

C. INTEREST OF PUBIC BODY

No member of the governing body of City of Lauderhill nor any employee of the Grants Division may have any interest, direct or indirect in the proceeds of any loan or in any contract entered into by the borrower of the performance of work financed, in whole or in part, with the proceeds of the loan.

D. DISPLACEMENT

In the event that displacement occurs, relocation will be conducted in accordance with the City's relocation policy. Information on this policy may be obtained from the Grants Division, 5581 West Oakland Park Blvd., Third Floor, Lauderhill, Florida 33313.

The existing evaluation and monitoring activities conducted by the Grants Division will be applied to the CDBG program to ensure compliance with local and federal policies, regulations and required reports. In instances of noncompliance, corrective action will be taken.

Exhibit H

20-YEAR LOAN AMORTIZATION PAYMENT SCHEDULE