

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: February 3, 2009 [X] Consent [ ] Regular  
[ ] Public Hearing

Department: Housing and Community Development

Submitted By: Housing and Community Development

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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Amendment No. 001 to an Agreement (R2008-1482) with the City of Delray Beach, to extend the expiration date from December 31, 2008, to August 15, 2009, for the expenditure of \$980,000 in 2005 Disaster Recovery Initiative Program funds.

**Summary:** This Amendment provides an extension of eight and a half months to the term of the existing Agreement for the implementation of a housing rehabilitation program. The modification to the Agreement involves the addition of a feature allowing the City to be reimbursed for the cost of the inspector who performs work on projects funded under this rehabilitation program. The modification also increases the amount of funding allowed per homeowner from \$37,000 to \$40,000, and incorporates certain reporting requirements emanating from the Florida Department of Community Affairs. The reallocation of funds reduces the amount allocated to rehabilitation costs and creates a new budget line item for the inspector's cost. These are Federal funds that require no local match. (District 7) (TKF)

**Background and Justification:** On January 31, 2008, the County entered into an Agreement with the City of Delray Beach for the use of \$980,000 in 2005 Disaster Recovery Initiative Program funds to implement a housing rehabilitation program to provide technical and financial assistance to qualified low income property owners of detached one dwelling structures who reside within the City's municipal boundaries. To the extent practical and feasible, work on these properties may include structural repairs, roofing, electrical, plumbing, painting, doors, windows and hurricane protection, and repairs of damages caused by Hurricane Wilma. Upon approval of this Amendment, the funds made available under the Agreement will be allocated as follows: \$939,119 for property rehabilitation, \$5,000 for temporary relocation, and \$35,881 for the inspector's salary.

The 2005 DRI Program provides funds made available to the Florida Department of Community Affairs by the U.S. Department of Housing and Urban Development from Community Development Block Grant (CDBG) Disaster Recovery Funding to assist in recovery efforts from the Federally declared disasters (Hurricanes Katrina and Wilma) that occurred between August 25, 2005, and October 24, 2005.

**Attachments:**

1. Amendment No. 001 to the Agreement with the City of Delray Beach with Attachments 1 & 2.
2. Agreement (R2008-1482) with the City of Delray Beach with exhibits A to E.

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Recommended by: Edward W. Gomez 1/5/09  
Department Director Date

Approved By: Sharon J. By 1/12/09  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	* See below				

# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes \_\_\_ No \_\_\_

Budget Account No.:

Fund \_\_\_ Unit \_\_\_ Org \_\_\_ Object \_\_\_ Program Code/Period BG \_\_\_-GY \_\_\_

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

Source:

**No fiscal impact**

C. Departmental Fiscal Review: Shairette Major 1-7-09  
Shairette Major, Fiscal Manager I

**III. REVIEW COMMENTS**

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

\* This is for a time extension only and has no additional fiscal impact to Palm Beach County.

John O'Neil 1-9-09  
OFMB 1/9/09 CN 1/9/09

Dr. J. Jacob 1/12/09  
Contract Development and Control 1/12/09

B. Legal Sufficiency:

J. P. [Signature] 1/12/09  
Senior Assistant County Attorney

**This amendment complies with our review requirements.**  
The Amendment is retroactive.

C. Other Department Review:

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

This summary is not to be used as a basis for payment.

**AMENDMENT 001 TO THE AGREEMENT  
WITH  
CITY OF DELRAY BEACH**

Amendment 001 entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Palm Beach County and the City of Delray Beach.

**WITNESSETH:**

WHEREAS, Palm Beach County entered into an Agreement (R2008-1482) with the City of Delray Beach, on January 31, 2008, to provide \$980,000 of 2005 Disaster Recovery Initiative Program funds for housing rehabilitation projects; and

WHEREAS, the parties wish to modify the Agreement to reallocate funds made available under the Agreement, to adjust the scope of the project, and to extend the project completion date, and

WHEREAS, both parties mutually agree that the original Agreement entered into on January 31, 2008, is hereby amended as follows:

**A. Part III - Section 1 - Maximum Compensation:**

Substitute "August 15, 2009" for "December 31, 2008".

**B. Part III - Section 2 - Time of Performance:**

Substitute "August 15, 2009" for "December 31, 2008".

**C. Exhibit A - Section I.D - Program Inspector:**

Delete the contents of this section and replace them with the following:

The Municipality shall employ an "Inspector" in connection with this Agreement. The Inspector shall be able to carry out the tasks described in this Agreement and be able to demonstrate the qualifications that enable him/her to do so. The Inspector shall at minimum perform inspections of residential structures for compliance with housing and building codes, determine the feasibility of undertaking rehabilitation, prepare construction specifications and cost estimates, review construction bids, inspect rehabilitation construction work in progress, and review and approve contractor payment requests. The Inspector shall be able to review lead-based paint inspection and risk assessment reports and determine the actions to be taken to comply with federal lead-based paint regulations, maintain inspection records and reports, prepare change orders, initiate various notification letters and conduct necessary correspondence.

If the Municipality wishes to request HCD for reimbursement of that portion of the Inspector's salary which is attributable to work done in connection with this Agreement, then the Municipality shall provide HCD the following as a pre-requisite to its reimbursement request for each Inspector:

- Documentation showing that the position of the Inspector (if such position was filled as a new position as a result of this Agreement) was competitively solicited prior to the Inspector's appointment to the position, and showing that the opening for this position was advertised in a public forum to elicit applications from other prospective applicants.
- A copy of the letter notifying the Inspector of his/her appointment to this position.
- Documentation showing the annual or hourly salary paid for the position of Inspector.
- Personnel policy relating to vacation and sick leave.

When requesting reimbursement for the Inspector's work hours in connection with this Agreement, the Municipality shall submit the following:

- With each reimbursement request, a copy of the daily time sheets which account for all time worked by the Inspector on all assignments. These time sheets must be detailed enough to allow HCD staff to distinguish between hours worked on rehabilitation projects being pursued in connection with this Agreement and other hours worked by the Inspector. The time sheets must also show the specific tasks undertaken by the Inspector on such projects as well as the time taken to complete each task. The Municipality shall ensure that time is kept to regular hours as much as possible and shall ensure that no excessive overtime is spent on these projects.
- With each reimbursement request, copies of the payrolls and paychecks to the Inspector corresponding to the above time sheets, as well as copies of documents proving that FICA was paid for the period corresponding to the one for which the reimbursement is being claimed.

**AMENDMENT 001 TO THE AGREEMENT  
WITH THE CITY OF DELRAY BEACH**

**D. Exhibit A - Section I.M(b) - Eligible Program Costs:**

Substitute "Costs of the Inspector, as described herein, and where a separate budget is provided under this Agreement" for "Costs of consultants to provide the services of an Inspector and/or an Advisor as described herein, and where a separate budget is provided under this Agreement".

**E. Exhibit A - Section I.M(b) - Funding Limits and Security:**

Substitute "\$40,000" for "\$37,000".

**F. Exhibit A - Section I.U - Reports:**

Add the following to this section:

- (c) **CLOSEOUT REPORTS:** After the completion of all activities funded under this Agreement, the Municipality shall submit to HCD the closeout reports identified as the Housing Benefit Report and the Beneficiary Data Report in the form provided as Attachments 1 and 2 to this Amendment.
- (d) **OTHER REPORTS:** The Municipality agrees to submit to HCD any other reports required by the State in connection with activities undertaken through this Agreement including, but not limited to, reports associated with Section 3.

**G. Exhibit A - Section II.A(a):**

Substitute "\$939,119" for "\$975,000".

**H. Exhibit A - Section II.A:**

Add the following to this section:

- (c) An amount of \$35,881: For the costs of the Municipality's employee to provide the services of the Inspector to carry out the tasks described in this Agreement.

NOW THEREFORE, all items in the previous Agreement in conflict with this Amendment shall be and are hereby changed to conform to this Amendment.

All provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Agreement.

(MUNICIPALITY SEAL)

Approved as to form and legal sufficiency

By: Jerrill Ryb  
Asst. City Attorney 12/3/08

CITY OF DELRAY BEACH

By: Rita Ellis  
Rita Ellis, Mayor

By: Chevelle D. Nubin  
Chevelle D. Nubin, City Clerk

(COUNTY SEAL)

PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
John F. Koons, Chairman  
Board of County Commissioners

ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By: \_\_\_\_\_  
Deputy Clerk

Document No.: \_\_\_\_\_

Approved as to Form and Legal Sufficiency

Approved as to Terms and Conditions  
Dept. of Housing and Community Development

By: \_\_\_\_\_  
Tammy K. Fields  
Senior Assistant County Attorney

By: Amin Houry  
Amin Houry, Manager  
Housing and Capital Improvements



**ATTACHMENT 2**

**PALM BEACH COUNTY**

**HOUSING & COMMUNITY DEVELOPMENT**

**BENEFICIARY DATA REPORT**

<b>Project Name:</b>	City of Delray Beach - 2005 DRI Housing Rehabilitation		
<b>Prepared By:</b>		<b>Report Date:</b>	

////////////////////////////////////	Number
Total Beneficiaries: Proposed	
Total Beneficiaries: Actual	
LMI Beneficiaries: Proposed (80% of AMI or less)	
LMI Beneficiaries: Actual (80% of AMI or less)	
VLI Beneficiaries: Proposed (50% of AMI or less)	
VLI Beneficiaries: Actual (50% of AMI or less)	
Male	
Female	
Disabled	
Female Head of Household	
Elderly	
Hispanic Ethnicity	

////////////////////////////////////	No. of Units Owner Occupied	No. of Units Renter Occupied
White		N/A
African American		N/A
Asian		N/A
American Indian or Alaskan Native		N/A
Native Hawaiian Pacific Islander		N/A
American Indian or Alaskan Native and White		N/A
Asian and White		N/A
African American and White		N/A
American Indian/Alaskan Native and African American		N/A
Other Multi-racial		N/A
<b>Total:</b> (same as Total Beneficiaries: Actual shown above)		N/A

**AGREEMENT BETWEEN PALM BEACH COUNTY**

**AND**

**CITY OF DELRAY BEACH**

**JAN 3 1 2008**

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, and the City of Delray Beach, a municipality duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 100 NW 1st Avenue, Delray Beach, FL 33444.

**WHEREAS**, Palm Beach County has entered into a Contract (number 07DB-3V-10-60-01-Z07) with the State of Florida, Department of Community Affairs, in connection with the State's 2005 Disaster Recovery Initiative Program which the State is implementing for the use of grant funds provided by the United States Department of Housing and Urban Development under its Community Development Block Grant Program; and

**WHEREAS**, the City of Delray Beach was allocated certain funds under said Contract to implement specified activities under the 2005 Disaster Recovery Initiative Program; and

**WHEREAS**, Palm Beach County desires to engage the City of Delray Beach to implement the activities associated with the funds allocated to it.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained, it is agreed as follows:

**PART I**

**DEFINITIONS, PURPOSE AND APPLICABLE CONDITIONS**

**1. DEFINITIONS**

- (1) "County" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program of the United States Department of Housing and Urban Development.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Municipality" means the City of Delray Beach.
- (5) "State" means the State of Florida, Department of Community Affairs.
- (6) "Contract" means contract number 07DB-3V-10-60-01-Z07 between Palm Beach County and the State of Florida, Department of Community Affairs.
- (7) "HCD Approval" means the written approval of the HCD Director or his designee.
- (8) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.

**2. PURPOSE**

The purpose of this Agreement is to state the covenants and conditions under which the Municipality will implement the Scope of Services set forth in Part II of this Agreement. All the beneficiaries of a project funded under this Agreement shall be low income households whose household incomes are within 80% of the median income for the West Palm Beach - Boca Raton Metropolitan Statistical Area adjusted by family size, as determined by HCD in its sole discretion.

3. APPLICABLE CONDITIONS

The Municipality shall be bound by the Contract to the extent applicable to this Agreement. Furthermore, the conditions applicable to the activities undertaken in connection with this Agreement shall include but not be limited to those listed below (as they may be amended from time to time). Palm Beach County's failure to list verbatim or make reference to a regulation, statute, ordinance, reference, or any other document affecting the Municipality, shall not relieve the Municipality of compliance with any applicable regulation, statute, ordinance, or any other document not listed below. The County reserves the right, but not the obligation, to inform the Municipality of any such applicable regulation, statute, ordinance, or any other document, and to require the Municipality to comply with the same.

1. Community Development Block Grant, Final Rule, 24 C.F.R., Part 570;
2. Florida Small and Minority Business Act, s 288.702-288.714, F.S.;
3. Florida Coastal Zone Protection Act, s 161.52-161.58, F.S.;
4. Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, F.S.;
5. Title I of the Housing and Community Development Act of 1974, as amended;
6. Treasury Circular 1075 regarding drawdown of CDBG funds;
7. Sections 290.0401-290.049, F.S.;
8. Rule Chapter 9B-43, Fla Admin. Code.;
9. Department of Community Affairs Technical Memorandums;
10. HUD Circular Memorandums applicable to the Small Cities CDBG Program;
11. Single Audit Act of 1984;
12. National Environmental Policy Act of 1969 and other provisions of law which further the purpose of this Act;
13. National Historic Preservation Act of 1966 (Public Law 89-665) as amended and Protection of Historic Properties (24 C.F.R., part 800);
14. Preservation of Archaeological and Historical Data Act of 1966;
15. Executive Order 11593 - Protection and Enhancement of Cultural Environment;
16. Reservoir Salvage Act;
17. Safe Drinking Water Act of 1974, as amended;
18. Endangered Species Act of 1958, as amended;
19. Executive Order 12898 - Environmental Justice
20. Executive Order 11988 and 24 C.F.R. Part 55- Floodplain Management;
21. The Federal Water Pollution Control Act of 1972, as amended (33 U.S.C., s 1251 et. seq.);
22. Executive Order 11990 - Protection of Wetlands;
23. Coastal Zone Management Act of 1968, as amended;
24. Wild and Scenic Rivers Act of 1968, as amended;
25. Clean Air Act of 1977;
26. HUD Environmental Standards (24 C.F.R. Part 58);
27. Farmland Protection Policy Act of 1981;
28. Clean Water Act of 1977;
29. Davis - Bacon Act;
30. Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. s. 327 et. seq.;
31. The Wildlife Coordination Act of 1958, as amended;
32. The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1975 (42 U.S.C., s. 6901 et. seq.;
33. Noise Abatement and Control: Departmental Policy Implementation, Responsibilities and Standards, 24 C.F.R. Part 51, Subpart B;
34. Flood Disaster Protection Act of 1973, P.L. 92-234;
35. Protection of Historic and Cultural Properties under HUD Programs, 24 C.F.R. Part 59;
36. Coastal Zone Management Act of 1972, P.L. 92-583;
37. Architectural and Construction Standards;
38. Architectural Barriers Act of 1968, 42 U.S.C. 4151;
39. Executive Order 11296, relating to the evaluation of flood hazards;
40. Executive Order 11288, relating to prevention, control and abatement of water pollution;
41. Cost-Effective Energy Conservation Standards, 24 C.F.R., Part 39;
42. Section 8 Existing Housing Quality Standards, 24 C.F.R., Part 882;
43. Coastal Barrier Resource Act of 1982;
44. Federal Fair Labor Standards Act, 29 U.S.C. s. 201 et. seq.;
45. Title VI of the Civil Rights Act of 1964 - Non-discrimination;
46. Title VII of the Civil Rights Act of 1968 - Non-discrimination in housing;
47. Age Discrimination Act of 1975;
48. Executive Order 12892 - Fair Housing;
49. Section 109 of the Housing and Community Development Act of 1974, Non-discrimination;
50. Section 504 of the Rehabilitation Act of 1973 and 24 C.F.R., Part.8;
51. Executive Order 11063 - Equal Opportunity in Housing;
52. Executive Order 11246 - Non-discrimination;
53. Section 3 of the Housing and Urban Development Act of 1968, as amended - Employment /Training of Lower Income Residents and Local Business Contracting;
54. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 100-17, and 49 C.F.R. Part 24;
55. Copeland Anti-Kickback Act of 1924;
56. Hatch Act;
57. Title IV Lead-Based Paint Poisoning Prevention Act (42 U.S.C. s. 1251 et. seq.);
58. OMB Circulars A-87, A-122 and A-133, as revised;
59. Administrative Requirements for Grants, 24 C.F.R. Part 85;
60. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 and 24 C.F.R. Part 12;
61. Emergency Rule 9BER05-2, CDBG Disaster Recovery Funds;
62. HUD program requirements for disaster recovery projects as published in Federal Register, Vol. 69, No. 237 (December 10, 2004) [Docket No. FR-4959 - N-01].



PART II

SCOPE OF SERVICES

The Municipality shall, in a satisfactory and proper manner as determined by HCD, perform the tasks necessary to conduct the program outlined in Exhibit "A" as attached hereto and made a part hereof.

PART III

COMPENSATION, TIME OF PERFORMANCE, METHOD, AND CONDITIONS OF PAYMENT

1. MAXIMUM COMPENSATION

The Municipality agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and HCD Director or designee-approved expenditures and encumbrances made by the Municipality under this Agreement, which shall not be unreasonably withheld. Said services shall be performed in a manner satisfactory to HCD. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$980,000 (as more specifically detailed in Exhibit A hereto) for the period of January 3, 2008 through and including December 31, 2008. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

The Municipality agrees to comply with the requirements of 24 CFR Part 58. The provision of funds under this Agreement is conditioned on the satisfactory completion of the environmental review process, and the County's determination to proceed, modify, or cancel this project/activity based on the results of this environmental review. If this project involves unspecified sites, the Municipality agrees to provide a request to HCD for the preparation of an environmental review as the sites are identified.

2. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project under State Contract number 07DB-3V-10-60-01-Z07. The effective date shall be the date of execution of this Agreement, and the services of the Municipality shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the Municipality prior to December 31, 2008.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Municipality for all budgeted costs permitted by Federal, State, and County guidelines. The Municipality shall not request reimbursement for payments made by the Municipality before the effective date of this Agreement, nor shall it request reimbursement for payments made after the expiration date of this Agreement, and in no event shall the County provide advance funding to the Municipality or any subcontractors hereunder.

The Municipality shall request payments or reimbursements from the County by submitting to HCD proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Municipality may furnish copies if deemed acceptable by HCD. Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by HCD.

The Municipality may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Municipality during the term of this Agreement by submitting to HCD the aforesaid proper documentation of expenditures, and the Palm Beach County Finance Department shall make payment as stated above, provided that HCD has determined that the funds allocated to the Municipality through this agreement are still available for payment, and provided that HCD approves such payment.

4. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The Municipality shall implement this Agreement in accordance with applicable Federal, State, and County laws, ordinances and codes and with the procedures outlined in HCD Policies and Procedures memoranda. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by HCD. No payments for projects funded by more than one funding source will be made until a cost allocation plan has been approved by the HCD Director or designee. Should a project receive additional funding after the commencement of this Agreement, the Municipality shall notify HCD in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HCD Director or designee within forty-five (45) days of said official notification.

(2) FINANCIAL ACCOUNTABILITY

The County may have a financial systems analysis and/or an audit of the Municipality, or of any of its subcontractors, by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.

(3) SUBCONTRACTS

Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by the Municipality to HCD and approved by HCD prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations. This includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Palm Beach County Engineering Department and U.S. HUD. Contracts for architecture, engineering, survey, and planning shall be fixed fee contracts.

All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursables will be at cost. None of the work or services covered by this Agreement, including, but not limited to, consultant work or services, shall be subcontracted or reimbursed without prior written approval of the HCD Director or his designee.

(4) PURCHASING

All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Code, as well as Federal Management Circulars A-87, A-102, A-128, and 24CFR Part 85 (also known as the Common Rule), which are incorporated herein by reference.

(5) REPORTS, AUDITS, AND EVALUATIONS

Payment will be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.

(6) ADDITIONAL HCD, COUNTY, AND U.S. HUD REQUIREMENTS

HCD shall have the right under this Agreement to suspend or terminate payments if after 15 days written notice the Municipality has not complied with any additional conditions that may be imposed, at any time, by HCD, the County, the State, or U.S. HUD.

(7) PRIOR WRITTEN APPROVALS-SUMMARY

The following activities among others require the prior written approval of the HCD Director or designee to be eligible for reimbursement or payment:

- (a) All subcontracts and agreements pursuant to this Agreement;
- (b) All change orders;
- (c) All requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit A.

(8) PROGRAM-GENERATED INCOME

All income earned by the Municipality from activities financed in whole or in part by funds provided hereunder must be reported to HCD. Such income would include, but not be limited to, income from service fees, sale of commodities, and rental or usage fees. The Municipality shall report its plan to utilize such income to HCD, and said plan shall require the prior written approval of the HCD Director or designee. Accounting and disbursement of such income shall comply with OMB Circular A-110 and other applicable regulations incorporated herein by reference.

In addition to the foregoing, Program Income, as defined by 24 CFR 570.500(a), may be retained by the Municipality. Program Income shall be utilized to undertake activities specified in Exhibit A of this Agreement, and all provisions of this Agreement shall apply to said activities. Any Program Income on hand at, or received after, the expiration of this Agreement shall be returned to the County.

**PART IV**

GENERAL CONDITIONS

1. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The Municipality agrees that no person shall on the ground of race, color, disability, national origin, religion, age, financial status, familial status, marital status, sexual orientation, or gender, be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. The Municipality shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

2. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Municipality shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and minority/women-owned business enterprises shall be located in or owned by residents of the CDBG areas designated by Palm Beach County in the CDBG Annual Consolidated Plan approved by U.S. HUD.

3. PROGRAM BENEFICIARIES

All the beneficiaries of a project funded under this Agreement shall be low income households whose household incomes are within 80% of the median income for the West Palm Beach - Boca Raton Metropolitan Statistical Area adjusted by family size, as determined by HCD in its sole discretion. The project funded under this Agreement shall assist beneficiaries as defined above for the time period designated in this Agreement. The Municipality shall provide written verification of compliance to HCD upon HCD's request.

4. EVALUATION AND MONITORING

The Municipality agrees that HCD will carry out periodic monitoring and evaluation activities as determined necessary by HCD or the County and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. The Municipality agrees to furnish upon request to HCD, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by HCD or the County. The Municipality shall submit status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Municipality shall provide information as requested by HCD to enable HCD to complete reports required by the County or HUD. The Municipality shall allow HCD, the County, the State, or HUD to monitor the Municipality on site. Such visits may be scheduled or unscheduled as determined by HCD, the State, or HUD.

5. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HCD, the County, the State, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Municipality to HCD, the County, the State, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

The Municipality agrees to comply with the provisions of the Single Audit Act of 1984, as amended, as it pertains to this Agreement. The Municipality shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-87, A-102, A-133, and other applicable regulations within one hundred and eighty (180) days after the end of any fiscal year covered by this Agreement in which Federal funds from all sources are expended. Said audit shall be made by a Certified Public Accountant of the Municipality's choosing, subject to the County's approval. In the event the Municipality anticipates a delay in producing such audit or audited financial statements, the Municipality shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Municipality. In the event the Municipality is exempt from having an audit conducted under A-133, the Municipality shall submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Municipality as defined by A-133. The County will be responsible for providing technical assistance to the Municipality, as deemed necessary by the County.

6. UNIFORM ADMINISTRATIVE REQUIREMENTS

The Municipality agrees to comply with the applicable uniform administrative requirements as described in Federal Community Development Block Grant Regulations 24 CFR 570.502.

7. REVERSION OF ASSETS

Upon expiration of this Agreement, the Municipality shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Municipality's control upon expiration of this Agreement which was acquired or improved in whole or part with CDBG in the excess of \$25,000 must either be used to meet one of the national objectives in Federal Community Development Block Grant Regulations 24 CFR 570.508 for a period of five years after expiration of this Agreement (unless a longer period is specified elsewhere in this Agreement), or, the Municipality shall pay the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

8. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Municipality for the purpose of this Agreement shall be made available to the County by the Municipality at any time upon request by the County or HCD. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to HCD if requested. In any event the Municipality shall keep all documents and records for five (5) years after expiration of this Agreement.

9. INDEMNIFICATION

Each party to this Agreement shall be liable for its own actions and negligence and, to the extent permitted by law, the County shall indemnify, defend, and hold harmless the Municipality against any actions, claims, or damages arising out of the County's negligence in connection with this Agreement, and the Municipality shall indemnify, defend, and hold harmless the County against any actions, claims, or damages arising out of the Municipality's negligence in connection with this Agreement. The Municipality shall also hold the State harmless against all claims of whatever nature arising out of the Municipality's performance of work under this Agreement, to extent allowed and required by law. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statute, section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions. The Municipality shall hold the County harmless and shall indemnify the County for funds which the County is obligated to refund the State or the Federal Government arising out of the conduct of activities and administration of the Municipality. The provisions of this indemnification clause shall survive the termination of this Agreement.

10. INSURANCE

Without waiving the right to sovereign immunity as provided by Florida Statute, Chapter 768.28, the Municipality reserves the right to self-insure for General Liability and Automobile Liability under Florida's sovereign immunity statute with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature. In the event the Municipality maintains Commercial General Liability or Business Auto Liability, the Municipality agrees to maintain said insurance policies at limits not less than \$100,000 Per Person and \$200,000 Per Occurrence. The Municipality agrees to endorse Palm Beach County Board of County Commissioners as an "Additional Insured" to the Commercial General Liability, but only with respect to negligence other than County's negligence arising out of this project or Agreement. **This paragraph does not apply to liability policies which afford only indemnity based claims-bill coverage.**

The Municipality agrees to maintain, or self-insure, Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440. The Municipality agrees to provide a statement, or Certificate of Insurance, evidencing insurance or self-insurance for the above required coverages, which the Municipality shall deliver to HCD at its office at 160 Australian Avenue, Suite 500, West Palm Beach, Florida 33406. The Municipality agrees its self-insurance or insurance shall be primary as respects to any coverage afforded to or maintained by County.

The Municipality agrees compliance with the foregoing insurance requirements is not intended to nor construed to relieve the Municipality of its liability and obligations under this Agreement.

11. MAINTENANCE OF EFFORT

The intent and purpose of this Agreement is to increase the availability of the Municipality's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Municipality. The Municipality agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

12. CONFLICT OF INTEREST

The Municipality covenants that no person who presently exercises any functions or responsibilities in connection with the Project, has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the Municipality. Any possible conflict of interest on the part of the Municipality or its employees shall be disclosed in writing to HCD provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of low and moderate-income residents of the project area.

13. CITIZEN PARTICIPATION

The Municipality shall cooperate with HCD in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents informed of the activities the Municipality is undertaking in carrying out the provisions of this Agreement. Representatives of the Municipality shall attend meetings and assist HCD in the implementation of the Citizen Participation Plan, as requested by HCD.

14. RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The Municipality will include a reference to the financial support herein provided by HCD in all publications and publicity. In addition, the Municipality will make a good faith effort to recognize HCD's support for all activities made possible with funds made available under this Agreement.

15. AGREEMENT DOCUMENTS

The following documents are herein incorporated by reference and made a part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- (1) This Agreement, including its Exhibits;
- (2) Office of Management and Budget Circulars A-87, A-102, A-133, and 24CFR Part 85;
- (3) Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- (4) Executive Orders 11246, 11478, 11625, 12432, the Davis Bacon Act, and Section 3 of the Housing and Community Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;
- (5) Executive Orders 11063, 12259, 12892, the Fair Housing Act of 1988, and Section 109 of the Housing and Community Development Act of 1974, as amended;
- (6) Florida Statutes, Chapter 112;
- (7) Palm Beach County Purchasing Code;
- (8) Federal Community Development Block Grant Regulations (24 CFR Part 570), as amended;
- (9) The Municipality's personnel policies and job descriptions; and
- (10) The Municipality's Certificate of Insurance.
- (11) Contract number 07DB-3V-10-60-01-Z07 between Palm Beach County and the State of Florida, Department of Community Affairs.

All of these documents will be maintained on file at HCD. The Municipality shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

16. TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the Municipality with funds under this Agreement shall be returned to HCD or the County.

In the event of termination, the Municipality shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Municipality, and the County may withhold any payment to the Municipality for set-off purposes until such time as the exact amount of damages due to the County from the Municipality is determined.

(1) TERMINATION FOR CAUSE

If through any cause either party shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement in whole or part by giving a fifteen (15) working day written notice of such termination to the other party and specifying therein the effective date of termination.

(2) TERMINATION DUE TO CESSATION

In the event the grant to the County under the Contract is suspended or terminated, this Agreement shall be suspended or terminated effective on the date the State specifies.

17. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

18. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by Federal, State, County, or U.S. HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and the governing body of the Municipality, and signed by both parties.

19. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HCD at its office at 160 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Municipality when delivered to its address on page one (1) of this Agreement.

20. INDEPENDENT AGENT AND EMPLOYEES

The Municipality agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

21. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

22. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the Municipality certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

23. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of thirty-four (34) enumerated pages which include the exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

City of Delray Beach

24. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

WITNESS our Hands and Seals on this \_\_\_\_\_ day of JAN 31 2008, 20\_\_\_\_.

(MUNICIPALITY SEAL BELOW)

**CITY OF DELRAY BEACH**

BY: Rita Ellis  
Rita Ellis, Mayor

By: Chevelle D. Nubin  
Chevelle D. Nubin, City Clerk

BY: Terrell Pyburn  
Attorney for Municipality  
(Signature Optional) 1/31/08

**PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida**

**FOR ITS BOARD OF COUNTY COMMISSIONERS**

By: Robert Weisman  
Robert Weisman, County Administrator

Approved as to Form and  
Legal Sufficiency

By: Tammy K. Fields  
Tammy K. Fields  
Senior Assistant County Attorney

Approved as to Terms and Conditions  
Dept. of Housing and Community Development

By: Amin Houry  
Amin Houry, Manager  
Housing and Capital Improvements

**EXHIBIT A**  
**WORK PROGRAM NARRATIVE**

**I. THE MUNICIPALITY AGREES TO:**

**A. OVERVIEW:**

The purpose of this Agreement is to make funds available to the Municipality under the State of Florida funded 2005 Disaster Recovery Initiative Program to enable the Municipality to implement a rehabilitation program ("Program") in conjunction with which it may provide technical and financial assistance to qualified low income property owners (as defined herein) who reside in detached one dwelling structures (entirely used for residential purposes) and located within its municipal boundaries. Assistance under the Program shall be provided in order to rehabilitate and upgrade these structures to meet applicable housing and building codes and in order to effectuate repairs of damages caused by Hurricane Wilma. Work on these properties may for example include roofing, electrical, plumbing, structural repairs, painting, doors, windows, and hurricane protection, provided that these repairs are practical and feasible. The Municipality plans to assist twenty four (24) households. The final number of homes addressed with funding made available under this Agreement shall depend on the actual cost of undertaken projects, and therefore may vary from the stated number.

**B. REGULATORY STANDARDS:**

The regulatory standards applicable to the activities undertaken in connection with this Agreement shall include but not be limited to the ones listed below, and those enumerated elsewhere in this Agreement. Palm Beach County's failure to list verbatim or make reference to a regulation, statute, ordinance, reference, or any other document affecting the Municipality, shall not relieve the Municipality of compliance with any applicable regulation, statute, ordinance, or any other document not listed below. The County reserves the right, but not the obligation, to inform the Municipality of any such applicable regulation, statute, ordinance, or any other document, and to require the Municipality to comply with the same.

**HUD:** U. S. Department of Housing and Urban Development regulations (24 CFR Part 570).

**HUD:** U. S. Department of Housing and Urban Development regulations (24 CFR Part 35).

**HUD:** HUD Guidelines for the Evaluation and Control of Lead Hazards in Housing.

**TITLE X:** Title X - Residential Lead-Based Paint Hazard Reduction Act of 1992.

**EPA:** U.S. Environment Protection Agency regulations (40 CFR Part 745).

**EPA:** U.S. Environment Protection Agency regulations (40 CFR Part 61).

**OSHA:** Occupational Safety and Health Administration regulations (29 CFR Part 1926).

**PBC:** Palm Beach County Purchasing Ordinance.

The Municipality recognizes and understands that the applicable regulations, statutes, ordinances, or all other applicable documents may be amended from time to time during the term of this Agreement. The Municipality agrees to abide by all such amendments as relates to the activities undertaken in connection with this Agreement, and as determined by HCD.

The Municipality recognizes and understands that during the term of this Agreement, new regulations, statutes, ordinances, and other applicable documents may be issued that affect the activities undertaken in connection with this Agreement. The Municipality agrees to abide by all such new regulations, statutes, ordinances, and other applicable documents as determined by HCD.

Should, after the execution of this Agreement, it be discovered that requirements concerning certain activities to be undertaken in connection with the Agreement are absent, the parties agree to abide by the decision of the State on such requirements. In the instance that the State elects not to provide a decision on an absent requirement, or allows for a local choice in the matter, the parties agree that all requirements pertaining to any such matter shall be at the discretion of the County.

**C. PROGRAM ADMINISTRATOR:**

The Municipality shall designate an employee of the Municipality to be the "Program Administrator" in connection with projects undertaken under this Agreement, and notify HCD of the identity if such Program Administrator. The Program Administrator shall act as the primary contact person between HCD staff and persons designated by the Municipality to be involved in implementing projects undertaken under this Agreement. In addition to channeling communication from and to HCD and the Municipality, and from and to HCD and the above described designated persons, the Program Administrator shall review all materials and files submitted by the Municipality to HCD in connection with this Agreement, and shall be the recipient of all materials and files provided by HCD to the Municipality. The Program Administrator shall track and maintain awareness of the status and progress of all undertaken projects and submit the reports required hereunder.



D. PROGRAM INSPECTOR:

The Municipality shall employ an "Inspector" in connection with this Agreement. The Inspector may be an employee of the Municipality or a qualified consultant under contract with the Municipality. If the Municipality elects to retain a consultant to provide the services of an Inspector, and if it wishes to be reimbursed by the County for its consultant expenses, the Municipality shall procure the services of such consultant in accord with the requirements of this Agreement. In such instance, the Municipality shall submit its request for proposals for consultant services package to HCD and obtain a letter of approval prior to soliciting proposals, and the Municipality shall obtain HCD approval prior to awarding the contract for these consultant services.

The Inspector shall be able to carry out the tasks described in this Agreement and be able to demonstrate the qualifications that enable him/her to do so. The Inspector shall at minimum perform inspections of residential structures for compliance with housing and building codes, determine the feasibility of undertaking rehabilitation, prepare construction specifications and cost estimates, review construction bids, inspect rehabilitation construction work in progress, and review and approve contractor payment requests. The Inspector shall be able to review lead-based paint inspection and risk assessment reports and determine the actions to be taken to comply with federal lead-based paint regulations, maintain inspection records and reports, prepare change orders, initiate various notification letters and conduct necessary correspondence.

E. PROGRAM ADVISOR:

The Municipality shall employ an "Advisor" in connection with this Agreement. The Advisor may be an employee of the Municipality or a qualified consultant under contract with the Municipality. If the Municipality elects to retain a consultant to provide the services of an Advisor, and if it wishes to be reimbursed by the County for its consultant expenses, the Municipality shall procure the services of such consultant in accord with the requirements of this Agreement. In such instance, the Municipality shall submit its request for proposal for consultant services package to HCD and obtain a letter of approval prior to soliciting proposals, and the Municipality shall obtain HCD approval prior to awarding the contract for these consultant services.

The Advisor shall be able to carry out the tasks described in this Agreement and be able to demonstrate the qualifications that enable him/her to do so. The Advisor shall at minimum perform a variety of program implementation tasks including the participant application process, the applicant eligibility determination process, financial underwriting, loan closing, and expenditure tracking and reconciliation.

F. OUTREACH AND APPLICANT SELECTION:

The Municipality's outreach effort in publicizing the rehabilitation program being undertaken in connection with this Agreement shall include announcements at public meetings, announcements in local newspapers, distribution of flyers/brochures to affected residents, and the placement of notices at City Hall and the Municipality's neighborhood resource center.

The Municipality shall develop, publish to its residents, and use its own selection method for applicants to be funded under this Agreement, provided that such method is fair and equitable, and provided that it does not in any manner violate any of the provisions contained in this Agreement.

G. THE APPLICATION PROCESS:

The Municipality shall invite each selected applicant to submit a written, signed, and dated application (for the purposes of this Agreement, all owners of a property to be rehabilitated who reside at such property shall be regarded as applicants, and "applicant" as referred to herein shall also mean the plural term "applicants"). The Municipality shall advise the applicant of the Program's objective and explain the type of work undertaken under the Program without specific reference to the applicant's property. Applicants shall be advised that the primary purpose of the Program is to address property deficiencies to the extent practicable and feasible to meet applicable housing and building code standards and to effectuate repairs of damages caused by Hurricane Wilma.

Applicants shall be advised of Program requirements to receive assistance and the steps involved in the rehabilitation process and their role in it. Applicants shall also be informed of the financing arrangements available under the Program.

The application shall solicit information about the applicant such as:

- Name of applicant(s) and any other household members residing at the property (whether related to the property owner or not) and relationship to property owner(s) as well as contact telephone numbers.
- Address of the property, legal description and the Property Control Number.
- Social security numbers, dates of birth of applicant(s) and ages of household members.
- Employment information on all household members.
- All other income for the household including: wages, salaries, bonuses, pensions, social security, disability, unemployment, self employment, rental income, interest, dividends, public assistance, alimony, child support, and income derived from assets.
- A listing of all assets owned by the applicant(s) and their associated value.
- Information about any mortgages on the property.
- Insurance information including name of insurer, agent, address, policy number, and type, amount, and dates of coverage.

In conjunction with accepting an application from a selected applicant, each such applicant shall be asked to submit documentation in support of the application such as copies of: deed, mortgage(s), pay stubs, driver's license, social security card, death certificates, the last IRS tax return (last two returns for self-employed persons), and copies of insurance policies.

The Municipality shall obtain from the applicant for the applicant's file a copy of the driver's license or other picture identification document for each adult household member of the applicant, and shall obtain a copy of the social security card for each household member.

At the time of application submission, a preliminary review shall be made of the information provided and the applicant shall be requested to sign certain pertinent release forms that enable the Municipality to verify information in the application with outside parties. Other such forms shall also be signed by the applicant at later times as the need arises in the process of reviewing the application. These release forms for example include: employment verification, social security benefits verification, and pension verification.

In order to avoid any duplication of benefits, applicants shall be asked to provide signed certifications regarding the receipt of any insurance, SBA, or FEMA payments for damages to the property resulting from Hurricane Wilma. The Municipality shall devise a certification form to be used by each applicant to certify whether or not the applicant received any insurance payments (which certification form shall be placed in the applicant's file). In addition, each applicant shall be required to sign a release form to be submitted to FEMA (provided herein as Exhibit B) for the purpose of verifying the receipt of any FEMA payments in connection with damages resulting from Hurricane Wilma. The Municipality shall fax this release form to FEMA with a request for information, regardless of whether the applicant applied for, or received, any FEMA assistance, and place FEMA's response in the applicant's file. The County shall provide the Municipality with FEMA contact information at a later date. Furthermore, the Municipality shall verify whether the applicant received any assistance from the United States Small Business Administration (SBA) by verifying the presence of the applicant's name on a list of SBA recipients to be provided by the County to the Municipality at a later date. The Advisor shall complete, sign and place a form in the applicant's file indicating whether the applicant's name appears on SBA's list.

At time of application, the Municipality shall establish whether the applicant's property suffered damages from Hurricane Wilma. As a condition for receiving assistance, each applicant must be documented as having had damage to their home from Hurricane Wilma by means of:

- a certification from the Municipality, or
- a copy of a FEMA verification/claim, or
- an insurance claim, or
- an affidavit from the applicant that is attested by the Municipality.

At time of application, the Municipality shall provide each applicant with a lead hazard information pamphlet entitled "Protect Your Family From Lead In Your Home", informing applicants of the potential risk of lead hazard exposure from renovation activity that may be performed in their homes, and the Municipality shall obtain from the applicant a signed receipt indicating that the applicant has received the stated pamphlet which receipt shall be placed in the applicant's file.

In conjunction with accepting an application from a selected applicant, the Municipality shall determine and document the "year built" of the applicant's home. The source to be used for "year built" information shall be the Palm Beach County Property Appraiser whose data may be accessed through the internet at <http://www.co.palm-beach.fl.us/papa/index.htm>. The Municipality shall obtain a print out of the "year built" information and place it in the file for each applicant.

H. THE INITIAL INSPECTION PROCESS:

The Inspector shall perform an inspection of the property proposed for rehabilitation for the purpose of assessing the conditions of the property and to determine if rehabilitation is necessary and feasible. If the Inspector determines that the property did not sustain any damages from Hurricane Wilma, then the Municipality shall reject the application for assistance by providing the applicant written notice of such determination. If the Inspector determines that the property did sustain damages from Hurricane Wilma (as supported by the documentation mentioned above), then the Inspector shall determine if the repair of such damages as well as the work needed to address all housing and building code violations is feasible within the funding limits of the program.

In making this determination special attention shall be given to un-permitted additions and un-permitted enclosures. Un-permitted additions and un-permitted enclosures that can be practically improved as part of the rehabilitation process, and within the funding limits, may be undertaken. Un-permitted additions and un-permitted enclosures that cannot be practically improved as part of the rehabilitation process, and within the funding limits, shall be removed in conjunction with the rehabilitation process.

Rehabilitation shall be deemed "feasible" when the cost of complying with the requirements of the Program as specified in this Agreement can be achieved within the funding limits established for the Program. That is, the cost of meeting the requirements of applicable code standards, hurricane damage repairs, lead-based paint remediation, hurricane protection, etc. In the event that the cost of complying with the requirements of the Program exceeds the funding limits established for this Program, rehabilitation may still be deemed "feasible" if the sum of the amount funded through this Program as specified in this Agreement plus amounts funded by the applicant (such as SBA/FEMA payments, insurance proceeds, or the applicant's personal funds) are sufficient to meet the cost of complying with the requirements of the Program.

In this regard, after considering the amount of funding per applicant as allowed by this Agreement, and any SBA/FEMA payments and insurance proceeds, the Advisor shall discuss the anticipated costs with the applicant, and explore the possibility and potential of the applicant providing the gap in funds needed for the project. As part of this discussion, the Advisor shall not only consider the rehabilitation cost estimate provided by the inspector, but also other associated costs such as mortgage recording fees and termite treatment costs. Pursuant to this discussion, the Municipality shall then reach a decision whether to further pursue the project based on the ability of the applicant to fund the aforesaid gap from the applicant's resources or from a lender. Upon determining that a project cannot be undertaken based on the above (that is, the project is not feasible), the Municipality shall issue the applicant an application rejection letter in which it shall provide the reason for the rejection. For every such rejected project, the Inspector shall prepare a cost estimate to be maintained in the applicant's file to support such a determination.

The Municipality shall proceed with processing projects that are deemed feasible. For projects built before January 1, 1978, that are feasible, the Municipality shall obtain a lead-based paint inspection/risk assessment report as specified below.

At the time of application intake or at any time thereafter during contact with an applicant or a household member of the applicant, if the Advisor finds out about a disability of the applicant or a household member of the applicant, the Advisor shall inform the Municipality's Inspector of such finding. Alternatively, the Inspector may find out about such a disability based on contact with an applicant or a household member. After determining that a project is feasible, and in conjunction with preparing a work write-up for a project, the Inspector shall obtain an affidavit from the applicant regarding the disability (if the disability affects a household member who is not a minor, either that person or the applicant may provide the affidavit). The Inspector may use a general affidavit form for this purpose. The affidavit must identify the person with the disability, it must describe the disability to the affiant's best knowledge, and it must describe the remedies proposed by the affiant to accommodate the disability that can be undertaken through the Program. The Municipality is encouraged to suggest the inclusion of any remedies that can be undertaken by the Program that come to its attention while in contact with the applicant, with household members, or while inspecting the property. The Municipality is cautioned not to omit any information the affiant wishes to put in the affidavit.

The original affidavit must be placed in the applicant's file, and a copy must be presented with the work write-up when that is submitted to HCD for approval before bidding as required below. HCD shall examine the contents of the affidavit to determine if the work write-up has sufficiently addressed the accommodations needed, and consult with the County Attorney's office when necessary to achieve appropriate accommodation.

In this regard, the Municipality is reminded that in addition to physical impairments that may be encountered, disabilities may also include neurological impairments, mental impairments, and emotional impairments that might come to its attention. During its discussions with the applicant or a household member of the applicant, the Municipality shall inquire: a) if the disability is expected to be of long, continued, and indefinite duration, b) if the disability substantially impedes the person's ability to live independently, and c) if the disabled person's ability to live independently can be improved by more suitable housing conditions. The Municipality shall inform the applicant that disclosure of a disability will in no way affect the application for assistance.

I. **THE VERIFICATION PROCESS:**

During this process, the Advisor shall verify the information provided by the applicant with outside parties, and obtain additional information that is necessary in reaching a decision on whether to proceed with the project or not.

The verification process shall include:

- (a) **INCOME VERIFICATION:** The Municipality shall obtain written income verification of the applicant's household in order to establish eligibility under the Program. A household is defined as: "All persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements (24CFR Part 570)". A household shall be regarded as being eligible to receive assistance under the Program if the projected prevailing rate of household annual income received from all sources by household size is at or below 80% of the applicable median family income for the West Palm Beach-Boca Raton Metropolitan Statistical Area. The current median income and schedule of qualifying incomes by household size shall be as revised and published in the Federal Register by HUD from time to time. The household annual income information to be used for eligibility determination under the Program shall be that in effect on the date funding is approved for each applicant.

Annual income of all household members shall be determined according to the HUD Section 8 method. In this regard, it should be noted that the HUD Section 8 method of computing income in part takes into account income from assets (actual and imputed, as applicable).

Income shall be verified through use of verification forms signed by the pertinent household member authorizing verification by the source of income or by obtaining documentation produced by a third party that establishes income information. Verification forms may include forms such as:

- employment verification
- unemployment benefit verification
- pension benefit verification
- social security benefit verification
- disability benefit verification
- veteran's benefit verification
- verification of benefits administered by HRS
- interest income verification

Each income earning household member must provide a signed copy of their last IRS return including attachments (last 2 returns for a self-employed person). It is recognized that IRS rules do not require the filing of a return if a person's income for example is below a certain amount as established by the IRS and revised from time to time. In such instance where an income-earning household member does not file a return, a notation shall be so indicated on the application form.

The Municipality shall, for each adult household member who does not earn any income, obtain an affidavit from such household member indicating that no income is earned by such person.

In the course of establishing and verifying household income for each applicant, the Municipality shall reconcile annual income information with annual household expenses reported by the applicant or determined by the Municipality. While reviewing this income and expense data, the Municipality shall examine such data for consistency allowing for reasonable living expenses of the household (such as food, clothing, and transportation). Where annual obligations and other household expenses (such as mortgage payments, car loans, utilities, and real estate taxes) appear to constitute substantial portions of household income not allowing room for reasonable living expenses, the Municipality shall further investigate annual income and expense information with the applicant in order to resolve unreconciled differences between both. If resolution of such matters cannot be reached to the satisfaction of HCD, the applicant's request for assistance may be suspended until satisfactorily resolved or else may be rejected.

- (b) **TITLE VERIFICATION:** The Municipality shall place in the file for each applicant copies of documents that show that the title of record to the property proposed for rehabilitation is held by the applicant (such as a deed or court order). (Tax records shall not constitute adequate proof in this regard). (Documents showing that the applicant holds a life estate in the property shall be acceptable).

The Municipality shall assure that the applicant owned the property proposed for rehabilitation at the time of Hurricane Wilma on October 24, 2005. If the applicant is not able to demonstrate compliance with this requirement, the Municipality shall reject the applicant from participation in the Program in writing. A copy of the rejection letter shall be maintained in the applicant's file.

- (c) **REAL ESTATE TAX VERIFICATION:** The Municipality shall place in the file for each applicant copies of documents that show that the real estate taxes for the property proposed for rehabilitation have been paid in full.

- (d) **MORTGAGE VERIFICATION:** In order to avoid funding an applicant who has mortgage obligations that are delinquent and that may lead to foreclosure and eventual loss of the property proposed for rehabilitation, the Municipality shall verify with the mortgagee that mortgage payments are current. Applicants, determined to have delinquent mortgage payments or who are in foreclosure shall be rejected by the Municipality in writing after having given the applicant a reasonable period of time to correct these conditions. Copies of rejection letters shall be maintained in the applicant's file.

- (e) **INSURANCE VERIFICATION:** The Municipality shall document that the applicant, at minimum, maintains homeowner insurance on the property proposed for rehabilitation.

If the property is in a flood zone "A" or flood zone "V", the applicant shall be required to maintain flood insurance on the property and the Municipality shall, before closing, maintain documentation evidencing such insurance coverage in the applicant's file. Such coverage shall be at least equal to the sum of the anticipated mortgage encumbrance against the property resulting from this Program and the balance of all other senior mortgage encumbrances against the property.

The applicant shall also provide copies of all insurance claims, insurance settlements, and insurance payments received in connection with damages to the property. The Municipality shall obtain from the applicant an affidavit in connection with all insurance funds received by the applicant for damages to the property. If the applicant did not receive any insurance funds for damages to the property, then the Municipality shall obtain from the applicant an affidavit to that effect to be placed in the applicant's file.

- (f) **ENVIRONMENTAL REVIEW:** The Municipality shall complete an environmental review checklist for each property proposed for rehabilitation in accord with the requirement of 24 CFR Part 58 and maintain such in the applicant's file. In addition, the Municipality shall complete the Categorical Exclusion Suggested Format form provided herein as Exhibit C and submit such form with its required documentation to HCD for review and approval. The Municipality shall rectify all matters brought to its attention by HCD that are related to the contents of the Categorical Exclusion Suggested Format form as a precondition to proceeding with the project.

- (g) **LEAD-BASED PAINT VERIFICATION:** All dwelling units built before January 1, 1978, shall be inspected for the presence of lead-based paint as required by applicable lead-based paint regulations. The Municipality shall retain the services of an EPA certified lead-based paint inspector, who is also an EPA certified lead-based paint risk assessor to perform a surface-by-surface investigation (of all interior and exterior painted, stained, varnished or shellacked surfaces, regardless of whether or not such surfaces will be disturbed in course of rehabilitation) in order to determine the presence of lead-based paint, and shall submit to HCD a report containing the results of the inspection and risk assessment. The report shall identify surfaces containing lead-based paint which are in a stable condition (regarded not to constitute a hazard), and surfaces which contain lead-based paint and which are deteriorated or subjected to friction or impact (regarded to constitute a hazard). The findings of the report shall be used by the Municipality in preparing the work items intended to accomplish lead-based paint remediation, and shall be used for the preparation and provision of the Lead-based Paint Notice of Evaluation and/or Presumption as required by applicable regulations.

The services of the lead-based paint inspector/risk assessor retained by the Municipality shall be procured in accord with the requirements of this Agreement if the Municipality wishes to be reimbursed by the County for the cost of these services. In such instance, the Municipality shall submit its request for proposals for consultant services package to HCD and obtain a letter of approval prior to soliciting proposals, and the Municipality shall obtain HCD approval prior to awarding the contract for these consultant services. (It is suggested that the above services also include the clearance testing services mentioned below).

The Municipality shall pay the lead-based paint inspector/risk assessor for the above mentioned reports and clearance testing services as approved by HCD, and request HCD for reimbursement of such costs. The County shall reimburse the Municipality for such costs as provided in this Agreement.

J. **THE WORK WRITE-UP PREPARATION PROCESS:**

If upon review of the information verified through the preceding process the applicant appears to be qualified, a work write-up shall be prepared by the Inspector for the rehabilitation project. The work write-up shall contain a detailed list of construction specifications the execution of which will correct the deficiencies at the property and will upgrade the property to the extent practicable and feasible to applicable housing and building code standards (including the HUD Section 8 Housing Quality Standards). The work write-up shall also contain items to address lead-based paint remediation, hurricane protection, energy efficiency and conservation, and ones that are intended for the removal of architectural barriers and the correction of damages caused by Hurricane Wilma.

- (a) **CODE RELATED ITEMS:** These are work items that are intended to correct code violations, that is the correction of deficiencies at the property which are not in compliance with applicable housing and building code standards (including the HUD Section 8 Housing Quality Standards). These items may also include compliance with any historic preservation requirements applicable to the property.
- (b) **HURRICANE PROTECTION ITEMS:** The work write-up shall include work items that address hurricane protection as required by code. Additional hurricane protection measures not required by code may be included in the work write-up to the extent practicable and feasible.
- (c) **HOMEOWNER ASSOCIATION REQUIREMENTS:** Should the work write-up contain items that are also regulated by a homeowner association, then the work write-up shall address the requirements of the homeowner association for such items only, such as complying with color or style requirements for exterior building components, and obtaining homeowner association approval of building materials or exterior building components. In such instances the work write-up shall require the contractor to submit such for approval by the homeowner association prior to the commencement of the work.

- (d) **DISABILITY ACCOMMODATIONS:** In the event that an applicant and/or a household member has a disability that comes to the attention of the Municipality, an affidavit shall be obtained from the applicant/household member which contains remedies proposed by the affiant to accommodate the disability that can be undertaken through the program as previously described. When the disability is expected to be of long, continued, and indefinite duration, and if the disability substantially impedes the person's ability to live independently, and if the disabled person's ability to live independently can be improved by more suitable housing conditions, then the work write-up shall include such work items (remedies proposed by the affiant) that would accommodate the disability and that can be undertaken through the Program.
- (e) **REHABILITATION/DEMOLITION OF UN-PERMITTED ENCLOSURES AND ADDITIONS:** The work write-up shall provide for the improvement of existing un-permitted additions and enclosures such that they comply with applicable codes if feasible and practical, and within the funding limits. Un-permitted additions and enclosures that are not feasible or practical to improve as part of the rehabilitation process, and within the funding limits, shall be demolished. Mortgagee/lien-holder consent to demolish shall be obtained when there are existing mortgages/liens on the property.
- (f) **LEAD-BASED PAINT REMEDIATION:** If the lead-based paint inspection/risk assessment report reveals the presence of lead-based paint at the property (or if such report leads to a presumption of the presence lead-based paint at the property), then the work write-up shall include a disclosure (and warning) as follows:
- A disclosure of the building components, materials, and surfaces that have been found to contain lead-based paint or are presumed to contain lead-based paint, and that will remain at the property during and after the rehabilitation project, and a warning to the contractor, all subcontractors, and all their employees and workers, not to disturb any of these building components, materials, and surfaces in any manner, shape, or form.
  - A disclosure of the building components, materials, and surfaces that have been found to contain lead-based paint or are presumed to contain lead-based paint, and that will be abated by qualified persons in connection with the rehabilitation project, and a warning to the contractor, all subcontractors, and all their employees and workers, except for persons qualified to do so, not to disturb any of these building components, materials, and surfaces in any manner, shape, or form.
  - A disclosure of the dust lead hazards found at the property that will be remediated by qualified persons in connection with the rehabilitation project.
  - A disclosure of the soil lead hazards found at the property that will be remediated by qualified persons in connection with the rehabilitation project.

The work write-up shall include items that achieve the remediation of surfaces which contain lead-based paint and which are expected to be disturbed during the process of rehabilitation construction, as well as items that achieve the remediation of surfaces which contain lead-based paint and are deteriorated or subjected to friction or impact and regarded to constitute a hazard, as well as items that address the remediation of dust and soil lead hazards. Lead-based paint remediation shall be undertaken using the "abatement" method which shall be performed by appropriately certified persons.

The work write-up may also include items that achieve the remediation of surfaces which contain lead-based paint which are in a stable condition (regarded not to constitute a hazard) at the Municipality's option. The inclusion of such optional items may be intended to achieve a lead free house, or where the house is permanently occupied by at least one child less than six (6) years old.

The work write-up for abatement shall specify the scope of the hazard reduction activity, the lead hazard reduction duration, the status, and length in days, of occupant temporary relocation, the compliance requirements, the qualifications to perform the work, and shall require an occupant protection plan, clearance testing, and an abatement report.

- (g) **ASBESTOS CONTAINING MATERIALS:** Should the Inspector, while preparing the work write-up, encounter suspect asbestos containing materials, such as transite siding, or should the Inspector encounter a current or prior non-residential use of the property (the house and its surrounding site), then the Inspector shall inform HCD of such observation. HCD shall then cooperate with the Municipality to obtain an asbestos survey of the property in order to determine the presence of asbestos containing materials, which if found, shall be addressed in accord with applicable regulations. Each work write-up submitted to HCD shall be accompanied by a certification from the Inspector who prepared the work write-up indicating whether or not there is any evidence of a current or prior non-residential use of the property.
- (h) **APPLICANT'S WORK WRITE-UP REVIEW AND APPROVAL:** The Inspector shall review the completed work write-up with the applicant who shall sign a review and approval statement indicating:
- That the work write-up has been reviewed with the applicant.
  - That the applicant understands the scope of work and the specifications of the work to be performed on the applicant's property.
  - The applicant's agreement that no changes to the work write-up specifications will occur except for items needed to meet housing or building code requirements.
  - The applicant's authorization allowing the Municipality to obtain bids for the work contained in the work write-up.
- (i) **HCD WORK WRITE-UP APPROVAL AND IN-HOUSE COST ESTIMATE:** Each completed work write-up signed by the applicant shall be maintained in the applicant's file. The Municipality shall provide HCD, for HCD's approval before bidding, a copy of such work write-up initialed by the Inspector and showing the Inspector's in-house cost estimate for each item in the work write-up. The work write-up shall be accompanied by a copy of lead-based paint inspection/risk assessment report, a copy of the aforesaid asbestos certification as prepared by the Inspector, as well as copies of any disability affidavits. HCD shall advise the Municipality of its determination concerning its review of the work write-up within ten (10) working days of its receipt.

**K. BIDDING AND BID EVALUATION:**

Bids for the work detailed in the work write-up shall be solicited by the Municipality from contractors on a list of bidders established by the Municipality. The Municipality shall determine the requirements (such as licensing and insurance requirements) to be met by such contractors for admission to the list of bidders. For projects requiring lead-based paint abatement, the rehabilitation contractor submitting a bid must be, or must hire, a certified lead-based paint abatement contractor as a subcontractor.

The bid documents to be used for this purpose shall include the address, property owner, and property owner contact information for the property to be rehabilitated, shall require bidders to visit the property, and shall specify the location, date, and time by which bids must be submitted. The bid documents shall specify the number of days after bid opening that bids are to remain valid. The bid documents shall contain provisions for addressing inconsistencies, interpretations, and supplemental instructions, as well as provisions for the modification, withdrawal, rejection, and award of bids. The bid documents shall contain the warranty and release of liens requirements as well as the insurance requirements for both the contractor and the lead-based paint abatement contractor (or subcontractor). The bid documents shall contain the Federal requirements applicable to projects funded under the Program.

For projects requiring lead-based paint abatement, the bid documents shall specify that the Program shall pay for the first clearance test to be undertaken in connection with the abatement for a project, and shall specify that the contractor shall be responsible for the cost of all subsequent clearance tests to be obtained by the Municipality for that project. The bid documents shall indicate that the cost of all clearance tests obtained by the Municipality and required for a project after the initial clearance test, shall be deducted from the contractor's payment.

For projects requiring lead-based paint abatement, the bid documents shall specify the number of days for which the Program shall pay for occupant temporary relocation, if any. The bid documents shall specify that the Program shall pay for occupant temporary relocation costs for the pre-specified number of days, and shall specify that the contractor shall be responsible for the cost of all subsequent occupant temporary relocation made necessary as a result of the contractor's failure to pass any clearance testing. The bid documents shall indicate that the cost of all occupant temporary relocation necessitated as a result of the contractor's failure to pass any clearance testing and paid by the Municipality, shall be deducted from the contractor's payment.



The Municipality shall require contractors to submit sealed bids for the work contained in the work write-up after visiting the applicant's property to acquaint themselves with existing conditions. The Municipality shall only accept bids up to a pre-specified date and time after which such bids shall be opened at the Municipality's offices. Bid openings shall be open to bidders, applicants, and the general public. At the bid opening the Municipality's designated employees shall open the bids and announce total amounts bid. The announced totals shall be recorded on a bid spreadsheet showing each bidder's name and total amount bid as announced.

After all bids are opened and announced the Municipality shall calculate the sum of all the individual items contained in each bid to check for discrepancies between such sum and the amount read at the bid opening. Where a discrepancy exists in a bid between the true and correct sum of itemized costs and the total announced at the bid opening, the true and correct mathematical sum of itemized costs shall prevail and the spreadsheet shall be noted accordingly.

Upon close examination of all bids, the Municipality shall make a determination on the apparent lowest responsive responsible bidder that best meets the terms, conditions, and specifications of the bid and that will result in the best interest of the applicant, the Municipality, and the County.

The Municipality shall evaluate the lowest bid to establish whether the total bid is within the funding limit, and shall provide the applicant an opportunity to contribute to the project any funds needed for the project above the funding limit. Funding shall be recommended for the lowest responsive responsible bidder. Should the applicant wish to select another bidder, then the difference in cost between the lowest bidder and that selected by the applicant shall be funded by the applicant.

Should the Municipality wish to place a limit on the number of construction contracts that may be awarded to a participating contractor at any one time under its Program, then the Municipality shall disclose such conditions in the bid documents.

The Municipality shall secure the services of a vendor in connection with the Program to provide inspections for, and treatment of, termites and other wood destroying organisms (extermination) where such infestation is found. The contract for these services shall cover the property of all the applicants participating in the Program, shall be provided on an "as needed basis", and shall establish the cost of such services for use when needed. Before securing these services, the Municipality submit its request for proposals for extermination vendors to HCD and obtain a letter of approval prior to soliciting proposals, and the Municipality shall obtain HCD approval prior to awarding the contract for these services.

Should the Municipality not be able to obtain HCD approval for the aforesaid contract, or should it choose to solicit these extermination services for each applicant on a project by project basis, then the Municipality shall, in like manner as described above, establish a list of companies qualified to provide such services, and shall, for each applicant, solicit, obtain, and evaluate bids from such companies for the treatment of termites and other wood destroying organisms that may be found at the property to be rehabilitated under the Program. Funding shall be recommended for the lowest responsive responsible bidder. Should the applicant wish to select another bidder, then the difference in cost between the lowest bidder and that selected by the applicant shall be funded by the applicant.

L. PROJECT UNDERWRITING:

The Municipality shall complete a project underwriting process which entails undertaking several tests to verify if Program requirements have been met. This process also entails the formulation of a funding recommendation when such requirements are met, or the rejection of the application if these requirements can not be met by the applicant. The Municipality shall, for each applicant, document the following:

- (a) **INFORMATION CONSISTENCY:** The Municipality shall assure that the information submitted by the applicant and other information verified through third parties or gathered by the Municipality is consistent. If the preceding can not be met, the Municipality shall request the applicant to provide corrected information or an explanation such that satisfactory consistency exists in the opinion of the Municipality and HCD. Failure to do so particularly where willful falsification exists shall be regarded as grounds for rejection of the application and denial of any assistance.
- (b) **PROPERTY LOCATION:** The Municipality shall assure that the property to be rehabilitated is located within its municipal boundaries. An applicant whose property is not located within these boundaries shall be rejected.

- (c) **PROPERTY ELIGIBILITY:** The Municipality shall assure that the property to be rehabilitated is a detached one dwelling structure entirely used for residential purposes. The Inspector, at the time of initial inspection, shall establish the number of units at the project and its use for residential purposes. If the number of units exceeds one detached dwelling unit, such condition shall be remedied by actions that result in no more than one detached dwelling unit after rehabilitation by including the removal of any excess units in the work write-up. Any such demolition shall not result in the displacement of any occupant and shall comply with One-for-One Replacement regulations. If the property is not entirely used for residential purposes, such condition shall be remedied by actions that result in elimination or conversion of non-residential portions of the property to residential use.
- (d) **OCCUPANCY/RESIDENCY:** The Municipality shall assure that the applicant resides at the property to be rehabilitated which shall be determined at the time the property is inspected and through the applicant's address as revealed by the various documents received during the application/verification process. If the applicant does not occupy the property, the applicant shall demonstrate extenuating circumstances for not residing at the property. Rehabilitation may proceed provided that the rehabilitation renders the property occupiable, and provided that the applicant submit a written commitment prior to funding approval clearly indicating the intent of the applicant to reside at the property after completion of the rehabilitation process. Extenuating circumstances may include certain circumstances such as damages from hurricane Wilma, or a determination of the property's unfitness for habitation by a building or other official for reasons of safety or other danger at the property that can be remedied through the Program. HCD shall determine the type of documentation necessary and/or acceptable to demonstrate the existence of these extenuating circumstances, and if the extenuating circumstances are acceptable.
- (e) **PROPERTY OWNERSHIP:** The Municipality shall assure that the title of record to the property proposed for rehabilitation is held by the applicant at the time of application and that the applicant owned the property proposed for rehabilitation at the time of Hurricane Wilma on October 24, 2005.

Note: the above condition requiring that the applicant have an ownership interest in the property to be rehabilitated does not preclude other parties who do not reside at the property from having an ownership interest in the property in addition to that of the applicant. These other parties are not regarded to be part of the applicant's household, however any such other parties having an ownership interest must agree to and join the applicant in executing program documents that secure the rehabilitation costs and encumber the property. In instances where the applicant has a life estate, all "remainder men" must agree to and join the applicant in executing program documents that secure the rehabilitation costs and encumber the property.

- (f) **REAL ESTATE TAX PAYMENT:** The Municipality shall assure that the real estate taxes for the property proposed for rehabilitation have been paid in full and shall place in the file for each applicant copies of documents showing the same.
- (g) **CURRENT MORTGAGE PAYMENTS:** For applicants who have mortgage obligations, the Municipality shall assure that such mortgage obligations are not delinquent and that mortgage payments are current.
- (h) **PROPERTY INSURANCE:** The Municipality shall assure that the applicant, at minimum, maintains homeowner insurance on the property proposed for rehabilitation, and if the property is in a flood zone "A" or flood zone "V", it shall assure that the applicant maintains flood insurance on the property. If such insurance is not in place at the time of application, then the Municipality shall, before closing, obtain documentation evidencing such insurance coverage.
- (i) **DAMAGES FROM HURRICANE WILMA:** The Municipality shall assure that the applicant's property suffered damages from Hurricane Wilma as previously described.
- (j) **RECEIPT OF SBA OR FEMA BENEFITS AND INSURANCE PROCEEDS:** The Municipality shall assure that there is not duplication of benefits. The Municipality shall verify the receipt of any SBA and/or FEMA payments by the applicant in connection with Hurricane Wilma and shall document such. The Municipality shall verify the receipt of any insurance proceeds by the applicant in connection with Hurricane Wilma and shall document such.

- (k) **LEAD HAZARD PAMPHLET:** The Municipality shall assure that each applicant has received a lead hazard information pamphlet entitled "Protect Your Family From Lead In Your Home", and shall obtain from the applicant a signed receipt for such pamphlet.
- (l) **LEAD NOTICE:** For each property built before 1/1/78, the Municipality shall assure that each applicant has received a Lead-based Paint Notice of Evaluation and/or Presumption and shall obtain from the applicant a signed receipt for such notice.
- (m) **ENVIRONMENTAL AND HISTORIC REVIEW:** The Municipality shall assure that there are no environmental or historic considerations that would prevent the rehabilitation of the property, and that it has complied with all environmental and historic requirements.
- (n) **PRESENCE OF ASBESTOS:** The Municipality shall assure that the rehabilitation of the property shall not cause any asbestos exposure and it shall comply with applicable asbestos regulations when there is evidence of a current or prior non-residential use at the property (the house and its surrounding site).
- (o) **HOUSEHOLD INCOME:** The Municipality shall assure that the annual income of the household occupying the property to be rehabilitated as received from all sources, by household size, is at or below 80% of the applicable median family income for the West Palm Beach-Boca Raton Metropolitan Statistical Area.

**M. PROGRAM COSTS, FUNDING LIMITS AND SECURITY:**

- (a) **ELIGIBLE PROGRAM COSTS:** The following expenses shall be regarded as eligible costs under the Program:
  - Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination.
  - Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment.
  - Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and repair of water leaks.
  - Improvements to provide windstorm protection to render rehabilitated homes less vulnerable to future wind related damage.
  - Connection of residential structures to water distribution lines or local sewer collection lines (excluding payment of certain associated fees, such as impact fees, not eligible under the CDBG program).
  - Costs of flood insurance premiums and associated service charges as established under the Nation Flood Insurance Program for a period of up to three years.
  - Costs of inspecting, testing, and abatement of lead-based paint and asbestos containing materials pursuant to applicable regulations.
  - Costs associated with the processing of rehabilitation applications such as a title search or state and local fees for recording documents prepared in conjunction with the Program.
  - Costs of obtaining construction related professional services including architectural, engineering, and surveying services, including the preparation of related technical documents, and inspections associated with execution of the content of such documents as pertains to the rehabilitation work.
  - Costs of performing inspections of termite or other wood destroying organisms and extermination thereof.
  - Construction contingency funds at an amount which is the lesser of five percent (5%) of the construction contract amount or \$1,000.
  - Costs of consultants to provide the services of an Inspector and/or an Advisor as described herein, and where a separate budget is provided under this Agreement.
  - Temporary relocation costs for the members of the household where rehabilitation is being performed.

- (b) **FUNDING LIMITS AND SECURITY:** All costs for each applicant, except for temporary relocation costs and the cost of consultants to provide the services of an Inspector and/or an Advisor, shall be provided as a loan subject to the following:
- The maximum funding amount per applicant for payment of rehabilitation construction costs and incidental expenses regarded as eligible under this Agreement: \$37,000.
  - Security: A mortgage and promissory note, in the amount funded to the applicant, shall be executed by all property owners of record at the closing described below and shall be recorded by the Municipality in the public records of Palm Beach County immediately after such closing. The Municipality shall be the mortgagee on all such mortgages and shall be the beneficiary of the promissory notes.
- Note: all additional funds, not included in the mortgage and promissory note, and provided after the mortgage and promissory note have been executed, shall be secured by means of a notice of future advance and promissory note, before such funds are expended. The notice of future advance and a copy of the promissory note shall be promptly recorded by the Municipality in the public records in like manner.
- Interest rate: 0%.
  - Term: 10 years for amounts funded up to \$20,000, and 15 years for amounts funded that are equal to or greater than \$20,000.
  - Repayment Provisions and Events of Default: No repayment shall be made by the mortgagor during the term of the mortgage, except that the entire principal amount of the loan (and any other amounts required by the mortgage) shall be repaid by the applicant in the event of default as specified in the mortgage including the lease, sale, transfer of title to, or disposition of, the mortgaged property.
  - Repayment of funds during the term of this Agreement: The Municipality shall immediately transmit to the County all mortgage repayments that the Municipality receives during the term of this Agreement. The Municipality may request the County to add such transmitted funds received during the term of this Agreement to the amount funded under this Agreement for such uses as described in the Agreement.
  - Repayment of funds after the expiration this Agreement: The Municipality shall immediately transmit to the County all mortgage repayments that the Municipality receives after the expiration of this Agreement. The County shall then transmit such funds to the State. **The provisions of this clause shall survive the expiration of this Agreement.**

N. PROJECT APPROVAL:

Upon assurance of project compliance with the requirements of the Program, and formulation of a funding recommendation for the applicant, the Municipality shall submit to HCD the entire applicant file compiled to date and a financial write-up of the project by which the Municipality requests HCD to approve funding for the applicant. HCD shall advise the Municipality of its determination concerning its review of the financial write-up within ten (10) working days of HCD's receipt of the financial write-up.

The financial write up shall contain the following information:

- Applicant/Owner Information: the name and address of the applicant, the names of the owners, and a statement concerning the presence of any owners that do not occupy the property.
- Household Information: identify the persons in the household, their relationship and ages.
- Household Income Information: identify each household member receiving an income, the type of income, and the amount of monthly income, provide the household annual income, and a statement that the household is income eligible.
- Property Information: provide a unit description (one unit substandard detached residence), occupancy status (owner occupied), year built, year acquired, number of bedrooms, square footage area, a statement that the property sustained damages from Hurricane Wilma, and a statement that the property is located within the municipal boundaries.
- Property Obligations: identify the status of real estate tax and mortgage payments, and property insurance coverage.
- Project Costs: list all project costs for items such as Inspection/risk assessment report, clearance test, rehabilitation construction, termite treatment, recording fees, and construction contingency, and provide a total cost for the project.
- Receipt of Benefits/Proceeds: provide a statement concerning the applicants receipt of any SBA/FEMA benefits and/or any insurance proceeds, the amount thereof, and an explanation of which portion of such received funds will be contributed by the owner to the cost of the project.
- Funding Eligibility: provide a statement that the applicant is eligible to receive funding in accord with the Agreement between the County and the Municipality.
- Funding Recommendation: provide a funding recommendation indicating the recommended sources of funds, and the amount from each source, to meet the total cost of the project.

- Submission Statement: provide a statement identifying the person who prepared and submitted the financial write-up on behalf of the Municipality and provide a signature and date for submission from such person.
- Funding Approval: provide a section for HCD to indicate its approval of the funding recommendation and a signature and date for such approval, and allow a section for HCD comments in this regard.

O. PROJECT CLOSING:

Upon approval of project funding by HCD, the Municipality shall prepare certain project documents to be executed at the closing which shall be attended by The Advisor, the applicant, and the contractor for the project that has been selected through the bid process.

The Municipality shall assure that the following has occurred as a pre-requisite to closing:

- The Inspector shall conduct a pre-closing pre-construction site conference/walk-through with the applicant and the contractor. At this walk-through the participants shall review the scope of work to be performed, the schedule of work, and they shall establish whether there is a need for the homeowner to move any personal or household items to facilitate the contractor's work.
- The Advisor shall receive evidence of contractor insurance as specified in the bid documents and construction contract which evidence shall be placed in the applicant file.
- The Advisor shall verify that the project contractor does not appear on the current General Services Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs (see <http://www.epls.gov/>).
- For projects requiring lead-base paint abatement, the Advisor shall receive from the contractor an occupant protection plan prepared according to applicable regulations.

The closing shall be conducted by the Advisor who shall review all documents with the applicant prior to execution. The documents to be executed by the applicant shall include:

- Mortgage.
- Promissory Note.
- Notice of Commencement.
- Notice to Proceed.
- Contract for Exterminating Services (between the applicant and the exterminating company).
- Construction Contract (between the applicant and the contractor).

Note: All owners of record (including the applicant(s) who reside at the property and owners who reside elsewhere) must execute the mortgage and promissory note. In instances where the applicant has a life estate, all "remainder men" must join the applicant in executing the mortgage and promissory note.

The documents to be executed by the contractor shall include:

- Construction Contract (between the applicant and the contractor).
- Certification of Nonsegregated facilities.
- Certification of Eligibility of General Contractor.
- Noncollusion Affidavit of Prime Bidder.
- Anti-kickback Affidavit.

The Advisor shall provide the contractor blank payment request forms for the contractor's use, and after the closing shall obtain the exterminating company's counter signature on the Contract for Exterminating Services. The Municipality shall, immediately after the closing, assure that the original executed mortgage accompanied by a copy of the promissory note, and the notice of commencement are recorded in the public records of Palm Beach County. The Inspector shall, immediately after recording, assure that a certified copy of the recorded Notice of Commencement is posted in a visible location at the property to be rehabilitated.

The Municipality shall assure that all funds from other sources, except funds to be provided under this Agreement, intended for a project regardless of source shall be available at closing. This shall include all the applicant's contributions, all insurance proceeds and/or any payment from SBA/FEMA (or other agency), as well as all the Municipality's funds to be used for the project. All such funds, in the form of checks made payable to the Palm Beach County Board of County Commissioners, shall be transmitted to HCD immediately after the closing for escrow.

For projects where lead-based paint abatement is to be performed and where the occupants of the house are to be temporarily relocated, the Advisor shall, at the closing, coordinate the abatement work days and the temporary relocation dates with the applicant, the contractor, the Inspector, and the hotel.

The Municipality shall use a Document Affidavit, a blank form of which shall be provided to it by HCD, in connection with closings for property owners who are unable to read (for illiterate persons and for persons who due to a physical disability are unable to read), and who do not understand English. The Advisor shall list on this affidavit all documents by name that are included in the closing, and that are to be executed by such property owners. The Advisor shall also arrange for someone (such as a friend or a relative of the property owner or someone well acquainted with the property owner) to read these documents to the property owner. The Advisor shall prepare and deliver these documents to the reader in advance of the closing to allow enough time for reading. The Document Affidavit shall be executed by the reader and secured by the Advisor for the closing to be placed in the applicant file.

The Municipality shall use a Translated Document Affidavit, a blank form of which shall be provided to it by HCD, in connection with closings for property owners who do not understand English. The Advisor shall list all documents by name that are included in the closing, and that are to be executed by such property owners. The Advisor shall also arrange for someone (such as a friend or a relative of the property owner or someone well acquainted with the property owner) to translate these documents to the property owner noting that an oral translation is sufficient, provided that the nature and effect of the documents is translated. The Advisor shall prepare and deliver these documents to the translator in advance of the closing to allow enough time for translation. The Translated Document Affidavit shall be executed by the translator and secured by the Advisor for the closing to be placed in the applicant file.

**P. REHABILITATION CONSTRUCTION:**

The Inspector shall inspect the work in progress being performed by the contractor and review and approve all construction draws made against the contract. The applicant shall approve all work requested for payment. A minimum five percent (5%) retainage shall be applied to each progress draw, with the accumulated retainage amount released in conjunction with final payment.

All lead-based paint remediation, temporary relocation of occupants, notifications, clearance testing, and related documentation shall be carried out in compliance with HUD lead-based paint regulations for projects funded under the Program.

During construction, change orders for unforeseen code related work items necessitating an increase in the contract amount may be approved provided contingency funds are available. If contingency funds are insufficient, additional funds may be obtained for the project as described below. The Municipality shall request HCD's approval of all change orders before they are signed regardless of whether or not the change orders cause an increase in the contract amount. HCD shall advise the Municipality of its determination concerning its review of change orders within ten (5) working days of HCD's receipt of the proposed change order.

Upon completion of the work, the contractor shall ensure that all work has been approved by the building department with jurisdiction over the project, and obtain the necessary permit approvals. The contractor shall request a final inspection by the Municipality which shall be followed by the Municipality providing the contractor with a punch list of deficiencies (if such deficiencies exist) to be corrected by the contractor prior to final payment.

When the work is fully completed, the Municipality shall obtain the applicant's approval of the final payment. The final payment shall be subject to the Municipality's receipt of the following from the contractor:

- Original building permits with Bldg. Dept. final approval, and Certificate of Completion.
- Original contractor's roof nailing affidavit.
- Original contractor's warranty showing the final inspection date/warranty start date.
- Original contractor's release of lien (with all subcontractors listed).
- Original subcontractors' releases of lien for subcontractors with Notices to Owner.
- Original abatement report for projects with lead-based paint abatement.
- Required product approvals.
- Manufacturers' warranties for equipment and appliances.

The Municipality shall pay the contractor for completed work that is contained in the construction contract as approved by HCD, and request HCD for reimbursement of such costs. The County shall reimburse the Municipality for such costs as provided in this Agreement.

Furthermore, in connection with the first draw for each construction contract that is requested for reimbursement, the Municipality shall provide the following:

- A copy of the executed construction contract.
- A copy of the contractor's bid showing the work items and the cost of each.
- A copy of the contractor's payment request approved by the Inspector and the applicant, which shows the work items approved for payment and their costs, and which provides an accounting of the contract amount, change orders, retainages, payments to date, deductions and a computation of the approved payment.
- A copy of the check tendered in payment by the Municipality.

In connection with the interim draws for each construction contract that is requested for reimbursement, the Municipality shall provide the following:

- A copy of the contractor's payment request as specified above.
- A copy of the check tendered in payment by the Municipality.

In connection with the final draw for each construction contract that is requested for reimbursement, the Municipality shall provide the following:

- A copy of the contractor's roof nailing affidavit.
- A copy of the contractor's warranty.
- A copy of the contractor's release of lien.
- A copy of the abatement report.
- A copy of the contractor's payment request as specified above.
- A copy of the check tendered in payment by the Municipality.

Extermination, if necessary, shall be carried out after completion of construction and as scheduled by the Advisor. The Municipality shall inspect the extermination work and review and approve the payment for such services. The applicant shall also approve extermination work requested for payment.

The Municipality shall pay for the completed extermination work that is contained in the contract for exterminating services as approved by HCD, and request HCD for reimbursement of such costs. The County shall reimburse the Municipality for such costs as provided in this Agreement.

Furthermore, in connection with the extermination services that are requested for reimbursement, the Municipality shall provide the following:

- A copy of the executed contract for exterminating services.
- A copy of the company's invoice approved by the Municipality and the applicant.
- A copy of the check tendered in payment by the Municipality.

**Q. TEMPORARY RELOCATION POLICY:**

The Municipality shall not cause the permanent dislocation of any persons as a result of implementing the Program. The parties to this Agreement recognize that the rehabilitation process may in some instances require the temporary relocation of the applicant and the applicant's household members due to activities such as lead-based paint abatement or during extermination of wood destroying organisms. Accordingly, the Municipality hereby adopts the below Temporary Relocation Assistance Policy and obligates itself to making the payments associated therewith.

Temporary Relocation Assistance Policy: Should in the course of rehabilitation activities undertaken under the Program envisioned by this Agreement, the necessity arise to temporarily relocate the members of the household where rehabilitation is being performed (while lead-based paint abatement is taking place, or during extermination of wood destroying organisms, for example), then the Municipality shall pay for the cost of accommodations (hotel/motel) incurred while temporarily housing such household members away from the home being rehabilitated. The Municipality shall endeavor to minimize the cost of such accommodations while arranging for accommodations that are as close to the home being rehabilitated as possible, for the least number of nights possible, and while minimizing disruption to the family (that is, maintaining proximity to day care, schools, or work).

The Municipality shall pay the business provider of such temporary housing the cost of such temporary relocation from the budget established for such purpose in this Agreement, after having procured such services in accord with this Agreement. The County shall reimburse the Municipality for temporary relocation payments in connection with this Agreement up to the amount in the allocated budget.

The Municipality shall not secure any such temporary relocation payments by the mortgage given by the applicant under the Program. Nothing herein shall preclude the applicant from voluntarily temporarily relocating to a location of the applicant's choice (such as with friends or family) while Program activities are underway without seeking payment from the Municipality.

**R. PROJECT CLOSEOUT:**

After all project contracts, invoices, and expenses have been paid, the Municipality shall prepare and submit to HCD, along with the entire applicant file compiled to date, a closeout statement which shall show all allocated funds, and an itemized listing of all payments made on behalf of the applicant, and all undisbursed funds and their disposition. Funds that have been secured by the mortgage and that have not been expended shall be credited by the Municipality to the applicant as a principal reduction of the loan. The closeout statement, shall be prepared and signed by the Advisor, and shall be placed in the applicant file with a copy provided to the applicant.

**S. OTHER RELATED MATTERS:**

(a) **PROGRAM DOCUMENTS:** Prior to the Municipality's use of any documents listed below in connection with this Agreement, the Municipality shall submit the following to HCD for approval: Lead-Based Paint Notice of Evaluation And/Or Presumption, Lead-based Paint Notice of Hazard Reduction Activity, bid documents and solicitation documents for all services, construction contract, notice of commencement, release of liens, warranty, extermination contract, mortgage, promissory note, notice of future advance, and affidavits. The Municipality shall use the above documents as approved by HCD in connection with this Agreement. After the execution of this Agreement, the Municipality agrees to submit, in like manner, any other Program documents requested of it by HCD for review and approval.

(b) **DATE VALIDITY OF DOCUMENTS:** The below identified documents contained in applicant files at the time of funding approval by HCD shall be no more than six months old:

- Income verifications and income affidavits.
- Verification of real estate and mortgage liabilities.
- Evidence of owner's funding.

Note: Construction and extermination contractor's bid proposal validity date may be voluntarily extended by a letter from the contractor, and if not voluntarily extended by the contractor, the Municipality shall procure such services again through the bid process.

(c) **ADDITIONAL FUNDING:** The Municipality may request additional funding in excess of amounts approved by HCD for a project (such as for change orders), provided that the sum of additional funding and original project funding does not exceed the funding limit per applicant established in this Agreement. In its request, the Municipality shall identify the purpose of the additional funds and provide a detailed accounting of the items to be funded.

In the instance where such sum would exceed the funding limit per applicant established in this Agreement, the applicant shall be given the opportunity to make up any funding short fall, and if not made up by the applicant, the Municipality may request HCD for a waiver allowing the sum to exceed such limit. The approval of waivers, if recommended by HCD, shall be made by means of an amendment to this Agreement to be executed by the parties with the same formality as this Agreement. Waivers may be considered in connection with the need for additional funds arising from unforeseen conditions related to the construction rehabilitation at the property, or in connection with any other needs deemed appropriate by HCD and otherwise regarded as eligible program costs as identified herein.

All additional funds, not included in the mortgage and promissory note, and provided after the mortgage and promissory note have been executed, shall be secured by means of a notice of future advance and promissory note, before such funds are expended. The notice of future advance and a copy of the promissory note shall be promptly recorded by the Municipality in the public records of Palm Beach County.



- (d) **TERMINATION OF FUNDING:** The Municipality shall take steps to terminate funding and accelerate loan repayment during the rehabilitation process if:
- The applicant refuses or fails to allow the rehabilitation work to commence within thirty (30) days from construction contract award.
  - The applicant refuses or fails to allow completion of rehabilitation after commencement.
  - The applicant refuses to authorize payments associated with the project which have been deemed payable by HCD's Director.
  - An event of default occurs as specified in the mortgage or promissory note.
- The Municipality shall give the applicant notice of such termination and/or acceleration, as appropriate, with legal follow-up where necessary.
- (e) **SUBORDINATION OF MORTGAGE:** The Municipality shall establish a written policy for the future subordination of mortgages taken in connection with this Agreement provided that such policy aims at preserving homeownership, and provided that the execution of such subordination preserves or enhances the encumbered property's value, and that the execution of such subordination does not adversely affect the Municipality's financial interest in the rehabilitated property. **The provisions of this clause shall survive the expiration of this Agreement.**
- (f) **SATISFACTION OF MORTGAGE:** The Municipality shall issue the applicant a satisfaction of mortgage when the applicant has complied with all the terms and conditions contained in the mortgage and promissory note. Upon issuance, the Municipality shall record the satisfaction of mortgage in the public records of Palm Beach County and shall transmit the original to the applicant. The original recorded satisfaction of mortgage document shall be accompanied by the original mortgage and promissory note when transmitted to the applicant. **The provisions of this clause shall survive the expiration of this Agreement.**
- (g) **RETENTION OF APPLICANT FILES:** All applicant files (files for completed projects, files that are incomplete, and files for rejected applications) shall be retained by the Municipality for a period of five (5) years from the date of final closeout of the agreement between Palm Beach County Board of County Commissioners and the State of Florida for the 2005 Disaster Recovery Initiative Program, or the statutory required period (F.S. Chapter 119), whichever is longer. **The provisions of this clause shall survive the expiration of this Agreement.**

T. **SECTION 3 REQUIREMENTS:**

The Municipality agrees to comply with all Section 3 requirements applicable to contracts funded through this Agreement. Information on Section 3 is available at HCD upon request. The Municipality shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 covered project:

**Section 3 Clause**

- (a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's requirements in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers representative of the contractor's commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause,

upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

U. **REPORTS:**

The Municipality shall submit to HCD detailed monthly and semi-annual reports as described below:

- (a) **MONTHLY REPORT:** The Municipality shall submit to HCD detailed monthly progress reports in the form provided as Exhibit D to this Agreement. Each report must account for the total activity for which the Municipality is funded under this Agreement. The progress reports shall be used by HCD to assess the Municipality's progress in implementing the project.
- (b) **SEMI-ANNUAL REPORT:** The Municipality shall submit to HCD detailed semi-annual reports in the form provided as Exhibit E to this Agreement. During the term of this Agreement, the Municipality shall each 31<sup>st</sup> day of March submit such report for the prior six month period beginning on the preceding 1<sup>st</sup> day of October, and ending on said 31<sup>st</sup> day of March. In addition, during the term of this Agreement, the Municipality shall each 30<sup>th</sup> day of September submit such report for the prior six month period beginning on the preceding 1<sup>st</sup> day of April, and ending on said 30<sup>th</sup> day of September.

**The Municipality further agrees that HCD, in consultation with any parties it deems necessary, shall be the final arbiter on the Municipality's compliance with the above.**

II. **THE COUNTY AGREES TO:**

- A. Provide funding for the above specified activities during the term of this Agreement, as follows:
  - (a) An amount of \$975,000: For payment of rehabilitation construction costs and related expenses regarded as eligible under this Agreement (including lead-based paint expenditures such as the cost of inspections and risk assessments, abatement, and clearance testing).
  - (b) An amount of \$5,000: For temporary relocation costs to temporarily relocate the members of the household where rehabilitation is being performed. These costs shall include the cost of accommodations (hotel/motel) incurred while temporarily housing such household members away from the home being rehabilitated.
- B. Provide project administration and inspection to the Municipality to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced as determined by HCD and will serve to ensure compliance with State and U.S. Department of HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to HCD on program activities.
- D. The County shall perform an environmental review of each project, and review and approve all aspects and expenditures of each project as specified herein. The County shall also perform Davis Bacon Act Labor Standards monitoring and enforcement. Environmental review costs incurred by the County may be charged to the project budget identified above.



**EXHIBIT C**

**CATEGORICAL EXCLUSION SUGGESTED FORMAT  
SUBJECT TO §58.5**

**PROJECT NAME AND DESCRIPTION:** Include all contemplated actions which are either geographically and/or functionally part of the project.

**Location:** \_\_\_\_\_

**Activities included in project:** \_\_\_\_\_

This project is determined to be Categorically Excluded according to: [Cite section(s) and activities that are applicable] \_\_\_\_\_

**DIRECTIONS:** Once the review process for each compliance factor has been completed, the Statutory Checklist must then be filled out. Specifically, the RE must indicate whether the activity does or does not affect the resources under consideration. Consult the guidance provided in the table below or the web sites. If the project is found to require consultation with an outside agency and affects the resource in question, indicate **Status as A** on the worksheet and document what sources of information were used (information sources are provided in the guidance). If the activity triggers no formal compliance consultation procedures with the oversight agency, indicate the **Status as B**. Any compliance documentation should also be attached to the Checklist and included in the ERR.

**COMPLIANCE FACTORS:**

Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5	Status A/B	Compliance Documentation
<b>Historic Preservation</b> [36 CFR Part 800]		

Guidance: <http://www.hud.gov/offices/cpd/environment/review/historic.cfm>

<b>Floodplain Management</b> [Executive Order 11988; 24 CFR Part 55]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm>

<b>Wetland Protection</b> [Executive Order 11990; 3 CFR, §§ 2, 5]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm>

<b>Coastal Zone Management Act</b> [16 U.S.C. 1451, §§ 307(c), (d)]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/coastal.cfm>

Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5	Status A/B	Compliance Documentation
<b>Sole Source Aquifers</b> [40 CFR Part 149]		

Guidance: <http://www.hud.gov/offices/cpd/environment/review/aquifers.cfm>

<b>Endangered Species Act</b> [50 CFR Part 402]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/endangeredspecies.cfm>

<b>Wild and Scenic Rivers Act</b> [16 U.S.C. 1271, §§ 7(b), (c)]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/rivers.cfm>

<b>Clean Air Act</b> [40 CFR Parts 6, 51, 93]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/cleanair.cfm>

<b>Farmland Protection Policy Act</b> [7 CFR Part 658]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/farmlands.cfm>

<b>Environmental Justice</b> [Executive Order 12898]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/justice.cfm>

<b>Noise Abatement and Control</b> [24 CFR Part 51, Subpart B]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/noise.cfm>

<b>Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5</b>	<b>Status A/B</b>	<b>Compliance Documentation</b>
<b>Explosive and Flammable Operations</b> [24 CFR Part 51, Subpart C]		

Guidance: <http://www.hud.gov/offices/cpd/environment/review/explosive.cfm>

<b>Toxic Chemicals and Radioactive Materials</b> [24CFR Part 58, § 5(i)(2)]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/hazardous.cfm>

<b>Airport Clear Zones and Accident Potential Zones</b> [24 CFR Part 51, Subpart D]		
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Guidance: <http://www.hud.gov/offices/cpd/environment/review/airport.cfm>

**DETERMINATION:**

- This project converts to Exempt, per § 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license (Status "A" has been determined in the status column for all authorities).
- Funds may be drawn down for this (now) EXEMPT project; OR  
This project cannot convert to Exempt because one or more statutes/authorities require consultation or mitigation. Complete consultation/mitigation requirements, publish NOI/RROF and obtain Authority to Use Grant Funds (HUD 7015.16) per §§ 58.70 and 58.71 before drawing down funds; OR
- The unusual circumstances of this project may result in a significant environmental impact. This project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

**Subrecipient Name:** \_\_\_\_\_

**Prepared by:**

\_\_\_\_\_  
Name Signature Date

PALM BEACH COUNTY

DETERMINATION OF CATEGORICAL EXCLUSION SUBJECT TO 24 CFR PART 58.5  
24 CFR PART 58.35(a)

PROGRAM: 2005 DRI Program

FISCAL YEAR: FY07-08

APPLICANT/SITE LOCATION (INCLUDING MAP): \_\_\_\_\_

PCN: \_\_\_\_\_

I HEREBY CERTIFY THAT THE FOLLOWING ACTIVITY(S) HAVE BEEN REVIEWED AND DETERMINED CATEGORICAL EXCLUDED ACTIVITY PER 24 CFR 58.35 (a) AS FOLLOWS:

- \_\_\_\_\_ (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvement (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20% (e.g. replacement of water or sewer lines, reconstruction of curbs and sidewalks, paving of streets).
- \_\_\_\_\_ (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- \_\_\_\_\_ (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
  - (ii) In the case of multi-family residential buildings:
    - (A) Unit density is not changed more than 20%;
    - (B) The project does not involve changes in land use from residential to non- residential; and
    - (C) Estimated cost of rehabilitation is less than 75% of the total estimated cost of replacement after rehabilitation.
  - (iii) In the case of non-residential structures, including commercial industrial, and public buildings:
    - (A) Facilities and improvements are in place and will not be changed in size or capacity by more than 20%; and
    - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, of from one industrial use to another.
- \_\_\_\_\_ (4) (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
  - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
  - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- \_\_\_\_\_ (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- \_\_\_\_\_ (6) Combination of the above.

Subrecipient Name: \_\_\_\_\_

Prepared by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT D**

**PALM BEACH COUNTY**

**HOUSING & COMMUNITY DEVELOPMENT**

**MONTHLY NARRATIVE REPORT**

<b>Report For:</b>	Month: _____ Year: _____
<b>Subrecipient Name:</b>	City of Delray Beach
<b>Project Name:</b>	Housing Rehabilitation
<b>Report Prepared By:</b>	_____
	Name _____ Signature _____ Date _____

**BUDGETING AND EXPENDITURES**

Amounts Expended this Reporting Period: CDBG Funds:\$ \_\_\_\_\_ Other Funds:\$ \_\_\_\_\_

**Amounts Expended to Date:**

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ _____	\$ _____	%
Other Funds: _____	\$ _____	\$ _____	%
Other Funds: _____	\$ _____	\$ _____	%
<b>TOTAL:</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>%</b>

Describe any changes in budgeted amounts during this reporting period and the source of funds:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Describe your efforts to obtain any additional funds for the project during this reporting period (if your project is underfunded):

\_\_\_\_\_  
 \_\_\_\_\_

**PROJECT ACTIVITIES**

Describe your accomplishments during the reporting period:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Describe any problems encountered during this reporting period:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Other comments:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Send report to: Amin Houry  
 Department for Housing and Community Development  
 160 Australian Avenue, Suite 500, West Palm Beach, FL 33406

**EXHIBIT E**

**CONTRACTUAL OBLIGATIONS AND MBE REPORT**

<b>Project Name:</b>	City of Delray Beach - Housing Rehabilitation	<b>Report Date:</b>		<b>Page</b> ___ <b>of</b> ___ <b>Pages</b>
<b>Report Period:</b>	[ ] October 1, 200___, to March 31, 200___	[ ] April 1, 200___, to September 30, 200___	<b>Prepared By:</b>	

(1) Contractor/Subcontractor name and address (fill in for each contractor or subcontractor) Include all professional services such as consultants, engineers, architects, etc. that are funded under the agreement for this project. All contractors and subcontractors (with contracts over \$10,000) that are paid with CDBG funds must be included. Do not list previously reported information.	(2) Prime Contractor Employer Identification Number*	(3) Subcontractor Employer Identification Number* (see below)	(4) Contract Period		(5) Amount of Contract or Subcontract	(6) Type of Trade (1 thru 3) (see below)	(7) Contractor or Subcontractor Racial/Ethnic Code (1 thru 7) (see below)	Procurement Compliance Checklist				
			(a) Start Date	(b) End Date				(8) Section 3 (yes or no)	(9) WBE (yes or no)	(10) Small Business (yes or no)	(11) Davis Bacon (yes or no)	(12) Type of Procurement (see below)
Name: Street: City: State& Zip Code:												
Name: Street: City: State& Zip Code:												
Name: Street: City: State& Zip Code:												
Name: Street: City: State& Zip Code:												
Name: Street: City: State& Zip Code:												
(3) When subcontractor employer identification number is used, information in columns 4 through 11 must reflect the subcontractor information, not the prime contractor's information; also include the prime contractor's employer identification number.  * Employer identification number or social security number		(6) Type of Trade Codes: 1 = New construction (including rehab, water, and sewer) 2 = Education/Training 3 = Other (including supply, professional services and other activities except construction and education/training)	(7) Racial/Ethnic Code: 1 = White American    5 = Asian/Pacific American 2 = Black American    6 = Hasidic Jews 3 = Native American    7 = Other 4 = Hispanic American (9) WBE = Women Business Enterprise				(12) Type of Procurement Code: CB = Competitive Bid E = Emergency Purchase CN = Competitive Negotiation NC = Non-Competitive Negotiation SP = Small Purchase					