

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: June 7, 2011 Consent Regular
 Ordinance Public Hearing

Department: Housing & Community Development

Submitted By: Housing & Community Development

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Amendment No. 001 to an Agreement with the West Palm Beach Housing Authority to correct a scrivener's error.

Summary: The Agreement provides the West Palm Beach Housing Authority \$2,471,537.65 for hurricane hardening improvements at their Twin Lakes Housing Complex and Colony Oaks Apartment Complex. These are 2005 Disaster Recovery Initiative (DRI) - Supplemental Appropriation funds. The Amendment corrects a numerical error in the funding amount to account for recording fees that were expended but not reflected in the funding amount. **These are Federal Community Development Block Grant (DRI) funds which require no local match.** (CREIS) Districts 6 and 7 (TKF)

Background and Justification: The County entered into an Agreement with the West Palm Beach Housing Authority on December 7, 2010, to provide funding for hurricane hardening at their Twin Lakes Apartment Complex and Colony Oaks Apartment Complex. Work at the Twin Lakes Apartment Complex (120 units) will include the installation of impact resistant windows and doors, site lighting and an emergency generator. Work at the Colony Oaks Apartment Complex (44 units) will include the installation of impact resistant windows and doors, new roofs, and new site lighting.

Funding for this project is provided under the 2005 Disaster Recovery Initiative (DRI) Program - Supplemental Appropriation. The DRI Program provides funds made available to the Florida Department of Community Affairs (DCA) by the U.S. Department of Housing and Urban Development Community Development Block Grant Program (CDBG) 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 w/ West Palm Beach Housing Authority
2. Agreement with West Palm Beach Housing Authority with Exhibits A - D

Recommended By: Edward P. Fournier 5/19/2011
 Department Director Date

Approved By: Sharon Q. Boye 5/30/2011
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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Is Item Included In Current Budget? Yes _____ No _____
 Budget Account No.:

Fund _____ Depart _____ Unit _____ Object _____ Program Code/Period _____

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

No Fiscal Impact

C. Departmental Fiscal Review: Shairrette Major 5-18-11
 Shairrette Major, Fiscal Manager I

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:
 No net fiscal impact. Replaced \$2,471,592.85 with \$2,471,537.65.
 Grant funds, no local match.

[Signature] 5/25/11
 OFMB
 5/25/11

[Signature] 5/26/11
 Contract Development and Control

B. Legal Sufficiency:

This amendment complies with our review requirements.

[Signature] 5/27/11
 Senior Assistant County Attorney

C. Other Department Review:

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)

**AMENDMENT 001 TO THE AGREEMENT
WITH
WEST PALM BEACH HOUSING AUTHORITY**

Amendment 001 entered into this ____ day of _____, 2011, by and between Palm Beach County and the West Palm Beach Housing Authority

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement with the West Palm Beach Housing Authority, on December 7, 2010, to provide Community Development Block Grant funds for hurricane hardening of housing units at the Colony Oaks Apartment Complex and the Twin Lakes Housing Development, and

WHEREAS, the parties wish to modify the Agreement, and

WHEREAS, both parties mutually agree that the Agreement entered into on December 7, 2010, is hereby amended as follows:

Exhibit A - Section III - THE COUNTY AGREES TO:

Replace "\$2,471,592.85" with "\$2,471,537.65"

NOW THEREFORE, 1) all items in the previous Agreement in conflict with this Amendment shall be and are hereby changed to conform to this Amendment, and 2) 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.

(AGENCY SEAL BELOW)

WEST PALM BEACH HOUSING AUTHORITY

By: *Thyra Echols Starr*
Thyra-Echols-Starr, Chair

By: *Laurel Robinson*
Laurel Robinson, Executive Director

(COUNTY SEAL BELOW)

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

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____
Karen Marcus, Chair
Board of County Commissioners

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: _____
Journey Beard, Director of Contract
Development and Quality Control

AGREEMENT BETWEEN PALM BEACH COUNTY

AND

WEST PALM BEACH HOUSING AUTHORITY

DEC 07 2010

THIS AGREEMENT, entered into this _____ day of _____, 20____, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and the West Palm Beach Housing Authority, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 1715 Division Avenue, West Palm Beach, FL 33407, and its Federal Tax Identification number as 201690648.

WHEREAS, Palm Beach County has entered into a Contract # 08DB-D3-10-60-01-A07 with the State of Florida, Department of Community Affairs, in connection with the State's 2005 Disaster Recovery Initiative Program - Supplemental Appropriation 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 West Palm Beach Housing Authority was allocated certain funds under said Contract to implement specified activities under the 2005 Disaster Recovery Initiative Program - Supplemental Appropriation; and

WHEREAS, Palm Beach County desires to engage the West Palm Beach Housing Authority 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) "Agency" means the West Palm Beach Housing Authority.
- (5) "State" means the State of Florida, Department of Community Affairs.
- (6) "Contract" means Contract #08DB-D3-10-60-01-A07 between Palm Beach County and the State of Florida, Department of Community Affairs.
- (6) "HCD Approval" means the written approval of the HCD Director or his designee.
- (7) "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 Agency will implement the Scope of Services set forth in Part II of this Agreement.

3. APPLICABLE CONDITIONS

The Agency 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 Agency, shall not relieve the Agency 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 Agency of any such applicable regulation, statute, ordinance, or any other document, and to require the Agency 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 Agency 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 Agency 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 Agency under this Agreement. 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 \$2,471,537.65 (more specifically detailed in Exhibit A hereto) for the period of October 23, 2010, through and including October 22, 2011. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

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 # 08DB-D3-10-60-01-A07, and any amendments thereto. If funds cease to be available under said Contract, the County shall be relieved from providing funds under this Agreement. The effective date shall be the date of execution of this Agreement, and the services of the Agency 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 Agency prior to October 22, 2011.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Agency for all budgeted costs permitted by Federal, State, and County guidelines. The Agency shall not request reimbursement for payments made by the Agency 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 Agency or any subcontractors hereunder. The Agency 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 Agency may furnish copies if deemed acceptable by HCD. Each request for payment or reimbursement submitted by the Agency shall be accompanied by a letter from the Agency, provided on the Agency's letterhead, referencing the name of the project funded herein, the date of this Agreement and/or its document number, and containing a statement requesting the payment or reimbursement and its amount, as well as the name and signature of the person making the request. 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 Agency may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Agency 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 Agency 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 Agency 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 Agency 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.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

(2) FINANCIAL ACCOUNTABILITY

The County may have a financial systems analysis and/or an audit of the Agency, 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 Agency 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-110, A-122, and 24CFR Part 84, 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 Agency 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 Agency 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. Such income shall only be used to undertake the activities authorized by this Agreement. Accounting and disbursement of such income shall comply with OMB Circular A-110 and other applicable regulations incorporated herein by reference.

PART IV

GENERAL CONDITIONS

1. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The Agency agrees that no person shall on the ground of race, color, disability, national origin, religion, age, financial status, familial status, marital status, sexual orientation, gender, or gender identity or expression, 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 Agency 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 Agency 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

At least fifty-one percent (51%) of the beneficiaries of the project funded through this Agreement must be low- and moderate- income persons. The project funded under this Agreement shall assist the above beneficiaries for the time period designated in this Agreement and its exhibits. The Agency shall maintain documentation in its files demonstrating that it has met the above requirement and provide written verification of compliance to HCD upon HCD's request

4. EVALUATION AND MONITORING

The Agency 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 Agency 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 Agency shall submit status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Agency shall provide information as requested by HCD to enable HCD to complete reports required by the County, the State, or HUD. The Agency shall allow HCD, the County, or HUD to monitor the Agency 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, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Agency to HCD, the County, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

If during the year, the Agency expends over \$500,000 of Federal awards, the Agency shall comply with the provisions of OMB Circular A-133. The Agency shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within the earlier of, 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which HCD-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the Agency's choosing, subject to the County's approval. In the event the Agency anticipates a delay in producing such audit, the Agency shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Agency. In the event the Agency is exempt from having an audit conducted under A-133, the Agency shall submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Agency as defined by A-133. The County will be responsible for providing technical assistance to the Agency, as deemed necessary by the County.

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6. UNIFORM ADMINISTRATIVE REQUIREMENTS

The Agency 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 Agency 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 Agency'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 Agency 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 Agency for the purpose of this Agreement shall be made available to the County by the Agency 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 Agency shall keep all documents and records for six (6) years after expiration of this Agreement. Notwithstanding any other provision in this Agreement, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of Inspector General Ordinance 2009-049, as may be amended.

9. INDEMNIFICATION

The Agency shall protect, defend, reimburse, indemnify and hold the County and the State, their agents, their employees and elected officers harmless from and against any and all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during the performance of the terms of this Agreement, or due to the acts or omissions of the Agency. Agency's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. The Agency will hold the County harmless and will 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 Agency.

10. INSURANCE

Unless otherwise specified in this Agreement, the Agency shall, at its sole expense, maintain in full force and effect at all times during the life of this Agreement, insurance coverages, limits, including endorsements, as described herein. The requirements contained herein as to types and limits, as well as the County's review or acceptance of insurance maintained by the Agency, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Agency under this Agreement.

(1) COMMERCIAL GENERAL LIABILITY

The Agency shall agree to maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by the County's Risk Management Department. The Agency agrees this coverage shall be provided on a primary basis.

(2) BUSINESS AUTOMOBILE LIABILITY

The Agency shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event the Agency does not own any automobiles, the Business Auto Liability requirement shall be amended allowing the Agency to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. The Agency shall agree this coverage shall be provided on a primary basis.

(3) WORKERS COMPENSATION INSURANCE

The Agency shall agree to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. The Agency agrees this coverage shall be provided on a primary basis.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

- (4) ADDITIONAL INSURED
The Agency shall agree to endorse the County as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Housing and Community Development". The Agency shall agree the Additional Insured endorsements provide coverage on a primary basis.
- (5) CERTIFICATE OF INSURANCE
The Agency shall agree to deliver to the County a certificate(s) of insurance evidencing the required insurance is in full force and effect within thirty (30) calendar days prior to the execution of this Agreement by the County. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be included on the certificate(s). The Agency shall deliver the certificate(s) to HCD at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406.
- (6) RIGHT TO REVIEW AND ADJUST
The Agency shall agree that the County, by and through its Risk Management Department, in cooperation with the Department of Housing and Community Development, reserves the right to periodically review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this Agreement. The County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.
11. MAINTENANCE OF EFFORT
The intent and purpose of this Agreement is to increase the availability of the Agency's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Agency. The Agency 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 Agency 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 Agency. Any possible conflict of interest on the part of the Agency 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 target area.
13. CITIZEN PARTICIPATION
The Agency 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 Agency is undertaking in carrying out the provisions of this Agreement. Representatives of the Agency 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 Agency will include a reference to the financial support herein provided by HCD in all publications and publicity. In addition, the Agency 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-110, A-122, A-133, and 24CFR Part 84
 - (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;

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- (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 Agency's personnel policies and job descriptions;
- (10) The Agency's incorporation Certificate and Articles of Incorporation;
- (11) The Agency's By-laws;
- (12) The Agency's Certificate of Insurance;
- (13) Current list of the Agency's officers and members of its Board of Directors; and (14) Proof of the Agency's 501(c)(3) certification from the Internal Revenue Service.
- (15) Contract #08DB-D3-10-60-01-A07 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 Agency 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 Agency with funds under this Agreement shall be returned to HCD or the County.

In the event of termination, the Agency 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 Agency, and the County may withhold any payment to the Agency for set-off purposes until such time as the exact amount of damages due to the County from the Agency 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 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 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Agency when delivered to its office at the address listed on page one (1) of this Agreement.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

20. INDEPENDENT AGENT AND EMPLOYEES

The Agency 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 Agency 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. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Pursuant to Ordinance No. 2009-049, Palm Beach County has established the Office of the Inspector General, which is authorized and empowered to review past, present and proposed County agreements, contracts, transactions, accounts and records. All parties doing business with the County and receiving County funds, including the Agency, shall fully cooperate with the Inspector General. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and to audit, investigate, monitor, and inspect the activities of the Agency, its officers, agents, employees, and lobbyists in order to ensure compliance with this Agreement and to detect waste, corruption and fraud.

24. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of twenty one (21) 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.

25. 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.

DEC 07 2010

WITNESS our Hands and Seals on this _____ day of _____, 20____.

(AGENCY SEAL BELOW)

WEST PALM BEACH HOUSING AUTHORITY

BY: Thyra Echols Starr
Thyra Echols-Starr, Chairperson

BY: Laurel Robinson
Laurel Robinson, Executive Director

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

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: Shannon R. LaRocque-Bass
Shannon R. LaRocque-Bass, P.E.
Assistant 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: Amir Houry
Amir Houry, Manager
Housing and Capital Improvements

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EXHIBIT A
WORK PROGRAM NARRATIVE

I. THE PARTIES AGREE THAT:

A. **AGREEMENTS:** The project contained in this Agreement is a continuation of the projects contained in two prior agreements between the Agency and the County (R2009-0995 and R2009-0996) both dated April 1, 2009, (collectively hereinafter the "First Agreements") and a continuation the project contained in an agreement dated June 22, 2010 (hereinafter the "Second Agreement"). The terms and conditions of said First Agreements and Second Agreement are incorporated herein by reference. The hurricane protection and storm mitigation projects contained in the First Agreements were combined into one project to be undertaken at two sites as delineated in the Second Agreement. This Agreement continues the implantation of the combined hurricane protection and storm mitigation project to be undertaken at the two sites, and incorporates additional work comprising the provision of site lighting and an emergency generator into the project as further described below. As such, the parties agree that the project to be undertaken under this Agreement has three components as follows:

- Hurricane protection and storm mitigation at Colony Oaks and Twin Lakes.
- Site lighting at Colony Oaks and Twin Lakes.
- An emergency generator at Twin Lakes.

Furthermore, the parties agree that the two project budgets established in the First Agreements and the Second Agreement are hereby combined into one budget to enable the implementation of the three aforesaid project components, provided, however, that the Agency maintain records of expenditures separately for each component and for each of the aforesaid sites.

B. **ELIGIBLE PAYMENTS AND/OR REIMBURSEMENTS:** All payments and/or reimbursements deemed eligible under the First Agreements and the Second Agreement shall be eligible under this Agreement.

C. **PROJECT ACCOMPLISHMENTS:** The project requirements contained in the First Agreements and the Second Agreement are repeated herein in substantial form. Changes have been made in order to update these requirements for this Agreement. The parties recognize that the following project activities have been accomplished, and where indicated below, the County has paid and/or reimbursed the Agency for such project activities:

- (a) The Agency has solicited bids for the hurricane protection and storm mitigation component of the project. HCD and the State have both approved the award of the construction contract. The Agency has executed the construction contract for this work with E. O. Koch Construction Co.
- (c) The County has procured an asbestos survey for the Colony Oaks property. HCD paid \$2,184.80 for this asbestos survey, and \$2,184.80 was deducted from the Colony Oaks project budget. The County procured and paid for an asbestos survey (\$2,616.75) and a lead based paint assessment (\$5,805.60) for the Twin Lakes properties. Therefore, \$8,422.35 was deducted from the project budget for the Twin Lakes project budget. Recording fees of \$27.60 for each property were also charged to the project budget.
- (d) The Agency has provided HCD with a copy of the General Information Notice referred to in Note 1, of Section I.B, of Exhibit A, of the First Agreements.

II. THE AGENCY AGREES TO:

A. **PROJECT SCOPE :**

(a) **Hurricane protection and storm mitigation at Colony Oaks and Twin Lakes:**

The scope of this component of the project, subject to funding availability, shall include improvements to achieve hurricane protection and storm mitigation at the following two locations:

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

- **Colony Oaks:** Located on North Haverhill Road consisting of 11 buildings that contain 44 dwelling units.
 - The installation of hurricane protection measures including the replacement of windows and exterior doors (including repairs required from the installations), and new roofs at designated units.
 - The replacement of roof air conditioning units at designated buildings where such air conditioning units are not attached according to code (that is, they are not able to withstand hurricane level winds).
 - The reconstruction of building fronts (facade walls) at selected units to ensure proper hurricane rated installations and proper anchorage between these walls and the building roofs and slabs.

- **Twin Lakes:** Located in the Roosevelt Estates Subdivision and consisting of 74 buildings that contain 120 dwelling units. (28 single family homes and 46 duplexes).
 - The installation of hurricane protection measures including impact resistant windows and exterior doors, and repairs to wall sections impacted by the new installations.

Should the execution of the work specified above in the scope of this project reveal the need for work, on any of the above mentioned buildings, that is other than that described above, as determined by the building department(s) with jurisdiction, then the Agency shall pay for all such other work that is not in the scope of this project.

NOTE 1: The Agency hereby declares that all of the housing units at Colony Oaks and Twin Lakes are occupied by residential tenants of the Agency, and that the Agency does not anticipate that any of these tenants will be temporarily or permanently displaced as a result of the construction work being funded under this Agreement. The Agency acknowledges that the funds made available under this Agreement are Federal CDBG funds, and that the use of these funds for the project described herein renders the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) applicable to this project. Should the construction work being funded under this Agreement cause the temporary or permanent displacement of any tenant of the Agency, then the Agency shall provide each such tenant with relocation assistance as required by the URA, document its files accordingly, and provide HCD copies of such documents. All such relocation assistance payments shall be paid by the Agency from its own resources. The Agency understands, that should the temporary or permanent displacement of any tenant become necessary, then HCD may withhold its final payment under this Agreement until HCD is assured that the Agency has complied with URA.

NOTE 2: The Agency shall assure that neither the prime contractor nor any subcontractor working on this component of the project shall be allowed to perform one hundred percent (100%) of their work on this project on nights, weekends, or County recognized holidays, and shall assure that the prime contractor and all subcontractors shall, at a minimum, perform work for the duration of one regular working day. The Agency may request HCD for a waiver to the above requirement should the nature of the project so necessitate, and in such instance, HCD may, at its discretion, grant the Agency such waiver.

NOTE 3: The Agency shall not award the construction contract for this component of the project until sufficient funding is available to complete the established scope of work. All the work related to this component of the project shall be included in one construction contract. After awarding such contract, the Agency shall obtain HCD approval prior to executing any change orders to such contract. Furthermore, after awarding the construction contracts, the Agency shall provide HCD with a copy of the executed contract, and within thirty (30) days from the execution of the construction contract, the Agency shall provide HCD with a copy of the prime contractor's schedule for the completion of the construction work under the contract.

NOTE 4: Should the construction contract amount for this component of the project exceed the amount to be funded by the County for construction costs through this Agreement, then the Agency shall fund all amounts in excess of the amount to be funded by the County. The Agency shall not request the County for reimbursement of any of the County's funds for construction costs until after it has expended all amounts in excess of the amount to be funded by the County.

NOTE 5: The Agency shall not request reimbursement from HCD for materials or equipment received and stored on the project site or elsewhere. The Agency shall only request reimbursement for materials and equipment that have been installed.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

NOTE 6: Upon completion of the project, the Agency shall cause its architectural/engineering consultant to provide HCD a written certification. Such certification shall indicate that the project has met the specifications of the design, as may have been amended by change order, and the date of completion of construction.

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

(b) Site lighting at Colony Oaks and Twin Lakes:

The scope of this component of the project, subject to funding availability, shall include site improvements at the following two locations:

- **Colony Oaks:**
 - The removal of existing damaged exterior site lighting at the Colony Oaks property on North Haverhill Road and the installation of new hurricane resistant exterior site lighting.
- **Twin Lakes:**
 - The removal of existing damaged exterior site lighting at the Twin Lakes property in the Roosevelt Estates Subdivision and the installation of hurricane resistant site lighting.

NOTE 1: Should the Agency use brand names in the bid package/drawings/specifications for this component of the project then these documents must:

- Clearly note that the specified brand name is used for descriptive purposes only, and
- State that "equal" equipment or materials will be accepted, and
- Identify the minimum requirements to establish equality.

The Agency understands that the use of more than one brand name shall not be regarded as having met the above requirements.

NOTE 2: The Agency shall submit its bid package (drawings/specifications and instructions to bidders) for this component of the project, and an itemized opinion of probable construction cost prepared by its consultant, to HCD and obtain a letter of approval prior to bidding the construction work. In submitting the bid package to HCD, the Agency shall also demonstrate that it has submitted its drawings/specifications to the City of West Palm Beach building department for plan review, and that these drawings/specifications comply with all applicable building and zoning codes. Furthermore, the Agency shall obtain HCD approval prior to issuing any addenda to its bid documents for this component of the project.

NOTE 3: The Agency shall prioritize the work in this component of the project, and shall bid such work in a manner that would allow the receipt of itemized costs from bidders which would then allow the award of items that can be funded by the budget provided that the extent of work awarded will result in a functioning facility in the opinion of HCD.

NOTE 4: The Agency shall assure that neither the prime contractor nor any subcontractor shall be allowed to perform one hundred percent (100%) of their work on this component of the project on nights, weekends, or County recognized holidays, and shall assure that the prime contractor and all subcontractors shall, at a minimum, perform work on this project for the duration of one regular working day. The Agency may request HCD for a waiver to the above requirement should the nature of the project so necessitate, and in such instance, HCD may, at its discretion, grant the Agency such waiver.

NOTE 5: The Agency shall not award the construction contract for this component of the project until sufficient funding is available to complete the established scope of work. All construction work shall be included in one contract. The Agency shall obtain HCD approval prior to awarding the construction contract to be funded through this Agreement. After awarding such contract, the Agency shall obtain HCD approval prior to executing any change orders to such contract.

NOTE 6: Should the construction contract amount for this component of the project exceed the amount to be funded by the County for construction costs through this Agreement, then the Agency shall fund all amounts in excess of the amount to be funded by the County. The Agency shall not request the County for reimbursement of any of the County's funds for construction costs until after it has expended all amounts in excess of the amount to be funded by the County.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

NOTE 7: The Agency shall not request reimbursement from HCD for materials or equipment received and stored on the project site or elsewhere. The Agency shall only request reimbursement for materials and equipment that have been installed.

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

(c) An emergency generator at Twin Lakes:

The scope of this component of the project, subject to funding availability, shall include an emergency generator at the following location:

● Twin Lakes:

- The supply and installation of an emergency generator at the community center at the Twin Lakes property in the Roosevelt Estates Subdivision.

Should the execution of the work specified above in the scope of this project reveal the need for work on the community center that is other than that described above, as determined by the building department(s) with jurisdiction, then the Agency shall pay for all such other work that is not in the scope of this component of the project.

NOTE 1: Should the Agency use brand names in the bid package/drawings/specifications for this component of the project then these documents must:

- Clearly note that the specified brand name is used for descriptive purposes only, and
- State that "equal" equipment or materials will be accepted, and
- Identify the minimum requirements to establish equality.

The Agency understands that the use of more than one brand name shall not be regarded as having met the above requirements.

NOTE 2: The Agency shall submit its bid package (drawings/specifications and instructions to bidders) for this component of the project, and an itemized opinion of probable construction cost prepared by its consultant, to HCD and obtain a letter of approval prior to bidding the construction work. In submitting the bid package to HCD, the Agency shall also demonstrate that it has submitted its drawings/specifications to the City of West Palm Beach building department for plan review, and that these drawings/specifications comply with all applicable building and zoning codes. Furthermore, the Agency shall obtain HCD approval prior to issuing any addenda to its bid documents for this component of the project.

NOTE 3: The Agency shall prioritize the work in this component of the project, and shall bid such work in a manner that would allow the receipt of itemized costs from bidders which would then allow the award of items that can be funded by the budget provided that the extent of work awarded will result in a functioning facility in the opinion of HCD.

NOTE 4: The Agency shall assure that neither the prime contractor nor any subcontractor shall be allowed to perform one hundred percent (100%) of their work on this component of the project on nights, weekends, or County recognized holidays, and shall assure that the prime contractor and all subcontractors shall, at a minimum, perform work on this project for the duration of one regular working day. The Agency may request HCD for a waiver to the above requirement should the nature of the project so necessitate, and in such instance, HCD may, at its discretion, grant the Agency such waiver.

NOTE 5: The Agency shall not award the construction contract for this component of the project until sufficient funding is available to complete the established scope of work. All construction work shall be included in one contract. The Agency shall obtain HCD approval prior to awarding the construction contract to be funded through this Agreement. After awarding such contract, the Agency shall obtain HCD approval prior to executing any change orders to such contract.

NOTE 6: Should the construction contract amount for this component of the project exceed the amount to be funded by the County for construction costs through this Agreement, then the Agency shall fund all amounts in excess of the amount to be funded by the County. The Agency shall not request the County for reimbursement of any of the County's funds for construction costs until after it has expended all amounts in excess of the amount to be funded by the County.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

NOTE 7: The Agency shall not request reimbursement from HCD for materials or equipment received and stored on the project site or elsewhere. The Agency shall only request reimbursement for materials and equipment that have been installed.

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

- B. ASBESTOS REQUIREMENTS: The Agency shall comply with all applicable requirements contained in Exhibit D, attached hereto, for construction work in connection with the project funded through this Agreement.
- C. DAVIS-BACON ACT: The Agency shall request the County to obtain a Davis-Bacon wage decision for the project prior to advertising the construction work. The Agency shall incorporate a copy of the Davis-Bacon wage decision and disclose the requirements of the Davis-Bacon Act in its construction bid solicitation and contract.
- D. INCOME QUALIFICATIONS AND OCCUPANCY REQUIREMENTS: The Agency assures the County that, in connection with the project to be funded through this Agreement, it is a public housing agency (a Public Housing Authority) funded by U.S. HUD. The Agency acknowledges that as such, it must comply with certain U.S. HUD requirements including income qualifying the occupants of the housing units at Colony Oaks and Twin Lakes Apartments according to U.S. HUD income guidelines. As a public housing agency funded by U.S. HUD, the Agency warrants to the County that it meets the below stated occupancy requirements without further documentation to be submitted to the County in connection with this Agreement.

During the term of this Agreement, the Agency shall assure that at least fifty-one percent (51%) of the dwelling units found in the Colony Oaks and Twin Lakes Apartments must be occupied by low income households whose household incomes are at 80%, or less, 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.

Nevertheless, should the County and/or the State wish to verify the Agency's records in connection with its compliance with the above stated occupancy requirements, then the Agency shall allow the County and/or the State to examine the Agency's records as provided for herein. The Agency's failure to comply with its above obligations, may be regarded as a basis for termination of this Agreement, and may be regarded as a default under the Declarations of Restriction attached hereto. In the event of a default under the Declaration of Restrictions, Agency shall pay to County an amount equal to the amount of funds expended by County on the location which is the subject of the default.

- E. BONDING REQUIREMENTS: The Agency shall comply with the requirements of OMB Circular A-110 and 24 CFR Part 84 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$100,000, the Agency shall require a bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$100,000, the Agency shall also require a performance bond on the part of the contractor for 100 percent (100%) of the contract price and a payment bond on the part of the contractor for 100 percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. All bonds shall be executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida. The Agency may follow its own requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of \$100,000, or less.
- F. CONSTRUCTION PAYMENT RETAINAGE: The Agency shall apply a retainage of at least 5% on all construction draws which retainages shall be released in conjunction with the final draw upon satisfactory completion of the project. The Agency agrees not to release such retainages until it has obtained approval from the County that the contractor and subcontractors have complied with the requirements of the Davis-Bacon Act.
- G. FORMER PROJECTS: The Agency shall maintain all previously completed CDBG funded projects. Failure to do so will result in forfeiture of future CDBG funds and will delay funding for ongoing activities.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

- H. WORK SCHEDULE: The time frame for completion of the outlined activities shall be October 22, 2011.
- I. REPORTS: The Agency shall submit to HCD reports as described below:
- (a) **MONTHLY REPORT**: The Agency shall submit to HCD detailed monthly progress reports in the form provided as Exhibit B to this Agreement. Each report must account for the total activity for which the Agency is funded under this Agreement. The progress reports shall be used by HCD to assess the Agency's progress in implementing the project.
 - (b) **SEMI-ANNUAL REPORT**: The Agency shall submit to HCD detailed semi-annual reports in the form provided as Exhibit C to this Agreement. During the term of this Agreement, the Agency shall each 31st day of March submit such report for the prior six month period beginning on the preceding 1st day of October, and ending on said 31st day of March. In addition, during the term of this Agreement, the Agency shall each 30th day of September submit such report for the prior six month period beginning on the preceding 1st day of April, and ending on said 30th day of September.
 - (c) **OTHER REPORTS**: The Agency 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.
- J. USE OF THE PROJECT FACILITY: The parties recognize in regard to the use of the facilities whose acquisition or improvements are being funded in part or in whole by CDBG funds as provided by this Agreement, that the Agency has executed a Declaration of Restrictions (recorded at Page 1419, Book 24022 of the Public Records of Palm Beach County) securing \$432,080 in connection with funding made available for Colony Oaks, and has executed a Declaration of Restrictions (recorded at Page 1427, Book 24022 of the Public Records of Palm Beach County) securing \$2,050,120 in connection with funding made available for Twin Lakes. The parties also recognize that these amounts were established at the time they entered into the First Agreements and the Second Agreement, and that the actual amount associated with the Colony Oaks and Twin Lakes may vary as a result of the expansion of the project and the inclusion of the three aforementioned project components. The parties further recognize that the final amount associated Colony Oaks and Twin Lakes will be determined at a later date upon the completion of work on these three project components. Upon determination of such final amounts, the Agency agrees to diligently cooperate with the County, if requested by the County, to modify the afore stated Declarations of Restrictions such that they secure such final amounts.
- K. SECTION 3 REQUIREMENTS: The Agency 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 Agency 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. 170 1u (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.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

- (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.

III. THE COUNTY AGREES TO:

- A. Provide funding for the above specified improvements as described above in "Project Scope", during the term of this Agreement, in the amount of \$2,471,592.85. However, the County shall not provide any funding for the construction work until the Agency provides documentation showing that sufficient funds are available to complete the project. 
- B. Provide project administration and inspection to the Agency to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Agency at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HCD, be conducted by HCD staff or its contractor, 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 the project, and review and approve project design and bids submitted for the work. 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.
- E. Allowable costs that may be paid by the County under this Agreement in addition to those stated in II.A above:
 - (a) Costs of asbestos surveys, asbestos abatement, and abatement monitoring.
 - (b) Costs of any other services customarily associated with projects of the nature of the project contemplated by this Agreement.

The County shall review requests by the Agency for expenditures on the above items prior to undertaking the services associated with them, and approve any such expenditures it deems appropriate for this project.

EXHIBIT B

PALM BEACH COUNTY

HOUSING & COMMUNITY DEVELOPMENT

MONTHLY NARRATIVE REPORT

Report For:	Month: _____ Year: _____		
Sub-Recipient Name:	WEST PALM BEACH HOUSING AUTHORITY		
Project Name:	Colony Oaks and Twin Lakes Hurricane Hardening		
Report Prepared By:	_____ 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:_____	\$ _____	\$ _____	%
TOTAL:	\$ _____	\$ _____	%

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
 100 Australian Avenue, Suite 500, West Palm Beach, FL 33406
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WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

EXHIBIT C

PALM BEACH COUNTY

HOUSING & COMMUNITY DEVELOPMENT

CONTRACTUAL OBLIGATIONS AND MBE REPORT

Project Name:	WEST PALM BEACH HOUSING AUTHORITY - Colony Oaks and Twin Lakes	Report Date:		Page ____ of ____ Pages
Report Period:	[] October 1, 200__, to March 31, 200__.	[] April 1, 200__, to September 30, 200__.	Prepared By:	

(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) Amount of Contract or Subcontract	(5) Type of Trade Code (1 thru 3) (see below)	(6) Contractor or Subcontractor Racial/Ethnic Code (1 thru 6) (see below)	(7) WBE (yes or no)	(8) Section 3 (yes or no)
Name: Street: City: State & Zip Code:							
Name: Street: City: State & Zip Code:							
Name: Street: City: State & Zip Code:							
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Name: Street: City: State & Zip Code:							
(3) When subcontractor employer identification number is used, information in columns 4 through 8 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			(5) 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)	(6) Racial/Ethnic Code: 1 = White American 4 = Hispanic American 2 = Black American 5 = Asian/Pacific American 3 = Native American 6 = Hasidic Jews (7) WBE = Women Business Enterprise			

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EXHIBIT D

ASBESTOS REQUIREMENTS
SPECIAL CONDITIONS FOR DEMOLITION AND RENOVATION OF BUILDINGS

The provisions of this part apply to all demolition and renovation work contemplated in this Agreement and described in Exhibit A of this Agreement.

I. DEFINITIONS

ACBM: Asbestos Containing Building Materials
AHERA: Asbestos Hazard Emergency Response Act
EPA: Environmental Protection Agency
FLAC: Florida Licensed Asbestos Consultant
HCD: Palm Beach County Department of Housing and Community Development
NESHAP: National Emission Standards for Hazardous Air Pollutants
NRCA: National Roofing Contractors Association
NVLAP: National Voluntary Laboratory Accreditation Program
OSHA: Occupational Health and Safety Administration
PBCAC: Palm Beach County Asbestos Coordinator (in Risk Management)
TEM: transmission electron microscopy

II. ASBESTOS SURVEYS

All properties scheduled for renovation or demolition are required to have a comprehensive asbestos survey conducted by a Florida Licensed Asbestos Consultant ,(FLAC). The survey shall be conducted in accordance with AHERA guidelines. Analysis must be performed by a NVLAP accredited laboratory.

For Renovation Projects (projects which will be reoccupied):

- Point counting must be done for all asbestos containing building materials (ACBM) indicating less than 1% asbestos (to determine if any asbestos is present).
- Samples of vinyl floor tile indicating asbestos not detected must be confirmed by transmission electron microscopy (TEM).
- Joint compound shall be analyzed as a separate layer.
- Roofing material shall be sampled only if a renovation requires the roof to be disturbed (in lieu of sampling the roof, it may be presumed to contain asbestos).

For Demolition Projects:

- Point counting must be done for all "friable" asbestos containing building materials (ACBM), indicating less than 1% asbestos. This includes joint compounds (to be analyzed as a separate layer), and vinyl asbestos tile.
- Roof materials shall be presumed to be asbestos containing.

If the Agency has a recent asbestos survey report prepared by a licensed asbestos consultant, a copy may be provided to HCD and PBCAC for review to determine if the survey is adequate to proceed with renovation/demolition work. If no survey is available, a survey may be initiated by the Agency or requested by HCD. A copy of the completed survey will be forwarded to the Agency. All asbestos survey's shall be forwarded to the PBCAC.

III. ASBESTOS ABATEMENT

A. RENOVATION

- (a) Prior to a renovation, all asbestos containing materials that will be disturbed during the renovation, must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC. Exceptions may be granted by HCD prior to the removal, (such as asbestos containing roofs, transite pipe). The Agency must obtain approval for all exceptions from HCD. HCD will request the PBCAC to review and approve all exceptions.
- (b) Asbestos Abatement work may be contracted by the Agency or by HCD upon request.
- (c) If the Agency contracts the asbestos abatement, the following documents are required to be provided to the HCD and the PBCAC.
 1. An Asbestos Abatement Specification (Work Plan), sealed by an FLAC.
 2. Pre and Post Job submittals, reviewed and signed by the FLAC.

WEST PALM BEACH HOUSING AUTHORITY - COLONY OAKS/TWIN LAKES

- (d) If the Agency requests HCD to contract the asbestos abatement, HCD will initiate the request through the PBCAC who will contract the asbestos abatement. HCD will provide a copy of all contractor and consultant documents to the Agency.
- (e) Materials containing <1% asbestos are not regulated by EPA/NESHAPS. However, OSHA compliance is mandatory. OSHA requirements including training, wet methods, prompt cleanup in leak tight containers, etc. The renovation contractor must comply with US Dept of Labor, Standard Interpretation (OSHA), Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003. The renovation contractor must submit a work plan to HCD and the PBCAC prior to removal of the materials.

B. DEMOLITION

All "friable" ACBM must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC prior to demolition. Friable materials include: resilient asbestos tile and mastic which is not intact, linoleum, asbestos containing joint compound, asbestos containing cement panels (e.g. transite), etc.

Intact resilient tile and asbestos roof materials may be demolished with adequate controls (e.g. wet method) by a demolition contractor provided the contractor is aware of the asbestos containing materials present and exercises adequate control techniques (wet methods, etc.). In all cases, demolition work should be monitored by a FLAC to insure proper control measures and waste disposal. Any exceptions to these guidelines may be requested through HCD prior to the removal, (such as asbestos containing roofs, transite pipe). Exceptions may be granted by HCD prior to the removal, (i.e. asbestos containing roofs, transite pipe). The Agency must obtain approval for all exceptions from HCD and the PBCAC.

- (a) Asbestos Abatement work may be contracted by the Agency or by HCD upon request.
- (b) If the Agency contracts the asbestos abatement, the following documents must be provided to the PBC/HCD and reviewed by the PBCAC.
 - 1. An Asbestos Abatement Specification (Work Plan), sealed by an FLAC.
 - 2. Pre and Post Job submittals, reviewed and signed by the FLAC.
- (c) If the Agency requests HCD to contract the asbestos abatement, HCD will initiate the request through the PBCAC who will contract the asbestos abatement. HCD will provide a copy of all contractor and consultant documents to the Agency.
- (d) Recycling, salvage or compacting of any asbestos containing materials or the substrate is strictly prohibited.
- (e) In all cases, compliance with OSHA "Requirements for demolition operations involving material containing <1% asbestos is mandatory.
- (f) For all demolitions involving asbestos containing floor tile, asbestos containing roofing material and materials containing <1%, the Demolition Contractor shall submit the following documents to HCD. HCD will provide a copy of these documents to PBCAC.
 - 1. Signed statement that the demolition contractor has read and understood the requirements for complying with EPA, OSHA and the State of Florida Licensing regulations for demolition of structures with asbestos materials.
 - 2. Submit a plan for the demolition of asbestos containing roofing and floor tile. State if these materials are likely to remain intact. Include in the plan what shall occur if materials become "not intact".
 - 3. Submit a plan for compliance with OSHA requirements such as but not limited to: competent person, establishing a regulated area, asbestos training of workers, respiratory protection, use of disposable suits, air monitoring, segregation of waste, containerizing asbestos waste, waste disposal.
- (g) If materials are discovered that are suspect asbestos materials that were not previously sampled, stop all work that will disturb these materials and immediately notify HCD.

IV. NESHAPS NOTIFICATION

A. RENOVATION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to an asbestos renovation that includes regulated asbestos containing material greater than 160 square feet or 260 linear feet or 35 cubic feet. For lesser quantities, the Agency (or its contractor) shall provide a courtesy notification to the Palm Beach County Health Department at least ten working days prior to an asbestos renovation. The removal of vinyl asbestos floor tile and linoleum shall be considered regulated. Asbestos roof removal requires a notification at least 3 working days prior to the removal.

B. DEMOLITION

A NESHAP form must be received by the Palm Beach County Health Department at least ten working days prior to the demolition.

- C. The NESHAP notification shall be sent return receipt requested to the address shown below with a copy to HCD. HCD shall provide a copy to the PBCAC. All fees shall be paid by the Agency.

Palm Beach County Department of Health
Asbestos Coordinator
901 Evernia Street
Post Office Box 29
West Palm Beach, Florida 33401

V. APPLICABLE ASBESTOS REGULATIONS/GUIDELINES

The Agency, through its demolition or renovation contractor, shall comply with the following asbestos regulations/guidelines. This list is *not* all inclusive:

- (a) Environmental Protection Agency (EPA) NESHAP, 40 CFR Parts 61 Subpart M – National Emission standard for Asbestos, revised July 1991
- (b) Occupational Health and Safety Administration (OSHA) Construction Industry Standard, 29 CFR 1926.1101
- (c) EPA: A Guide to Normal Demolition Practices Under the Asbestos NESHAP, September 1992
- (d) Demolition practices under the Asbestos NESHAP, EPA Region IV
- (e) Asbestos NESHAP Adequately Wet Guidance
- (f) Florida State Licensing and Asbestos Laws
 1. Title XVIII, Chapter 255, Public property and publicly owned buildings.
 2. Department of Business and Professional Regulations, Chapter 469 Florida Statute, Licensure of Asbestos Consultants and Contractors
- (g) Resilient Floor Covering Institute, NRCI, Updated Recommended Work Practices and Asbestos Regulatory Requirements, September 1998.
- (h) Florida Roofing Sheet Metal and Air Conditioning Contractors Association, NRCA, June 1995
- (i) US Dept of Labor, Standard Interpretation (OSHA)
 1. Application of the asbestos standard to demolition of buildings with ACM in Place, 8/26/2002.
 2. Requirements for demolition operations involving material containing <1% asbestos, 8/13/1999.
 3. Compliance requirements for renovation work involving material containing <1% asbestos, 11/24/2003.