

**SECOND AMENDMENT TO PINELLAS COUNTY COMMUNITY DEVELOPMENT
SPECIFIC PERFORMANCE AGREEMENT NSP-HFA
WITH THE HOUSING FINANCE AUTHORITY OF PINELLAS COUNTY**

THIS AGREEMENT, (Agreement) made and entered into this 4th day of October, 2010, by and between Pinellas County, having its principal office at 315 Court Street, Clearwater, Florida 33756, a political subdivision of the State of Florida (County) and the **Housing Finance Authority of Pinellas County** (Authority), a public body corporate and politic, organized and existing under Chapter 159, Part IV of the Florida Statutes and Pinellas County Code Section 2-386:

WITNESSETH:

WHEREAS, Pinellas County entered into Specific Performance Agreement NSP-HFA with the Housing Finance Authority of Pinellas County for the purchase and rehabilitation of foreclosed, abandoned and/or blighted properties for resale to qualified buyers at affordable prices and for project management and oversight of services for certain aspects of the Neighborhood Stabilization Program (NSP); and

WHEREAS, on March 9, 2010, Specific Performance Agreement NSP-HFA was amended to designate the Authority as a vendor and amend language in the Agreement to reflect the designation; and

WHEREAS, a determination has been made that the Authority better meets the definition of a subrecipient; and

WHEREAS, for the purposes of Specific Performance Agreement NSP-HFA, the Authority is considered a subrecipient, as defined in OMB Circular A-133; and

WHEREAS, Specific Performance Agreement NSP-HFA is being amended to accurately reflect language necessary for this subrecipient agreement and increase the funding to the total amount of project funds available through the NSP grant.

NOW, THEREFORE, in consideration of the mutual performance of the said promises and covenants in Agreement NSP-HFA, the County and the Authority agree to amend said Agreement.

IT IS THEREFORE agreed as follows:

1. That Section A. Scope of Services shall be amended as follows:

A. SCOPE OF SERVICES

1. Activities

The focus of the Authority's efforts under this Agreement will be implementation of Neighborhood Stabilization Program (NSP) activities. The principal objective of the Authority will be the acquisition of foreclosed and abandoned properties for rehabilitation, demolition and/or construction and resale to qualified buyers at affordable prices.

The Authority will be responsible for administering the NSP Program and providing oversight for eligible activities of NSP, as provided in paragraph 2 of Section A. Scope of Services. The Authority will administer all tasks in connection with the aforesaid program in compliance with all applicable Federal, State and local rules and regulation governing these funds, and in a manner satisfactory to the County.

2. Eligible Activities

Activity #1: Acquisition and Rehabilitation Program – purchase, rehabilitation and disposition of foreclosed or abandoned homes and properties.

Activity #2: Rental Program – purchase, rehabilitation and rental/disposition of foreclosed or abandoned properties.

Activity #3: Demolition Program – demolition of blighted structures and redevelopment and disposition of demolished and vacant properties.

Activity #4: Land Bank Program – establish land bank for foreclosed homes.

Activity #5: Direct Homeownership Assistance – establish financing mechanisms for purchase and redevelopment of foreclosed homes.

Activity #6: Administration - general administration.

3. Authority will negotiate a discounted purchase price for abandoned, foreclosed, and/or blighted properties, as identified by County, from lenders/property owners in accordance with NSP guidelines, and shall perform due diligence to insure that all properties acquired have clear marketable title and to assist County with compliance of all applicable Federal, State and local rules and regulations governing these funds.
4. Authority will sell and/or lease properties purchased under this Agreement to income-eligible households, as defined by the NSP. County will review income eligibility of prospective homebuyers/renters of NSP purchased properties.
5. Authority shall set the sales price of NSP purchased homes in accordance with NSP guidelines. County shall review proposed property sales prices and adjustments to proposed sales prices.
6. Authority shall carry out the Project under this Agreement in accordance with the guidelines and regulations of the Neighborhood Stabilization Program as authorized under Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA).
7. The scope of services outlined above shall not be altered without written approval of the County through Department.

2. That Section B. Funding shall be amended as follows:

B. FUNDING

1. The County, through Department, shall pay Authority for eligible costs and services performed under the terms of this Agreement. Funds shall be provided from a pool of funds reserved by Department. The total amount available through the pool may vary depending upon program income generated but is estimated to be **\$7,257,383.00** (Seven Million Two Hundred Fifty Seven Thousand Three Hundred Eighty Three and No/100 Dollars). Program income generated may be reallocated to Authority for use towards additional NSP eligible activities. Department shall monitor the availability of Federal funds, shall drawdown funds from the federal reporting system when necessary, and shall notify Authority if it determines that the pool of funds may be exhausted prior to the end of the term of this Agreement. However, the County assumes no liability or responsibility for loans processed or invoices delivered after the pool of funds is depleted.
2. The following is an estimated activity budget for the NSP Program. The County and the Authority agree that activity budgets may be modified, as needed, to ensure that NSP funds are obligated and expended within federally mandated time frames:

Activity #1: Acquisition and Rehabilitation Program	\$2,215,964
Activity #2: Rental Program	\$4,652,441
Activity #3: Demolition Program	\$388,978
Activity #4: Land Bank Program	\$0
Activity #5: Direct Homeownership Assistance	\$0
Activity #6: Administration - County and Authority agrees that County shall pay personnel and other administrative expenses for Authority administering the NSP program.	

In accordance with NSP requirements, the Authority shall set-aside as least twenty-five percent (25%) of the funding for the benefit of households whose income is less than fifty percent (50%) of Area Median Income.

3. NSP requirements mandate that 100% of the funds must be obligated within eighteen months of the HUD Award Date and expended within four years of the Award Date. County shall monitor expenditure of funds by Authority. In the event the Authority fails to obligate its allocation by September 3, 2010 or expend funds by September 3, 2013, County shall have the option to reallocate back for re-distribution.
4. Upon receipt of NSP funds, the County agrees to reimburse the Authority for NSP program-eligible costs and/or services solely performed by the Authority under the terms of this Agreement. Payment will be made in accordance with the Prompt Payment Act, Section 218.70 et. seq., Florida Statutes.

5. NSP eligible expenses include, but are not limited to, the cost of acquisition, rehabilitation, demolition, maintenance, and sale of properties purchased under this Agreement.
 6. Notwithstanding the above, the County may, in its discretion, remit directly to a payee other than the Authority whenever practical, for invoiced and documented eligible expenses attributable to each NSP property; other eligible expenses as may be incurred by the Authority on behalf of the program will be reimbursed upon receipt of documented requests.
 7. Authority shall submit supporting documentation with each request for payment of actual costs incurred by Authority in carrying out the NSP Program as described in Section A above, as well as any documentation necessary to demonstrate NSP eligibility and compliance. All requests must be approved by the County, through the Department, prior to payment.
 8. Authority acknowledges that the entire Project is subject to Federal Requirements such as Davis Bacon and related Acts and agrees to take necessary actions to enforce, or assist in enforcing, applicable regulations, including obtaining Department Davis Bacon Contract Administrator's approval prior to disbursing all the Project's construction payments to contractors.
 9. Should the Authority fail to submit adequate supporting documentation with each request for payment as required by the County, the County through the Department may disapprove the request.
 10. The source of funding from the County for payment of services performed under this Agreement is a grant provided to the County by the U.S. Department of Housing and Urban Development ("HUD") CFDA #14.218. The Authority agrees that in the event that any grant is reduced or withheld by HUD, the County shall not be liable for payment of contracted services remaining unfunded by said reduced or withheld grant. In the event that HUD determines that the Authority has not fulfilled its obligations in accordance with the requirements applicable to the grant and/or requests reimbursement of expenses paid under this Agreement, the Authority shall provide said reimbursement from non-federal sources within ten days of said notice from the County.
3. That Section C. Monitoring shall be amended as follows:

C. MONITORING

1. County shall have the right to monitor and evaluate all aspects of activities carried out by Authority, if necessary. Such evaluation will be effected by the submission of information by Authority, by conducting desk reviews, or by other means appropriate to the program.
2. All records pertaining to this Agreement, including but not limited to financial, statistical, property and programmatic records shall be retained for five (5) years from ending date of the County's fiscal year (October 1 through September 30) in which this Agreement is terminated. All records, however, that are subject to audit findings shall be retained for five (5) years in

the manner prescribed above or until such audit findings have been resolved, whichever is later. Nothing herein shall be construed to allow destruction of records that may be required to be retained longer by the Statutes of the State of Florida.

3. If the Authority receives more than \$500,000 a year in Federal funding, Authority shall have a single or program-specific audit conducted for that year in accordance with OMB Circular A-133. Audit report shall be submitted to the Department within the earlier of 30 days after receipt of the auditor's reports(s), or 9 months after the end of the audit period, unless the Authority and the Department agree to a longer period in advance. Authority shall be reimbursed for the costs associated with this audit upon submission of appropriate documentation. Authority shall submit any additional documentation requested by the County to substantiate compliance to this provision if necessary.
 4. The Authority shall at any time during normal business hours and as often as the County and/or the Comptroller General of the United States and/or the U.S. Department of Housing and Urban Development and/or any of their duly authorized representatives may deem necessary make available for examination all of Authority's records, books, documents, papers, and data with respect to all matters covered by this Agreement and shall permit the County and/or its designated authorized representative to audit and examine all books, documents, papers, records and data related to this Agreement.
4. That Section F. Reporting shall be amended as follows:

F. REPORTING

1. Authority shall provide quarterly reports to County summarizing Authority activity to assist County in preparing and filing of reports including quarterly reports required for the Neighborhood Stabilization Program, reports in DRGR, and in the Consolidated Annual Performance and Evaluation Report.
 2. Authority shall furnish Department with all additional information, records, reports and data as may be required by HUD or County pertaining to matters of this Agreement. Failure of the Authority to provide any additional documentation requested by the County within thirty (30) business days of same shall constitute a default of this Agreement and County may elect to terminate the Agreement accordingly.
5. That Section G. Other Requirements shall be amended as follows:

G. OTHER REQUIREMENTS

3. Authority shall ensure that the sale, rental, or redevelopment of Abandoned and Foreclosed homes and properties financed under this Agreement remain affordable to individuals for families whose incomes do not exceed the applicable income limits set by the Program. For multi-family development, the County will require that the assisted units meet the affordability requirements, beginning after project completion, as described in the program.

4. The Authority will comply with applicable uniform administrative requirements as described in 24 CFR 570.502 and will carry out the project in compliance with all federal laws and regulations described in Subpart K of the Community Development Block Grant regulations, except that the Authority shall not assume County's environmental responsibilities described at Sec.570.604; and Authority shall not assume County's responsibility for initiating the review process under the provisions of 24 CFR Part 52. Further, the Authority will comply with all terms of the Community Development Block Grant Agreement and County requirements. Since County is responsible for its Community Development Block Grant program, the Authority will provide Department with the opportunity to review all plans, all contracts and other pertinent documentation prior to the commitment of funds in order to confirm compliance with the above federal and local requirements.
5. The Authority certifies and discloses that, to the best of the Authority's knowledge and belief:
 - a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; and that
 - b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
6. Program income, as defined in Community Development Block Grant regulations, including but not limited to proceeds, received by the Authority shall be returned to the County and shall commence with the execution date of said contract. County shall track program income received in accordance with grant regulations.
7. The Authority shall not assign any interest in this Agreement or otherwise transfer interest in this Agreement nor enter into any subcontract pursuant to this Agreement without the prior written approval of the County of the proposed subcontract. All requirements of this Agreement shall be applicable to any subcontracts entered into under this Agreement and it shall be Authority's responsibility to ensure that all requirements are included in said subcontracts and all subcontractors abide by said requirements.
8. No forbearance on the part of either party shall constitute a waiver of any item requiring performance by the other party hereunder. A waiver by one party of the other party's performance shall not constitute a waiver of any subsequent performance required by such other party. No waiver shall be valid unless it is in writing and signed by authorized representatives of both parties.

9. Any news release or other type of publicity pertaining to this Project must recognize Pinellas County and the funding source for this Agreement as sponsors.

10. Should any section or any part of any section of this Agreement be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section in this Agreement.

6. That all other terms of Agreement NSP-HFA shall remain the same.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

Note: Two witnesses are required

ATTEST:

HOUSING FINANCE AUTHORITY
OF PINELLAS COUNTY, FLORIDA

Neil P. Counts
Witness #1 Signature

By: *Rodney S. Fischer*
Rodney S. Fischer, Chairman

Print or Type Name

Karmen Lemberg
Witness #2 Signature

Karmen Lemberg
Print or Type Name

ATTEST:

KEN BURKE, CLERK
its

PINELLAS COUNTY, FLORIDA
a political subdivision, by and through

Board of County Commissioners

Cynthia N. Hauman
Deputy Clerk Signature

By: *Karen Williams Seel*
Karen Williams Seel, Chair

Cynthia N. Hauman
Deputy Clerk Print or Type Name

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By: *Jason C. Ester*
Jason C. Ester
Assistant County Attorney

