STATE OF ALABAMA )
TUSCALOOSA COUNTY )
CITY OF TUSCALOOSA )

**FIRST AMENDMENT OF DEVELOPER FUNDING CONTRACT BETWEEN THE CITY OF TUSCALOOSA AND COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC. (A14-0020/A13-0671)**

**THIS FIRST AMENDMENT to that certain agreement made and entered into by and between the parties on the 30th day of August, 2013, is made and entered into by and between the firm of COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC., hereinafter referred to as the "DEVELOPER," and the CITY OF TUSCALOOSA, a Municipal Corporation, hereinafter sometimes referred to as the "CITY," on this the 13th day of March, 2014, as follows:**

**W-I-T-N-E-S-S-E-T-H:**

**WHEREAS, heretofore, the City of Tuscaloosa and the Developer entered into an agreement to provide funding of $300,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to Community Service Programs of West Alabama, Inc. for the development of affordable housing for renter households in the Hurricane Creek Trace Project ; and,**

**WHEREAS, the City desires to clarify the status of Community Service Programs of West Alabama, Inc. in the terms in the original contract as a DEVELOPER; and,**

**NOW, THEREFORE, the City of Tuscaloosa and Community Service Programs of West Alabama, Inc., as DEVELOPER, do hereby enter into this amendment to the agreement between the parties on the above date, for and in consideration of the mutual benefits moving each to the other as more particularly set forth herein as follows:**

**DEVELOPER FUNDING CONTRACT BETWEEN THE CITY OF TUSCALOOSA AND COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC. (A14-0020)**

THIS AGREEMENT made and entered into on this the 13th day of March, 2014 (the "Effective Date"), by and between the CITY OF TUSCALOOSA, a Municipal Corporation, hereinafter sometimes referred to as the "City," and COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC., a community action agency, hereinafter sometimes referred to as the "Developer":

**W-I-T-N-E-S-S-E-T-H**

WHEREAS, the Developer has requested that the City appropriate funds for its use for the benefit, either directly or indirectly, of the residents of the City; and,

WHEREAS, on April 2, 2013, the City Council of Tuscaloosa appropriated the amount of $300,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to

Community Service Programs of West Alabama, Inc. for the development of affordable housing for renter households in the Hurricane Creek Trace Project; and,

WHEREAS, the City desires to have the Developer perform certain services and, therefore, in consideration of the benefits moving each to the other, it is mutually agreed by and between the City and the Developer as follows:

## I. AUTHORITY

The City of Tuscaloosa has the authority to distribute federal Community Development Block Grant Disaster Recovery funds pursuant to Section 11-81A-1 et seq., Code of Alabama (1975). The Developer represents and warrants to the City that it is authorized by law to receive funding from the City and that such funding will not be in violation of Article IV, Section 94, or amendments thereto, of the Constitution of Alabama, 1901, or any other constitutional or statutory provision. The Developer further warrants that funding from the City will be used to perform public services and/or acts that the City is otherwise authorized to perform itself or to fund.

## II. STATEMENT OF WORK

The Developer shall provide the following services within the Corporate Limits of the City of Tuscaloosa:

In accordance with the approved City of Tuscaloosa CDBG—Disaster Recovery Action Plan, the Developer will incur construction costs for a multifamily rental development to be known as Hurricane Creek Trace that will consist of fifty single family rental units located in the City. The Developer shall serve as the developer for this project. The general contractor completing construction work on this project shall have a General Contractor's license issued by the City of Tuscaloosa and shall obtain a building permit from the City as required by the City Planning and Development Services Department. All work completed by contractors shall be in accordance with the International Building Code as adopted by the City of Tuscaloosa.

In this project, the Developer shall complete the construction of the multifamily rental development (and the fifty single family rental units a part thereof) within the Hurricane Creek Trace Project. The units to be constructed in this project shall be units of affordable rents for eligible households in accordance with HUD guidelines, and shall be completed by the Developer. For each unit, Developer must submit to the City an annual report of the rent charged and the annual income of the tenant household for such period of time as required pursuant to HUD regulations.

Project Administration

The Developer will carry out this affordable housing project in compliance with all applicable Federal, State and Local Regulations, including but not limited to all procurement rules and regulations.

The program client renting each unit constructed with funds through this funding agreement must qualify as low income as defined by HUD regulations.

**SCHEDULE FOR COMPLETION OF CONSTRUCTION**

| Activity | Time for Construction Completion |
|---|---|
| Complete construction of the 50 units | September 30, 2014 |

The construction and rental of fifty (50) rental housing units to low income residents shall be completed in this project.

## III. APPROPRIATION

The City will reimburse the Developer on a monthly basis for actual expenses incurred in the operation of the program, in accordance with the following budget:

OPERATING BUDGET

| | |
|---|---|
| Total Funding Pursuant to this Contract | $ 300,000.00 |

For a total project budget, see Attachment "B", said budget exceeding the amount of funding available through this contract.

Once per month, the Developer will submit a request for payment for actual expenses incurred during the preceding month and will also submit pertinent payroll records, invoices and other information that may be reasonably requested by the City.

No later than fifteen days after the end of the sixth month of the contract time period, the Developer will submit to the City a narrative report of activities undertaken during the preceding six months. No later than fifteen days after the end of the contract time period, the Developer will submit to the City a final report that provides data concerning the number of persons receiving services during the time period and other necessary data as proscribed by the City.

## IV. SEPARATE AGREEMENTS

The City shall be under no obligation to the Developer for the funds to be provided hereunder except to the extent set out expressly in this Agreement. Provided, however, in the event there is a separate valid written agreement between the City and the Developer, then this Funding Agreement is supplemental thereto. In the event of a conflict, the terms of the latest written agreement shall prevail.

## V. TERM; TERMINATION

This Agreement shall cover services provided by the Developer during the time period from the Effective Date until the date which is sixty (60) days after the project is fully leased to tenants, or until said Agreement is otherwise terminated. The Developer and the City further agree that this Agreement may be terminated at any time by either party upon the issuance of a thirty (30) day written notice to the other of intent to terminate the same; provided, however, the City agrees not to terminate this Agreement prior to funding the full amount of the grant unless (i) a default continues to exists after the expiration of the applicable notice and cure periods or (ii) the Community Development Block Grant Disaster Recovery funds to be provided to the Developer hereunder are no longer available to the City. In the event of termination by either party, the Developer shall refund to the City an amount equal to the excess of the total amount appropriated over an amount which bears the same ratio to the total amount appropriated as the services actually performed bear to the total services covered by this Agreement.

## VI. NON-DISCRIMINATION AND COMPLIANCE

The Developer hereby covenants and agrees that, in performing its responsibilities and obligations hereunder, the Developer, its officers, agents or employees will not, on the grounds of race, color, sex, religion, national origin, disability or age, discriminate or permit discrimination against any person or groups of persons in any manner. The Developer further agrees to comply with all applicable State and Federal ordinances and regulations, including but not limited to, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), the Civil Rights Act of 1964 and any regulations promulgated there under.

The Agency further agrees to appoint an ADA coordinator. Said coordinator will be responsible for ensuring that the Developer is in compliance with the ADA and will advise the City of Tuscaloosa ADA Coordinator for Services and Programs as to the Agency's state of compliance with the ADA.

## VII. INDEPENDENT CONTRACTOR

It is agreed between the City and the Developer that the Developer is an independent contractor. Neither the City nor its officers, agents or employees shall be liable for damages, claims, actions or causes of actions brought against the Developer, or for actions of the Developer.

Notwithstanding any of the provisions of this Agreement, it is agreed that the City has no financial interest in the business of the Developer, and shall not be liable for any debts or obligations incurred by the Developer, nor shall the City be deemed or construed to be partner, joint adventurer or otherwise interested in the assets of the Developer, or profits earned or derived by the Developer, nor shall the Developer at any time or times use the name or credit of the City in purchasing or attempting to purchase any equipment, supplies, or other thing or things whatsoever.

In the performance of its operations and obligations hereunder, the Developer shall not be deemed to be the agent of the City but shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense as the City may from time to time request to indicate that it is an independent contractor. The City does not and will not assume any

responsibility for the means by which or manner in which services by the Developer, provided for herein, are performed, but on the contrary, the Developer shall be wholly responsible therefor.

## VIII. INDEMNITY

The Developer hereby covenants with the City that it will indemnify and hold the City and its officers, agents and employees harmless for or on account of any claim, suit, cause of action or judgment (each, a "Claim") arising out of or in any manner associated with this Agreement or services provided or performed by the Developer or any of its officers, agents or employees, other than Claims arising from the City's gross negligence, willful misconduct or breach of this Agreement.

## IX. NO THIRD PARTY BENEFICIARIES

It is the intent of the parties to this Agreement that they be the only parties to the Agreement and to expressly exclude third party beneficiaries; no persons not a party to the Agreement may claim benefits under the Agreement.

## X. SERVICE AREA

The Developer shall submit, if requested by the City, to the office of the finance director of the City, a written monthly report of the Developer's activities and expenditures, including, but not limited to, information demonstrating that services by the Developer within the Corporate Limits of the City at least equal, if not exceed, the funding from the City for that month. Should the City determine at any time during the term of this Agreement that the Developer is not providing the services within the City Corporate Limits at least equal to the funding previously provided hereunder, then the City may terminate the Agreement immediately. Upon such termination, the Developer may be, at the sole discretion of the City, required to refund any funds deemed by the City not to have been appropriately expended within the Corporate Limits. The City acknowledges that the Developer may perform certain services required hereunder through an affiliate entity that shall own the project (the "Owner"). Therefore, for purposes of compliance with the terms of this Agreement, the Developer shall be deemed to have performed all construction work completed by, and incurred the construction costs paid by, the Owner.

## XI. BOOKS AND RECORDS/REPORTS

The Developer shall, at the request of the City, throw open and provide, at a time during normal business hours and at a place within the City designated by the City, all books, records, accounts, statements and other documents regarding the project as needed by the City to enable it to conduct a financial and/or operational review or audit of its operations and/or finances with respect to the project. If the Developer refuses to honor the City's request within ten (10) days, it shall refund to the City all funds appropriated to it during the term of the contract. All reports, evaluations and audits required of the Developer pursuant to Article IV of Chapter 2 of the City

Code shall also be provided by the Developer to any persons appointed by the City or the Mayor to the Agency's governing body.

## XII. FINANCIAL COMPILATION OR AUDIT

As a recipient of Community Development Block Grant Disaster Recovery (CDBG-DR) funds, the Developer is required to submit to the City Finance Department a financial compilation prepared by an independent CPA firm, an annual report that describes the activities provided by the Agency, certification from the Developer's director showing that the financial compilation and annual report are on file at the Tuscaloosa Public Library and other like information that may be requested. No payment shall be made under this agreement until the City's Finance Director has determined that all the above referenced requirements have been met.

However, if the Developer receives $500,000 or more in Federal funds (in total, not just CDBG-Disaster Recovery) per calendar year, it shall also have an audit made of all Federal funds received under this Agreement. The audit shall be performed in accordance with standards dictated by OMB Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations," OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions" and OMB Circular A-122, "Cost Principles for Nonprofit Organizations." The audit shall be submitted to the City's Community Planning & Development Department.

## XIII. OPEN MEETINGS, PUBLIC RECORDS, COMPETITIVE BIDS AND OTHER APPLICABLE LAWS

A. As the Developer is receiving public funds and/or other things of public value, including in kind services, use of City employees and/or equipment from the City pursuant to this agreement, the Developer agrees as follows:

1. To the same and like extent as is applicable to the City of Tuscaloosa, all meetings of the governing body of the Developer or any committee or subcommittee thereof shall be open to the public when any issue or matter involving or relating directly or indirectly to this agreement is discussed or considered and when there is any discussion or consideration of the use of public funds or things of value provided to the Developer by or through the City.

2. Public Records. To the same and like extent as is applicable to the City of Tuscaloosa pursuant to State law, all records, documents, letters, minutes, memoranda, etc., of the Developer shall be open to public inspection and copying when the same pertain to any issue or matter involving or relating directly or indirectly to the performance by the Developer of this agreement or the use of public funds or other things of value provided to the Developer by or through the City.

3. Expenditure of Public Funds. To the same and like extent as is applicable to the City pursuant to State law, all expenditures or disbursements of funds received by the Developer, whether directly or indirectly, from the City hereunder must comply with 24 CFR 85.36.

B. The Developer shall comply with all applicable laws, ordinances and codes. The provisions of Chapter 2, Article IV, "Agency Funding," of the Code of Tuscaloosa, as amended, are adopted herein by reference and shall be complied with by the Developer to the extent applicable. The City shall administer and appropriate funds to the Developer in accordance with and subject to the provision of Chapter 2, Article III "Budgetary Procedure of the Code of Tuscaloosa," as amended to the extent applicable.

## XIV. SEVERABILITY

It is expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, or otherwise appears to both parties to be invalid, the invalidity of any such covenant, condition or provision herein contained, shall not affect other remaining and valid covenants or conditions herein unless such invalidity renders performance of the essential elements of the contract impossible.

## XV. COMPLIANCE WITH IMMIGRATION LAW

By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom, to the extent allowed by Federal law.

## XVI. MISCELLANEOUS CLAUSES

Capacity: Each party to this Agreement represents and warrants to the other as follows:

A. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.

B. That each has full power and capacity to enter into this Agreement, to perform and to conclude the same including capacity, to the extent applicable, to grant, convey and/or transfer: areas, assets, facilities, properties (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.

C. That to the extent required, each party has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this Agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the party.

D. That each party has duly authorized and empowered a representative to execute this Agreement on their respective behalf and the execution of this Agreement by such representative fully and completely binds the party to the terms and conditions hereof.

E. That, absent fraud, the execution of this Agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other party shall be entitled to rely upon the same. To the extent a party is a partnership, limited liability company or joint venture, the execution of this Agreement by any member thereof shall bind the party and to the extent that the execution of agreement is limited to a manager, managing partner or specific member, then the person so executing this Agreement is duly authorized to act in such capacity for the party.

F. That each party represents and warrants to the other that, to its knowledge, there is no litigation, claim or administrative action threatened or pending or other proceedings against it which would have an adverse impact upon this transaction or upon either party's ability to conclude the transaction or perform pursuant to the terms and conditions of this Agreement.

G. That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this Agreement.

**Third Party Beneficiaries:** It is the intent of the parties hereto that there shall be no third party beneficiaries to this Agreement.

**Final Integration:** This Agreement and referenced documents constitute the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. All understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party that is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

**Force Majeure:** Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other party's employees, agents or contractors.

**Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

**Binding Effect:** This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns.

**Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend or limit the scope or intent of this Agreement.

**Construction:** This Agreement shall be construed in its entirety according to it plain meaning and shall not be construed against the Party who provided or drafted it.

**Mandatory and Permissive**: "Shall," "will," and "agrees" are mandatory; "may" is permissive.

**Governing Laws**: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.

**Prohibition on Assignment and Delegation:** No party to this Agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

**Waiver:** Non-enforcement of any provision of this Agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the Agreement.

**Fines and Penalties:** The Developer shall be solely liable for any and all fines or penalties that may be levied by any governmental authority against the Owner and/or Developer that are related to the Developer's operations. The Owner shall deduct the amount of the levied fine or penalty from the contract amount.

**Agreement Date/Counterparts:** The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

**Use of Words and Phrases:** The following words and phrases, where used in this document, shall be given the following and respective interpretations: "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this document as an entirety and not solely to the particular portion hereof in which any such word is used.

## XVII. FEDERAL REQUIREMENTS

The Developer agrees to abide by all applicable Federal regulations in receiving, disbursing and accounting for Community Development Block Grant funds including, but not limited to all applicable sections of 24 CFR 570 , as set forth in detail in Attachment "A" of this Agreement, which is hereby incorporated into this Agreement.

## XVIII. PROGRAM INCOME

In the event that program income is generated by and under this Agreement, the Developer shall return any said income to the City and it will be considered as program income to the City's Community Development Block Grant Disaster Recovery Program.

## XIX. ACCOUNTS RECEIVABLE AND PROPERTY ACQUIRED

Upon the expiration of this Agreement, the Developer agrees to transfer to the City of Tuscaloosa any Community Development Block Grant funds on hand and any accounts receivable attributable to the use of said funds. Any real property acquired or improved in whole or in part with Community Development Block Grant funds in excess of $25,000 shall be used to meet the Community Development National Program Objective of principally benefiting low and moderate-income persons for five years beyond the expiration of this Agreement.

## XX. APPLICABILITY OF "THE COMMON RULE"

The Developer further agrees to abide by 24 CFR Part 85, "The Common Rule," OMB Circular A-110 and OMB Circular A-122 in the administration of this Agreement. The Developer acknowledges that these referenced documents have been provided to it by the City of Tuscaloosa.

## XXI. ANTI-LOBBYING PROVISION

The Developer agrees that no Federal appropriated funds will be paid, by or on behalf of the Developer, 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.

The Developer further agrees that 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, or an employee of a member of Congress in connection with this Agreement, the Developer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This Article of this Agreement is a prerequisite for entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty or not less than $10,000 and not more than $100,000 for each such failure.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

**COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC.**

BY: Cynthia W. Burton

NAME: Cynthia W. Burton

ITS: Executive Director

ATTEST:

Landon O. Fair
Chief Financial Officer

CITY OF TUSCALOOSA, A Municipal Corporation

BY: _____
Mayor Walter Maddox

ATTEST:

_____
City Clerk

**STATE OF ALABAMA )**
**TUSCALOOSA COUNTY )**
**CITY OF TUSCALOOSA )**

I, Diane Stripling a Notary Public in and for said State at Large, hereby certify that Cynthia W. Burton, who is named as Executive Director of Community Service Programs of West Alabama, Inc., is signed to the foregoing document and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, she, as such officer and with full authority, executed the same voluntarily on the day the same bears date:

Given under my hand and official seal this the 13th day of March, 2014.

_____
Notary Public

My Commission Expires: My Commission Expires Oct 3, 2016

**STATE OF ALABAMA )**

TUSCALOOSA COUNTY )
CITY OF TUSCALOOSA )

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Walter Maddox, whose name as Mayor of the City of Tuscaloosa, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 15th day of January, 2014.

Vickie Gilliland
Notary Public

My Commission Expires: 3/17/15

ATTACHMENT "A"

# SPECIAL CONDITIONS FOR AN AGREEMENT BETWEEN THE CITY OF TUSCALOOSA AND COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC.

## I. DEFINITIONS

"Contract" means a contract agreement between the City of Tuscaloosa and Community Service Programs of West Alabama, Inc. for the construction of a multifamily rental development consisting of Fifty Single Family Rental Units in the Hurricane Creek Trace Project.

"Agency" means the Community Service Programs of West Alabama, Inc., a community action agency.

"HUD" means the U. S. Department of Housing and Urban Development.

"Local Government" and "the City" mean the City of Tuscaloosa.

"Program" means the Community Development Block Grant—Disaster Recovery ("CDBG-DR") Program.

"Project" means the payment of housing construction costs for a multifamily rental development consisting of Fifty Single Family Rental Units in the Hurricane Creek Trace Project in the City of Tuscaloosa, Alabama.

"Project Area" means the Hurricane Creek Trace Project located within the corporate limits of the City.

"Subcontractor" means a person, firm or corporation that enters into a contract agreement with the Agency for work related to this project.

## II. CONFLICT OF INTEREST

A. Interest of Members of the Local Government: No officer, employee or agent of the local government who exercises any function or responsibilities in connection with the planning and carrying out of the program, or any other person who exercises any function or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Agency shall take appropriate steps to assure compliance.

B. The Agency agrees that it will incorporate into every subcontract required to be in writing the following provision:

Interest of Agency and Employees - The Agency agrees that no person who presently exercises any functions or responsibilities in connection with the program, has any personal financial

interest, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder. The Agency further covenants that, in the performance of this contract, no person having any conflicting interest shall be employed. Any interest on the part of the Agency or its employees must be disclosed to the City. Provided, however, that this paragraph shall not be interpreted in such a manner so as to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by low income residents of the area.

C. Provisions of the Hatch Act - Neither the funds provided by this agreement nor the personnel employed in the administration of the agreed upon work shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, U. S. Code.

## III. EQUAL OPPORTUNITY REQUIREMENTS

A. During the performance of this contract, the Agency agrees as follows:

1. The Agency will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or handicap. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The Agency will, in all solicitations or advertisement for employees placed by or on behalf of the Agency, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age or handicap.

3. The Agency will comply with all provisions of Executive Order 11246 of September 24, 1965, and with the rules, regulations and relevant orders of the Secretary of Labor.

4. The Agency will furnish to the local government all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the local government, HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

5. In the event of the Agency's non-compliance with the non-discrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Agency may be declared ineligible for further local government contracts, in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the City, Secretary of Labor, or as otherwise provided by law.

6. The Agency will include the provisions of paragraph 1 through 5 above in every contract, subcontract or purchase order unless exempted by rules, regulations or orders of the local government or the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Agency will take action with respect to any contract, subcontract or purchase order as may be directed as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event the Agency becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Agency may request the local government to enter into such litigation to protect the interest of the local government.

7. The Agency agrees that it will assist and cooperate actively with the local government and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the local government and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the local government in the discharge of its primary responsibility for securing compliance.

8. The Agency further agrees that it will refrain from entering into any contract or contract modifications subject to Executive Order 11246 of September 24, 1965 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order. In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the local government may take any or all of the following actions: terminate or suspend in whole or in part this contract; refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Agency.

9. Non-segregated Facilities: The Agency certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As used in this paragraph, the term "segregated facilities" means any waiting room, work areas, restrooms and washroom, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, creed, color, national origin, age or handicap, because of habit, local custom, or otherwise.

10. No person in the United States shall, on the grounds of race, color, religion, sex, national origin, age or handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this contract. The Agency will comply with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964.

11. The Agency shall maintain data which records its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs, or terminations, pay or other compensation, and selection for training.

## IV. LABOR STANDARDS PROVISIONS

Agency will ensure that the following conditions are met:

A. Contract Work Hours and Safety Standards Act

1. Overtime Requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any work-week in which he is employed on such work to work in excess of forty hours in any work-week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of forty hours in any work-week.

2. Violations; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph 1, the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the City for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph 1 in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of the standard work-week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph 1.

3. Withholding for Unpaid Wages and Liquidated Damages. The local government may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages.

B. Employment of Certain Persons Prohibited. No person under the age of sixteen years and no person who at the time is serving sentence in a penal or correctional institution shall be employed on the work covered by this contract.

C. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the labor standards provisions of this contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceedings or has testified or is about to testify in any proceedings under or relating to the labor standards applicable under this contract.

D. Questions Concerning Certain Federal Statutes and Regulations. All questions arising under this contract which relate to the application or interpretation of the aforesaid Contract Work Hours and Safety Standards Act, the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Act, or the labor standards provisions of any other pertinent Federal statute, shall be referred, through the City of Tuscaloosa and the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purpose of this contract.

E. The Agency and its contractors must comply with the provisions of form HUD-4010 which are attached hereto and incorporated herewith, and the applicable Davis Bacon Wage rates that follow.

## V. FINANCIAL MANAGEMENT

The Agency shall maintain effective control over and accountability for all funds, property, and other assets that are provided for by this agreement. The Agency shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

A. Ineligible Costs. In addition to any costs that are ineligible under other criteria included herein the following costs are specifically ineligible:

1. Bad Debts. Any losses arising from uncollected accounts and other claims, and related costs.

2. Contingencies. Contributions to a contingency reserve or any similar provisions for unforeseen events.

3. Contributions and Donations.

4. Entertainment. Costs of amusements, social activities, and incidental costs,

such as meals, beverages, lodgings, and gratuities, relating to entertainment.

5. Fines and Penalties. Costs resulting from violations of or failure to comply with Federal, State, and local laws and regulations.

6. Interest and Other Financial Costs. Interest on borrowing (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection herewith.

7. Legislative Expenses. Salaries and other expenses of local government bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction.

8. Membership Expenses. Cost of membership in an organization which devotes a substantial part of its activities to influencing legislation.

9. Travel. Costs in excess of those allowed by the Agency for its equivalent employees. In any case, the difference in cost between first-class air accommodations and less-than-first-class air accommodations are not available and is so documented.

10. Meeting Attendance. Costs of attending meetings which are not open for attendance on a non-segregated basis.

B. Property Management Standards

The Agency's property management standards for non-expendable personal property acquired under this contract shall include the following procedural requirements:

1. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition data, cost, and source of property; percentage of Federal funds used in the purchase of property; location, use and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value.

2. A physical inventory of property shall be taken and the results reconciled with the property records at least once each year to verify the existence, current utilization, and

continued need for the property.

3. A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of non-expendable property shall be investigated and fully documented.

4. Adequate maintenance procedures shall be implemented to keep the property in good condition.

C. Procurement Standards

1. The Agency shall maintain a code or standard of conduct which conforms to the requirements set forth in 24 CFR part 570 and 24 CFR part 85 which shall govern the performance of its officers, employees, or agents in contracting with and expending grant funds. Local government officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors or potential Contractors.

## VI. GENERAL REQUIREMENTS

A. Retention of Records

All records maintained by the Agency that pertain to this agreement shall be retained by the Agency for a period of time as required pursuant to HUD regulations.

B. Reports and Information

The Agency, at such times as the local government may require, shall furnish such statements, reports, records, data and information as may be requested pertaining to matters covered by this agreement.

C. Audit Requirements

The local government, the Secretary of HUD, the Comptroller General of the United States or any of the duly authorized representatives shall have access to all tasks, accounts, records, reports, files and other papers or property of the Agency pertaining to funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts and transcripts.

D. Breach of Contract Terms and Conditions

In the event of the Agency's non-compliance with the terms and conditions of this contract or with any of the said rules, regulations or orders (which non-compliance is not cured within fifteen (15) days of written notice from the City), this contract may be cancelled, terminated or suspended in whole or in part.

E. Subcontracts

The Agency shall insert in any subcontracts all of the following terms and conditions set forth in this contract and also a clause requiring the subcontractors to include these terms and conditions in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

## VII. COMPLIANCE WITH IMMIGRATION LAW

By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom, to the extent allowed by Federal law.

## VIII. COMPLIANCE WITH THE STAFFORD ACT AND 24 CFR 570

The Agency shall assist the City in complying with the Stafford Act, as amended, (42 U.S.C. 5121 through 5207) and the applicable sections of 24 CFR Part 570 to prevent fraud, abuse, and duplication of benefits and shall assist in recapturing duplication, if such is determined.

State of Alabama )
County of Tuscaloosa )

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by ACT 2012-491)

DATE: _____

RE Contract/Grant/Incentive (describe by number or subject):
Hurricane Creek Trace Housing Development by and between
Community Service Programs of West Alabama (Contractor/Grantee) and
City of Tuscaloosa, Alabama (State Agency, Department or Public Entity

The undersigned hereby certifies to the State of Alabama as follows:

1. The undersigned holds the position of general contractor with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by ACT 2012-491) which is described herein as "the Act."
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.

   BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit.

   a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, and foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

   b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

   EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

X (a) The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

___ (b) The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, the Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;
4. The Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this 13th day of March 2014.

COMMUNITY SERVICE PROGRAMS OF WEST AL, INC.
Name of Contractor/Grantee/Recipient

By: Cynthia H. Burton

Its Executive Director

The above Certification was signed in my presence by the person whose name appears above, on this 13th day of March 2014.

WITNESS: Sandra O. Fair

Sandra O. Fair, Chief Financial Officer
Printed Name of Witness

General Decision Number: AL140116 01/03/2014 AL116

Superseded General Decision Number: AL20130116

State: Alabama

Construction Type: Residential

County: Tuscaloosa County in Alabama.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

| Modification Number | Publication Date |
|---|---|
| 0 | 01/03/2014 |

* SUAL2007-143 10/23/2007

| | Rates | Fringes |
|---|---|---|
| BRICKLAYER | $ 13.29 | 0.00 |
| CARPENTER, Including Form Work and Excluding Drywall Hanging | $ 14.00 | 0.00 |
| CEMENT MASON/CONCRETE FINISHER | $ 11.75 | 0.00 |
| DRYWALL HANGER | $ 15.00 | 0.00 |
| ELECTRICIAN | $ 11.91 | 0.00 |
| IRONWORKER, STRUCTURAL | $ 11.91 | 3.40 |
| IRONWORKER: Ornamental Only | $ 10.46 | 0.00 |
| LABORER: Common or General | $ 9.00 | 0.00 |
| LABORER: Landscape | $ 7.66 | 0.00 |
| LABORER: Mason Tender - Cement/Concrete | $ 7.88 | 0.00 |
| LABORER: Pipelayer | $ 9.00 | 0.00 |
| OPERATOR: Backhoe | $ 11.20 | 0.00 |
| OPERATOR: Bulldozer | $ 12.60 | 0.00 |
| OPERATOR: Loader (Front End) | $ 12.52 | 0.00 |
| PAINTER, Including Brush, Prep, Roller and Spray | $ 9.38 | 0.00 |
| PLUMBER | $ 12.27 | 0.00 |

ROOFER, Including Built Up.
Metal and Single Ply Roofs.....$ 10.00 0.00

ROOFER: Shake & Shingle Roof....$ 8.62 0.00

SHEETMETAL WORKER.....$ 11.86 0.00

TRUCK DRIVER.....$ 9.00 0.00

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor

200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION