

STATE OF ALABAMA )  
TUSCALOOSA COUNTY)  
CITY OF TUSCALOOSA)

**AMENDMENT NO. 1 TO SUBRECIPIENT FUNDING CONTRACT**  
**BETWEEN THE CITY OF TUSCALOOSA AND TUSCALOOSA**  
**HOUSING AUTHORITY FOR ROSEDALE COURT**  
**PHASE III DEVELOPMENT FUNDED BY**  
**2013 CDBG-DR FUNDS**  
**(A14-0655)**

**THIS AMENDMENT** to that certain agreement made and entered into by and between the parties on the 7th day of August, 2014, is made and entered into by and between the CITY OF TUSCALOOSA, a Municipal Corporation, of the State of Alabama (hereinafter sometimes referred to as "City" or "the City"), and the TUSCALOOSA HOUSING AUTHORITY, an public agency, (hereinafter sometimes referred to as the "Subrecipient"), on this the 25 day of July, 2016, as follows:

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

**WHEREAS**, the SUBRECIPIENT 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 July 16, 2013, the City Council of Tuscaloosa appropriated the amount of \$2,500,000.00 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the Tuscaloosa Housing Authority for the development of one hundred twenty-eight (128) elderly affordable housing units for renter households in the Rosedale Courts Phase III development; and,

**NOW, THEREFORE**, the City of Tuscaloosa and the Subrecipient do hereby enter into this First Amendment to the contract 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:

**SECTION ONE.** That Item "II. SERVICES", subsection entitled "SCHEDULE FOR COMPLETION OF SERVICES", be and the same is hereby amended to read as follows:

**“II. SERVICES**

**“SCHEDULE FOR COMPLETION OF SERVICES**

<u>Activity</u>	<u>Time for Completion</u>
Complete construction of the 128 units	<b>September 30, 2016</b>

The construction and rental of one hundred twenty-eight elderly affordable housing units for renter households for low income residents shall be completed in this project.”

**SECTION TWO. 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 its 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.

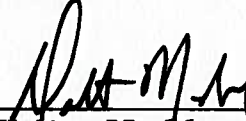
**Fines and Penalties:** The SUBRECIPIENT shall be solely liable for any and all fines or penalties that may be levied by any governmental authority against the Owner and/or SUBRECIPIENT that are related to the SUBRECIPIENT's operations. The Owner shall deduct the amount of the levied fine or penalty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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first set forth above.

**CITY OF TUSCALOOSA, A Municipal Corporation**

By:   
Walter Maddox, Mayor

ATTEST:

  
City Clerk

**TUSCALOOSA HOUSING AUTHORITY**

By:   
TITLE: EXECUTIVE DIRECTOR

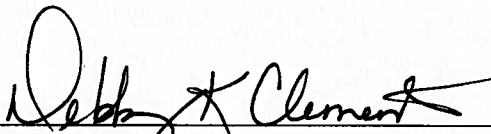
WITNESS:



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 15<sup>th</sup> day of July, 2016.

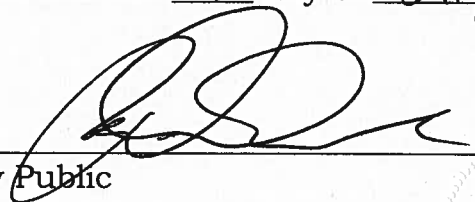
  
Notary Public

My Commission Expires: 10.16.16

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

I, Robert Wise, a Notary Public in and for said State at Large, hereby certify that Ralph Rusgo, who is named as Executive Director of TUSCALOOSA HOUSING AUTHORITY 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 25 day of July, 2016.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 5-25-20

