

## **AGREEMENT**

This INTERLOCAL SERVICE AGREEMENT, pursuant to K.S.A. 12-2908, hereinafter referred to as the Agreement, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Board of County Commissioners of Johnson County, Kansas, by and through the Office of County Manager of Johnson County, Kansas, hereinafter referred to as the "COUNTY", and the City of Overland Park, Kansas, hereinafter referred to as the "CITY", for the purpose of establishing terms, conditions, and responsibilities under which the COUNTY will administer a Minor Home Rehabilitation Program (MHRP), hereinafter referred to as the "Program", to assist low-to-moderate income residents of the CITY.

The COUNTY and the CITY mutually agree as follows:

### **I. TERM**

The term of this Agreement shall be for the period commencing on May 1, 2010, and ending April 30, 2011, subject to the terms and conditions hereinafter contained.

### **II. PURPOSE**

It is the intent and purpose of the parties to this Agreement that the County shall provide home repair services, as those services are described herein below, to qualified residents of the CITY, subject to the terms and conditions of this Agreement, and to the extent that funds for the same are made available and shall perform such administrative and management functions necessary to provide for the effective and sufficient conduct and operation of the Program.

It is understood and agreed by the parties hereto that the purpose of the Program provided under this Agreement is to enable low-to-moderate income residents of the CITY to maintain a decent, safe, and accessible home environment and to provide qualified, experienced individuals to perform home repairs for such qualifying persons who would otherwise be unable to complete said repairs.

### **III. ADMINISTRATION**

It is understood and agreed by the parties hereto that the administration of the Program, conducted pursuant to the terms and conditions of this Agreement, shall be performed by and through and utilizing the resources of the Housing Services office of the COUNTY's Department of Human Services and Aging, with offices at 12425 West 87<sup>th</sup> Parkway, Lenexa, KS 66215. The COUNTY shall provide all personnel necessary to perform the duties and services hereunder, with the exception that the COUNTY may subcontract for any home repair service described in the Agreement with any reputable and, if necessary or required by state or local law, rule, or regulation, appropriately licensed individual, firm, or corporation. The COUNTY further understands that the Program will conform to the COUNTY's purchasing policy, including, but not limited to, a bid process for contracts when appropriate, a copy of which is incorporated into this agreement by reference. No subcontractor utilized for services pursuant to this Agreement, whether self-employed, corporation, or partnership, shall be owned in part or in whole by a person who is related by blood, marriage, or adoption to any COUNTY employee or official charged with the responsibility of administering this contract or selecting subcontractors.

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The COUNTY shall publicize the Program and its availability to residents of Overland Park. Copies of program brochures, notices, and other publicity released within any reporting period shall be submitted to the CITY with the periodic reports.

**IV. PROGRAM ELIGIBILITY**

The COUNTY shall provide eligibility determination for those persons applying for home repair under this Agreement by using the following factors:

1. The applicant is a resident of the CITY; and
2. The total income for all members of the applicant's household does not exceed 80% of the median income of the Kansas City metropolitan area, as determined by the Secretary of Housing and Urban Development;
3. The applicant is the homeowner and must have occupied the property as a primary residence for at least six (6) months;
4. The property to be repaired is within the corporate limits of the CITY; and
5. When required, medical need will be substantiated and documented.

**V. MINOR HOME REHABILITATION**

The conditions, restrictions, and definitions of home repairs provided under the Agreement shall be determined by the 2010 Program Year Policies established by the COUNTY for the Minor Home Rehabilitation Program, unless otherwise specified in this Agreement. A copy of the Policies will be provided to the CITY. Any exceptions to the Policies will be discussed and mutually agreed upon by a designated representative of the CITY and the COUNTY.

**VI. PROCEDURES**

It is understood and agreed that the COUNTY shall:

1. Determine and document the eligibility of the applicant.
2. Determine if the applicant has a potential conflict of interest and document in client file per 24 CFR Part 570. Subpart K, 570.611.
3. Prior to the commencement of the program year, the CITY will provide to the COUNTY a fully executed copy of the Tier I Review per 24 CFR Part 58 and National Policy Act of 1969 (NEPA). A Tier II Environmental Review (ERR) will be completed by the COUNTY for each rehabilitation project and submitted to the CITY for review and approval, if appropriate. The ERR shall be approved by the CITY prior to the obligation of funds. The COUNTY agrees to proceed with, modify, or cancel the project based on the results of the environmental review and agrees to implement any special conditions, mitigation measures or requirements identified in the CITY's environmental approval.
4. If the home was built prior to 1978, provide the applicant with the Lead-Based Paint notification and so document in the client file, and if applicable, the work will comply with all lead-based paint requirements, including, but not limited to the provisions in 24 CFR 35, 24 CFR 570.608 and 24 CFR 982.401.
5. Inspect the applicant's house to determine the scope of the work needed and whether it is classified as a home repair for the purposes of this Agreement.

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6. Check the home for the presence of an operating smoke detector and carbon monoxide detector. If none is present, install a battery-operated smoke detector and /or carbon monoxide detector.
7. Assure the contractor obtains the appropriate city building permit and document the information in the client file.
8. Assign a contractor to perform the specified work subsequent to checking and documenting in the client file that the contractor is not on the excluded parties list, per 24 CFR Part 570, Subpart K, 570.609.
9. Inspect all completed work for compliance with the issued work order and applicable safety standards.
10. Issue payments to parts' vendors and/or contractors after satisfactory completion of all work.

The COUNTY agrees that any repairs or modifications shall comply with applicable zoning ordinances, building code requirements, and other city and state codes, ordinances, or licensing requirements. The COUNTY understands that execution of this Agreement is in no way a waiver or approval of any provision of this section.

### **VII. PROPERTY MAINTENANCE EXCEPTION**

It is agreed and understood by the parties that under certain specified circumstances exterior property maintenance repairs may be eligible costs under this Agreement. The intent of this exception is to provide a resource for income-eligible homeowners who receive a code violation citation from Community Services, a Section in the CITY (herein referred to as CS), for violations of Overland Park Municipal Code (herein referred to as O.P.M.C.), specifically; Section 7.26.070 Exterior Wall Surface, Section 7.26.075 Trim, Section 7.26.080 Windows and Doors, Section 7.26.090 Roofing and Guttering, and Section 7.26.100 Attached Structures, (hereafter referred to as violations), to assure the necessary actions are taken to correct violations and bring the subject property into compliance with the applicable code in an **timely** manner. It is further understood and agreed that repairs to correct violations may include interior repairs and site improvement repairs on the subject property if consistent with the COUNTY's Program Guidelines and authorized by the City's contract administrator. Repairs are not to exceed \$4,000 per household, unless authorized by the City's contract administrator.

For the purposes of this agreement, "exterior property maintenance repairs" may include code violations of any type that constitute an unsafe condition or a hazard.

An amount equal to \$50,000 will be set-aside exclusively to fund activities under the Property Maintenance Exception. If exhausted prior to January 1, 2010, additional amounts from the total grant may be set aside for the Property Maintenance Exception by or with the approval of the City's contract administrator. After January 1, 2011, the remaining balance in whole or part can be used to meet the cost of allowable activities under either the Minor Home Rehabilitation Program or under the Property Maintenance Exception, with the approval of the City's contract administrator.

#### **A. Program Eligibility**

The COUNTY shall timely provide the eligibility determination of those persons applying for property maintenance assistance under this Agreement, using the following factors:

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1. The total income for all members of the applicant's household does not exceed 80% of the medium income of the Kansas City metropolitan area, as determined by the Secretary of Housing and Urban Development; and
2. The applicant is the homeowner and occupant; and
3. The property to be repaired is within the corporate limits of the CITY; and
4. The applicant has a notice or letter from the Community Services Section of the CITY ordering correction of a Municipal Code violation; and
5. The homeowner is eligible to receive assistance under this section only once per year unless otherwise approved by the CITY's contract administrator because of unusual and extenuating circumstances.
6. Determine if the applicant has a potential conflict of interest and document in the client file.

**B. Scope of Responsibilities**

It is further understood and agreed that the COUNTY shall:

1. Inspect the applicant's house as soon as possible during or after eligibility determination to determine the scope of work needed to correct the Municipal Code violation; and
2. If the home was built prior to 1978, provide the applicant with the Lead-Based Paint notification, and if applicable, the work will comply with all lead-based paint requirements, including, but not limited to the provisions in 24 CFR 35, 24 CFR 570.608 and 24 CFR 982.401.
3. Prior to the obligation of funds and pursuant to 24 CFR Part 58, an Environmental Review Record (ERR) will be completed at the time a specific property has been identified and approved for repair and/or revitalization.
4. Assign a contractor to perform the specified work subsequent to checking and documenting in the client file that the contractor is not on the excluded parties list, per 24 CFR Part 570, Subpart K, 570.609, and
5. Assure the contractor obtains the appropriate city building permit and document the information in the client file.
6. Coordinate with the CITY inspector to conduct an inspection of all completed work for compliance with the issued work order and applicable safety standards; and
7. Assure any work not meeting Municipal Code standards at the final re-inspection by the City, is corrected and brought into compliance prior to closing the project; and
8. Issue payment to parts' vendors and/or contractors after satisfactory completion of all work and notification by Community Services that the subject property is in compliance with applicable Municipal Code.

**VIII. FUNDING**

The CITY agrees to provide the COUNTY with funding in an amount not to exceed \$103,849.71 for minor home repairs and administrative fees provided under this Agreement for the 2010 Program Year. The funding is subject to conditions herein stated and those applicable regulations as established by the Department of Housing and Urban Development, Catalog of Federal Domestic Assistance Number 14-218.

It is further understood and agreed that the COUNTY shall bill the CITY and be reimbursed for the funds expended for eligible Program repairs as defined by COUNTY policies.

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The CITY agrees to reimburse the County for administrative fees based on the percentage of the expenditures to the total budget minus the maximum allocation for administration, but in no event more than 20% of the grant amount.

The cost and liability to the CITY for work under this Agreement shall not exceed the amount of fiscal year 2010 Community Development Block Grant funds authorized and available to the CITY for this project and shall be subject to release of funds by the Department of Housing and Urban Development.

Any program income derived from the Community Development Block Grant by the COUNTY shall be reported to the CITY and shall be used by the COUNTY for purposes outlined in this Agreement and subject to the requirements and conditions herein specified.

The COUNTY shall provide to the CITY within thirty days of April 30, 2011, a full accounting of the expenditures of all grant funds, including a report of total project cost for each project completed with funds provided by this agreement. All grant funds unexpended under this contract as of April 30, 2010 shall be retained by the CITY and will no longer be available to the COUNTY for the program unless authorized by the City.

**IX. HOLD HARMLESS**

The COUNTY agrees to hold and save the CITY harmless from any and all claims, settlements, and judgements for personal injury, bodily injury, property damage, and/or death arising out of the COUNTY's or any of its officers', employees' or agent's negligent acts and/or omissions with respect to the performance of home repairs provided under this Agreement.

**X. INSURANCE**

The County shall maintain, either through traditional insurance, in whole or in part, or through a risk management reserve fund, in whole or in part, coverage of the types and in such amounts as may be necessary to protect itself and the CITY against all hazards or risks of loss as hereinafter specified, whether such hazards or risks of loss be generated by the COUNTY, its officers, employees, or agents, and provide the CITY with evidence of such coverage.

Provided that in no event shall the COUNTY be subjected to any liability greater than found in the Kansas Tort Claims Act, K.S.A. 75-6101 et seq., and amendments thereto.

A. Commercial General Liability

\$500,000 combined single limit per occurrence for bodily injury, personal injury, and property damage.

B. Workers' Compensation and Employers' Liability

1. Workers' Compensation Statutory  
(Include all states' endorsement)

2. Employer's Liability \$100,000 Each Occurrence

C. Comprehensive Automobile Liability

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\$500,000 combined single limit per occurrence written in a comprehensive form, protecting the COUNTY against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover the operation on and off the site of any automobile, whether it is owned, non-owned, or hired.

**XI. AMENDMENT**

This Agreement may be amended by supplemental writing signed by the parties hereto.

**XII. TERMINATION**

A. Termination for Convenience

The CITY may, when the interests of the City so require terminate this contract in whole or in part, for the convenience of the CITY. The CITY shall give written notice of the termination to the COUNTY, specifying that the contract, or a designated part thereof, shall be terminated, and when termination becomes effective, the COUNTY shall incur no further obligations to the CITY in connection with the terminated work or services, and on the date set in the notice of termination, the COUNTY will stop work or services on behalf of the CITY to the extent specified. The CITY will be responsible to reimburse the COUNTY for the cost of any work under contract prior to the date of termination that is completed subsequent to the termination.

B. Termination for Default

If the COUNTY is violating any of the conditions of this Agreement or is executing the same in bad faith, the CITY may serve written notice on the COUNTY of its intention to terminate the contract, and unless within 7 days after the serving of the notice a satisfactory arrangement has been made for the continuance thereof, this contract shall terminate. The CITY will be responsible to reimburse the COUNTY the cost for any work under contract prior to the date of termination that is completed subsequent to the termination. The CITY retains the right to withhold the grant or any portion thereof for damages incurred as a result of the COUNTY's breach of this Agreement. The COUNTY further agrees to repay to the CITY the full amount of all grant funds advanced by the CITY under this Agreement should the COUNTY be in default. Repayment shall be made in full within 30 days of default by the COUNTY.

**XIII. RENEWAL**

This Agreement may be renewed for such period and upon such terms and conditions as may be mutually agreed to in writing by the parties hereto.

**XIV. GOVERNING LAW**

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Kansas.

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**XV. SEVERABILITY**

All provisions, claims, and covenants contained herein are severable, and in the event any of them shall held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be interpreted, construed and enforced as if such unconstitutional, invalid, or unenforceable provisions, clauses, and covenants were not contained herein.

The failure of the CITY or COUNTY to insist on strict performance of any of the terms and conditions herein shall not be deemed a waiver of the right to demand strict performance of that or any other provision herein at any time thereafter.

**XVI. NON-DISCRIMINATION**

The COUNTY shall not discriminate against any person in the performance of work under this Agreement because of race, religion, age, color, sex, disability, national origin, familial status or ancestry.

**XVII. RECORDS AND REPORTS**

The COUNTY agrees to retain all Program records for a minimum of five years. The CITY shall have access to Program records at all reasonable times upon request.

The COUNTY shall prepare and submit to the CITY, no less than once per quarter, the following reports for the Minor Home Rehabilitation Program, including the Property Maintenance Exception program or such other report or reports as agreed to by the parties:

1. A statement of total payments made from the CITY grant, showing the grant balance at the beginning and at the end of each quarterly reporting period.
2. A quarterly activity report which shall include: The type of repair; the owner's name; address; ethnicity; race, as defined by HUD; age; sex; income type, low and very low; head of household information; number of persons per household; disability, if applicable; and total cost.
3. Property Maintenance repairs as described in Section VIII of this Agreement shall be identified on the Minor Home Rehabilitation Program report.
4. A Program Year End Report showing each individual project and the total expenditure for each project along with the information identified in No. 2 above.

**XVIII. SPECIAL REQUIREMENTS**

The COUNTY understands and agrees that the administration and expenditure of funds from this grant shall be in compliance with Community Development Block Grant (CDBG) regulations, a Department of Housing and Urban Development program; provided further, the County agrees to be solely responsible for ensuring said compliance. The COUNTY further certifies that it will comply with the applicable provisions of the Code of Federal Regulations 24 CFR, Part 570, to include, but not limited to, 24 CFR, Section 570.502, and Office of Management and Budget Circulars, to include, but not limited to, Circular A-133: Audits of States, Local Governments, and Non-Profit Organizations, revised June 24, 1997;

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provided further, the COUNTY agrees to comply with applicable federal law and regulations described in 24 CFR, Part 570, Subpart K and 24 CFR Part 58.

Title 31 U.C.S., Section 1352, requires all subgrantees, contractors, subcontractors, and consultants who receive federal funds via the CITY to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan, or cooperative agreements.

In addition, contract applicants, recipients, and sub-recipients must file a form disclosing any expenditure they make for lobbying out of non-federal funds during the contract period.

Necessary forms are available from the Grant Program Coordinator or the Section Manager of Community Services, Department of Planning and Development Services of the CITY and must be returned to the CITY with other contract documents. It is the responsibility of the general contractor to obtain executed forms from any subcontractors who fall within the provisions of the Code and to provide the CITY with the same.

Executed in triplicate the date first above written.

CITY OF OVERLAND PARK, KANSAS

By \_\_\_\_\_  
Carl Gerlach, Mayor

ATTEST:

\_\_\_\_\_  
Marian Cook  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
J. Bart Budetti  
Senior Assistant City Attorney

BOARD OF COUNTY COMMISSIONERS  
OF JOHNSON COUNTY, KANSAS

By \_\_\_\_\_  
Hannes Zacharias, County Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Nicholas Saldan  
Deputy County Counselor