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CITY OF NORTH MIAMI
HOME INVESTMENT PARTNERSHIP PROGRAM
REHABILITATION LOAN AGREEMENT

THIS AGREEMENT is entered into this 2 day of, **June 2015**, by and between the following parties: **MARRIONETTE ALEXANDRE**, owners of the subject property; the **CITY OF NORTH MIAMI** (City), a Florida municipal corporation, having its principal office at 776 N.E. 125th Street, North Miami, Florida 33161 (Parties), regarding the rehabilitation of real property legally described as:

> Lot 18, of Block 2, of **CORINNE PARK**, according to the Plat thereof, as recorded in Plat Book 49, at Page 15, of the Public Records of Miami-Dade County, Florida a/k/a 1125 N.E. 131 Street, North Miami, Florida 33161 (subject property)

WITNESSETH:

WHEREAS, the Federal Department of Housing and Urban Development (HUD) has provided HOME Investment Partnership Program (HOME) to local governments designed to address housing, economic development and infrastructure needs of the community that primarily benefit very low and low income persons; and

WHEREAS, the City has determined through its Consolidated Plan for HOME funds (Program), adopted by the Mayor and City Council in June, 2005, to provide assistance to eligible homeowners within the City for the purpose of rehabilitating their properties (Project), in accordance with HOME criteria specifically described in Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990; 24 CFR Part 570; 42 U.S.C. 5301 et seq.; and

WHEREAS, the Owner has agreed to the Project in accordance with Program specifications; and

WHEREAS, this Agreement is entered into after compliance by the parties with all applicable provisions of federal, state, and local laws, statutes, rules and regulations.

NOW, THEREFORE, in consideration of the mutual promises and the grant money in the amount of Twenty One Thousand Three Hundred Fifty Dollars and 00/100 **($21,350.00)**, which is acknowledged, the Parties agree as follows:

1. Owner represents and agrees that he/she is the owner(s) of the residential property described above.

2. HOME funds in the amount of **$21,350.00** are being utilized in this real estate transaction for the purpose of rehabilitating the subject property.

3. The Specifications & Proposal (Contract Documents) related to the Project, attached as Composite **Exhibit "A"**, (as amended from time to time), represent the scope of services and responsibilities of the Parties under the Program.

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4. The City has the sole responsibility and obligation of interpreting the intent and purpose of the Program and Contract Documents.

5. The Project will be performed in accordance with the applicable codes, ordinances and statutes of the City, Miami-Dade County and the State of Florida.

6. The Owner agrees to maintain the property in good condition after the Project is completed. If the property is located in a Federal Emergency Management Act 100-year flood plain zone, the Owner must have an active flood insurance policy.

7. The Parties acknowledge and agree that funds provided derive from HOME Program funds appropriated to the City by HUD for the uses and purposes referred to in this Agreement.

8. Owner shall execute a promissory note in the full amount of the loan covering all costs to be incurred in order to secure and implement the Construction Contract. The interest rate on the principal amount of the loan shall be zero percent (0%) per annum, except in any event of default. City shall secure the loan for this Agreement with a Mortgage of the Property which will be recorded in the public records of Miami Dade County and constitute a lien on the property. Payment on the principal amount of the loan shall be deferred so long as the property is occupied as the principal residence of the Owner during the ***affordability period***.

9. The Owner acknowledges that the property is a residence, and agrees to continually occupy the property as a primary residence for the ***affordability period*** based on the amount of subsidy, commencing at the execution of this Agreement. The affordability period for HOME is as follows: Up to $14,999=5 years, **$15,000-$40,000=10 years** and over $40,000=15 years. If the Owner fails to continually occupy this residence for the entire affordability period, the funds provided shall be immediately reimbursed on a pro-rata basis for the time period remaining.

10. If any interest in the property is sold, conveyed or transferred, or the Note and Mortgage created by this Agreement is subordinated, whether voluntarily or involuntarily, including bankruptcy or foreclosure, within the affordability period of this Agreement's execution, such an event shall be considered a default. The indebtedness shall become payable at a rate of four percent (4%) simple interest per year on the unpaid principal amount. Any person or entity, who, subsequent to the execution of this Agreement, purchases or receives any interest in the subject property, shall be bound by the terms and conditions of this Agreement and shall execute any and all documents required by the City.

11. The City may seek civil action and penalties including court costs, attorneys' fees and reasonable administrative expenses should Owner fail to comply with the foregoing covenants and restrictions.

12. The City reserves the right to inspect at any time during normal business hours any and all construction accomplished under this Agreement to ensure compliance with

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this Agreement, adherence to applicable Housing Quality Standards, minimum housing codes, and all other applicable state and local housing, zoning, fire, and building codes.

13. In the event the Owner prevents the City from inspecting the Project for purposes of assuring compliance with this Agreement or with the Contract Documents, or prevents the City from complying with HUD regulations, federal, state or local laws, the City shall be entitled to immediately terminate this Agreement, retain any remaining funds, seek reimbursement for any funds distributed for the Project or obtain other relief as permitted by the Agreement or law. Further, action by the Owner to prevent or deny the City's inspection of the Project will constitute a default of this Agreement, and the City shall be entitled to exercise any and all remedies at law or equity.

14. Owner agrees to enter into a Contract for Rehabilitation, attached hereto, and incorporated herein as **Exhibit "C"**, with a qualified general contractor for the Project who is acceptable to the City and who is experienced in the type of work required for the project.

15. Owner shall not release or amend this Agreement without the prior written consent of the City.

16. The Owner, waives any right to bring a lawsuit against the City for breach of this Agreement, and shall pursue alternative dispute resolution of all matters arising out of this Agreement.

17. The monies provided shall be withdrawn and used on behalf of the Owner by the City solely to pay for the costs of the rehabilitation. Payment for the Project shall be made as described in payment schedule attached as **Exhibit "B"** and in accordance with the procedures provided in the Contractor Agreement. After payment is completed by the City, the City shall be automatically discharged from any and all obligations, liabilities and commitments to Owner, Contractor or any third person or entity.

18. The City desires to enter into this Agreement only if by so doing the City can place a limit on its liability for any cause of action arising out of this Agreement, so that its liability never exceeds its monetary commitment of **$21,350.00**. Owner expresses their willingness to enter into this Agreement with recovery from the City for any action arising out of this Agreement to be limited to the total amount of its monetary commitment of **$21,350.00**. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed on the City's liability as set forth in Section 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

19. Owner shall hold harmless, indemnify and defend the City, its officers and employees from any and all obligations, liabilities, actions, claims, causes of action, suits or demands arising from this Agreement.

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20. Owner shall not sublease, transfer or assign any interest in this Agreement.

21. In the event of a default, the City may mail to Owner a notice of default. If the default is not fully and satisfactorily cured in the City's sole discretion within thirty (30) days of the City's mailing notice of default, the City may cancel and terminate this Agreement without liability to any other party to this Agreement.

22. In the event of a default, the entire sum due is payable immediately and interest may be charged the maximum rate allowed by law. Owner acknowledges that if the Project is terminated before completion, either voluntarily or otherwise, it will constitute an ineligible activity and any funds invested in the Project must be repaid by the Owner to the City. The City shall additionally be entitled to bring any and all legal and/or equitable actions in Miami-Dade County, Florida, in order to enforce the City's right and remedies against the defaulting party. The City shall be entitled to recover all costs of such actions including a reasonable attorney's fee, at trial and appellate levels, to the extent allowed by law.

23. A default shall include but not be limited to the following acts or events of an Owner:

    a. Nonperformance by Owner of any covenant, agreement, term or condition of this Agreement after the Owner has been given due notice by the City of such nonperformance.
    b. Failure of the Owner to perform any covenant, agreement, term or condition in any instrument creating a lien upon the property.
    c. The City's discovery of Owner's failure in the Program Application to disclose any fact, or the City's subsequent discovery of any fact, deemed by the City to be material, and one upon which the City relied in order to enter this Agreement, or City's discovery of any misrepresentation by, on behalf of, or for the benefit of the Property Owner.
    d. Owner's non-residential use, or disposition of the Property without the prior written consent of the City.
    e. Owner's failure to maintain the Property in a standard, habitable condition.
    f. Owner acquiring additional indebtedness upon the Property without the specific written consent of the City.
    g. The transfer of the Property without the specific written consent of the City.

22. If Owner default this Agreement by insolvency or bankruptcy, the following shall apply:

    a. Should this Agreement be entered into and fully executed by the Parties, funds released and the Owner files for bankruptcy, the following shall occur:

        1. In the event the Owners file a voluntary petition under 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303, the Owner shall acknowledge the extent, validity, and priority of the lien recorded in favor of the City. The Owner further agrees that in the event of this default, the City shall, at its option, be

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entitled to seek relief from the automatic stay provisions in effect pursuant to 11 U.S.C. 362. The City shall be entitled to relief from the automatic stay pursuant to 11 U.S.C. 362(d)(1) or (d)(2), and the Owner agrees to waive the notice provisions in effect pursuant to 11 U.S.C. 362 and any applicable Local Rules of the United States Bankruptcy Court. The Owner acknowledges that such waiver is done knowingly and voluntarily.

2. Alternatively, in the event the City does not seek stay relief, or if stay relief is denied, the City shall be entitled to monthly adequate protection payments within the meaning of 11 U.S.C. 361. The monthly adequate protection payments shall each be in an amount determined in accordance with the Note and Mortgage executed by the Owner in favor of the City.

3. In the event the Owner files for bankruptcy under Chapter 13 of Title 11, United States Code, in addition to the foregoing provisions, the Owner agrees to cure any amounts in arrears over a period not to exceed twenty-four (24) months from the date of the confirmation order, and such payments shall be made in addition to the regular monthly payments required by the Note and Mortgage, if applicable. Additionally, the Owner shall agree that the City is oversecured and, therefore, entitled to interest and attorneys fees pursuant to 11 U.S.C. 506(b). Such fees shall be allowed and payable as an administrative expense. Further, in the event the Owner has less than five (5) years of payments remaining on the Note, the Owner agrees that the treatment afforded to the claim of the City under any confirmed plan of reorganization shall provide that the remaining payments shall be satisfied in accordance with the Note, and that the remaining payments or claim shall not be extended or amortized over a longer period than the time remaining under the Note.

b. Should this Agreement be entered into and fully executed by the parties, and the funds have not been forwarded to Contractor, the following shall occur:

In the event the Owner files a voluntary petition pursuant to 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303, the Owner acknowledges that the commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Owner acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. 365. The Owner acknowledges that the Agreement is not capable of being assumed pursuant to 11 U.S.C. 365(c)(2), unless the City expressly consents in writing to the assumption. In the event the City consents to the assumption, the Owner agrees to file a motion to assume the Agreement within ten

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(10) days after their receipt of written consent from the City, regardless of whether the bankruptcy proceeding is pending under Chapter 7, 11, or 13 of Title 11 of the United States Code. The Owner further acknowledges that this Agreement is not capable of being assigned pursuant to 11 U.S.C. 365(b)(1).

c. Should the Parties wish to execute the Agreement after the Owner has filed for bankruptcy, the following shall occur:

1. The Owner agrees that in the event they are current Debtors in bankruptcy, at the request of the City, the Owner shall file a motion for authorization to obtain post-petition financing pursuant to 11 U.S.C. 364(d)(1). The Owner further agrees that any funds loaned by the City shall be secured by a lien on the real property first in priority and ahead of any other existing lien(s), unless otherwise agreed to in writing by the City.

2. In the event of default, the City shall be entitled to pursue any and all available legal and equitable remedies, including, but not limited to, those remedies provided herein.

23. This Agreement shall be governed by the laws of Florida, and venue shall be in Miami-Dade County, Florida.

24. Termination of Agreement: Owner understands and acknowledges that, should the Owner fail to comply and fulfill each and every condition and provision of this Agreement, the City, at its option, may terminate this Agreement and take any and all necessary legal action to enforce the provisions of the Agreement.

25. Conflicts of Interest: Owner shall not enter into any contract, Agreement, or relationship with any employee or agent of the City of North Miami to have any interest, direct or indirect, in the HOME funds provided on behalf of Owner pursuant to this Agreement of concerning this Project.

26. Grievance Procedure: Disputes between the Owner and Contractor may arise from time to time during the life of the rehabilitation project. In those instances where a mutually satisfactory agreement cannot be reached between the parties, the following grievance shall apply

A. The Owner should initially inform the Contractor and Housing Manager of the grievance.

B. If unable to find a mutually agreeable solution, a written Vendor Complaint Form must be filed with the Director of Community Planning and Development Department.

C. The Director or his/her designee, will meet with both the Contractor and the Owner in an effort to reach a solution. If unable to resolve the grievance, the complaint and all relevant documentation will be forwarded to the Director who shall make a final determination.

D. A formal written notification of the resolution will be issued, via certified mail, to both Owner and Contractor.

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E. Resolution Options shall include:

- Outline a corrective action plain to include a deadline to cure; or
- The City as a resolution of the grievance, may release fnds to the Contractor for items on the work write-up which are completed and undisputed; or
- The entire contract amount may be released to the Contractor as determined by the Director; or
- The Director may also opt to terminate the agreement between Owner and Contractor, release funds to the Contractor for items on the work write-up which are completed and undisputed and award the remainder of the work to the next lowest responsible bidder according to the bid tab sheet.
- The City will keep documents and records of the grievance procedure.

27. All notices, demands, correspondence and communications between the Parties shall be deemed sufficient if dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the City:	City of North Miami 776 N.E. 125th Street North Miami, Florida 33161 Attn: Director, Community Planning & Development
With a copy to:	City of North Miami 776 N.E. 125th Street North Miami, Florida 33161 Attn: City Attorney
If to Owner:	Marrionette Alexandre 1125 N.E. 131 Street North Miami, FL 33161

or to such address and to the attention of such other person as the Parties may from time to time designate by written notice to the others.

28. It is understood and agreed that all parties, personal representatives, executors, successors and assigns are bound by the terms, conditions and covenants of this Agreement.

29. Any amendments, alterations or modifications to this Agreement will be valid only when they have been reduced to writing and signed by the Parties.

30. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision, and no waiver shall be effective unless made in writing.

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31. Should any provision, paragraphs, sentences, words or phrases contained in the Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws; or, if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

[THIS SPACE IS INTENTIONALLY LEFT BLANK]

DocuSigned by:
Tanya Wilson-Seyour
1BED25791E0F46A...
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date on which the last of the Parties initials or signs.

Witness

Marrionette Alexandre, Owner

APPROVED:

DocuSigned by:
Tanya Wilson-Seyour
1BED25791E0F46A...

Director
Community Planning & Development Dept.

ATTEST:

DocuSigned by:
2C7010872EE8414...

City Clerk

7/8/2015

Date

CITY OF NORTH MIAMI

By: DocuSigned by:
AD8C42C3AFAE44B...

City Manager

7/8/2015

Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

DocuSigned by:
9787BB81BC7F413...

City Attorney

6/18/2015

Date

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Exhibit A

EXTERIOR

GENERAL ROOF SPECIFICATIONS

Sheathing end joints shall be made over rafters. All supporting verge rafters shall extend back into the roof at least four feet. All sagging portions of the roof shall be braced with minimum 2"x4" lumber from roof rafters to nearest bearing wall. Purlins shall be used when necessary. The first two hundred feet (200') of unforeseen rotten or damaged sheathing replacement will be included in the contract price. Replacement of any additional sheathing requires the Housing Inspector's verification and authorization prior to replacement. An Engineer Certification is required for repair/replacement of roof framing components of structural concern. The roofing contractor must comply with any gas vents requirements per Building and Zoning. **Contractor shall warrant work for ten years from completion date (final permit approval) of all work required under this contract. A copy of the warranty must be submitted to the Homeowner and the Community Planning & Development Housing Division office upon completion of the roof. NOTE: All damaged sheathing, rafters, fascia and soffits replacement shall be included in the contract price.**

01) SLOPED ROOF- ARCHITECTURAL SHINGLES — $ 4,095.00

Remove all existing roofing covering, underlayments, and flashings to bare sheathing. Remove all protruding nails or staples. Sweep-clean sheathing of all foreign materials and haul away all roofing debris from property at once. Replace all rotten, damaged, and missing sheathing and rafters, per General Roof Specifications above. Homeowner will select colors from the manufacturer's standard colors. Upon completion of work, contractor shall furnish Housing Inspector the manufacturer's shingle warranty, product approval and contractor's warranty for ten years against leaks.

- Furnish and install new underlayment.
- Furnish and install a secondary water barrier (smooth surface peel and stick, roofing membrane).
- Finish and install new 3 inches galvanized steel drip edge, galvanized steel valleys, return/wall flashings, lead stacks on all plumbing projections, pitch pan at electrical service mast, and new roof jacks.
- Install new dimensional TIMBERLINE PRESTIQUE 40 High Definition fungus resistant shingles mechanically fastened to deck. Valley shingles may be applied in an open or closed fashion only, not woven.

02) FLAT ROOF MODIFIED BITUMEN — $ 2,464.00

Remove all existing roofing covering, underlayment, and flashings to bare sheathing. Remove all protruding nails or staples. Sweep sheathing clean of all foreign materials and haul away all roofing debris from property at once. Replace all rotten, damaged, and missing sheathing and rafters as per Roof-General Specifications and paint to match existing. Furnish and install new underlayment mechanically fastened to the deck, two layers of fiberglass ply sheet, solid mopped with hot asphalt and one layer of Modified Bitumen solid mopped with hot asphalt. Where required, install new 3 inches (minimum) galvanized steel drip edge, galvanized steel valley, return/wall flashing, lead stacks on all plumbing projections, pitch pan at electrical service mast, and new roof jacks. Upon completion of work, Contractor will provide Homeowner with manufacturer's warranty and Contractor's five-year warranty against leaks. There can be no pooling water. Use tapered insulation and/or build up low areas, if required, to prevent any pooling water.

03) REPLACE ALL FASCIA — $ 420.00

Remove damaged or deteriorated fascia and haul away all debris from property at once. Furnish and install new 1"x2" pressure treated furring as required by FBC. Fascia replacement shall be with matching size and material. Outside corner shall be mitered and all fascias shall be secured with non-corrosive

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nails. Minimum length of any fascia segment shall be 5 feet. Remove all attachments to the fascia, as required, and reattached, after the fascia replacement. Remove and replace the required roofing system, i.e., shingles, roofing membrane and metal drip edge: match existing. Discuss with the Homeowner, prior to removal any variation.

- Paint new fascia to match existing. Apply one coat of LOW VOC primer/sealer and two coats of 100% LOW VOC exterior paint. Material allowance for paint must be mid grade or better.

04) REPLACE ALL SOFFIT AND SOFFIT VENTS **$ 420.00**

Remove damaged, deteriorated soffit; including replacing all soffit vents. Haul away all debris from property at once. Soffit and vents replacement shall be with matching size and material. Secure all soffit with non-corrosive nails. Minimum length of any soffit segment shall be 5 feet. Remove all attachments to soffit, as required, and reattached after soffit replacement.

- Paint new soffit to match existing. Apply one coat of LOW VOC primer/sealer and two coats of 100% LOW VOC exterior paint. Material allowance for paint must be mid grade or better.

05) INSTALL NEW GUTTER & DOWNSPOUT **$ 630.00**

Install new 6" seamless metal gutter and downspout system (on the entire house). The Homeowner will select color from standard stock colors. Install new 24" concrete splash blocks at downspouts, discharging the water away from any foundation.

06) INSTALL EXTERIOR DOOR- COMPLETE **$ 1,540.00**

NUMBER OF DOOR OPENINGS 2

Remove and replace the front door and utility room door, remove the iron bar door at the front door and return to owner.

Remove existing doors, jamb, casing, threshold, and haul these materials/debris away. Modify opening to accept standard size door as needed. Replace wood buck, if deteriorated or necessary, set buck in premium silicone sealant. Countersink all fasteners into frame; fill with wood putty and sand smooth. Repair all damaged and adjacent surfaces inside and out, caused by door removal and modifications, restoring to original condition. The door and its components shall be installed in strict compliance with the Florida Building Code product approval (or Miami/Dade NOA).

- Furnish and install new out-swing impact resistant six panels steel exterior door complete with jamb, casing, brick molding. Doors must be 1-3/4 inch solid core door.
- Install panoramic peephole, aluminum weather-stripping saddle, weather-stripping and spring/chain stop or doorstop. Install tamper proof hinges.
- The doorknob should be an entry-type, which can be locked by turn button inside or a key outside. Deadbolt will have turn piece inside and keyed to knob outside. The doorknob and deadbolt shall be keyed alike. Install the same doorknob and deadbolt as outlined in the product approval.
- Paint the new exterior door, by applying one coat of LOW or ZERO VOC primer/sealer and two coats of 100% LOW or ZERO VOC on the exterior paint and one coat of ZERO VOC primer/sealer and two coats of 100% ZERO VOC on the interior paint. Material allowance for paint must be mid grade or better of the City approved brands, i.e., Benjamin Moore (Aura or EcoSpec), Sherwin Williams (Harmony), Glidden/ICI (Life master) PPG (Pure Performance), Olympic (Valspar). Housing Inspector shall verify brand and VOC level.

07) REPLACE EXTERIOR WINDOWS

WITH HURRICANE IMPACT SINGLE HUNG WINDOWS **$ 11,781.00**

LOCATIONS: ALL WINDOWS (17)

Remove and dispose of all lead affected windowsills as per EPA rules and regulations.

The Contractors will verify measurements/dimensions and total number of openings to receive new windows. Remove existing windows and install, in the same configuration as the existing windows, new single hung, hurricane -impact, aluminum replacement windows with screens and factory-tinted glass.

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Homeowner shall select color of frames and degree of tinted glass from the standard stock. The aluminum windows and its components shall be installed in strict compliance with the Product Approval.

- Living room window configuration - XOX
- Install obscure glass in bathroom windows.
- In the bedrooms – enlarge the window opening, as required, to install a code approved egress window. The contractor shall provide all required engineering. Note: a horizontal sliding or casement window may satisfy the egress requirement.
- All exposed anchoring screws shall be the same color as the frame or concealed.
- Replace missing, cracked, damage, wood and tiled sills with ½" marble sills.
- Replace wood buck, if deteriorated or necessary, set buck in caulk.
- Repair/replace all damaged surfaces inside and out, caused by windows installation. Any modifications or repairs/replacement work to, i.e., stucco, drywall, paint, caulk, and/or tile should match existing adjacent surfaces.

Remove the manufacturers' stickers and any residue on the glass after all final inspections.

08) LEAD BASE PAINT INSPECTION **$0.00**

Inspection conducted by AGC Environmental Consulting April 1, 2015. Cost is not considered in this agreement, however will apply to CDBG mortgage and Note recorded with Miami-Dade County Clerk of Courts.

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Exhibit "B"
Payment Schedule

When requesting a payment, **ALL** of the following documents must be submitted at the same time. If there are any documents missing, the payment request package will **NOT** be accepted.

- Contractor's Invoice
- Release of Liens (Painters, General Contractor & Subcontractors)
- Contractor's Payment Request
- Homeowner's Payment Authorization
- Subcontractor's List
- Contractor's Payment Request Worksheet
- Certificate of Completion **(submit only with final payment)**

Final payment shall be due and payable within **forty (45) calendar days** following completion of all terms of this contract and final inspection and acceptance of same by the Homeowner and the City of North Miami.

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EXHIBIT "C"
TRI-Party Agreement