

CITY OF NORTH MIAMI
COMMUNITY DEVELOPMENT BLOCK GRANT
ELDERLY EMERGENCY REPAIR PROGRAM
GRANT AGREEMENT

THIS AGREEMENT is entered into this day of _____, by and among the following: **Salmand Louis-Pierre & Melanie Louis-Pierre**, (“Owners”), 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; and **Regosa Engineering Services, Inc.**, (“Contractor”), having its principal business address at 15700 NE 2nd Avenue, Miami, Florida 33162, collectively referred to as “Parties”, regarding the rehabilitation of the real property legally described as:

Lot 15, of Block 9, SHEPPARD HEIGHTS THIRD ADDITION, according to the Plat thereof as recorded in Plat Book 53, Page 33, of the Public Record of Miami-Dade County, Florida a/k/a as 1580 NW 131st Street, North Miami, Florida 33167 (subject property).

WITNESSETH:

WHEREAS, since 1994, the City has received Community Development Block Grant (“CDBG”) funds from the U.S. Department of Housing and Urban Development (“HUD”) to provide a source of funding for various community and economic development programs and projects; and

WHEREAS, the City has determined through its Consolidated Plan for CDBG funds, adopted by the Mayor and City Council on October 13, 2020 under Resolution 2020-R-116, that it will provide assistance to eligible homeowners within the City for the purpose of rehabilitating their properties (“Project”), in accordance with CDBG criteria; and

WHEREAS, as part of the Consolidated Plan, the City has established the Elderly Emergency Repair Program (“Program”) to provide elderly emergency repairs toward exterior home repair services for elderly, age 62 or older, low and moderate income owners of single family homes in the City; and

WHEREAS, the Owners 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 **Eight Thousand Nine Hundred Dollars and 00/100 Cents (\$8,900.00)**, which is acknowledged, the Parties agree as follows:

1. CDBG funds for **Six Thousand Dollars and 00/100 Cents (\$6,000.00)**, are being utilized in this real estate transaction for the purpose of rehabilitating the subject property **and Two Thousand Nine Hundred Dollars and 00/100 Cents (\$2,900.00)** in General Funds are being utilized for the purpose of rehabilitating the subject property located in the City.
2. 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 Project, and the Parties agree to abide by and comply with their respective roles and responsibilities.
3. The City has the sole responsibility and obligation of interpreting the intent and purpose of the Program and Contract Documents.
4. The Project shall be performed in accordance with the applicable codes, ordinances and statutes of the City, Miami-Dade County and the State of Florida.
5. The Owners 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 Owners must have an active flood insurance policy.
6. The Parties acknowledge and agree that funds provided derive from CDBG Program funds appropriated to the City by HUD for the uses and purposes referred to in this Agreement.
7. The Owners acknowledges that the Property is currently occupied as their primary residence, and agree to continually occupy the Property as their primary residence.
8. The City may seek civil action and penalties including court costs, attorneys’ fees and reasonable administrative expenses should Owners fail to comply with the foregoing covenants and restrictions.
9. The City may, periodically, inspect the Property for the purpose of assuring compliance with this Agreement.
10. In the event the Owners or Contractor 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 all funds, seek reimbursement for any funds distributed for the Project or obtain other relief as permitted by the Agreement. Further, action by the Owners or Contractor 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.
11. If the Owners terminates or cancels the services of the Contractor, and the Contractor is not in default of this Agreement, the Contractor shall be compensated for labor and material expenses incurred up to the date of cancellation, plus normal profit and overhead, the total sum of which shall not exceed twenty percent (20%) of the labor and materials’ cost. As

a condition of payment, Contractor shall submit verifiable written documentation of labor and materials expenses to the City. The Contractor shall be compensated from the funds provided to this Project.

12. The Owners shall not release or amend this Agreement without the prior written consent of the City.
13. The Contractor, its subcontractors, agents or employees waive any right to bring a lawsuit against the City or Owners for breach of this Agreement, and shall pursue alternative dispute resolution of all matters arising out of this Agreement.

In conjunction with the above paragraph, the Contractor, its subcontractors, agents or employees waive all rights to file a lien against the Property.

14. Payment to the Contractor for the Project shall be made as described in Exhibit "B". After payment is made to the Contractor by the City, the City shall be automatically discharged from any and all obligations, liabilities and commitments to Owners, Contractor or any third person or entity.
15. 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 **Eight Thousand Nine Hundred Dollars and 00/100 Cents (\$8,900.00)**. Owners and Contractor express 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 **Eight Thousand Nine Hundred Dollars and 00/100 Cents (\$8,900.00)**, less the amount of all funds actually paid by the City pursuant to this Agreement. 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 768.28, Florida Statutes.
16. The Owners and Contractor 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 or accruing by virtue of this Agreement.
17. The Owners and Contractor shall not sublease, transfer or assign any interest in this Agreement.
18. In the event of a default, the City may mail to the Owners and the Contractor 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 of the notice of default, the City may cancel and terminate this Agreement without liability to any other party to this Agreement. In addition, the City shall set the amount of compensation to be paid to the Contractor for the work completed up to the time of termination, including replacement of all work areas to a suitable condition.
19. In the event of a default, 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.

20. A default shall include but not be limited to the following acts or events of an Owners, Contractor, or their agents, servants, employees or subcontractors:

- a. Failure by the Contractor to (i) commence work within thirty (30) days from the date of this Agreement, or (ii) diligently pursue construction and timely complete the project by securing a Final Certificate of Completion within two (2) months from the date of this Agreement, or (iii) provide the documentation required to make the final payment within thirty (30) days from the date when a Final Certificate of Completion is issued.

Work shall be considered to have commenced and be in active progress when, in the opinion of the City, a full complement of workmen and equipment are present at the site to diligently incorporate materials and equipment in accordance with the project throughout the day on each full working day, weather permitting.

- b. Failure by the Contractor to comply with any applicable building, fire, life safety, housing or zoning law, rule, regulation or code.
- c. Insolvency or bankruptcy by the owners or by the Contractor.
- d. Failure by the Contractor to maintain the insurance required by the City.
- e. Failure by the Contractor to correct defects within a reasonable time as decided in the sole discretion of the City.
- f. The breach of any term or condition of this Agreement.

21. If owners defaults 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 Debtor files for bankruptcy, the following shall occur:
1. In the event the Owners files 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 Owners or Contractor shall acknowledge the extent, validity, and priority of the lien recorded in favor of the City. The Owners further agrees that in the event of this default, the City shall, at its option, be 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 Owners 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 Owners 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.

3. In the event the Owners files for bankruptcy under Chapter 13 of Title 11, United States Code, in addition to the foregoing provisions, the Owners 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 Owners shall agree that the City is over secured and, therefore, entitled to interest and attorney's fees pursuant to 11 U.S.C. 506(b). Such fees shall be allowed and payable as an administrative expense.
- b. Should this Agreement be entered into and fully executed by the Parties, and the funds have not been forwarded to Owners or Contractor, the following shall occur:

In the event the Owners 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 Owners acknowledges that the commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Owners acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. 365. The Owners 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 Owners agrees to file a motion to assume the Agreement within ten (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 Owners 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 Owners has filed for bankruptcy, the following shall occur:
 1. The Owners agrees that in the event they are current Debtors in bankruptcy, at the request of the City, the Owners shall file a motion for authorization to obtain post-petition financing pursuant to 11 U.S.C. 364(d)(1). The Owners further agrees that any funds loaned or granted by the City shall be secured by a lien on the 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.
22. If Contractor defaults under this Agreement, by way of insolvency or bankruptcy, the following shall apply:

Should this Agreement be entered into and fully executed by the Parties and the Contractor files for bankruptcy, the following shall occur:

 - a. In the event the Contractor files a voluntary petition pursuant to 11 U.S.C. § 301, or an order for relief is entered under 11 U.S.C. § 303, the Contractor acknowledges that the

commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Contractor acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. § 365. The Contractor agrees to file a motion to assume the Agreement within fifteen (15) days after a voluntary petition is filed pursuant to 11 U.S.C. § 301, or within five (5) days following the entry of an order for relief under 11 U.S.C. § 303. The City expressly reserves the right to oppose any motion to assume the Agreement filed by the Contractor under the provisions of this subparagraph. In the event the Contractor does not voluntarily assume the Agreement, or, in the event the United States Bankruptcy Court does not authorize the Contractor's assumption of this Agreement, the Contractor acknowledges and agrees that the City may assert a valid claim of recoupment, thereby being entitled to recoup any damages suffered as a result of the Contractor's breach of this Agreement either by failing to voluntarily assume the Agreement, or, as a result of the entry of an order by the United States Bankruptcy Court prohibiting such assignment, against any monies which may be owed by the City to Contractor under the terms of the Agreement.

- b. In the event the Contractor is authorized to assume this Agreement, the Contractor acknowledges and agrees that it shall be obligated to cure any and all existing defaults upon the entry of an order by the United States Bankruptcy Court authorizing its assumption of this Agreement. Furthermore, the Contractor shall be obligated to provide adequate assurance of future performance including, but not limited to, adequate assurances that the Contractor shall complete the project contemplated by the Agreement within the time frame provided and agreed upon by the Parties under the terms and conditions of this Agreement.
 - c. In the event that the Owners defaults under this Agreement by insolvency or bankruptcy, either by filing a voluntary petition under 11 U.S.C. §§ 301 or 302, or an order for relief is entered under 11 U.S.C. § 303, Contractor fully understands, acknowledges and agrees to be fully bound by the provisions contained in Paragraph 21 (a)(1), (a)(2), (a)(3), (b) and/or (c), in the event Contractor files a voluntary petition under 11 U.S.C. § 301, or an order for relief is entered under 11 U.S.C. § 303. The Contractor further acknowledges and agrees that, in the event the City is not obligated to perform under the terms and conditions of this Agreement, as a result of the Owners defaulting under this Agreement by insolvency or bankruptcy, by filing 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 City shall be entitled to assert any defenses to which it may avail itself against the Owners, against the Contractor including, but limited to, any claim or right of recoupment.
- 23. This Agreement shall be governed by the laws of Florida, and venue shall be in Miami-Dade County, Florida.
 - 24. The Owners shall comply with all applicable requirements as described in Title I of the Housing and Community Development Act of 1974 (42 USC 5301 et seq.).
 - 25. Notices and Demands: All notices, demands, correspondence and communications between the Parties shall be deemed sufficiently given under the terms of this Agreement 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. 125 th Street North Miami, Florida 33161 Attn: City Manager
With copies to:	City of North Miami 776 N.E. 125 th Street North Miami, Florida 33161 Attn: City Attorney Attn: Housing & Social Services Director
If to Contractor:	Regosa Engineering Services, Inc. Gustavo Velez (Registered Agent) 15700 NE 2 nd Avenue Miami, Florida 33162
If to Owners:	Salmand Louis-Pierre & Melanie Louis-Pierre 1580 NW 131 st Street North Miami, Florida 33167

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

26. 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.
27. Any amendments, alterations or modifications to this Agreement will be valid when they have been reduced to writing and signed by the Parties.
28. 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.
29. 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.

[The remainder of this page is intentionally left blank]

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

Date:

06/24/2021

Witness

Date:

06/24/2021

Witness

Date:

06/24/2021

Salmand Louis-Pierre

Date:

06/24/2021

Melanie Louis-Pierre

Date:

06/24/2021

CONTRACTOR:

By:

Date:

06/24/2021

APPROVED BY:

Alberte Bazile, MBA
Housing & Social Services Director

Date:

ATTEST:

City of North Miami, a FLORIDA municipal Corporation, "City":

Vanessa Joseph, Esq., City Clerk

Theresa Therilus, Esq., City Manager

City Clerk Date Signed

City Manager Date Signed

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Jeff P. H. Cazeau, Esq., City Attorney

City Attorney Date Signed

Exhibit A

INTERIOR

REPLACEMENT OF CENTRAL AIR CONDITIONING SPLIT SYSTEM \$8,900.00

Remove existing air-handler and outside condensing unit. Within the same locations, as the existing units, install a new air-handling unit with electric heat strip and condensing unit of sufficient size to accommodate the needs of the home. The air conditioning unit shall have a minimum SEER rating of 16.0, ENERGY STAR qualified and labeled accordingly. Acceptable manufactures are Carrier, Rheem and Goodman. Haul away all debris from property at once. Upon completion of work, Contractor shall provide Homeowners with the manufacturer's informational equipment package, equipment warranty with a five (5) years compressor warranty and Contractor's one-year full warranty for labor and material. Installation must comply with the manufacture specifications and building codes; make all the necessary modifications.

- Provide a heat loss load calculation to properly size the replacement unit and new supply/return air ductwork and transfer system.
- The electric heat strip should be sized to maintain an indoor temperature of 68 degrees F with an outdoor ambient temperature of 40 degrees F.
- Provide new programmable thermostat, high and low voltage electric service, liquid lines and equipment concrete pad and stand.
- Upgrade and/or modify the electric (per building code), supply/return air ducting and grilles.
- Install new supply/return air ducting and new grilles to each room. Do not install bedrooms return air grilles in the walls or doors. Except for the master bedroom
- Modify walls, ceilings, closets and doors to accommodate the new equipment and/or supply, return air ductwork and outlets. Modifications or repairs work to stucco, drywall, paint, caulk, and/or tile, etc. should match existing adjacent surfaces.
- Power vacuum clean the existing ductwork. Provide verification of cleaning upon billing.
- Install a condensation drain line, with a condensation pump, thru the attic.

TOTAL BID AMOUNT: \$8,900.00

Exhibit B

Program Regulations

All work shall be performed in accordance with applicable federal regulations, including, but not limited to Davis-Bacon Act, Contract Work Hours and Safety Standards Act and Copeland Act (Anti-Kickback Act).

All work shall be performed in accordance with the terms and conditions stipulated in the Agreement and all applicable plans and specifications. Change Orders to increase or decrease the dollar amount or which alter or deviate from the approved scope of work must be approved in writing by the City of North Miami prior to work being performed or Change Orders being undertaken/implemented. Any change in the scope of work which increases the costs of the contract is the Owner's responsibility.

Upon execution of this agreement, the property Owners agrees and understands that a sign will be posted in the front of the property for the entire duration of this agreement. **Property Owners/Purchaser acknowledges that individuals will be allowed on the property to take photographs.** All projects will be subject to before and after photos and may be included in various local, state and federal reports, which are public records.

Commencing Work

The Project shall begin only after a contract has been executed, a permit pulled, proof that a Notice to Commence has been filed, and submission of a Contractor's Certification, County-required affidavits, proof of required insurances and an up-to-date contractor's license and occupational license.

Method of Payment

Program funds shall be disbursed to the Contractor as follows:

- a. All applications for payment must be accompanied by certified statements (i.e., releases of liens and affidavits from the general contractor, all sub-contractors and suppliers) showing that the property is free and clear of mechanics, materialmen's or any other type of liens or obligations relating to the construction of the project. Also, a copy of both sides of the permit and inspection record card must accompany each payment request. All funding entities must authorize payments.
- b. Program funds shall be paid upon compliance by the contractor with the following:
 1. Environment Review
 - The National environmental Policy Act (42 U.S.C. 4321, et seq.);
 - The Council on Environmental Quality Regulations (40 CFR Parts 1500 – 1508);
 - Environmental Review Procedures (24 CFR Part 58);
 - National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.);
 - National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.)

2. Lead Based Paint
 - Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4801, et seq.);
 - HUD Lead Based Paint Regulations (24 CFR Part 35).
3. Asbestos
 - Asbestos Regulations (40 CFR 61, Subpart M);
 - U.S. Department of Labor Occupational Health and Safety (OSHA) Asbestos Regulations (29 CFR 1910.1001).
4. Labor Standards
 - The Davis-Bacon Act (40 U.S.C. 276a) as amended;
 - The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333);
 - Federal Labor Standards Provisions (29 CFR Part 5.5).

Additionally, all Parties agreed to comply with all existing federal, state and local laws and ordinances hereto applicable, as amended.

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
- Homeowners' 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-five (45) calendar days** following completion of all terms of this contract and final inspection and acceptance of same by the Homeowners and the City of North Miami.