

**CITY OF PENSACOLA - COMMUNITY REDEVELOPMENT AGENCY
RETAIL STOREFRONT FACADE IMPROVEMENT PROGRAM
FUNDING AGREEMENT**

THIS AGREEMENT, entered into this 24th day of March, 2010 by and between the Community Redevelopment Agency of the City of Pensacola, Florida, a public body corporate and politic of the State of Florida, 222 West Main Street, Pensacola, Florida 32502, (the "CRA") and Masonic Lodge, LLC whose address is 416 East Belmont Street, Pensacola, Florida 32501 (the "Owner").

WITNESSETH

WHEREAS, the CRA administers a Retail Storefront Façade Improvement Program (the "Program") which was authorized by City Council Resolution No. 3-99 and is funded by CRA funds; and

WHEREAS, the CRA has committed funds to be applied to the costs of improving the façade of the retail storefront property of the Owner, a sum not to exceed \$50,000 total; and

WHEREAS, the Owner desires to participate within the Program and has qualified under the program guidelines to receive funds to be used for the improvement of the façade of the property which Owner owns addressed as 4 Palafox Place and 5 East Garden Street, identified on the Escambia County Florida tax assessment roll as Parcel ID number 000S009001003261 and legally described as:

BEG NE COR LT 261 OLD CITY TRACT WLY 57 20/100 FT FOR POB SLY 46 FT ELY
57 20/100 FT SLY 10 11/100 FT WLY 182 5/10 FT TO E R/W LI OF PALAFOX ST NLY
ALG R/W 56 11/100 FT TO NW COR OF LT 261 ELY 125 3/10 FT TO POB OR 6028 P
824 OR 6509 P 577 CA 75

WHEREAS, the CRA is responsible only for providing funding within applicable Program guidelines and is not acting in the capacity of a property improvement finance agency or a property improvement contractor;

NOW THEREFORE, in consideration of the premises, the mutual covenants and promises contained herein, and other good and valuable consideration, the Owner and the CRA agree and covenant each with the other as follows:

I. REQUIREMENTS TO PARTICIPATE IN THE PROGRAM

The Owner certifies that he/she/it meets the requirements for participation in the Program as set forth in the Retail Storefront Façade Improvement Program Guidelines.

II. THE WORK OF THIS CONTRACT

1. The Owner shall enter into a contract with a competent, properly licensed contractor of Owner's choice (the "Contractor") to construct the CRA approved façade improvements, as defined by the plans and specifications approved in the Owner's application for Program funds.
2. The "Work" to be performed under said contract to be executed between the Owner and Contractor means the construction and services, whether complete or partially complete, including all labor, materials, equipment, and services provided by the Contractor, necessary to construct the CRA approved façade improvements.
3. This Agreement includes and incorporates herein by reference the following documents:
 - the CRA Façade Improvement Program Guidelines (the "Guidelines")
 - the application for funding completed by the Owner, including any documents submitted with the application (the "Application")
 - any CRA approved plan(s) or drawing(s), including any addenda thereto
 - the CRA approved work specifications
 - the award notification letter from the CRA to the Owner
 - any lien or promissory note that will be required to be executed in conjunction with this Agreement

Any addenda, supplements, or amendments made to the above-listed documents subsequent to the date this Agreement is executed shall be incorporated into this Agreement without any the necessity of amending this Agreement.

III. PROGRAM FUNDING

1. Funds for the costs of façade improvement work under the Program and in accordance with the CRA approved plans and specifications shall be payable to the Owner on a reimbursement basis only, based on a percentage of the final project costs as specified in the Guidelines or \$50,000, whichever is less.
2. Program funds shall be disbursed to the Owner upon the determination by the CRA and the City Building Inspections Department, if necessary, that construction of all Work has been satisfactorily completed, and the Owner has issued a certificate of completion to the CRA. Property owners must provide proof satisfactory to the CRA (including copies of all original invoices with affidavits of payment) that all payments due the Contractor, or any other person or entity performing the Work, have been made before Program funds can be disbursed. Program funds will not be disbursed on projects that do not comply with the design plans submitted as a part of the Owner's approved application for funds or special conditions outlined in the award notification letter.
3. Payment shall not become due until the Owner has delivered to the CRA a complete release of all liens arising out of the contract covering all labor, materials, and equipment for which a lien could be filed or the Contractor has secured a bond in an amount needed to satisfy the amount owed for such lien.
4. Upon the receipt of all required payment documentation from the Owner and verification by CRA of compliance with the Guidelines and approved project, CRA will process payment. Payments are only processed and issued once per month. Documentation should be submitted by the 25th of the month (earlier if 25th falls on a weekend or a holiday) for payment on the 10th of the following month. .

5. Payment may be withheld on account of one or more of the following: (1) defective work not remedied, (2) claims filed by third parties, (3) failure of the Contractor to make payments properly to subcontractors or suppliers, or (4) persistent failure to carry out the Work in accordance with this Agreement.
6. Funds shall be provided in the form of a loan to the Owner which is forgiven after a five-year period as provided in this Agreement, during which the CRA funded improvements may not be altered, modified, removed or demolished without prior CRA approval, and the property may not be demolished, converted to 100% non-retail use, sold, or the ownership of the property transferred.
7. Should the loan become due and payable prior to the end of the five-year forgiveness period, the amount due shall be the total amount of the loan divided by One Thousand Eight Hundred Twenty Five (1,825) and then multiplied by the number of days remaining in the forgiveness period.
8. The Owner shall provide the CRA a security interest in the property being improved by executing lien documents against the property in favor of the CRA. The Owner agrees to repay the CRA the remaining unpaid balance of money granted for façade improvement work if the Owner fails to perform any of the covenants or agreements contained in the Application or this Agreement.
9. The Owner shall be liable for all closing costs, payable upon execution of the documents, including without limit, a mortgagee title insurance policy, the settlement fee and recording fees, and documentary stamp taxes. These costs may be counted toward the Owner's matching funds or deducted from the total grant funds disbursed to the Owner at the CRA's discretion.

IV. CHOOSING YOUR CONTRACTOR

1. The Owner must obtain at least three written price proposals from bonafide contractors for performance of the Work.
2. The Owner shall bear full responsibility for reviewing the references and abilities of prospective contractors. At a minimum, the Owner shall secure proof that the chosen contractor(s) possesses the appropriate licensing, registration, and insurance coverage necessary to perform the Work specified in the Owner's Application. The Owner hereby certifies that Owner has diligently conducted a search for quality workmen with reputable backgrounds to ensure the Work to be performed at the property is done in a professional and workman-like manner.
3. The Owner shall not exclude discriminate against any contractor because of age, race, color, religion, sex, handicap, national origin, or any other legally protected class.
4. The Owner shall notify the CRA of the name of the contractor chosen to perform the Work prior to the award of the contract to said Contractor.

V. INSURANCE

1. Prior to obtaining funding and during the term of this Agreement, the Owner must maintain property insurance on the premises which provides coverage for fire, extended coverage and Standard Insurance

Office (ISO) defined "Special Perils." In addition, upon completion of the façade improvements, the façade improvement must be added to the property insurance policy covering the premises.

2. The company or companies providing property insurance coverage pursuant to this section shall be qualified to do business in the State of Florida.
3. The Community Redevelopment Agency (CRA) shall be listed an additional insured and the policy must name the CRA as an entity to which all payments made by such insurance company shall be paid. The Owner is responsible for the payment of any deductible under this policy. The amount of coverage shall be 100% of the replacement cost excluding foundation and site work. The policy shall contain a waiver of subrogation endorsement in favor of the CRA. The policies shall contain an endorsement, which provides that the CRA shall be notified at least thirty (30) days in advance of cancellation, nonrenewal, or adverse change or restriction in coverage.
4. The "Certificate Holder" address should read: CRA, City of Pensacola, 222 West Main Street, Pensacola, Florida 32502 and a certificate of insurance evidencing the required insurance must be sent to the CRA.
5. If the Owner fails to obtain or renew policies, such failure will be deemed a default and cause for immediate termination of this Agreement.
6. If the Premises shall be damaged or destroyed, in whole or in part, by fire or other casualty, Owner shall give prompt notice thereof to CRA. Sums paid to CRA by any insurer shall be retained and applied by CRA toward payment of the Note in such priority and proportions as CRA at its discretion shall deem proper or, at the discretion of CRA, the same may be paid, either in whole or in part, to Owner for such purposes as CRA shall designate.

VI. DATE OF COMMENCEMENT AND COMPLETION

1. The "date of commencement" is the date of the written notice issued by the Owner to the Contractor, authorizing Contractor to proceed with the Work (a Notice to Proceed), and it is the date from which the contract time is measured. The Owner shall issue a Notice to Proceed within 30 days of executing the Agreement. The Owner shall notify the CRA of the date of commencement by providing a copy of the Notice to Proceed to the CRA within 3 days of issuing it to the Contractor. Failure to issue the Notice to Proceed as provided herein shall be deemed a breach of this Agreement and shall be grounds to immediately render this Agreement terminated.
2. The Contractor shall achieve full completion of the Work, as evidenced by approval from the CRA and City Building Inspections Department and receipt of a Certificate of Completion, not later than 180 calendar days following the issuance of the Notice to Proceed by the Owner, subject to adjustments of this contract time as provided by CRA written authorization.

VII. TIME

1. Time limits stated in this Agreement are of the essence of the contract. By executing this Agreement, the Owner confirms that the contract time is a reasonable period for performing the Work.

2. If the contract Work is delayed at any time while in progress by changes ordered in the Work, force majeure, labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control, or by other causes which the Owner and CRA determine may justify delay, then the contract time shall be extended by written authorization for such reasonable time as the CRA may determine. It shall be the responsibility of the Owner to notify the CRA in writing of any such delay within ten (10) calendar days of its occurrence.

VIII. PROJECT ADMINISTRATION

1. The Owner shall cooperate with the CRA during the full course of the improvement project to facilitate the completion of the Work. The Owner understands that participation in the Program requires that Owner furnish the CRA access to Owner's property to inspect the improvements for compliance with the approved plans and specifications.
2. Concealed problems may be discovered as the rehabilitation work progresses. Any corrective work items required by such discovery are not covered in the plans and specifications approved in the Owner's Application. Any such discovery shall require a written notification to CRA staff of the additional work involved. The Owner shall be responsible for payment for any additional work.
3. Modifications to the final plans submitted as part of the Application or changes to the construction documents which produce visible differences in the previously approved project design will require prior review and approval by the CRA. No additions, deletions, or modifications to the Work as defined in the approved Application or special conditions outlined in the award notification letter shall be made unless authorized by a written change order signed by the Owner and Contractor, and approved by CRA staff. Failure to receive such approval shall constitute a breach of this Agreement and this Agreement shall be subject to termination.
4. The Owner shall notify the CRA, and the CRA or its agents shall perform a review, at one hundred percent (100%) completion of the Work to verify that the terms of the Application have been honored and to validate any request for final payment.
5. The CRA assumes no liability for any inspection or non-inspection of the Work in any stage of completeness.
6. The CRA assumes no liability for any performance or non-performance by the Owner or the Contractor.
7. The CRA is not in any way providing any warranty or guarantee of the labor, systems, appliances, or materials utilized during the performance of the Work. Performance of warranty services under the contract between the Owner and the Contractor is the sole responsibility of the Contractor.
8. The Owner shall furnish surveys and a legal description of the site as required by the City Inspections Department or CRA.
9. Except for the permits and fees which are the responsibility of the Contractor, the Owner shall secure and pay for all necessary approvals, easements, assessments and charges required by the Land Development Code of the City of Pensacola for the construction, use, or occupancy of permanent structures or permanent changes in existing facilities.

10. The Owner shall hold harmless the CRA, the City of Pensacola, and their subsidiaries, affiliates, elected and appointed officials, employees, volunteers, representatives, and agents from any and all claims, suits, actions, damages, liability, and expenses in connection with loss of life, bodily or personal injury, or property damage, including loss or use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with this Agreement.

IX. CHANGES IN THE WORK

1. Except in an emergency endangering life or property, no additions, deletions, or modifications to the Work shall be made without first receiving a written approval from the CRA.
2. The contract time shall be changed only by written authorization of the CRA.

X. TERMINATION OF THE AGREEMENT

If the Owner materially fails to comply with any term of this Agreement, the CRA may, upon seven (7) days written notice to the Owner, wholly suspend or terminate the activities governed by this Agreement and the funds committed for those activities.

XI. MISCELLANEOUS PROVISIONS

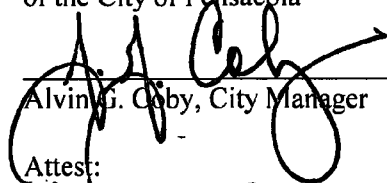
1. This Agreement provides neither a representation nor assurance that a façade improvement project can be developed and carried through to completion by the Owner at the property herein described. This Agreement defines the Program and the process, events, and activities that are integral to its operation. Its intent is to provide a mutually agreed upon framework by which the CRA will provide matching loan funds to the Owner to improve the façade of the Owner's commercial, office, or mixed used property, provided all Program requirements have been and remain satisfied.
2. Owner hereby expressly waives any cause of action Owner may have arising from or pertaining to the provisions of Florida Statute §520.60, et seq., with respect to the City of Pensacola or the CRA.
3. The City has determined the Owner to be eligible to participate within the Program based upon information the Owner has provided under penalty for false or fraudulent statements.
4. Execution of this Agreement by the Owner is a representation that the Owner is competent, familiar with the benefits and responsibilities of participation in the Program, and fully intends to honor the agreements made within the Program.
5. No officer, employee, or councilmember of the City of Pensacola, nor any officer or employee of the CRA or its designees or agents, during his/her tenure or for one year thereafter shall have any direct or indirect interest in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with this Agreement.
6. This Agreement shall be governed by the laws of the State of Florida and venue shall be in Escambia County, Florida.

7. Should any section or part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section in this Agreement.
8. This Agreement is non-assignable by either party and constitutes the entire agreement between the Owner and CRA, and all prior or contemporaneous oral and written agreements or representations of any nature with reference to the subject of this Agreement are canceled and superseded by the provisions of this Agreement. This Agreement may be amended only by a written document executed by both parties.

IN WITNESS WHEREOF, the Owner and CRA have executed this Agreement their respective authorized representatives to be effective as of the day and year first above written. This Agreement is executed in three original copies, of which one is to be delivered to the Owner and one to the CRA.

SIGNATURES:

Community Redevelopment Agency
of the City of Pensacola



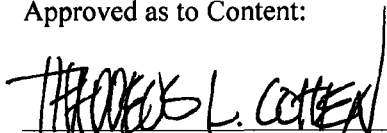
Alvin G. Coby, City Manager

Attest:



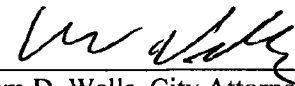
Ericka Burnett, City Clerk

Approved as to Content:



Thaddeus L. Cohen,
Community Development Director

Approved as to Form and Execution



William D. Wells, City Attorney

OWNER: Masonic Lodge, LLC



Harry Levin, Managing Member

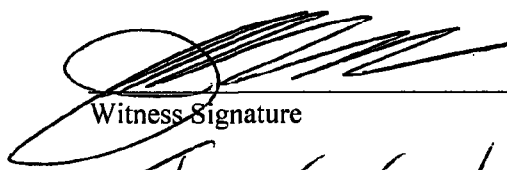
Witnesses:



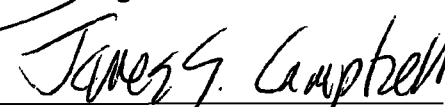
Witness Signature



Valerie Matthews
Print Witness Name



Witness Signature



James G. Campbell
Print Witness Name

Mason Lodge Retail Storefront Improvement Agreement

Note to Reviewers: Only two copies of agreement attached. CRA will not need an original.

REPORT OF THE COMMUNITY REDEVELOPMENT AGENCY ITEM 10
February 8, 2010

JOHN JERRALDS, CHAIR
DIANE MACK, VICE CHAIR
JEWEL CANNADA-WYNN
MAREN DEWEESE
SAM HALL
LARRY B. JOHNSON
MEGAN PRATT
RONALD TOWNSEND
MICHAEL WIGGINS, MAYOR
P.C. WU

COMMUNITY
REDEVELOPMENT
AGENCY

COMMITTEE REPORT

- 1. APPROVAL OF MINUTES: JANUARY 25, 2010 MEETING.**
- 2. AGREEMENT FOR OWNER FUNDED STREETSCAPE IMPROVEMENT**
- 3. CRA RETAIL STOREFRONT FAÇADE IMPROVEMENT PROGRAM AWARD**

**REPORT OF THE COMMUNITY REDEVELOPMENT AGENCY ITEM 10
FEBRUARY 8, 2010**

Committee Members Present: Cannada-Wynn, DeWeese, Hall, Jerralds, Johnson,
Mack, Pratt, Townsend, Wiggins and Wu.

Committee Members Absent: None.

1. SUBJECT: APPROVAL OF THE MINUTES

Reference Material:

Transcription of Minutes dated January 25, 2010.

Recommendation:

That the Community Redevelopment Agency approve the minutes of the January 25, 2010 meeting as presented.

The motion passed unanimously.

**2. SUBJECT: AGREEMENT FOR OWNER FUNDED STREETScape
IMPROVEMENT**

Reference Material:

Committee Memorandum dated February 8, 2010

Recommendation:

That the Community Redevelopment Agency (CRA) authorize the City Manager to execute an agreement for up to \$43,600 of actual cost with George F. Overby, for streetscape improvements adjacent to property on E. Intendencia Street.

The motion passed unanimously.

REPORT OF THE COMMUNITY REDEVELOPMENT AGENCY ITEM 10
FEBRUARY 8, 2010
PAGE 2

3. SUBJECT: CRA RETAIL STOREFRONT FAÇADE IMPROVEMENT
PROGRAM AWARD

Reference Material:

Committee memorandum dated February 8, 2010

Recommendation:

That the Community Redevelopment Agency approve a CRA Retail Storefront Façade Improvement Program award for Masonic Lodge, LLC (4 S. Palafox St.) for a forgivable loan in an amount up to \$50,000.

The motion passed unanimously.

FINAL DOCUMENT REVIEW FORM
(Blue)

USER AGENCY

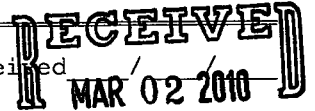
Document CRA Retail Storefront Facade Improvement Program Funding Agreement

Project Contract Lease Other (Check One)

Name/Description: Masonic Lodge, LLC - Retail Storefront Improvement

User Agency: Community Redevelopment Agency Contact Person: Becky Bray

Date of Council Approval: 2/8/10 Send to Contract Administration: 3/2/10



CONTRACT ADMINISTRATION

Date Received

N/A Debarment Check

BY: _____

Pending (See comments below); _____ (Signature)

Send to User Agency _____

Approved: [Signature] (Signature)

Send to Risk Management Agency 3/3/10

Comments: _____

RISK MANAGER

Date Received 3/4/10

Pending (See comments below); _____ (Signature)

Send to User Agency 1/1/10

Approved: Mary D. Smith (Signature)
Asst. Risk Mgr.

Send to Community Development Director 3/9/10
Inter UIC.

Comments: Mary, insurance certificate is pending for this contract, will forward as soon as we receive. Betty Q.

CITY MANAGER'S OFFICE

✓ Approved: [Signature]
(Community Development Director)

RECEIVED
Date Received: 3/23/10
BY: [Signature]

Sign Here

Pending (See comments below); _____
(City Manager) Send to User Agency ___/___/___

✓ Document Executed; [Signature] Send to City Clerk 3/23/10
(Signature)

Comments: _____

CITY CLERK

Send Original to City Attorney 3/24/10

CITY ATTORNEY

Date Received: ___/___/___

Pending (see comments below); _____
(Signature) Send to User Agency ___/___/___

X Approved as to Form; [Signature] Send Original to City Clerk 3/25/10
(Signature)

Comments: _____

CITY CLERK

Retained 1 original(s)/copies Returned 1 original(s) to Becky / CRA
Initials: TLD

Returned to User Agency 3/29/10