

**CITY OF PENSACOLA COMMUNITY REDEVELOPMENT AGENCY  
COMMERCIAL FACADE IMPROVEMENT AGREEMENT**

THIS AGREEMENT ("Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ by and between the Community Redevelopment Agency of the City of Pensacola, Florida, whose address is P.O. Box 12910, Pensacola, Florida 32521, a public body corporate and politic of the State of Florida, hereinafter referred to as the "CRA", and Mother Wit Institute, Inc. whose address is 314 North DeVilliers Street, Pensacola, Florida 32501, hereinafter referred to as the "Owner."

**WITNESSETH**

**WHEREAS**, the CRA administers a Commercial Facade Improvement Program ("Program") which was authorized by Resolution No. 02-10, adoption of the Urban Core 2010 Plan and Resolution No. 13-07, adoption of the Westside Community Redevelopment Plan; and

**WHEREAS**, the Owner desires to participate within the Program and complies with the Program requirements as hereinafter addressed, to receive funds to be used for the improvement of the facade of the property addressed as 423 North "C" Street, Pensacola Florida 32501, and legally described as LTS 21 TO 23 DB 155 p 279 PEBLEYS S/D BLK 22 WEST KING TRACT CA 105; Reference Number: 000S009060210022 ("Property"); and

**WHEREAS**, the CRA has committed funds to be applied to the costs of improving the facade of the Property, a sum not to exceed \$ 20,000; and

**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 Ten Dollars (\$10.00) the receipt and sufficiency of which is hereby acknowledged by the parties, and of 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:

**SECTION 1. RECITALS.**

The Parties acknowledge and agree that the above recitals are true and correct and are hereby incorporated into this Agreement by this reference.

**SECTION 2. COMPLIANCE WITH PROGRAM.**

The Owner represents and warrants to CRA that Owner meets the requirements for participation in the Program and shall comply with the Program as set forth by the CRA and in the "Program Documents" including but not limited to the Program Guidelines, the Program Application and any affiliated documentation, any CRA-approved plan(s) or drawing(s), the CRA-approved work specifications, award notification letter, addenda issued prior to the execution of this Agreement, and the Mortgage and Security Agreement and Promissory Note that Owner shall execute in conjunction with this Agreement, all such

documents attached hereto as Exhibit A and incorporated herein by this reference and any other documents listed in this Agreement, modifications issued after execution of this Agreement, and any other documents required by the CRA, and further warrants and agrees to compliance with the following requirements in this Section, and any other requirements or obligations under this Agreement or the Program.

### **SECTION 3. PROJECT WORK**

The Owner shall enter into legally binding contracts (“Contracts”) with competent, properly licensed contractors (“Contractors”) to construct the facade improvements (“Project”), upon prior written approval by the CRA as defined by the plans and specifications approved in the application for Program funds. The Project under said Contracts shall include the construction and services, including all labor, materials, equipment, and services provided by the Contractors, necessary to construct the Project.

### **SECTION 4. DISBURSEMENTS AND LOAN SECURITY**

1. Funds for the costs of the Project under the Program and in accordance with the CRA approved plans and specifications, will be payable, based on a percentage of the final project costs as specified in the Program Guidelines or \$20,000, whichever is less.

2. Program funds will not be disbursed until: (1) the City Building Inspections Department renders written determination that construction of the Project has been satisfactorily completed, (2) the Owner has issued a Statement of Completion, (3) the Owner provides proof, satisfactory to the CRA (including, but not limited to, a statement of final project costs, payments made and balance due and copies of all original invoices with affidavits or proof of payment), that all payments due the Contractors, except for Program funds, have been made, and (4) Owner has delivered to the CRA a complete release of all liens arising out of the Contracts covering all labor, materials, and equipment for which a lien could be filed, or the Contractors have issued a bond in an amount needed to satisfy the amount owed for each such lien. Owner acknowledges and agrees Program funds will not be disbursed for Projects that do not fully comply with any of the covenants or agreements contained in the Program Documents, this Agreement or CRA requirements.

3. Upon the receipt of all required payment documentation and verification by CRA of compliance with the Program Documents and CRA requirements, the CRA will process payment. 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 month. Those submitted after the 25th of the month will be processed for payment on the 10th of the following month.

4. Owner hereby expressly agrees any monies received from the CRA shall be secured by a mortgage loan against the Property, such loan to be forgiven on a daily basis over a five (5) consecutive year period, during which time the Owner shall not cause or allow the Project to be modified, altered, removed or demolished, and shall not cause or allow the Property to be sold, conveyed, transferred, demolished, or converted to one hundred percent (100%) residential use.

5. The Owner shall provide to the CRA a security interest in the property being improved by executing the mortgage and loan security documents, and any related documents in the sole discretion of the CRA, against the Property in favor of the CRA.

6. The Owner hereby expressly agrees Owner shall repay the CRA any monies received, or any remaining unpaid balance of money received from CRA, to the satisfaction of the CRA, upon failure to perform or non-compliance with any of the covenants or agreements contained in the Program Documents, this Agreement, or CRA requirements, due to any cause or omission whatsoever.

7. The Owner hereby expressly agrees Owner shall pay all closing costs, fees, or taxes whatsoever, arising in relation to the loan and security instruments, and all such amounts shall be paid by Owner upon execution of the documents, including, without limit, recording and filing fees. These costs shall be payable from the non-refundable deposit in accordance with the Program Documents.

#### **SECTION 5. NO CRA LIABILITY FOR CONTRACTOR.**

1. The Owner, not CRA, shall obtain at least three (3) written price proposals from Contractors for the Project work, including at least three (3) written price proposals for each individually required Contract. The Owner, not CRA, shall bear total responsibility for reviewing the references and abilities of prospective Project Contractors. At a minimum, the Owner, not CRA, shall secure proof that the chosen Contractors possess the appropriate licensing, or registration to perform all Project work. The Owner, not CRA, shall ensure the Contractor possesses the applicable insurance coverage necessary to perform the Project pursuant to the terms and conditions herein and the CRA requirements. The Owner hereby expressly certifies to CRA that Owner has diligently conducted a search for quality workmen with reputable backgrounds to ensure that the Project is completed in a professional, timely and workmanlike manner.

2. The CRA assumes no liability for any inspection or non-inspection of the Project at any stage. Nothing in this Agreement shall be construed to indicate CRA is providing any warranty or guarantee of the labor, systems, appliances, or materials utilized during the performance of the Project. Performance of warranty services under the Contract Agreements are the sole responsibility of the Owner.

3. The Owner, by applicable law, shall not exclude from participation or discriminate against any Contractor because of age, race, color, religion, sex, handicap and/or disability, or national origin.

#### **SECTION 6. INSURANCE.**

1. The Owner shall be required to keep all buildings and improvements on the Property insured against loss or damage by fire or other such risks and matters as defined within the Program Application and this Agreement, and shall furnish proof of adequate hazard insurance on the Property as required prior to the commencement of the funded Improvement Work.

2. The Owner shall contact his/her insurance carrier prior to the date of commencement of the Improvement Work to notify them of the intended rehabilitation project and determine the insurance adjustments applicable to the Property. During the term of this Agreement, the Participant shall maintain in force the insurance coverage specified.

3. Owner shall maintain in force at all times, property insurance coverage, which insures the Property against fire, extended coverage and Standard Insurance Office (SIO) defined "Special Perils" of physical

damage. The company or companies providing property insurance coverage pursuant to this paragraph shall be qualified to do business in the State of Florida. The Community Redevelopment Agency (CRA) shall be an Additional Insured under such policy with coverage afforded to the CRA which is at least as broad as that provided to the CRA under the policy for the terms and conditions of such policy. The policy must name the CRA as the person to which all payments made by such insurance company shall be paid. The amount of coverage shall be 100% of the replacement cost excluding foundation and site work. The Owner is responsible for the payment of any deductible under the required property insurance policy. Such policy shall contain a Waiver of Subrogation endorsement in favor of the CRA. The Owner agrees to apply any payment made as a result of any insurable loss to the repair or replacement of the Improvements subject to the rights of any Lender or CRA. Required insurance policies shall be documented in Certificates of Insurance. 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. The "Certificate Holder" address should read: CRA, City of Pensacola, Post Office Box 12910, Pensacola, Florida 32521. If the Participant fails to obtain or renew policies, such failure will be deemed a default and may provide cause for immediate termination of this Agreement. If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, the Owner shall give prompt notice thereof to the CRA. Sums paid to the CRA by any insurer shall be retained and applied by the CRA toward payment of the mortgage note in such priority and proportions as the 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 the Owner for such purposes as the CRA shall designate.

4. That Owner will not commit, permit, or suffer any waste, impairment, or deterioration of the Property. Upon failure of the Owner to keep the buildings and improvements on the Property in good condition or repair, the CRA may demand either the adequate repair of the buildings, an increase in the amount of security, or the immediate repayment of the debt secured hereby. Failure of the Owner to comply with the demand of the CRA for a period of thirty (30) days shall constitute a default under this Agreement.

5. The Project must be added to the property insurance covering the premises.

6. To pay all the costs, charges and expenses, including reasonable attorney's fees and costs of abstracts of title, incurred or paid at any time by the CRA or its assigns in collecting or attempting to collect the mortgage lien or in enforcing any of its rights hereunder or incurred or paid by it because of the failure on the part of the Owner to promptly and fully perform the agreements and covenants of the instrument or instruments evidencing the mortgage lien and this Agreement; and said costs, charges and expenses, with interest thereon at the maximum rate allowed by law, shall be immediately due and payable and secured by the mortgage lien.

#### **SECTION 7. TIME IS OF THE ESSENCE AND PROJECT DEADLINES.**

Owner expressly agrees time is of the essence in this Agreement. The Owner shall issue written Notice to Proceed to the Contractor within thirty (30) days of executing this Agreement. The parties agree the date of written Notice to Proceed, issued by the Owner to the Contractor, shall be the commencement date of all completion deadline requirements pursuant to this Agreement, the Program Documents, and the CRA. The Owner shall notify the CRA of the date of commencement by providing to CRA a copy of the Notice to Proceed, and shall provide such to CRA no less than three (3) days of issuance. Owner agrees

failure to issue the Notice to Proceed as provided is a material breach of this Agreement and may in the CRA's sole discretion immediately render this Agreement null and void. Owner shall achieve full completion of the Project, regardless of Contractor or Contractor's failure to perform, such completion as provided above, no more than one hundred eighty (180) calendar days following the issuance of the Notice to Proceed. Owner agrees that only the CRA, in the CRA's sole discretion, may adjust any performance and completion deadlines herein.

#### **SECTION 8. CRA ACCESS**

The Owner shall cooperate with the CRA during the full course of the Project to facilitate the completion of the Project. The Owner agrees CRA or its agents shall have access to the Property to inspect the Project at any time for compliance.

#### **SECTION 9. UNKNOWN REHABILITATION WORK**

The Parties acknowledge concealed problems may be discovered as the Project progresses, and as such, the Owner agrees any corrective work items required by such discovery are not covered in the plans and specifications approved in conjunction with the Program. Owner shall provide written notice to CRA of any such discovery. The Owner shall be responsible for payment for any additional work.

#### **SECTION 10. MODIFICATIONS.**

Owner shall not cause or allow additions, deletions or modifications to the final plans submitted as part of the Program Documents or changes to the construction documents, unless such have received prior review and written approval by the CRA, and including a written change order signed by the Owner and Contractor. Except in an emergency endangering life or property, failure to receive such approval shall invalidate this Agreement and this Agreement will be deemed null and void.

#### **SECTION 11. OTHER APPROVALS.**

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.

#### **SECTION 12. INDEMNIFICATION.**

The Owner shall hold harmless the CRA and the City of Pensacola, its subsidiaries or 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.

#### **SECTION 13. TERMINATION.**

Owner agrees that should Owner materially fail to comply with any term of this Agreement, the CRA may, in CRA's sole discretion, upon seven (7) days of date of written notice to the Owner, wholly suspend

or terminate the activities governed by this Agreement and the funds committed for those activities.

**SECTION 14. MISCELLANEOUS PROVISIONS.**

1. Owner hereby expressly agrees that the Program funding provided under this Agreement does not constitute any activity regulated by Sec. 520.50, et seq., Florida Statutes, and hereby waives any claim or cause of action which may arise under those provisions with respect to the City of Pensacola, or the CRA, its officers, employees and agents, whether appointed or elected.

2. This Agreement shall be governed by the laws of the State of Florida, and venue shall be in Escambia County.

3. 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.

4. 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 agreement or representations of any nature with reference to the subject of the agreement are canceled and superseded by the provisions of this Agreement.

**IN WITNESS WHEREOF**, the Owner and CRA have executed or caused these presents to be executed by their respective authorized representatives to be effective as of the day and year first above written.

OWNER: MOTHER WIT INSTITUTE,  
INC.

COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF PENSACOLA

\_\_\_\_\_  
Georgia Blackmon, President

\_\_\_\_\_  
Jewel Cannada-Wynn, CRA Chairperson

Witness:

Attest:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

Witness:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Approved as to Content:

Legal in Form and Valid as Drawn:

\_\_\_\_\_  
M. Helen Gibson, CRA Administrator

\_\_\_\_\_  
Susan Woolf, City Attorney

**Exhibit A**  
**PROGRAM DOCUMENTS**