

GRANT AGREEMENT

between

ORANGE COUNTY, FLORIDA

and

AVALON HOME AND PROPERTY OWNERS' ASSOCIATION, INC.

(LAKE AVALON RURAL SETTLEMENT)

related to

THE 2024-2025 NEIGHBORHOOD BEAUTIFICATION GRANT

THIS GRANT AGREEMENT (“Agreement”) is made and entered into by and between **ORANGE COUNTY, FLORIDA** (the “**County**”), a charter county and political subdivision of the State of Florida located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its Neighborhood Services Division, and **Avalon Home and Property Owners’ Association, Inc. (Lake Avalon Rural Settlement)** (the “**Association**”), a voluntary organization with a principal address located at **2255 Farnham Drive, Ocoee, FL 34761**. The County and the Association may be referred to individually as “**party**” or collectively as “**parties**”.

RECITALS

WHEREAS, the Orange County Board of County Commissioners (the “**Board**”), in seeking to improve the health, safety, and public welfare of the communities of the County, established the Neighborhood Beautification Grant Program to provide funding to neighborhoods and communities for the creation and maintenance of entranceway and common area improvements; and

WHEREAS, the Association represents a neighborhood or community requiring such funding for a project that, based on the review and recommendation of the County’s Neighborhood Grants Advisory Board, was approved by the Board – subject to the terms and conditions set forth in this Agreement – for an award in the amount of **\$8,197** (the “**Funding Amount**”); and

WHEREAS, the County has appointed the County’s Neighborhood Services Division to be the “**Program Administrator**” charged with administrating and managing the Community Improvement Grant Program.

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions, set forth, the parties agree as follows:

Section 1. Recitals

The above recitals are true and correct and form a material part of this Agreement.

Section 2. Documents

The documents incorporated by either reference or attachment and thereby form this Agreement are:

- A. This Agreement;
- B. The Grant Welcome and Award Letter;
- C. **Exhibit A**: Grant Application; and
- D. **Exhibit B**: Progress Report Form

Section 3. The County's Payment Responsibilities

The County will make payments directly to qualified vendors of the Association only for the purposes set forth in the Association's Grant Application found in attached **Exhibit "A"**. **No payment or reimbursements to the Association shall be made under this Agreement.** At no point shall the County be responsible for any amount of funding that exceeds the Funding Amount, or for payment for any good or service that was not first approved by the Program Administrator in writing.

Section 4. The Association's Responsibilities

- A.** The Association shall work with the County, through the Program Administrator, to administer the grant funds provided to it solely for the purposes set forth in the Association's Grant Application.
- B.** The Association shall not permit any of its officers, employees, agents, or associates to receive any direct or indirect financial benefit from this grant.
- C.** The Association shall comply with all progress report requirements, as set forth in this Agreement and as attached in **Exhibit "B"**.
- D.** The Association shall verify the quote amounts that were submitted with the Association's Grant Application and provide proof of the verification of each quote in the form of a memo on the vendor's company letterhead.
- E.** The Association shall verify that each vendor is qualified to provide the services for which they are to complete by providing proof of appropriate licensure (if applicable) and required insurance.
- F.** The Association shall request and receive written approval from the County's Program Administrator prior to the Association's purchase of any project-related items, materials, or services.
- G.** The Association shall provide the appropriate pre-determined match funds for the grant and pay for all balances above the funding amount reflected on each invoice.
- H.** The Association shall not pay for any additional services or materials that are not outlined in the grant proposal without prior written approval from the County's Program Administrator.
- I.** The Association shall be solely responsible for the coordination of vendors to complete the project. The Association shall appoint a contact person and secondary contact person within the Association or neighborhood to coordinate with the County, through its Program Administrator, and the vendors. The Association shall notify the Program Administrator as to whom these contact people are and if they change throughout the course of the project.
- J.** The Association shall immediately communicate any change of vendors or plans regarding the project directly to the Program Administrator for approval prior to taking any action that deviates from the Association's Approved Grant Application.

Section 5. Reporting Requirements

- A.** The Association must submit to the Program Administrator timely Progress Reports with a Final Report to be submitted at the conclusion of the project. All grant funding will be terminated after the submission of the Final Report, and all outstanding balances shall be the sole responsibility of the Association.

B. Progress Reports shall:

1. Be submitted twice monthly to the Program Administrator on the form found attached as **Exhibit "B"**, on the 15th and 30th of every month starting after the execution of this Agreement.
2. Conclude on the completion of the project with the submittal by the Association of a Final Report.
3. Show activity taken towards the completion of the project, beginning with the second progress report.
4. Include, at minimum, a written status report, and pictures.
5. Be complete. Incomplete reports shall not be accepted and will be cause for the County to terminate this Agreement.

C. The Final Report shall:

1. Be submitted to the Program Administrator at the completion of the project and reflect satisfactory completion of the project.
2. Include at least two pictures of the final project that the Association hereby agrees that the County can use for evaluation purposes as well as to promote the Community Improvement Grant Program.
3. Not be completed until the Association's selected qualified contractors are fully paid for the services contemplated in this Agreement.

Section 6. Permitting and Code Compliance

- A.** The County shall have the right to unilaterally change components of the project and to limit funding for the purposes of complying with the requirements of the County's code or to otherwise facilitate completion of the project.
- B.** The Association shall ensure that all required permits are pulled by the vendors performing services under this Agreement. If a project is completed without any of the required permits, this Agreement shall be terminated and all funds expended by the County to any vendor under this Agreement shall be immediately refunded to the County by the Association.

Section 7. Term and Termination of Grant Agreement

- A. Term.** This Agreement, as well as any obligation by the County to fund this project, shall begin upon execution by both parties and shall conclude upon the County's receipt and acceptance of the Association's completed Final Report, unless otherwise terminated by the County.
- B. Termination.** The following shall constitute cause for the County to terminate this Agreement and shall result in the Association's obligation to repay all County funds that were expended to the project vendors under this Agreement by the County. Application of this provision shall be at the sole discretion of the County.
 1. Failure by the Association to comply with any of the terms of this Agreement;
 2. Misuse of grant funds by the Association;

3. Should there be no qualified vendor that meets the County's insurance and licensure requirements that is able to complete the project within the approved project budget; or
4. Failure by the Association to make satisfactory progress towards the completion of the project.

C. "Satisfactory Progress" shall include, but shall not be limited to:

1. The Association's submittal of all required permit applications within thirty (30) calendar days of the execution of this Agreement. Should a delay in applying for permits be caused by the County, the Association shall have thirty (30) days from the resolution of that delay to apply for a permit.
 2. The completion of the project within one hundred and eighty (180) calendar days from the date of issuance of the required permits.
- D.** Any request by the Association for an extension of any deadline in this Agreement shall be made in writing to the Program Administrator no later than seven (7) calendar days prior to the deadline for which the Association is requesting such extension.
- E.** Upon termination of this Agreement for any reason, the Association shall be solely responsible for all outstanding project balances.

Section 8. Effect of Non-Completion

The Association shall not be eligible for future Community Improvement Grant Program funding should the Association fail to complete this project, or should this Agreement be terminated by the County for cause.

Section 9. Public Access

All property which is improved by funding under this Agreement shall be made open to the public.

Section 10. Resolution of Disputes and Delays

- A.** Any and all disputes, claims, or controversies arising out of, or relating to, the project budget must be submitted in writing to the Program Administrator before the start of the project.
- B.** Any and all disputes, claims, or controversies arising out of, or relating to, project warranties must be submitted in writing to the Program Administrator within thirty (30) calendar days of the completion date of the relevant vendor's contract resolution. The County may, but is not obligated to, assist in trying to secure a resolution.
- C.** Any and all circumstances that prevent or delay the completion of the project must be immediately reported to the County for resolution.

Section 11. Indemnification

- A.** To the fullest extent permitted by law, the Association shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorneys' fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the Association or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable. Nothing contained herein shall constitute as a waiver by the County of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

It is agreed by the parties that specific consideration has been paid under this Agreement for this provision.

- B.** To the fullest extent permitted by law, the Association shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorneys' fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission by any vendor to which the County issues payment pursuant to this Agreement, anyone directly or indirectly employed by them, or anyone for whose acts that vendor may be liable. Nothing contained herein shall constitute as a waiver by the County of its sovereign immunity or the provisions of Section 768.28, Florida Statutes. It is agreed by the parties that specific consideration has been paid under this Agreement for this provision.

Section 12. Liability; No Warranty

A. Liability

1. In no event shall the County be responsible to the Association, or to any third party, for any indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goods, lost profits, lost business, or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty, or a breach of term of this Agreement.
2. Without waiving any of the provisions or protections under this Agreement or pursuant to Florida law, under no circumstances shall the County be liable to the Contractor under any contract, negligence, strict liability, or other legal or equitable theory for any amounts in excess of those limits per claim and per occurrence set forth for tort liability in Section 768.28, Florida Statutes, which limits are hereby made applicable to all manner of claims against the County related to this Agreement and are not confined to tort liability.

- B. No Warranty. Payment by the County to a vendor under this Agreement shall in no way serve, or be construed to serve, as a warranty or assurance by the County regarding a vendor's performance.** The Association understands that the County's role in this Agreement is limited to providing payment to a vendor on behalf of the Association in an amount not to exceed the Funding Amount. Consequently, by execution of this Agreement, the Association acknowledges that any concerns that the Association may have with the quality of a vendor's services or work performed under this Agreement shall be a civil matter strictly between the Association and the respective vendor. Under no such circumstances shall the County be considered a party.

Section 13. Independent Contractor

The parties agree that the relationship between the County and the Association that is established by this Agreement is that of an independent contractor. Nothing in this Agreement shall be construed to create any agency or employment relationship between the County or any of its employees and the Association. Neither party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

Section 14. Records

- A. Retention; Right to Audit.** In the performance of this Agreement, the Association shall establish and maintain separate books, records, and accounts of all activities related to the Agreement, in compliance with generally accepted accounting and record maintenance procedures. Books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular

business hours by an authorized representative of the County and shall be retained by the Association for a period of five (5) years after termination of this Agreement. In the event of litigation, claim, or audit findings, the record retention period shall be five (5) years from the time of resolution of the litigation, claim, or audit findings.

- B. Public Records.** All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. All records or documents created by the Association or provided to the Association under the terms of this Agreement, are public records and the Association agrees to assist the County in compliance with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes.

Section 15. General Provisions

- A. Compliance with Laws.** It shall be each party's responsibility to be aware of federal, state, and local laws relevant to this Agreement. Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party and shall obtain any permits or licenses necessary for its operations. Neither party shall take any action in violation of any applicable legal requirement that could result in liability being imposed on the other party.
- B. Assignments and Successors.** Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. The parties deem the services to be rendered pursuant to this Agreement to be personal in nature. As such, neither party shall assign, sublet, convey, or transfer its interest in this Agreement without the written consent of the other, which consent shall be in the sole determination of the party with the right to consent.
- C. Remedies.** No remedy conferred at law or in this Agreement upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, powers, or remedies under this Agreement shall preclude any other or further exercise of that party's available rights, powers, or remedies.
- D. Waiver.** No delay or failure on the part of any party to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.
- E. Governing Law.** This Agreement and any and all actions directly or indirectly associated this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Florida, without reference to any conflicts of law provisions.
- F. Venue.** For any legal proceeding arising out of or relating to this Agreement, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.
- G. Jury Waiver.** Each party hereby irrevocably waives, to the fullest extent permitted by applicable law,

any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of, or relating to, this Agreement.

- H. Attorneys' Fees and Costs.** The indemnity provision of this Agreement excepted, the parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any litigation that arises either directly, or indirectly, from this Agreement.
- I. No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to, or shall, confer upon any person, other than the parties and their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.
- J. No Representations.** Each party represents that they have had the opportunity to consult with an attorney and have carefully read and understand the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party which are not specifically set forth in this Agreement.
- K. Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.
- L. Headings.** The headings or captions of articles, sections, or subsections used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.
- M. Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.
- N. Authority of Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.
- O. Written Modification.** Unless otherwise explicitly stated in this Agreement, no modification of this Agreement shall be binding upon any party to this Agreement unless reduced to writing and signed by a duly authorized representative of each party to this Agreement.

Section 16. Entire Agreement

This Agreement and any documents incorporated herein, sets forth and constitute the entire agreement and understanding of the parties regarding the subject matter of this Agreement. This Agreement supersedes all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

Tanya Wilson, AICP, Director
Planning, Environmental, and Development
Services Department

Date: _____

Award and Limited Delegation of Signature Authority
to the Director of the Planning, Environmental, and
Development Department Approved by the Orange
County Board of County Commissioners on:

January 7, 2025

**AVALON HOME AND PROPERTY OWNERS' ASSOCIATION, INC.
(LAKE AVALON RURAL SETTLEMENT)**

By: _____

Date: _____

Printed Name: _____

Official Title: _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__,
by _____, who is personally known to me or produced
_____ as a form of valid identification.

(Seal)

Signature Notary Public