

NASSAU COUNTY
STATE HOUSING INITIATIVE PROGRAM (SHIP)
GRANT AGREEMENT WITH
MICAH'S PLACE, INC.

THIS AGREEMENT, made and entered into in duplicate this 9th day of June, 2003, by and between the Board of County Commissioners of Nassau County, Florida, acting in its capacity as Administrator of the Nassau County SHIP Program, hereinafter referred to as the COUNTY and MICAH'S PLACE, INC., a not for profit corporation under the laws of the State of Florida, hereinafter referred to as "MICAH'S."

WITNESSETH

WHEREAS, the County has been awarded the State Housing Initiatives Partnership (SHIP) Program funds pursuant to Section 420.907-9079, Florida Statutes (1997), which provides for the implementation of projects designed to address the affordable housing needs of very low, low, and moderate income persons; and,

WHEREAS, Nassau County by ordinance has adopted a Local Housing Assistance Plan in accord with Chapter 67-37, Florida Administrative Code, which contains a special needs housing program to encourage the provision of housing for persons who have special housing needs residing in Nassau County; and,

WHEREAS, Nassau County desires to enter this Agreement with Micah's, to assist Micah's in the construction of a domestic violence shelter to be located in Nassau County for the housing of victims of domestic violence, which is a special needs group within the meaning of the SHIP laws and rules; and,

NOW THEREFORE, in consideration of the premises and the mutual covenants and undertakings set forth herein, the parties do hereby agree as follows:

Micah's has been awarded \$360,000. Funding is based on the facility making bed space available to SHIP eligible applicants as defined in the LHAP for Nassau County. The minimum bed spaces to be made available are 10.3 shelter beds on an annual use per bed/day basis.

A. RECIPIENT

Micah's is a not for profit corporation under the laws of the State of Florida in good standing under the laws of the State of Florida, with full corporate authority under its articles of incorporation and bylaws to execute this Agreement and the undersigned representatives of Micah's are authorized to sign this Agreement binding Micah's.

B. SCOPE AND SCHEDULE OF SERVICES

Micah's intends to construct a domestic violence shelter for the housing of victims of domestic violence for the principal benefit of eligible low and very low-income persons as defined in Chapter 67-37, Florida Administrative Code and residing in Nassau County, Florida at the time services are rendered.

C: FUNDING AND PAYMENT PROCEDURES

1. The County agrees to disburse grant funds to Micah's for the specified project during the period of this Agreement in the maximum amount of \$360,000.00, in funds for the State Florida, from fiscal years distribution as needed for Statutory or Program Requirements. Anything herein to the contrary notwithstanding any and all obligations of the county to make any and all payments to Micah's are expressly conditioned upon receipt of and authorization to expend SHIP Funds from the State of Florida and upon specific annual appropriation therefore, by the Board of county commissioners. Micah's acknowledges that in the budget for each fiscal year of the County during which the term of this Agreement is in effect a limited amount of funds are appropriated which are available to make payments arising under this Agreement. Any other provisions of the Agreement to the contrary notwithstanding, and pursuant to the provision of Section 129.07, Florida Statutes, the maximum payment that the County is obligated to make under the Agreement from the budget of any fiscal year shall not exceed the appropriation for said fiscal year.
2. The Grant funds may only be used for:
 - a. Those hard costs which are typically or customarily treated as construction costs by institutional lenders;
 - b. Payment of impact fees;
 - c. Infrastructure expenses typically paid by the developer; or
 - d. Construction soft costs such as engineering studies and appraisals, if directly related to housing construction of the shelter for domestic violence.
3. Payments will be made by the County to Micah's in accord with the following procedures:
 - a. The County will advance 20% of the funds upon signing of the contract between both parties (Nassau County & Micah's Place, Inc.). These funds will be maintained in a working fund; managed by the county clerk's office for distribution.
 - b. The County will reimburse Micah's no more frequently than twice a month for each request under this Agreement based on actual expenditures, which are properly documented as eligible costs with supporting documentation provided to the SHIP Coordinator. It is fully and expressly agreed that the County's determination as to the allowance of a particular expense as well as a determination of the sufficiency of all supporting documentation for same shall be conclusive. The payment request shall certify that the amount requested shall not have been submitted to or reimbursed by the County under any other contract or by any other agency and shall be signed by an authorized representative of Micah's.
 - c. Invoices and accompanying support documentation shall be sent to:

Northeast Florida Regional Planning Council (NEFRPC)
Administrator for Nassau County SHIP Program
6850 Belfort Oaks Place
Jacksonville, Florida 32216

- d. Micah's must submit the final request for payment and supporting documentation to the County no later than 45 days after this Agreement ends or is terminated for expenses incurred during the term of this Agreement. If Micah's fails to do so, all right to payment is forfeited, and the County will not honor any request submitted after the aforesaid time period. Any payment due Micah's under the terms of this Agreement may be withheld until all reports due from Micah's and necessary adjustments thereto, have been approved by the County.
 - e. Micah's will allow forty-five (45) days from the date of the County's receipt of acceptable payment requests for the county to process payments. All payments shall be made in accordance with the Florida Prompt Payment Act.
 - f. Micah's will contract with a licensed General Contractor for construction of the facility, the Contractor will post a construction bond per County requirements, a copy of the agreement between Micah's and the General Contractor will be provided to the to the County and SHIP program Administrator prior to commencement of construction. Reimbursements may be made directly to the General Contractor for construction of the facility.
4. Any unused or residual funds remaining at the termination of this Agreement shall be retained by the county:

D. RESTRICTIONS ON USE OF SHIP FUNDS

1. The construction of the shelter for domestic violence which is constructed with SHIP Program funds under this Agreement must be occupied by Eligible Persons as defined in Rule 67-37.002, Florida Administrative Code. The occupants must be either very low or low-income persons, as defined in Rule 67-37.002, Florida Administrative Code.
2. As a requirement for the use of SHIP funds for construction of the shelter for domestic violence, Micah's must provide the minimum set aside of units for Eligible Persons for at least fifteen years or the term of assistance, whichever period is longer. Special Needs housing offered for sale prior to the end of this period must be subject to a right of first refusal for purchase at the then current market value by eligible nonprofit organizations who would provide continued occupancy by Eligible Persons.
3. To the extent Micah's receives assistance from SHIP and other Federal, State or local programs, it shall be required to comply with any requirements specified by the other program in addition to SHIP Program requirements. In the event both Programs have restrictions on the same issue, the more restrictive regulations shall take precedence. If one program is silent on an issue, the Program with a regulation on the issue shall apply.
4. SHIP funds may not be used as a pledge of the debt service on bonds or as rent subsidies. SHIP funds may not be used to pay interest on borrowing, bond discounts, costs of financing and refinancing operations, and legal and professional fees paid in connection therewith.
5. No SHIP funds may be used for office expenses, salaries or other overhead expenses.
6. SHIP funds may not be used to pay for losses arising from uncollectible accounts or other claims and related costs.

7. SHIP funds may not be used to pay costs or fines resulting from violations or failure to comply with federal, state, and local laws and regulations.
8. SHIP funds may not be used to pay contributions to a contingency reserve or any similar provisions for unforeseen events.

E. REPORTING REQUIREMENTS

1. The Nassau County SHIP program shall monitor annually for fifteen years or the term of assistance, whichever is longer, for compliance with tenant income and affordability requirements.
2. Micah's shall document and monitor the annual anticipated gross income of the Eligible Persons who occupy the Shelter during the term of this Agreement and for a period of fifteen years thereafter, whichever is longer (the compliance period), and upon entry of said Eligible Persons into the Shelter and on at least an annual basis thereafter for the duration of the compliance period. Micah's shall provide a written report regarding the annual anticipated gross income of the Eligible Persons who occupy the Shelter during the term of this Agreement and for the compliance period to the SHIP Coordinator on the anniversary date of this Agreement, every year during the compliance period.

F. INSURANCE REQUIREMENTS

Micah's shall maintain at all times and provide proof to Nassau County of general liability insurance of at least \$1,000,000, naming Nassau County as an additional insured. Micah's shall also require its construction contractor(s) to maintain and provide proof of general liability insurance to Nassau County of at least \$1,000,000, naming Nassau County as an additional insured, prior to undertaking any construction, maintenance, service or repair. At all times, Micah's and its construction contractor(s) shall maintain and provide proof to Nassau County of workers' compensation insurance providing coverage to their employees and agents as required by law.

G. AGREEMENT DURATION, EXTENSION AND TERMINATION

1. This Agreement shall be effective for a period from June 9, 2003, through June 9, 2006, unless extended or terminated sooner in accordance with this Section.
2. This Agreement may be extended upon the mutual agreement of all parties. Said extension shall be effective upon signature by all parties of an amendment to this Agreement.
3. In the event the county determines on the basis of a review of Micah's performance that the requirements of this Agreement have not been met, the County may take one or more of the actions authorized in Paragraphs G (4) and G (5) of this Section. In each instance, the action taken will be designed to, first, prevent a continuance of the deficiency (lack of progress, non-conformance, non-compliance, lack of continuing capacity); second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.
4. If the County determines that the requirements of this Agreement have not been met, they make take one or more of the following actions, as appropriate to the circumstance.

- a. Request Micah's to submit additional information:
 - i. Concerning the administrative, planning, budgeting, management, and evaluation functions to determine any reason for lack of progress;
 - ii. Explaining any actions being taken to correct or remove the causes for delay;
 - iii. Documenting the activities undertaken were in conformance with this Agreement or in compliance with applicable laws or regulations;
 - iv. Demonstrating that Micah's has a continuing capacity to carry out the approved project in a timely manner; or
 - v. As may be appropriate.
 - b. Request Micah's to submit revised progress schedules for completing required activities.
 - c. Issue a letter of warning that advises Micah's of the deficiency and puts Micah's on notice that further sanctions, including those listed in Sections G (5) and G (6) of this Agreement, will be taken if the deficiency is not corrected or is repeated.
5. If the County determines that Micah's has materially failed to comply with the requirements of this Agreement, it may take one or more of the following actions as appropriate to the circumstances:
- a. Advise Micah's to suspend, discontinue or not incur costs on current or future activity under the Agreement;
 - b. Advise Micah's to reimburse the County for any amount improperly expended within fifteen days of demand, which shall be collected at 0% interest;
 - c. Temporarily withhold payments pending correction of the deficiency by Micah's or more severe enforcement action by the County;
 - d. Disallow all or part of the cost of the activity or action not in compliance;
 - e. Terminate the Agreement in accordance with Section G (6);
 - f. Withhold further agreements with Micah's, or
 - g. Take other remedies that may be legally available.
6. If the County determines that it is necessary to suspend or terminate this Agreement, it may do so by giving written notice thereof to Micah's of such suspension or termination and specifying the effective date thereof, at least (10) days prior to the effective date of such suspension or termination. Upon such suspension or termination, Micah's shall be entitled to payment of such amount as is reasonably determined by the County for work satisfactorily performed prior to the suspension or termination expenses. Termination shall not affect any reimbursement rights the County may have under Section G (5).
7. Except as provided in Sections G (5) and G (6) of this Agreement, this Agreement shall be terminated by any party, without cause, upon written notification by the other parties, specifying the termination date, which in no event shall be less than sixty (60) days from the date such notice is given, setting forth the reason(s) for such termination. In the event

of such termination, Micah's shall be reimbursed such amounts as shall compensate for work satisfactorily performed prior to the termination date. Such amount shall be determined by the County, Termination under this paragraph shall not give rise to any claim for causes of action against the County, its employees, agents, or officers, including, but not limited to, causes of action in contract or tort for damages or for compensation in addition to that provided hereunder.

H. ACCOUNTABILITY

1. Micah's agrees to maintain such property, personnel, financial, and other records and accounts as are necessary to properly account for all funds expended in performance of this Agreement and to allow for the audit of SHIP funds by the County, State Department of Community Affairs, Florida Housing Finance Corporation (FHFC), State Comptroller and/or their designee, if and when required. Funds provided by the county for the SHIP Special Needs Housing Program shall be accounted for in a separate fund with a set of accounts that are independent of other programs accounts. Micah's shall comply with the policies, guidelines, and requirements of the Office of Management and Budget (OMB) Circulars A-110 and A-122, incorporated by reference into this Agreement, as they relate to the receipt and use of SHIP funds.
2. All records and accounts related to this Agreement shall be retained and be subject to inspection, review or audit by the County, and State for a period of three years following the date of submission of the county's Annual Report to the State in which the project under this Agreement is reported. Such review shall be during the regular working hours of Micah's following reasonable notice. Upon request, Micah's shall transfer copies of these records and accounts to the custody of the County in order to ensure their accountability for such a period.

I. AUDIT

1. Micah's agrees to have an annual audit of financial statements performed in accordance with the Government Auditing Standards developed by the Comptroller of the United States. Such audits shall comply with OMB Circular A-133, incorporated by reference herein. The audit shall be performed annually for Micah's entire organization, shall cover Micah's fiscal year, and shall include specific review of the SHIP Program. It shall be performed by auditors who meet the independence standards specified in OMB Circular A-133.
2. Micah's shall ensure the audit work papers and reports are retained for a minimum of three years from the date of the audit report, unless Micah's is notified in writing by the County to extend the retention period. Micah's shall also ensure that audit work papers are made available upon request to the County, or its designee.
3. Two copies of the audit report shall be submitted to the County's SHIP Coordinator within 30 days after the completion of the audit, but in no case should the audit be completed and the report submitted later than 120 day after the end of Micah's fiscal year. If a management letter or any other report(s) or correspondence relating to audit findings or recommendations are issued in connection with the audit, copies shall accompany the audit report.

J. CONFLICT OF INTEREST

1. No person who is an employee, agent, consultant, officer, or elected officer or appointed official of the County, or Micah's who exercises any functions or responsibilities with respect to activities assisted with SHIP funds or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a SHIP assisted activity, or have a financial interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, as defined in Chapter 112, Part III, Florida Statutes, during their tenure.

K. LOBBYING

1. Micah's shall not use funds under this Agreement to directly or indirectly support, defeat or influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, or use SHIP funds for the introduction, enactment, or modification of any pending Federal, State, or local legislation.
2. Micah's certifies that no State appropriated funds have been paid, or will be paid, by or on behalf of Micah's, to any person for influencing or attempting to influence an officer or employee of the Florida Legislature, or an employee of a Member of the Legislature in connection with the awarding of any State or local contract, the making of any State or local grant, the making of any State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State contract, grant, loan, or cooperative agreement.
3. Micah's certifies that if any funds other than State funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of the Florida State Legislature, an officer or employee of the Legislature, or any employee of a Member of the Legislature in connection with this Agreement, Micah's shall complete and submit to the county Standard form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

L. INDEPENDENT CONTRACTOR

In the performance of this Agreement, Micah's will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture, or associate of the County. Micah's shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by Micah's in the full performance of this Agreement. Neither Micah's nor any of its employees, officers, agents or other individual directed to act on behalf of Micah's for any act related to this Agreement shall represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of the County.

M. INDEMNIFICATION

1. Micah's shall be required to indemnify, protect, defend, and hold the County and its respective officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or directly or indirectly relating to any and all claims, liens, demands, obligations, or actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Agreement and/or the performance hereof. Without limiting the generality of the

foregoing, any and all such claims, etc., including, but not limited to, personal injury, death, damage to property (including destruction), defects in materials or workmanship, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, shall be included in the indemnity hereunder. Micah's further agrees to investigate, handle, respond to, provide defense (including payment of attorneys fees up to and including nay appeal) for and defend any such claim at its sole expense and agrees to bear all other costs and expenses related thereto, even if the (claims, etc.) are groundless, false, or fraudulent. Micah's agrees that its indemnification of the county shall extend to any and all work performed by Micah's, its subcontractors, employees, agents, servants, or assigns.

2. This obligation shall in no way be limited in nay nature whatsoever by any limitation on the amount and/or type of Micah's insurance coverage. This indemnification provision shall survive the termination of the Agreement between the County and Micah's.
3. In any and all claims against the County, or any of its respective agents or employees by any employee of Micah's, and subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification under this Section shall not be limited in nay way by any limitation on the amount or type of damages, compensation or benefits payable by or for Micah's or any subcontractor under workmen's compensation acts, disability benefit acts, or employee benefit acts.

N. SOVEREIGN IMMUNITY

The parties agree that nothing in this Agreement shall be interpreted as a waiver of the County's sovereign immunity under Section 768.28, Florida Statutes.

O. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL RULES, REGULATIONS AND LAWS

Micah's shall comply with all applicable laws, orders and regulations of the Federal, State and local governments as they pertain to this Agreement. These include, but are not limited to, provisions of Section 420.907-420.9079, Florida Statutes, Chapter 67-37, Florida Administrative Code, the County's Local Housing Assistance Plans, as amended, as well as other applicable State and Federal laws and regulations.

P. NON-DISCRIMINATION

Neither, the County or Micah's, its staff or agents, shall discriminate on the basis of race, creed, religion, color, age, sex, familiar status, martial status, national origin, or handicap in the selection of recipients of contracts or assistance under the SHIP Program.

Q. SHIP FUNDING RECOGNITION

1. Micah's shall include in all advertisements, newsletters, and/or promotions that refer specifically to the project assisted hereunder, a statement that the Nassau County State Housing Initiatives Partnership (SHIP) Program funds the project in whole or in part.

R. FINANCIAL OBLIGATION OF THE COUNTY

This Agreement is not a general obligation of the County, nor does it constitute a pledge of the full faith and credit of the County, but shall be a commitment only as to the county's State Housing Initiatives Partnership funds. In the event there are insufficient moneys available in the Housing Assistance Trust Fund to meet the commitments of the County created under this Agreement, the County will have no further commitments under this Agreement and shall not be considered in breach thereof.

S. COMPLIANCE WITH CHAPTER 119, PUBLIC RECORDS

Micah's agrees to comply with the provisions of Chapter 119, Florida Statutes, as from time to time amended with respect to the SHIP Grant and all documents, transactions and writings of every kind or description arising from or in connection therewith.

T. ASSIGNMENT

Micah's shall not assign, transfer, convey, pledge, or otherwise dispose of this Agreement or any interest in this Agreement without the prior consent of the county in writing. Micah's may not enter into any subgrants.

U. CHANGES/AMENDMENTS

The County, or Micah's may, from time to time, request changes in the scope and schedule of services to be performed hereunder. However, any increase or decrease in the total amount of funding or any other changes or amendment shall be negotiated by the County and Micah's, and if mutually agreeable, shall be incorporated by written amendments to this Agreement and shall be executed with the same formalities as this Agreement.

V. SEVERABILTIY

If any term or provision of this Agreement is deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

W. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto pertaining to the Scope of Services and all other attachments hereunder. All negotiations and oral agreements are included herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above-written.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

BY: *Vickie Samus*
VICKIE SAMUS
Its Chairman

ATTEST:

J. M. Chip Oxley, Jr.
J. M. "CHIP" OXLEY, JR. 
Ex-officio Clerk to the
Board of County Commissioners

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:

Michael S. Mullin
MICHAEL S. MULLIN

MICAH'S PLACE, INC.

BY: *Carolyn Evans-Jones*
Its: President - Board

ATTEST:

~~Corporate Secretary [SEAL]~~
By: *Susan Lute*
Its: Vice President