NOTICE OF PUBLIC MEETING
CITY COUNCIL
CITY OF BONITA SPRINGS
OFFICIAL AGENDA
WEDNESDAY, APRIL 1, 2020
5:30 P.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135

COVID-19 NOTICE:

IN ACCORDANCE WITH SOCIAL DISTANCING ORDERS LIMITING GATHERINGS TO TEN PEOPLE OR LESS, ANYONE WHO WISHES TO PARTICIPATE IN PUBLIC COMMENT IS ASKED TO PLEASE SUBMIT YOUR COMMENT VIA EMAIL TO THE CITY AT CITYMEETINGS@CITYOFBONITASPRINGS.ORG BY 10:00 AM ON APRIL 1, 2020.

CLICK HERE TO WATCH THE MEETING ONLINE, OR VISIT THE CITY'S WEBSITE AT WWW.CITYOFBONITASPRINGS.ORG AND CLICK "HOW DO I?" AND THEN CLICK "WATCH A MEETING LIVE" TO ACCESS THE LIVE STREAM.

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PUBLIC COMMENT ON AGENDA ITEMS

VI. CONSENT AGENDA: (NOTE: ITEMS ON THE CONSENT AGENDA WILL BE CONSIDERED AS ONE UNLESS A SPECIFIC ITEM IS REMOVED BY A COUNCIL MEMBER FOR SEPARATE DISCUSSION.)

A. APPROVE RESOLUTION OF THE CITY OF BONITA SPRINGS CONFIRMING THE RESULTS OF THE LEE COUNTY CANVANSSING BOARD IN CONJUNCTION WITH THE MARCH 17, 2020 SPECIAL ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 20-04-091)

B. ALLOW STAFF TO APPLY FOR THE FLORIDA DEPARTMENT OF STATE, DIVISION OF HISTORICAL RESOURCES SPECIAL CATEGORY GRANT FOR THE GOODBREAD GROCERY BUILDING REHABILITATION. (GREENSHEET NO. 20-04-084)

C. APPROVE A SUB-RECIPIENT AGREEMENT BETWEEN LEE COUNTY AND CITY OF BONITA SPRINGS FOR FY2017-2018 (UNALLOCATED BALANCE), FY2018-2019 AND FY2019-2020 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT FUNDS. (GREENSHEET NO. 20-04-085)

D. APPROVE AGREEMENT BETWEEN FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY (FDEO) AND THE CITY OF BONITA SPRINGS UTILIZING COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY (CDBG-DR) FUNDS FOR THE VOLUNTARY HOME BUYOUT PROGRAM. (GREENSHEET NO. 20-04-086)

E. APPROVE THE AMENDMENT OF THE LEASE AGREEMENT WITH KRISTIN PIMENTEL FOR THE USE OF ARTIST COTTAGE #1 FOR ANOTHER ONE-YEAR TERM. (GREENSHEET NO. 20-04-087)

F. APPROVE BUDGET RESOLUTION TO INCREASE THE BUDGETS OF CERTAIN GENERAL FUND REVENUE ACCOUNTS AND RELATED EXPENDITURE ACCOUNTS, AND TO TRANSFER FY 2020 BUDGET AMONG CAPITAL PROJECTS FUND AND STORMWATER FUND ACCOUNTS. (GREENSHEET NO. 20-04-088)

G. APPROVE BUDGET RESOLUTION TO TRANSFER FY 2020 CAPITAL FUND BUDGET TO PROVIDE FUNDING FOR PLAYGROUND LIGHTING AT COMMUNITY PARK. (GREENSHEET NO. 20-04-089)

H. APPROVE A CONTRACT AMENDMENT WITH ALTA PLANNING, INC. TO PROVIDE SUPPORT IN THE PREPARATION OF THE BUILD (BETTER UTILIZING INVESTMENTS TO LEVERAGE DEVELOPMENT) GRANT APPLICATION AND AUTHORIZE TO STAFF TO SUBMIT FOR THE TERRY STREET CORRIDOR PROJECT WITH THE CITY MANAGER AS THE AUTHORIZED OFFICIAL REPRESENATIVE (AOR). (GREENSHEET 20-04-090)

- <u>OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS</u>

VII. PROCLAMATIONS AND PRESENTATIONS:

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

IX. PUBLIC COMMENT:

X. CITY ATTORNEY'S ITEMS:

XI. CITY MANAGER'S ITEMS:

A. UPDATE ON EMERGENCY MANAGEMENT AND CITY OPERATIONS

XII. MAYOR AND COUNCIL REPORTS:

XIII. APPROVAL OF MINUTES: 03/04/20, 03/13/2020, 03/17/2020

XIV. PUBLIC COMMENT:

XV. ADJOURNMENT.

ANY PERSON REQUIRING SPECIAL ACCOMMODATIONS AT ANY OF THE MEETINGS BECAUSE OF A DISABILITY OR PHYSICAL IMPAIRMENT SHOULD CONTACT MEG WEISS, DIRECTOR OF ADMINISTRATIVE SERVICES, AT 239-949-6262, AT LEAST 48 HOURS PRIOR TO THE MEETING. IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS TO BE MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

NOTE: THIS MEETING IS TELEVISED ON COMCAST, CHANNEL 98. AGENDAS ARE AVAILABLE FOR VIEW, AND THE MEETING CAN BE VIEWED AT **WWW.CITYOFBONITASPRINGS.ORG**

NEXT MEETING: 04/15/20

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-04-091

AGENDA ITEM SUMMARY

REQUESTED MOTION: A Resolution of the City of Bonita Springs, Lee County, Florida; confirming the results of the Lee County Canvassing Board in Conjunction with the March 17, 2020, Special Election; and providing for an effective date.

MEETING DATE: 4/1/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
	PRESENTATIONS		STATUTE	Debra Filipek City Clerk
X	CONSENT		ORDINANCE	
	PUBLIC HEARING		ADMIN. CODE	
	MAYOR AND COUNCIL MEMBER ITEMS		OTHER	
	MAYOR AND COUNCIL MEMBER'S REPORTS			
	CITY ATTORNEY ITEMS			
	CITY MANAGER ITEMS			

BACKGROUND:

The City of Bonita Springs held a Special Election on March 17, 2020, for City Council Districts 2 and 4. Attached is the Certificate of Canvassing Board Confirming the results of that election.

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? ☐ YES x NO
IF YES, WHICH STRATEGIC OBJECTIVE

STAFF RECOMMENDATIONS: Approve Resolution confirming the results of the City of Bonita Springs Canvassing Board in conjunction with the March 17, 2020 Special Election.

REVIEWED BY:

City Manager: [signature]
City Attorney: ______________________
City Clerk: ______________________
Department Director: ______________________

COUNCIL ACTION:

____ **APPROVED**
____ **DENIED**
____ **DEFERRED**
____ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA; CONFIRMING THE RESULTS OF THE LEE COUNTY CANVASSING BOARD IN CONJUNCTION WITH THE MARCH 17, 2020 SPECIAL ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs held a Special Election, which was held on March 17, 2020 to hold a Special Election for City Council Districts 2 and 4;

NOW, THEREFORE, BE IT RESOLVED by the City of Bonita Springs Council that:

Section One: The City Council of the City of Bonita Springs hereby confirms the Certificate of Canvassing Board, Bonita Springs Special Election, March 17, 2020, for Districts 2 and 4, a copy of which is attached hereto and incorporated by reference.

Section Two. This Resolution shall become effective immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Bonita Springs, Lee County, Florida, this 1st day of April, 2020.

AUTHENTICATION:

______________________________ ________________________________

Mayor City Clerk

APPROVED AS TO FORM: _____________________________

City Attorney

Vote:

Carr
Corrie
Forbes
Gibson
Purdon
Quaremba
Simmons

Date filed with City Clerk: _________________________

****Official Results****

CERTIFICATE OF COUNTY CANVASSING BOARD

LEE COUNTY

MUNICIPAL ELECTION HELD IN CONJUNCTION WITH THE

PRESIDENTIAL PREFERENCE PRIMARY ELECTION

CITY OF BONITA SPRINGS SPECIAL ELECTION

March 17, 2020

State of Florida, County of Lee
City of Bonita Springs

We, the undersigned, TARA P. PALUCK, County Judge, BRIAN HAMMAN, County Commissioner, and, TOMMY DOYLE, Supervisor of Elections, constituting the Board of County Canvassers in and for said City, do hereby certify that we met on the Twenty-seventh day of March, A.D., 2020, and proceeded publicly to canvass the votes given for the offices and persons herein specified at the **City of Bonita Springs, Special Election** held on the Seventeenth day of March, A.D., 2020, as shown by the returns on file in the office of the Supervisor of Elections. We do hereby certify from said returns as follows:

For City of Bonita Springs, City Council District 2, the whole number of votes cast was 934 of which:

Shelley D. Anderson (NON)	received	307	votes
Adam Hughes (NON)	received	233	votes
Jesse Purdon (NON)	received	394	votes

For City of Bonita Springs, City Council District 4, the whole number of votes cast was 2,769 of which:

Chris E. Corrie (NON)	received	1,730	votes
Benjamin "Ben" R. Hershenson (NON)	received	1,039	votes

Signed this Twenty-seventh day of March, A.D., 2020:

Tara Paluck
Lee County Judge, Tara P. Paluck

Brian Hamman
Lee County Commissioner, Brian Hamman

T. Doyle
Lee County Supervisor of Elections, Tommy Doyle

****Official Results****

CERTIFICATE OF COUNTY CANVASSING BOARD

LEE COUNTY

MUNICIPAL ELECTION HELD IN CONJUNCTION WITH THE

PRESIDENTIAL PREFERENCE PRIMARY ELECTION

CITY OF BONITA SPRINGS SPECIAL ELECTION

March 17, 2020

State of Florida, County of Lee
City of Bonita Springs

We, the undersigned, TARA P. PALUCK, County Judge, BRIAN HAMMAN, County Commissioner, and, TOMMY DOYLE, Supervisor of Elections, constituting the Board of County Canvassers in and for said City, do hereby certify that we met on the Twenty-seventh day of March, A.D., 2020, and proceeded publicly to canvass the votes given for the Proposed Amendments to the Charter of the City of Bonita Springs specified herein at the **City of Bonita Springs, Special Election** held on the Seventeenth day of March, A.D., 2020, as shown by the returns on file in the office of the Supervisor of Elections. We do hereby certify from said returns as follows:

Charter Amendment One
Vacancies in Office

Section 18 and 21 of the Charter shall be amended to clarify that in the event a vacancy occurs on the city council, a special election to fill the vacant seat will only be called if the vacancy occurs more than 180 days from an otherwise scheduled general election. In the event of a vacancy in the office of mayor, the deputy-mayor will serve as mayor until a new mayor is elected.

Yes 9,840 votes

No 637 votes

Charter Amendment Two
Compensation

Section 19 of the Charter shall be amended to reflect and clarify the current salaries of the city council and mayor, as well as link the current cost of living adjustment to the appropriate U.S. Department of Labor Consumer Price Index.

Yes 8,560 votes

No 1,868 votes

Charter Amendment Three
Compensation Advisory Committee

Section 19 of the Charter shall be amended to establish an advisory committee to study and make recommendations to the council on the compensation and benefits of the council. Whether based on the committee's recommendation or on the council's own initiative any compensation changes would go into effect following the next city election.

Yes 7,275 votes

No 2,999 votes

Charter Amendment Four
Council Meetings

Section 24 of the Charter shall be amended to increase the minimum time from 12 to 48 hours, exclusive of weekends, for the calling of a council meeting where council action is contemplated. Meetings where no action is undertaken and meetings to address emergency situations would require 24 and 12 hours' notice, respectively.

Yes 9,215 votes

No 1,126 votes

Charter Amendment Five
Adoption of Ordinances

Section 29 of the Charter sets forth and duplicates many of the requirements of state law relating to the noticing of municipal ordinances. Section 29 also provides that municipal ordinances once adopted must be published and cannot go into effect for an additional 30 days. Shall Section 29 of the Charter be amended to remove such duplicative provisions and unnecessary limitations on the council's ability to adopt ordinances?

Yes 8,151 votes

No 2,028 votes

Charter Amendment Six
Recordkeeping

Section 32 of the Charter shall be removed to no longer require the city to publish printed binders of all ordinances and resolutions having the force of law. Such removal shall provide the city with the flexibility to provide for codification of city regulations by other means.

Yes 7,380 votes

No 2,774 votes

Charter Amendment Seven
Budget Notice

Section 44 of the Charter provides that the city budget shall be published in newspapers of general circulation along with the dates and required hearings for adoption. Notice and hearing requirements are already provided by state law and the budget is similarly required to be published in full on the city website. Shall the unnecessary and duplicative provisions of Section 44 be removed from the Charter?

Yes 7,244 votes

No 2,893 votes

Charter Amendment Eight
Lapse of Appropriations

Section 47 of the Charter shall be amended to remove a provision that requires unexpended capital appropriations to be deemed abandoned after three (3) years.

Yes 6,966 votes

No 2,946 votes

Charter Amendment Nine
Capital Program

Section 50 of the Charter and its requirement that the city annually prepare a five (5) year capital improvement program shall be removed. The city is already required, pursuant to recent changes in state law to publish its capital improvement program annually.

Yes 7,861 votes

No 2,189 votes

Charter Amendment Ten
Political Activities by Officers and Employees

Section 62 of the Charter shall be amended to limit city officers from holding or being a candidate for elected public office in the city or use their position to support or oppose any candidate or affect any election. Similarly, Section 62 shall be amended to prohibit the council from influencing city employees with respect to candidates or issues.

Yes 9,353 votes

No 770 votes

Charter Amendment Eleven
State Revenue Sharing

Section 73 of the Charter shall be amended to remove transitional provisions relating to the city's initial incorporation and clarifying the city's continued entitlement to state revenue sharing.

Yes 8,587 votes

No 1,252 votes

Signed this Twenty-seventh day of March, A.D., 2020:

Tara Paluck
Lee County Judge, Tara P. Paluck

Brian Hamman
Lee County Commissioner, Brian Hamman

T. Doyle
Lee County Supervisor of Elections, Tommy Doyle

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-04-084

AGENDA ITEM SUMMARY

REQUESTED MOTION: Allow staff to apply for the Florida Department of State, Division of Historical Resources Special Category Grant for the Goodbread Grocery Building Rehabilitation

MEETING DATE: April 1, 2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
	PRESENTATIONS		STATUTE	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager
X	CONSENT		ORDINANCE	
	PUBLIC HEARING		ADMIN. CODE	
	MAYOR AND COUNCIL MEMBER ITEMS		OTHER	
	MAYOR AND COUNCIL MEMBER'S REPORTS			
	CITY ATTORNEY ITEMS			
	CITY MANAGER ITEMS			

BACKGROUND:

The Florida Department of State, Division of Historical Resources (DHR) sent a notice that starting April 1, the office will be accept grant applications for their annual Special Category Grant cycle. The purpose of the grant is to provide funding to assist major local, regional and state-wide efforts to preserve significant historic structures and archaeological resources that promotes knowledge and appreciation of the history of Florida.

The maximum award amount is $500,000 with a 1:1 match. The application is due no later than June 1, 2020 through an electronic submittal process. Once the applications are received by DHR, the reviewed applications are sent to the Florida Historical Commission to review and score. The commission meets during September to review, score and rank applications. Once ranking has been completed, the recommendations are sent to the Governor for funding. For projects receiving funding from the 2021 Legislature, funds will become available after July 1, 2021, which is the beginning of the 2021-2022 State Fiscal Year.

Staff recommends applying for funds for the rehabilitation of the recently relocated Goodbread Grocery structure. Staff estimates total rehabilitation costs of the structure to be approximately $400,000. Staff recommends a request for $200,000 in funds from DHR.

Attachment: Grant announcement

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? X YES ☐ NO

IF YES, WHICH STRATEGIC OBJECTIVE? 3) Strengthen City Finances, 5) Community Aesthetics and 8) Economic Development

STAFF RECOMMENDATIONS: Allow Staff to submit grant application to DHR to rehabilitate the Goodbread Grocery structure.

REVIEWED BY:

City Manager: ______________________________

City Attorney: ______________________________

City Clerk: ______________________________

Department Director: ______________________________

COUNCIL ACTION:

____ **APPROVED**
____ **DENIED**
____ **DEFERRED**
____ **OTHER**

Special Category Historic Preservation Grants
Formal Solicitation for Applications
April 1, 2020 – June 1, 2020
for Fiscal Year 2021-2022

The Florida Department of State is soliciting applications for Special Category Grant-in-Aid assistance for historic preservation projects. Applications will be accepted **online** at dosgrants.com. The application submission period **will open April 1, 2020, and close at 5:00 p.m. (Eastern) on June 1, 2020**. Applications will only be accepted electronically and must be complete to be considered for evaluation.

SPECIAL CATEGORY GRANTS PROGRAM

The purpose of the Special Category Grants Program is to provide funding to assist major local, regional, and statewide efforts to preserve significant historic structures and archaeological resources, to assist major archaeological excavations or research projects, and assist in the development and fabrication of major museum exhibits that will promote knowledge and appreciation of the history of Florida. The program does not fund operational support for museums or historic preservation organizations.

Project types include: Development; Archaeological Research; Museum Exhibit; and Acquisition. For questions about project types or the eligibility of a project or work item, please refer to the *Special Category Grant Guidelines* on FLHeritage.com/grants.

STATEWIDE PRESERVATION PRIORITIES

Though the Division of Historical Resources will accept applications for all eligible types, this year's priority is:

- Projects that prepare Florida's communities and historical resources for coastal resiliency and changes resulting from sea level rise.
- Hurricane recovery and mitigation efforts
- Support for cultural engagement and education through museum exhibits and archaeological research

ELIGIBLE APPLICANTS

Eligible Applicant Organizations are either a public entity or an active Florida nonprofit. For questions about eligibility, please refer to the *Special Category Grant Guidelines.*

AWARD AMOUNT AND MATCH REQUIREMENTS

Maximum award amount: $500,000
Match requirement: 1:1, unless reduced as explained below, with a minimum cash match contribution of 25 percent.
Match reduction: A reduction is available for projects proposed to be located within rural counties or communities designated pursuant to Sections 288.0656 and 288.06561, *Florida Statutes*, as REDI-qualified at the time of application submission, as stipulated in the *Special Category Grant Guidelines*. State agencies, state colleges, or state universities are not eligible for a match reduction, regardless of project location.

APPLICATION RESTRICTIONS

An Applicant Organization may submit only one (1) Historic Preservation Special Category Grant Application under a single application deadline for a particular application cycle. State agencies, county or city governments, or universities may submit single applications from more than one division or department under a single application cycle provided that those divisions or departments are separate and distinct budgetary units, and provided that applications do not address the same facility, project, property, or site. For additional restrictions, please refer to the *Special Category Grant Guidelines*.

APPLICATION REVIEW AND PROJECT SELECTION

Eligible applications will be evaluated on a competitive basis by the Florida Historical Commission (FHC) in a public meeting. The FHC will review and score applications pursuant to criteria in the *Special Category Grant Guidelines*, and recommend to the Secretary of State those applications that should be forwarded to the 2021 Legislature for funding consideration in State Fiscal Year 2022.

The FHC's recommendation to the Secretary of State will not result in any immediate grant award. The award and level of funding for each Special Category project will be subject to specific legislative appropriation.

RELEASE OF FUNDS

For projects receiving funding from the 2021 Legislature, funds will become available after July 1, 2021, which is the beginning of the 2021-2022 State Fiscal Year. To receive grant funds, grantees will be required to sign a Grant Award Agreement containing specific administrative responsibilities. Any unexpended balance of grant funds will revert to the state at the end of the 24-month period, on June 30, 2023.

ADDITIONAL REQUIREMENTS

Grantees with Special Category grant projects involving acquisition or development activities will also be required to execute **Restrictive Covenants** that must be recorded with the property deed by the Clerk of Circuit Court in the county where the property is located prior to the release of the grant funds. These covenants require that, in exchange for state grant funds, the grantee will not undertake modifications to the property (other than routine repairs and maintenance) for a period of 10 years, or 20 years in the case of acquisition, without review and approval of plans and specifications by the Division.

For Special Category grant projects involving properties other than real property (e.g. aircraft, locomotive, or marine vessel) and Museum Exhibit projects, the grantee shall execute and notarize a **Preservation Agreement** prior to the release of grant funds. The preservation agreement requires that the grantee and property owner shall follow the terms specified therein for ten (10) years for Development projects and five (5) years for Museum Exhibit projects.

ADDITIONAL INFORMATION

If you have any questions regarding proposed projects or the online application form, please call the Historic Preservation Grants Program, Division of Historical Resources, at 800.847.7278 or 850.245.6333 or email at DHRgrants@dos.myflorida.com.

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-04-085

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve a sub-recipient agreement between Lee County and City of Bonita Springs for FY2017-2018 (unallocated balance), FY2018-2019 and FY2019-2020 Community Development Block Grant (CDBG) Entitlement Funds

MEETING DATE: April 1, 2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
X	CONSENT	X	STATUTE - 24 CFR 570.503	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager

BACKGROUND: HUD recognizes Lee County as an Urban County in the CDBG program. As such, the County is designated as the Lead Agency to implement yearly entitlement funds. Cities within the County (Bonita Springs, Sanibel and Fort Myers Beach) have agreed to partner with Lee County to manage their yearly entitlement allocation since early 2000. Since 2004, Bonita Springs has partnered with Lee County through an Urban County Cooperation Agreement.

Staff received the attached sub-recipient agreement from Lee County Human and Veterans Services. The 2-year agreement covers the following CDBG fiscal years: FY 2017-2018 (previously unallocated funds), FY2018-2019 and FY2019-2020. The City has designated the funds be expended of various multi-use paths throughout the City.

The total contract amount is $745,810 ($41,898 – FY2017-2018; $380,808 – FY2018-2019 and $323,104 – FY2019-2020). The agreement identifies the project staff contacts, provides for payment requests, quarterly beneficiary reports, quarterly construction reports, insurance from City of Bonita Springs to Lee County.

Attachment: Sub-Recipient Agreement between the City and Lee County

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? X **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? 3) Strengthen/Enhance City Finances, 7) Government Transparency: Increase Outreach/Accessibility to Citizens

STAFF RECOMMENDATIONS: Approve Sub-Recipient Agreement between Lee County and the City of Bonita Springs for CDBG entitlement funds.

REVIEWED BY:

City Manager: [signature]

City Attorney: ______________________________

City Clerk: ______________________________

Department Director: ______________________________

COUNCIL ACTION:

____ **APPROVED**

____ **DENIED**

____ **DEFERRED**

____ **OTHER**

Lee County

Southwest Florida

Board of County Commissioners

DEPARTMENT OF HUMAN and VETERAN SERVICES

U.S. Department of Housing and Urban Development

Community Development Block Grant (CDBG)

Sub-recipient Contract
With
City of Bonita Springs

October 1, 2019 – September 30, 2021

CSFA # ____________
CFDA # 14.518
Contract No. ________
Funding Source: US Dept of Housing & Urban Development-Community Development Block Grant (CDBG)

STANDARD NONPROFIT/GOVERNMENT CONTRACT

SUBRECIPIENT CONTRACT BETWEEN THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS And THE CITY OF BONITA SPRINGS

THIS CONTRACT between Lee County, a political subdivision and Charter county of the State of Florida, hereinafter referred to as "**COUNTY**" and City of Bonita Springs a Nonprofit Corporation/Government/**Municipality** registered under the laws of Florida Chapter 99-428, operating under the laws of the State of Florida and, hereinafter referred to as "**PROVIDER**" will become effective upon approval by the Board of County Commissioners (BOCC).

WHEREAS, COUNTY believes it to be in the public interest to provide certain activities to the Lee County residents through the **PROVIDER** according to this Contract, the agency's intent as stated in the proposal and attachments and/or exhibits, and all other terms and conditions as specified.

NOW THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein **COUNTY** and the **PROVIDER** agree as follows:

ARTICLE I: SCOPE OF SERVICES

The PROVIDER agrees to expenditure of Urban County CDBG funds within its jurisdiction. The COUNTY and PROVIDER hereby agree to utilize funds made available under the Annual Action Plan's Community Development Block Grant (CDBG) Program for the purpose of implementing Public Improvement and Public Facilities activities as further described in Exhibit 7 – Statement of Work. Changes in Exhibit 7 – Statement of Work may be requested from time-to-time by the COUNTY or PROVIDER and shall be incorporated as written amendments to this contract.

Any proposal/application submitted which resulted in this funding award are binding and incorporated herein as a part of this contract including all conditions and projected levels of service.

For federally funded projects, all requirements and conditions as described in Attachment A, Program Guidelines must also be followed.

All projects funded by Department of Housing and Urban Development (HUD) Homeless Assistance Grants must actively participate in the Centralized Intake/Coordinated Assessment process and input data into the Homeless Management Information System (HMIS).

All activities funded with CDBG/HOME funds must benefit persons of income levels at or below 80% of the area median income and as defined in the pertinent program requirements. Subrecipient certifies that the activity carried out under this Agreement will meet the CDBG/HOME income eligibility requirements.

ARTICLE II: **TERM OF CONTRACT**

This Contract shall begin October 1, 2019 and end**, September 30, 2021** unless terminated as specified in Article VIII, Suspension/Termination.

For unit rate contracts, programs must be operational within 45 days of contract begin date (identified above).

ARTICLE III: **COMPENSATION AND REPORTS**

A. Contract Payment

The **COUNTY** will make payments on a reimbursement basis to the **PROVIDER** and the **PROVIDER** agrees to accept as full compensation the total amount not to exceed **$745,810.00.** Payments will be authorized only for work completed and/or services delivered during the term of the contract as stated in ARTICLE II: TERM OF CONTRACT and prior to the payment request date. Documentation of eligible expenses will be provided as stated in ARTICLE III C. Contract Deliverables. Payment is subject to the provisions of ARTICLE III B. Deferred Payment/Return of Funds and ARTICLE IX:SUSPENSION/TERMINATION. Funding is contingent upon the availability of funds.

The **COUNTY** has agreed to purchase the service(s) listed in Article I. For unit rate contracts, this contract is for the payment of a fixed number of units of service at the fixed unit rate. For line item contracts, this contract is for payment of line item amounts as identified in the approved budget.

Project	**Line Item: Approved Budget Category**	**Line Item: Annual Budget Amount**	**Total**
CDBG Public Facilities and Improvements	Public Facilities and Improvements	$745,810	$745,810.

For Partnering for Results (PFR) contracts, Lee County will fund no more than 40% of the program's actual cash expenses. The agency must be able to substantiate receipt of at least 60% of revenue from other sources or the amount of contract may be reduced. Documentation of expenses may be required at any time during the contract term if the ratio of county funding to program expenses exceeds or is close to exceeding the 40/60% requirement. In addition, Lee County may not fund program if revenues significantly exceed expenses.

Once funding is approved and a contract issued by DHS it must be returned by the agency for execution within 30 days. In addition, funds must begin to be drawn within 60 days of contract execution unless Contract Specialist authorizes additional time. Failure to return signed contract or begin spending funds within allocated time frame may result in reduction or forfeiture of funds.

B. Deferred Payment/Return of Funds

The **COUNTY** may defer payment to the **PROVIDER** for noncompliance with contract deliverables or program requirements.

If, as a result of monitoring or audit, units of service provided are not documented a payment may be deferred. If units are found to be unallowable, no future payments will be made until the full amount of overpayment is remitted to Lee County or a repayment agreement is accepted by Lee County. If the monitoring or audit occurs after the term of this contract, the **PROVIDER** will be required to remit funds to the **COUNTY** in accordance with the repayment conditions below.

The **PROVIDER** agrees to return to the **COUNTY** any overpayments due to funds disallowed pursuant to the terms of this Contract and/or Federal requirements. For contracts funded under the Partnering for Results (local general fund) process, repayment will be required if the amount paid exceeds 40% of program expenses. Such funds shall be considered **COUNTY** funds and must be refunded to the **COUNTY** within thirty (30) days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **PROVIDER** will be required to reimburse the **COUNTY** for any acts of non-compliance resulting in disallowed costs or fines.

C. Contract Deliverables

1. Required Reports (checked boxes are applicable)

☑ **EXHIBIT 1- Payment Request - Due: Monthly by the 20th of the following month.** All payments will be **reimbursement** for eligible expenses/services defined as uncompensated expenses rendered during the contract term and paid prior to final payment request due date as indicated in the Contract Closeout Section (Article III 2 D). Copies of supporting documentation is required as part of the Payment Request for review of grant compliance and before payment will be authorized by Human and Veterans Services. **Reimbursement** for eligible expenses will be made after review and authorization of a correct and complete Exhibit 1 and all required back up documentation. Lee County must be payor of last resort, meaning that if services are eligible to be billed to any other entity including but not limited to: Medicaid, third party insurance or any other entity, then Lee County will not pay for that service.

Appropriate back-up/supporting documentation may include: cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation, as well as a copy of the PROVIDER'S check issued with authorized signature. Two-sided copies of back-up documentation are preferred. For Construction Contracts, inspection reports from qualified officials should be submitted with the appropriate monthly payment request. For PFR contracts, documentation of expenses may be required as back-up/supporting documentation if the ratio of county funding to program expenses exceeds or is close to exceeding the 40/60% requirement.

The Exhibit 1 (Payment Request) must be submitted with an **authorized** signature. Cancelled checks, bank statements and/or other documentation from vendor that expense has been paid or service provided may be verified during monitoring.

Processing of payment requests is also subject to requirements and conditions as outlined in Attachment A, Program Guidelines.

☑ **EXHIBIT 2- Program/Demographics/Beneficiary Report –<u>Due: As indicated on Exhibit 2.</u>**

☐ **EXHIBIT 3 – Progress Reports – <u>Due: As indicated on Exhibit 3.</u>**

☐ **EXHIBIT 4 - Quarterly Unit Rate & Revenue Analysis Report – <u>Due: 30 days following the end of each quarter. (Jan 31; April 30; July 31; Oct 31). Documentation to support expenditures and revenue MUST be attached i.e. QuickBooks; Profit/Loss Statement.</u>**

☐ **EXHIBIT 5- Annual Progress Report or Closeout Report- <u>Due as indicated on Exhibit 5 and/or in Section D.</u>**

☑ **EXHIBIT 6 - Certificate of Insurance - <u>Insert in contract.</u>**

☑ **EXHIBIT 7 – Statement of Work – <u>Included.</u>**

☐ **EXHIBIT 8 - Equipment/Fixed Assets Inventory Form- <u>Due: 30 days from purchase of equipment or fixed assets, and annually on October 1.</u>**

☐ **EXHIBIT 9 - Annual Certification of Continued Operation (ESG) - <u>Due: As indicated on Exhibit 9.</u>**

☑ **EXHIBIT 10- Current Board of Directors Roster**

An email or hard copy of all exhibits/reports is acceptable. Reports/Exhibits including the Exhibit 1 (Payment Request) requiring signatures can have an electronic signature or a scanned copy of the report with signature.

2. **<u>Required Documents</u>**

☑ Audited Financial Statement and Management Letter for fiscal year(s) in which contract funds are expended – **<u>Due Date: Non profits - 180 days following the end of PROVIDER'S fiscal year(s); Governments/municipalities - 270 days following the end of fiscal year(s).</u>**

☐ Copy of latest Form 990 - **<u>Due Date: Non profits – -180 days following the end of PROVIDER'S fiscal year(s)</u>**

☐ Monitoring Reports – A copy of monitoring reports issued from other sources that fund any program covered under this contract and copies of **PROVIDER'S** response to the funding agency are due to the **COUNTY** no later than **30 days** after receipt by the **PROVIDER.**

D. <u>Contract Closeout</u>

☐ <u>Partnering for Results</u>: Unit Rate Analysis Report -**<u>Due: 30 days after contract end.</u>**

☐ <u>Partnering for Results</u>: Final Payment Request –**<u>Due: 4 business days after contract end.</u>**

☐ <u>Partnering for Results:</u> Close Out Report – **Due 30 days after contract end**.

- ☐ State Mandated: Final Payment Request – **Due: 4 business days after contract end**
- ☐ HOME – Closeout package for each property –**Due: 120 days after payment request.**
- ☐ Supportive Housing Program and Rental Assistance (COC) – Final Payment Request and Annual Progress Report – **Due: 45 days end date of operating year.**
- ☑ CDBG – Final Payment Request, Beneficiary Reports & Progress Report – **Due: 20th of the month after term end.**
- ☐ Other Funding Source – ______________________________
  Final Closeout Payment Request – **Due:** ______________________

ARTICLE IV: AUDITS, MONITORING, AND RECORDS

A. Monitoring

The **PROVIDER** agrees to permit persons duly authorized by the **COUNTY** and the Federal or State grantor agency (if applicable) or any representatives to inspect all records, papers, documents, facility's goods and services of the **PROVIDER** and/or interview any clients and employees of the **PROVIDER** to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the law after giving the **PROVIDER** reasonable notice. The monitoring is a limited scope review of the contract and agency management and does not relieve the **PROVIDER** of its obligation to manage the grant in accordance with applicable rules and sound management practices.

Following such monitoring the **COUNTY** will deliver to the **PROVIDER** a written report regarding the manner in which services are being provided. The **PROVIDER** will rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted shortcomings. The **PROVIDER'S** failure to correct or justify the deficiencies within the time specified by the **COUNTY** may result in the withholding of payments, being deemed in breach or default, or termination of this Contract.

B. Audits and Inspections

The **PROVIDER** will make all records referenced in ARTICLE IV C. and all items included on financial statements available for audit or inspection purposes at any time during normal business hours and as often as **COUNTY** deems necessary.

The Clerk of Courts Internal Audit Division, the Federal or State grantor agency (if applicable), Lee County employees, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of **PROVIDER** or Certified Public Accountant (CPA) that are pertinent to the contract, in order to make audits, examinations, excerpts, transcripts and copies of such documents. If contract non-compliance or material weaknesses in the organization are noted, the **COUNTY** or other authorized representatives have the right to unlimited access to records during an audit or inspection. This includes timely and reasonable access to a **PROVIDER'S** personnel for the purpose of interview and discussion related to such documents.

C. Records

The **PROVIDER** shall retain all financial, client demographics, and programmatic records, supporting documentation, statistical records, and other records, which are necessary to document service provision, expenditures, income and assets of the **PROVIDER** by funding source, program, and functional expenses category during the term of this contract and a minimum of five (5) years from the date of contract expiration. The retention period may be longer depending on the funding source and it is the PROVIDER's obligation to comply with all Federal and State of Florida retention schedules. If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records shall be retained for one (1) year after the final resolution of the action and final resolution of all issues that arise from such action.

PROVIDER specifically acknowledges its obligations to comply with §119.0701, F.S., as amended from time to time, with regard to public records, and shall:

1) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services required under this Contract;
2) upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 Florida Statutes or as otherwise provided by law;
3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
4) meet all requirements for retaining public records and transfer, at no cost to the County, all public records in possession of **PROVIDER** upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology system of the County.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, http://www.leegov.com/publicrecords.

D. <u>Independent Audit</u>

A complete independent financial audit of the agency's financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and/or current Generally Accepted Government Auditing Standards (GAGAS) as applicable is required and must include the following:

- auditor's opinion
- requisite reports on internal control and compliance, if required
- management letter addressing internal controls <u>(Note: If there were no items to be addressed, the letter must still be completed and state that no comments were noted.)</u>
- management's response to such letter
- the programs that are funded by this Lee County contract either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of Federal awards and

State financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s), exhibit(s), and attachment(s).

An original, bound version must be submitted. As an alternative, an electronic format **sent from the auditing firm** is acceptable. The audit must be submitted to the **COUNTY** no later than one hundred eighty (180) days following the end of a non profit **PROVIDER'S** fiscal year and two hundred seventy (270) days following the end of a government/municipality **PROVIDER'S** fiscal year. If applicable, any corrective action plan must be submitted. Failure to submit the report within the required time frame can result in the withholding of payment, or termination of the contract by the **COUNTY**.

The audit must be conducted by an independent, licensed certified public accountant with an unmodified opinion on their current peer review and must be in accordance with the General Accounting Office (GAO) Yellow Book, Generally Accepted Government Auditing Standards, OMB Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations" if applicable, the Florida Single Audit Act (F.S. 215.97) if applicable, and the Auditor General Rule 10.550 (Government) or 10.650 (Not For Profit) as applicable.

Copy of the latest Form 990 must also be submitted no later than one hundred eighty (180) days following the end of a non profit **PROVIDER'S** fiscal year.

ARTICLE V: AMENDMENTS

PROVIDER must submit a written request (email is acceptable) for a contract amendment which details the nature of and justification for the requested change and the desired effective date of the change(s). The **COUNTY** reserves the right to approve or deny all contract amendments. An approved amendment shall be documented on the contract amendment form and signed by both parties.

The Department Director may approve amendments to the contract, which do not substantially change the original contracted scope of service and statement of work, including extensions to the end date of the contract as identified in ARTICLE II. The Board of County Commissioners must approve amendments which increase or decrease contract funds; significantly change program design including target population or major changes in outcomes; change or add to the standard provider contract language, which is not for the purpose of correcting original omissions or clarifying original contract intent.

For federally funded projects, HUD must approve (24 CFR 583.405), in writing, any **significant** changes to an approved Homeless Continuum of Care program prior to initiating a contract amendment. Amendments to CDBG, HOME, or ESG which involve new or alteration of existing activities that will significantly change the scope, location, or objectives of the approved activities or beneficiaries must receive prior HUD approval.

ARTICLE VI: CONTRACTOR STATUS

A. Independent Contractor

It is the Parties' intention that the **PROVIDER** will be an independent contractor and not the County's employee for all purposes, including, but not limited to, the application of the Fair

Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Florida revenue and taxation law, Florida Worker's Compensation law and Florida Unemployment Insurance Law. The **PROVIDER** will retain sole and absolute discretion in the judgment of the manner and means of carrying out the **PROVIDER'S** activities and responsibilities hereunder. The **PROVIDER** agrees that it is a separate and independent enterprise from the public employer, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **PROVIDER** and **COUNTY**, and **COUNTY** will not be liable for any obligation incurred by the **PROVIDER**, including, but not limited to, unpaid minimum wages and/or overtime premiums.

B. <u>Subcontracts</u>

Primary roles and responsibilities of **PROVIDER** cannot be subcontracted. It is mutually agreed that any program component that is subcontracted by **PROVIDER** must have a written contract upon execution of this contract. Provider must provide written notice to the **COUNTY** of all subcontractors as well as provide copies of all contracts entered into with subcontractors upon the **COUNTY**'s request. Procurement and/or bidding of non primary roles and responsibilities must be awarded on a fair and non collusive basis and must be in compliance with all applicable Lee County, State of Florida and Federal standards. The **PROVIDER** shall not enter into a transaction with a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. For projects and services receiving federal funds, the **PROVIDER** shall also not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List. The **PROVIDER** must ensure each subcontractor conforms to the terms and conditions of this contract and if applicable Attachment A, Program Guidelines and must be subject to indemnification as stated in Article VIII.

<u>ARTICLE VII:</u> CONFLICT OF INTEREST

The **PROVIDER** agrees that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required in this contract. The **PROVIDER** further agrees that no person having any such interest shall be employed or engaged for said performance. The **PROVIDER** agrees that no employee, officer, agent of the provider or its sub-recipients shall participate in the selection, award or administration of a contract or construction bid if a conflict-of-interest, either real or implied, would be involved. The **PROVIDER** or sub-recipient employees, officers and agents should refrain from accepting gratuities, favors or anything of monetary value from contractors or potential contractors based on the understanding that the receipt of such an item of value would influence any action or judgment of the **PROVIDER**.

For federally-funded contracts, conflict of interest provisions described in 2 CFR 200.112 and all other HUD regulations currently in effect and as may be amended from time to time shall apply.

<u>ARTICLE VIII:</u> RISK MANAGEMENT

A. <u>Hold Harmless and Indemnity Clause</u>

To the fullest extent permitted by applicable law, **PROVIDER** shall protect, defend, indemnify, save and hold the County, the Board of County Commissioners, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the **PROVIDER** resulting from the **PROVIDER'S** work as further described in this contract and its attachments, which may arise in favor of any person or persons resulting from the **PROVIDER'S** performance or non-performance of its obligations under this contract except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the County, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, **PROVIDER** hereby agrees to indemnify the County for all reasonable expenses and attorney's fees incurred by or imposed upon the County in connection therewith for any loss, damage, injury, liability or other casualty. **PROVIDER** additionally agrees that the County may employ an attorney of the County's own selection to appear and defend any such action, on behalf of the County, at the expense of the **PROVIDER**. The **PROVIDER** further agrees to pay all reasonable expenses and attorney's fees incurred by the County in establishing the right to indemnity.

The **PROVIDER** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the Contract. All individuals hired are employees of the **PROVIDER** and not of the **COUNTY.**

B. Insurance Requirements

Insurance – Non Profit Providers

The **PROVIDER** agrees to secure and maintain the insurance coverage outlined below during the term of this Contract. The **PROVIDER** agrees that this insurance requirement shall not relieve or limit **PROVIDER**'S liability and that the **COUNTY** does not in any way represent that the insurance required is sufficient or adequate to protect the **PROVIDER**'S interests or liabilities, but are merely minimums. It is the responsibility of the **PROVIDER** to insure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance ***naming Lee County Board of County Commissioners as Certificate Holder and additional insured*** will be attached to this contract as an exhibit. Name and address for Certificate Holder should be: Lee County Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverage's at the time of contract execution and upon policy renewal. Renewal certificates are due to Lee County on or before expiration date.

1. **Workers' Compensation**– Statutory benefits as defined by Florida Statute 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
   $100,000 per accident
   $500,000 disease limit
   $100,000 disease limit per employee

2. **Commercial General Liability** – Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:
   $500,000 bodily injury per person (BI)
   $1,000,000 bodily injury per occurrence (BI)
   $500,000 property damage (PD) or
   $1,000,000 combined single limit (CSL) of BI and PD

The General Liability Policy Certificate shall name **"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"** as **"Additional Insured"**. The **PROVIDER** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. **Business Auto Liability** – The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:
   $100,000 bodily injury per person (BI)
   $300,000 bodily injury per occurrence (BI)
   $100,000 property damage (PD) or
   $300,000 combined single limit (CSL) of BI and PD

4. **Directors & Officers Liability** – Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than $100,000.

5. **Fidelity Bonding** – Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of $50,000.

Insurance – Government/Municipality
Documentation of the above coverage requirements are not applicable to government/municipalities that are self insured.

C. Notice of cancellation or modification

The **COUNTY** will be given thirty (30) days notice prior to cancellation or modification of any stipulated insurance. Such notification will be in writing by registered mail, return receipt requested and addressed to the Lee County Risk Manager, P. O. Box 398, Ft. Myers, FL 33902.

ARTICLE IX: SUSPENSION/TERMINATION

A. Suspension

The **COUNTY** reserves the right to suspend funding for failure to comply with the requirements of this contract. Agencies that fail to submit required documents by the due date can be suspended, and payment will be withheld until all requirements are satisfied.

In the event **PROVIDER** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this Contract, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **PROVIDER** with regard to those unpaid funds.

For contracts funded under "Partnering for Results": If anticipated Program revenue from other sources exceeds expenses by 40%, Lee County reserves the right to suspend contract until final expenses/revenue is confirmed.

B. Termination by COUNTY

The **COUNTY** may at any time and for any reason cancel this Contract by giving twenty–four (24) hours written notice to the **PROVIDER** by Certified Mail, Process Server or Hand Delivery following a determination by the County Manager or designee, at its sole discretion, that such cancellation is in the best interest of the people of the county. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

If the financing for this project is contingent upon funding sources other than Lee County as identified in the proposal/application of the contract and such funds become unavailable the obligations of each party hereunder may be terminated upon no less than twenty-four (24) hours written notice.

For contracts funded under "Partnering for Results": If confirmed Program revenue from other sources exceeds expenses by 40%, Lee County reserves the right to terminate contract upon no less than twenty four (24) hours written notice.

For unit rate contracts, if program is not operational within 45 days from contract start date, funds for said program will be withdrawn and contract will be amended or terminated.

C. <u>Termination by PROVIDER</u>

The **PROVIDER** may at any time and for any reason cancel this Contract by giving seventy-two (72) hours prior written notice to the **COUNTY** by Certified Mail or Process Server of such and specifying the effective date.

COUNTY'S obligation to make any payments under any provision of this Contract shall cease on the effective date of termination.

<u>ARTICLE X:</u> ASSURANCE, CERTIFICATIONS, AND COMPLIANCE

The **PROVIDER** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from funds provided through this Contract, and that it is binding upon the **PROVIDER**, its successors, transferees, and assignees for the period during which services are provided.

IMMIGRATION LAWS:

The **COUNTY** will not intentionally award contracts to any provider/contractor/vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (INA).

The **COUNTY** shall consider the employment by any **PROVIDER** of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of the contract by The **COUNTY**.

OTHER REQUIREMENTS:

The **PROVIDER** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this funding, the **PROVIDER** assures and certifies the following:

A. That they will comply with all applicable laws, ordinances, and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances, and regulations exist and are amended from time to time. In entering into this contract, the **COUNTY** does not waive the requirements of any **COUNTY** or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **PROVIDER**.

B. That they will comply with all applicable Federal, State and local anti-discrimination laws pertaining to nondiscrimination in programs receiving Federal financial assistance, including but not limited to:

- **Title VI of the Civil Rights Act of 1964,** as amended, and its implementing regulations – including that recipients/grantees of federal financial assistance are required to take reasonable steps to ensure meaningful access to persons who are Limited English Proficiency (LEP), as per Executive Order 13166.
- **Section 109 - Title I of the Housing & Community Development Act of 1974**
- **Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 794)
- **Age Discrimination Act of 1975** (42 U.S.C. 610 et. seq.)
- **Fair Housing Act**

Additional information can be accessed at the following websites:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp
https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-mfh-faq

These requirements are designed to prevent discrimination in the delivery of benefits and services because of race, color, religion (creed), sex, national origin, age, familial status or disability. Affirmative marketing plans and use of universal design features for construction and rehabilitative projects should be incorporated when possible.

All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin. The choice of logotype, statement or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. Different styles/types/sizes of logos and information regarding brochures and can be located at the following website:
http://portal.hud.gov/hudportal/HUD?src=/library/bookshelf11/hudgraphics/fheologo

C. That they will comply with the Americans with Disabilities Act of 1990 ("ADA") (as codified at U.S.C 42.126 (sections 12101-12213) and 28CFR35, which gives civil rights protections to individuals with disabilities, guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications. A Single-Point-of-

Contact shall be required if the agency employs 15 or more employees. The Single-Point-of-Contact will ensure effective communication with deaf or hard-of-hearing customers or companions in accordance with Section 504 and the ADA and coordinate activities and reports with the provider's Single-Point-of-Contact.

D. That they will administer their programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud and abuse, and that it will target its services to those who most need them.

E. That if clients are to be transported under this contract, the **PROVIDER** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.

F. That any products or materials purchased with contract funds shall be procured in accordance with the provisions of Chapter 403.7065, Florida Statues, which refers to the procurement of products or materials with recycled content.

G. That they will comply with Chapter 39.201, Florida Statutes, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

H. That they will comply with Chapter 415.1034, Florida Statutes, that any person who knows or has reasonable cause to suspect that a vulnerable and or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline (1-800-962-2873).

I. That if personnel in programs under this contract work directly with children/youths and vulnerable or disabled adults, the **PROVIDER** will comply with applicable provisions under Florida Statutes 943.0542; 943.04351; 393.0655; 402, regarding employment screening.

J. That they will comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of contract funds for the purpose of lobbying the legislature, State or county agencies.

K. That they will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **PROVIDER'S** application/proposal. This notification must include a statement as to how this change in funding affects provision of service as well as the use of and continued need for **COUNTY** funds.

L. That they will acknowledge support for activities funded wholly or in part by **COUNTY** funds. In publicizing, advertising, or describing the program, state "Funding provided by Lee County Board of County Commissioners".

M. That they will notify the **COUNTY** of any SIGNIFICANT changes to the **PROVIDER** organization to include Board Membership (roster), Articles of Incorporation and Bylaws within ten (10) working days of the effective date.

N. For federally funded programs, that they will comply with applicable uniform administrative requirements as described in 2 CFR Part 200 and all other established, applicable HUD regulations as now in effect and as may be amended from time to time.

O. The provider shall ensure that Lee County funds are restricted to people legally able to reside in the US.

P. The provider will input applicable updates to the 10 Year Plan to End Homelessness Database on a regular basis, usually quarterly.

Q. The PROVIDER is prohibited from using contracted funds for the following: political activities; lobbying; political patronage; nepotism activities; and inherently religious activities such as worship, religious instruction, or proselytization.

R. The PROVIDER must verify employment eligibility of all new employees hired during the contract term through the U.S. Department of Homeland Security's E-Verify system.

ARTICLE XI HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Lee County, pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a "covered entity" as the law defines that term. Any "personal health information" (PHI) as defined by the law that the **COUNTY** receives pursuant to this Agreement is subject to the disclosure and security requirements of HIPAA. Transfer of information to the **COUNTY** sufficiently "de-identified" to no longer be considered PHI is encouraged as being in the best interest of client PHI confidentiality to the extent that client services are unaffected. Particular methods to accomplish the highest levels of client service coupled with PHI confidentiality shall be an on-going task of the effected staffs of the **COUNTY** and **PROVIDER**.

ARTICLE XII: CONTRACT DISPUTE RESOLUTION PROCEDURE

Any dispute between the parties with respect to provisions contained in a Lee County Department of Human and Veterans Service (DHS) contract or issues that arise pertinent to a contract shall be resolved as follows:

The parties may, by mutual agreement, attempt to resolve their dispute in the following manner within a thirty (30) day period. If both parties are in agreement, the thirty (30) day time period can be extended for an additional ten days.

a. Duly authorized representatives shall meet as often as mutually agreeable to discuss in good faith the dispute and to negotiate a mutually agreeable resolution. Authorized representatives for DHS include Contract Specialist, and Program Manager.
b. During the course of the dispute process requests made by one Party to the other for non-privileged information, reasonably related to the dispute shall be responded to in good faith.
c. If the dispute is unable to be resolved between the authorized representatives within the specified time period, it will be forwarded to the Department Director for resolution. A decision by the Director will be issued within ten days.
d. If the dispute remains unresolved after the Department Director's decision, the parties may proceed to litigation. Any dispute, action or proceeding arising out of or related to this Agreement will be

exclusively commenced in the state courts of Lee County, Florida, or where proper subject matter jurisdiction exists in the United States District Court for the Middle District of Florida. Each party irrevocably submits and waives any objections to the exclusive personal jurisdiction and venue of such courts, including any objection based on forum non conveniens. This Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Florida without regard to its conflict of laws principles. Unless otherwise agreed in writing, Provider will be required to continue all obligations under this Agreement during the pendency of claim or dispute including, but not limited to, actual period of mediation or judicial proceedings.

e. Either Party may at any time commence formal court proceedings, which shall be immediately communicated, and will end the informal Dispute Resolution process as described in paragraph a-c above.

ARTICLE XIII: NOTICES

Official notices concerning this Contract will be directed to the following authorized representatives:

PROVIDER:

Name: Arleen M. Hunter
Title: City Manager
Agency: The City of Bonita Springs
Address: 9101 Bonita Beach Road. Bonita Springs FL 34135
Telephone: (239) 949-6262
Fax: (239) 949-6239
E-Mail : arleen.hunter@cityofbonitasprings.org

COUNTY:

Name: Attn: Denise Bell
Title: Contract Specialist
Agency: Human and Veterans Services
Address: 2440 Thompson Street
Fort Myers, Florida 33901
Telephone: (239) 533-7935
Fax: (239) 533-7960
E-Mail: dbell@leegov.com

The signatures of the **two** persons shown below are designated and authorized to sign all applicable reports:

Arleen Hunter	OR	Brenda Reetz
Name (printed/typed)		Name (printed/typed)
Signature		Signature
City Manager		Compliance Administrator
Title		Title

In the event that either party designates different representatives after execution of this contract, notice of the name and address of the new representative will be rendered in writing by authorized officer of **PROVIDER** to the **COUNTY**.

ARTICLE XIV: SPECIAL PROVISIONS

If needed, **PROVIDER** may be called upon to assist the **COUNTY** during a natural disaster or emergency. This includes the use of the **PROVIDER'S** facility to assist with Emergency Food Stamp pre registration if facility is operational and computer terminals are available. **PROVIDER** will be responsible to notify United Way 211 immediately after a disaster declaration if the location is accessible and operational and of any **PROVIDER** staff who are available to assist with recovery efforts.

ARTICLE XV: ALL TERMS AND CONDITIONS INCLUDED

This contract and its attachments, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or provision of this contract is legally determined unlawful or unenforceable, the remainder of the contract shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, PROVIDER and **COUNTY** have caused this 16-page contract and all Contract Exhibits and Attachments as indicated on next page to be executed by their undersigned officials as duly authorized.

PROVIDER:

By:______________________________
Name (print)

____
(Signature of authorized officer)

____
Title

____
Date

STATE OF FLORIDA
COUNTY OF ______

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ___ day of _______, 2020, by, __________________

who is personally known to me or who has produced ________________as identification and who ☐ did (☐ did not) take an oath.

NOTARY:

By: ______________________________
Notary of Public (Signature)

____
Name (typed)

COUNTY: LEE COUNTY

By: ____________________
Name (print)

____
(Signature of authorized officer)

Board of County Commissioners
Title

____
Date

ATTEST:
CLERK OF CIRCUIT COURT

By: __________________________

Title:__________________________

Date: _________________________

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

By: _________________________

Date: _________________________
OFFICE of the COUNTY ATTORNEY

Lee County
Human & Veteran Services

CONTRACT EXHIBITS & ATTACHMENTS

Applicable items are checked. If item is not checked it does not apply to this contract.

EXHIBITS		(Required Reports/Documentation):
☑	Exhibit 1	Payment Request
☑	Exhibit 2	Construction Progress Report
☐	Exhibit 3	Performance Outcomes Report
☐	Exhibit 4	Unit Cost Analysis Report
☐	Exhibit 5	Annual Progress Report or Closeout Report
☑	Exhibit 6	Certificates of Insurance
☑	Exhibit 7	Statement of Work
☐	Exhibit 8	Equipment/Fixed Assets Inventory
☐	Exhibit 9	Annual Certification of Continued Operation (ESG)
☐	Exhibit 10	Board of Directors Roster

ATTACHMENTS

☑	ATTACHMENT A	Program Guidelines

EXHIBIT 1
PAYMENT REQUEST
Line Item Contract

Mail to: Lee County Department of Human and Veteran Services
ATTN: Denise Bell
2440 Thompson Street
Ft. Myers, FL 33901

Phone: (239) 533-7935
FAX: (239) 533-7960
E-Mail: dbell@leegov.com

Contract No.____________
Program: US Dept of HUD - CDBG

Expenditures for period:
___/___/____ - ___/___/___
Check appropriate line:
_____Regular Reimbursement
_____Final Reimbursement

Agency: City of Bonita Springs
Mailing Address: 9101 Bonita Beach Rd
Bonita Springs, FL 34135
Phone: (239) 949-6246
FAX: (239) 949-6245
E-mail: connie.dibruno@cityofbonitasprings.org

Reports are due by the twentieth calendar day after the end of the reporting period.

A. Approved Budget Categories	B. Approved Annual Budget Amount	C. Balance Forward end of prior month	D. Total Paid Expenditures for Reporting Period	E. Remaining Balance End of Reporting Period (Col. C-D)
Public Improvements - Multi Model Transpotation Pathways (Bike/Pedestrian Path)	**$ 745,810.00**	$ 745,810.00		$ 745,810.00
Total:	**$ 745,810.00**	**$ 745,810.00**	$ -	$ 745,810.00

PROVIDER: By signing below, I certify that the work and/or services provided and reported in Exhibit 1 are for uncompensated expenses/units, and have been completed and/or delivered to the best of my knowledge. I further attest that payment has been made in accordance with all applicable statutes, regulations and approved County contract. I understand that knowingly providing false information could result in investigation and prosecution.

I certify 100% of the hours worked were solely for the eligible activity as stipulated in the contracted Scope of Services and Exhibit 7 Statement of Work or that a activity tracking record (time sheet) has been provided. I further certify that all hours and services billed to this contract are eligible under CDBG regulationsStatement of Work.

Signature of Authorized Official: ____________________

Date approved:

FOR LEE COUNTY USE ONLY
By signing below, I certify that to the best of my knowledge and abilities, the work and/or services provided have been inspected, monitored or reviewed and appear to be in compliance with all applicable statutes, regulations, and approved County contract.

AUTHORIZED BY: ____________________

APPROVED AMOUNT: $ -

DATE APPROVED: ____________________

Revised and Effective 7/19/07

EXHIBIT 2: CONSTRUCTION PROJECTS QUARTERLY PROGRAM REPORT

Complete quarterly. Provide detailed information on the progress of the project, including, but not limited to:

- Design Modifications
- Development Order/Permitting Process
- Narrative Indicating Type of Work Completed During the Reporting Period
- Building Inspection Report Results
- Construction Change Orders

Subrecipient: ___________ Activity: ____

Reporting Period: ____

For this reporting period, provide a brief summary of activities completed and any accomplishments achieved.

____

____

____

____

PROVIDER hereby certifies that all information reported in this exhibit has been collected and reported in compliance with all applicable statutes and regulations, and in accordance with the approved County contract.

Signed by:_____________________________________ Date____________

EXHIBIT 6
CERTIFICATES OF INSURANCE

Insert Certificates of Insurance naming
Lee County Board of County Commissioners

as

Certificate Holder

Name and address for Certificate Holder should be:
Lee County Board of County Commissioners,
P.O. Box 398, Fort Myers, FL 33902.

as required in Article VIII of the Contract, for the following policies:

☑- Worker's Compensation
☑- General Liability
☑- Business Auto Liability
☑- Directors & Officers Liability
☑- Fidelity Bonding

The General Liability Policy Certificate must name

"Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials"

as

"Additional Insured"

CERTIFICATE OF COVERAGE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator Issue Date 2/25/2020

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
Orlando, Florida 32853-0065

COVERAGES
THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT

COVERAGE PROVIDED BY: **FLORIDA MUNICIPAL INSURANCE TRUST**

AGREEMENT NUMBER: FMIT 0927 | **COVERAGE PERIOD:** FROM 10/1/19 | **COVERAGE PERIOD:** TO 10/1/20 12:01 AM STANDARD TIME

TYPE OF COVERAGE - LIABILITY

General Liability

- [X] Comprehensive General Liability, Bodily Injury, Property Damage, Personal Injury and Advertising Injury
- [X] Errors and Omissions Liability
- [X] Employment Practices Liability
- [X] Employee Benefits Program Administration Liability
- [X] Medical Attendants'/Medical Directors' Malpractice Liability
- [X] Broad Form Property Damage
- [ ] Law Enforcement Liability
- [X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
- [X] All owned Autos (Other than Private Passenger)
- [X] Hired Autos
- [X] Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

- [X] **Buildings**
  - [X] Basic Form
  - [X] Special Form
- [X] **Personal Property**
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $10,000
- [X] Coinsurance 80%
- [ ] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value
- [X] **Miscellaneous**
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [ ] Bond

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- [X] Statutory Workers' Compensation
- [X] Employers Liability — $1,000,000 Each Accident; $1,000,000 By Disease; $1,000,000 Aggregate By Disease
- [ ] Deductible N/A
- [ ] SIR Deductible N/A

Automobile/Equipment - Deductible

- [X] Physical Damage — Per Schedule - Comprehensive - Auto; Per Schedule - Collision - Auto; Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

Description of Operations/Locations/Vehicles/Special Items

RE: Agreement with Lee County Human and Veteran Services

Events, activities, elections and functions authorized by the certificate holder involving the designated member while being held upon the premises of the certificate holder. The certificate holder is hereby added as an additional insured, except for Workers' Compensation and Employers Liability, as respects the member's liability for the above described event.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE AGREEMENT ABOVE.

Designated Member

City of Bonita Springs
9101 Bonita Beach Road
Bonita Springs FL 34135-4215

Cancellations

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator — Issue Date 2/27/20

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
Orlando, Florida 32853-0065

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[X] Employment Practices Liability
[X] Employee Benefits Program Administration Liability
[X] Medical Attendants'/Medical Directors' Malpractice Liability
[X] Broad Form Property Damage
[ ] Law Enforcement Liability
[X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

[X] All owned Autos (Private Passenger)
[X] All owned Autos (Other than Private Passenger)
[X] Hired Autos
[X] Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

[X] **Buildings**
- [X] Basic Form
- [X] Special Form

[X] **Personal Property**
- [ ] Basic Form
- [X] Special Form

[ ] Agreed Amount
[X] Deductible $1,000
[X] Coinsurance 80%
[ ] Blanket
[X] Specific
[X] Replacement Cost
[ ] Actual Cash Value

[X] **Miscellaneous**
- [X] Inland Marine
- [X] Electronic Data Processing
- [X] Bond – Faithful Performance Blanket Employee Theft - Per loss

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

[X] Statutory Workers' Compensation
[X] Employers Liability — $1,000,000 Each Accident; $1,000,000 By Disease; $1,000,000 Aggregate By Disease
[ ] Deductible N/A
[ ] SIR Deductible N/A

Automobile/Equipment - Deductible

[X] Physical Damage — Per Schedule - Comprehensive - Auto — Per Schedule - Collision - Auto — Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is $200,000 Bodily Injury and/or Property Damage per person or $300,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to $5,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability/settlement for which no claims bill has been filed or liability imposed pursuant to Federal Law or actions outside the State of Florida.

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Certificate Holder

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
PO BOX 398
FORT MYERS FLORIDA 33902

Administrator Issue Date 2/27/20

Florida League of Cities, Inc.
Department of Insurance and Financial Services
P.O. Box 530065
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- [X] Employee Benefits Program Administration Liability
- [X] Medical Attendants'/Medical Directors' Malpractice Liability
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- [ ] Law Enforcement Liability
- [X] Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- [X] All owned Autos (Private Passenger)
- [X] All owned Autos (Other than Private Passenger)
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Deductible N/A

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- [X] **Buildings**
  - [X] Basic Form
  - [X] Special Form
- [X] **Personal Property**
  - [ ] Basic Form
  - [X] Special Form
- [ ] Agreed Amount
- [X] Deductible $1,000
- [X] Coinsurance 80%
- [ ] Blanket
- [X] Specific
- [X] Replacement Cost
- [ ] Actual Cash Value
- [X] **Miscellaneous**
  - [X] Inland Marine
  - [X] Electronic Data Processing
  - [ ] Bond

Limits of Liability on File with Administrator

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- [X] Statutory Workers' Compensation
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- [ ] Deductible N/A
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- [X] Physical Damage — Per Schedule - Comprehensive - Auto — Per Schedule - Collision - Auto — Per Schedule - Miscellaneous Equipment

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PO BOX 398
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AUTHORIZED REPRESENTATIVE

FMIT-CERT (10/2011)

PUBLIC EMPLOYEES BLANKET BOND

The Trust, in consideration of the payment of the premium, and subject to the Declarations made a part hereof, the General Agreement, Conditions and Limitations and other terms of this Bond, agrees, in accordance with such of the Insuring Agreements hereof as are specifically designated by the insertion of an amount of indemnity in the Declarations, to indemnify the Obligee for the use and benefit of the Insured for:

INSURING AGREEMENTS

Honesty Blanket Bond Coverage

1. Loss sustained by the Insured through any fraudulent or dishonest act or acts committed by any of the Employees, acting alone or in collusion with others, during the Bond Period, to an amount not exceeding in the aggregate the amount stated in the Declarations applicable to this Insuring Agreement 1.

Honesty Blanket Position Bond Coverage

2. Loss sustained by the Insured through any fraudulent or dishonest acts or acts committed by any of the Employees, acting alone or in collusion with others, during the Bond Period, the amount of Indemnity on each of such Employees being the amount stated in the Declarations applicable to this Insuring Agreement 2.

Faithful Performance Blanket Bond Coverage

3. Loss caused to the Insured through the failure of any of the Employees, acting alone or in collusion with others, to perform faithfully his duties or to account properly for all monies and property received by virtue of his position or employment during the Bond Period, to an amount not exceeding in the aggregate the amount stated in the Declarations applicable to this Insuring Agreement 3.

Faithful Performance Blanket Position Bond Coverage

4. Loss caused to the Insured through the failure of any Employee, acting alone or in collusion with others, to perform faithfully his duties or to account properly for all monies and property received by virtue of his position or employment during the Bond Period, the amount of indemnity on each such Employees being the amount stated in the Declarations applicable to this Insuring Agreement 4.

GENERAL AGREEMENT

Loss Under Prior Bond

If the coverage of an Insuring Agreement of this Bond is substituted for any prior bond carried by the Insured or by any predecessor in interest of the Insured which prior bond is terminated, canceled or allowed to expire as of the time of such substitution, the Trust agrees that such Insuring Agreement applies to loss sustained by, or caused to, the Insured, as the case may be, prior to or during the Bond Period, provided that such loss is discovered after the beginning of the Bond Period and prior to the expiration of three years from the cancellation of this Bond as an entirety and that such loss would have been recoverable by the Insured or such predecessor under such prior bond except for the fact that the time within which to bring suit, action or proceeding of any kind thereunder had expired, and provided further:

(1) The indemnity afforded by this General Agreement shall be a part of and not in addition to the amount of coverage afforded by the applicable Insuring Agreement of this Bond; and

(2) Such loss would have been covered under such Insuring Agreement had such Insuring Agreement with its agreements, conditions and limitations as of the time of such substitution been in force when the acts or defaults causing such loss were committed; and

(3) Recovery under such Insuring Agreement on account of such loss shall in no event exceed the amount which would have been recoverable under such Insuring Agreement in the amount for which it is written as of the time of such substitution, had such Insuring Agreement been in force when such acts or defaults were committed, or the amount which would have been recoverable under such prior bond had such prior bond continued in force until the discovery of such loss if the latter amount be smaller.

THE FOREGOING INSURING AGREEMENTS AND GENERAL AGREEMENT ARE SUBJECT TO THE FOLLOWING CONDITIONS AND LIMITATIONS

Definitions

Section 1. The following terms, as used in this Bond, shall have the respective meanings stated in this Section:

"Employee" as used in Insuring Agreements 1 and 2 means a person while in the employ of the Insured during the Bond Period who is not required by law to give bond conditioned for the faithful performance of his duties and who is a member of the staff or personnel of the Insured, but does not mean any Treasurer, Finance Officer, or Tax Collector by whatever title known.

"Employee" as used in Insuring Agreements 3 and 4 means a person while in the employ of the Insured during the Bond Period who is not required by law to furnish an Individual Bond to qualify for office and who is a member of the staff or personnel of the Insured but does not mean any Treasurer, Finance Officer, Law Enforcement Officer, or Tax Collector by whatever title known.

Unidentifiable Employee

Section 2. In case a loss is alleged to have been caused to the Insured through acts or defaults by an Employee covered under an applicable Insuring Agreement of this Bond, while such Insuring Agreement is in full force and effect and the Insured shall be unable to designate the specific Employee causing such loss, the Insured shall nevertheless have the benefit of such Insuring Agreement provided that the evidence submitted reasonably establishes that the loss was in fact caused by such Employee through such acts or defaults and provided, further, that regardless of the number of such Employees concerned or implicated in such loss, the aggregate liability of the Trust for any such loss shall not exceed the amount stated in the Declarations applicable to such Insuring Agreement.

Exclusion

Section 3. This Bond does not cover any loss sustained by, or caused to, the Insured under circumstances whereby and to the amount which the Obligee or the Insured voluntarily undertakes or is obligated by law to exonerate or indemnify any of the Employees against liability incurred by them in the performance of their duties. This bond does not cover damages for which the Insured is legally liable as a result of (a) the deprivation or violation of the civil rights of any person by an Employee; or (b) the tortious conduct of an Employee, except conversion of property of other parties held by the Insured in any capacity.

The Trust shall not be liable under the Bond for loss sustained by any party other than the Insured as a result of any act or omission of an Employee whether or not such act or omission occurred in the performance of the duties by the Employee.

Limits of Liability

Section 4. Indemnification by the Trust for any loss under Insuring Agreement 1 or 3 shall not reduce the Trust's liability for other losses under the applicable Insuring Agreement, whenever sustained; provided, however, that the Trust's total liability under each such Insuring Agreement for any loss caused by any Employee or in which such Employee is concerned or implicated is limited to the applicable amount of indemnity specified in the Declarations.

Indemnification by the Trust for any loss under Insuring Agreement 2 or 4 shall not reduce the Trust's liability for other losses under the applicable Insuring Agreement, whenever sustained; provided, however, the Trust's total liability under each such Insuring Agreement as to each Employee is limited to the applicable amount of indemnity specified in the Declarations.

Regardless of the number of years this Bond shall continue in force and the number of premiums which shall be payable or paid, the limit of the Trust's liability as specified in the Declarations shall not be cumulative from year to year or period to period.

Limit of Liability Under This Bond and Any Prior Bond

Section 5. With respect to loss under Insuring Agreement 1 or 3 caused by any Employee or in which such Employee is concerned or implicated for which is chargeable to such Employee as provided in Section 2 of this Bond and with respect to loss under Insuring Agreement 2 or 4 caused by any Employee or which is chargeable to such Employee as provided in Section 2 of this Bond and with respect to loss under any Insuring Agreement which occurs partly during the Bond Period and partly during the period of other bonds issued by the Trust to the Insured or to any predecessor in interest of the Insured and terminated or cancelled or allowed to expire and in which the period specified therein for bringing suit, action or proceeding of any kind, or if no such period is specified therein, then within the period prescribed by the applicable statute of limitations, has not expired at the time such loss thereunder is discovered, the total liability of the Trust under this Bond and under such other bonds shall not exceed, in the aggregate, the amount carried under this applicable Insuring Agreement of this Bond on such loss or the amount available to the Insured under such other bonds, as limited by the terms and conditions thereof, for any such loss if the latter amount be larger.

Deductibles

Section 6. It is agreed that:

(a) The Trust shall not be liable under Insuring Agreement 1 or 3 on account of loss through acts or defaults committed at any time, whether before or after this endorsement is effective, by any Employee or in which such Employee is concerned or implicated, unless the amount of such loss, after deducting the net amount of all reimbursement and recovery, including any cash deposit taken by the Insured, obtained or made by the Insured, other than from any bond or policy of insurance issued by a surety or insurance company and covering such loss, or by the Trust on account thereof prior to payment by the Trust of such loss, shall be in excess of <u>SEE DECLARATIONS PAGE</u> and then for such excess only, but in no event for more than the amount of insurance carried under Insuring Agreement 1 or 3 on such loss.

(b) The Trust shall not be liable under Insuring Agreement 2 or 4 on account of loss through acts or defaults committed at any time, whether before or after this endorsement is effective, by any Employee, unless the amount of such loss, after deducting the net amount of all reimbursement and recovery, including any cash deposit taken by the Insured, obtained or made by the Insured, other than from any bond or policy of insurance issued by a surety or insurance company and covering such loss, or by the Trust on account thereof prior to payment by the Trust of such loss, shall be in excess of SEE DECLARATIONS PAGE and then for such excess only, but in no event for more than the amount of insurance carried on such Employee under Insuring Agreement 2 or 4. If more than one Employee is concerned or implicated in such loss, such deductible amount shall apply to each Employee so concerned or implicated.

(c) In no event shall the Trust be liable under any Insuring Agreement, as modified by this endorsement, for more than the amount specified in the Declarations as applicable to such Insuring Agreement subject.

(d) The Insured shall, within the time and in the manner prescribed in the Policy, give the Trust notice of any loss of the kind covered by Insuring Agreement 1, 2, 3, or 4, whether or not the Trust is liable therefor or for any part thereof, upon the request of the Trust shall file with it a brief statement giving the particulars concerning such loss.

Cancellation

Section 7. This Bond shall be deemed canceled as to any Employee:

(a) Immediately upon discovery by the Obligee or the Insured of any act on the part of such Employee which would constitute a liability of the Trust under the applicable Insuring Agreement covering such Employee;

(b) Upon the death, resignation or removal of such Employee; or

(c) At 12:01 a.m. upon the effective date specified in a written notice mailed to the Obligee and the Insured. Such date shall be not less than thirty days after the date of mailing. The mailing by the Trust of notice as aforesaid to the Obligee and the Insured shall be sufficient proof of notice. Delivery of such written notice by the Trust shall be equivalent to mailing.

This Bond may be canceled by the Obligee or the Insured by mailing to the Trust written notice stating when thereafter the cancellation shall be effective. This Bond maybe canceled by the Trust by mailing to the Obligee and the Insured written notice stating when, not less than thirty days thereafter, such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. Delivery of such written notice either by the Obligee or the Insured or by the Trust shall be equivalent to mailing. If the Obligee or the Insured cancels, earned premium shall be computed pro-rata. If the Trust cancels, earned premium shall be computed pro rata. Premium adjustments may be made at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

If any of the cancellation provisions set forth in either or both of the foregoing paragraphs of this Section are prohibited or made void by any law controlling the construction of this Bond, such provisions to the extent they are so prohibited or made void shall be deemed to be nullified and of no effect.

Legal Proceedings

Section 8. No suit, action or proceeding of any kind to recover on account of loss under this Bond shall be brought after the expiration of three years from the cancellation of this Bond as an entirety provided, however, that if such limitation for bringing suit, action or proceeding is prohibited or made void by any law controlling the construction of this Bond, such limitation shall be deemed to be amended so as to be equal to the minimum period of the limitation permitted by such law.

GOVERNMENT CRIME COVERAGE FORM (LOSS SUSTAINED FORM)

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is or is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **F.** Definitions.

A. Insuring Agreements

Coverage is provided under the following Insuring Agreements for which a Limit of Insurance is shown in the Declarations and applies to loss that you sustain resulting directly from an "occurrence" taking place during the Policy Period shown in the Declarations, except as provided in Condition **E.1.j.** or **E.1.k.**, which is "discovered" by you during the Policy Period shown in the Declarations or during the period of time provided in the Extended Period To Discover Loss Condition **E.1.f.**:

1. Employee Theft – Per Loss Coverage

We will pay for loss of or damage to "money", "securities" and "other property" resulting directly from "theft" committed by an "employee", whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Insuring Agreement, "theft" shall also include forgery.

2. Employee Theft – Per Employee Coverage

We will pay for loss of or damage to "money", "securities" and "other property" resulting directly from "theft" committed by each "employee", whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Insuring Agreement, "theft" shall also include forgery.

3. Forgery Or Alteration

a. We will pay for loss resulting directly from "forgery" or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in "money" that are:

(1) Made or drawn by or drawn upon you; or

(2) Made or drawn by one acting as your agent;

or that are purported to have been so made or drawn.

For the purposes of this Insuring Agreement, a substitute check as defined in the Check Clearing for the 21st Century Act shall be treated the same as the original it replaced.

b. If you are sued for refusing to pay any instrument covered in Paragraph **3.a.**, on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defense. The amount that we will pay is in addition to the Limit of Insurance applicable to this Insuring Agreement.

4. Inside The Premises – Theft Of Money And Securities

a. We will pay for loss of "money" and "securities" inside the "premises" or "banking premises":

(1) Resulting directly from "theft" committed by a person present inside such "premises" or "banking premises"; or

(2) Resulting directly from disappearance or destruction.

b. We will pay for loss from damage to the "premises" or its exterior resulting directly from an actual or attempted "theft" of "money" and "securities", if you are the owner of the "premises" or are liable for damage to it.

c. We will pay for loss of or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the "premises" resulting directly from an actual or attempted "theft" of or unlawful entry into those containers.

5. Inside The Premises – Robbery Or Safe Burglary Of Other Property

a. We will pay for loss of or damage to "other property":

(1) Inside the "premises" resulting directly from an actual or attempted "robbery" of a "custodian"; or

(2) Inside the "premises" in a safe or vault resulting directly from an actual or attempted "safe burglary".

b. We will pay for loss from damage to the "premises" or its exterior resulting directly from an actual or attempted "robbery" or "safe burglary" of "other property", if you are the owner of the "premises" or are liable for damage to it.

c. We will pay for loss of or damage to a locked safe or vault located inside the "premises" resulting directly from an actual or attempted "robbery" or "safe burglary".

6. Outside The Premises

a. We will pay for loss of "money" and "securities" outside the "premises" in the care and custody of a "messenger" or an armored motor vehicle company resulting directly from "theft", disappearance or destruction.

b. We will pay for loss of or damage to "other property" outside the "premises" in the care and custody of a "messenger" or an armored motor vehicle company resulting directly from an actual or attempted "robbery".

7. Computer Fraud

We will pay for loss of or damage to "money", "securities" and "other property" resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the "premises" or "banking premises":

a. To a person (other than a "messenger") outside those "premises"; or

b. To a place outside those "premises".

8. Funds Transfer Fraud

We will pay for loss of "funds" resulting directly from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "funds" from your "transfer account".

9. Money Orders And Counterfeit Money

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

a. Money orders issued by any post office, express company or bank that are not paid upon presentation; or

b. "Counterfeit money" that is acquired during the regular course of business.

B. Limit Of Insurance

The most we will pay for all loss resulting directly from an "occurrence" is the applicable Limit of Insurance shown in the Declarations.

If any loss is covered under more than one Insuring Agreement or Coverage, the most we will pay for such loss shall not exceed the largest Limit of Insurance available under any one of those Insuring Agreements or Coverages.

C. Deductible

We will not pay for loss resulting directly from an "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations. We will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance.

D. Exclusions

1. This insurance does not cover:

a. **Acts Committed By You**

Loss resulting from "theft" or any other dishonest act committed by you, whether acting alone or in collusion with other persons.

b. **Acts Of Employees Learned Of By You Prior To The Policy Period**

Loss caused by an "employee" if the "employee" had also committed "theft" or any other dishonest act prior to the effective date of this insurance and you or any of your officials, not in collusion with the "employee", learned of that "theft" or dishonest act prior to the Policy Period shown in the Declarations.

c. Acts Of Officials, Employees Or Representatives

Loss resulting from "theft" or any other dishonest act committed by any of your officials, "employees" or authorized representatives:

(1) Whether acting alone or in collusion with other persons; or

(2) While performing services for you or otherwise;

except when covered under Insuring Agreement **A.1.** or **A.2.**

d. Confidential Information

Loss resulting from:

(1) The unauthorized disclosure of your confidential information including, but not limited to, patents, trade secrets, processing methods or customer lists; or

(2) The unauthorized use or disclosure of confidential information of another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information or similar non-public information.

e. Governmental Action

Loss resulting from seizure or destruction of property by order of governmental authority.

f. Indirect Loss

Loss that is an indirect result of an "occurrence" covered by this insurance including, but not limited to, loss resulting from:

(1) Your inability to realize income that you would have realized had there been no loss of or damage to "money", "securities" or "other property".

(2) Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.

(3) Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.

g. Legal Fees, Costs And Expenses

Fees, costs and expenses incurred by you which are related to any legal action, except when covered under Insuring Agreement **A.3.**

h. Nuclear Hazard

Loss or damage resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

i. Pollution

Loss or damage caused by or resulting from pollution. Pollution means the discharge, dispersal, seepage, migration, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

j. War And Similar Action

Loss or damage resulting from:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

2. Insuring Agreements **A.1.** and **A.2.** do not cover:

a. Bonded Employees

Loss caused by any "employee" required by law to be individually bonded.

b. Inventory Shortages

Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

(1) An inventory computation; or

(2) A profit and loss computation.

However, where you establish wholly apart from such computations that you have sustained a loss, then you may offer your inventory records and actual physical count of inventory in support of the amount of loss claimed.

c. Trading

Loss resulting from trading, whether in your name or in a genuine or fictitious account.

d. Treasurers Or Tax Collectors

Loss caused by any treasurer or tax collector by whatever name known.

3. Insuring Agreements **A.4., A.5.** and **A.6.** do not cover:

a. Accounting Or Arithmetical Errors Or Omissions

Loss resulting from accounting or arithmetical errors or omissions.

b. Exchanges Or Purchases

Loss resulting from the giving or surrendering of property in any exchange or purchase.

c. Fire

Loss or damage resulting from fire, however caused, except:

(1) Loss of or damage to "money" and "securities"; and

(2) Loss from damage to a safe or vault.

d. Money Operated Devices

Loss of property contained in any money operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

e. Motor Vehicles Or Equipment And Accessories

Loss of or damage to motor vehicles, trailers or semi-trailers or equipment and accessories attached to them.

f. Transfer Or Surrender Of Property

(1) Loss of or damage to property after it has been transferred or surrendered to a person or place outside the "premises" or "banking premises":

(a) On the basis of unauthorized instructions;

(b) As a result of a threat to do bodily harm to any person;

(c) As a result of a threat to do damage to any property;

(d) As a result of a threat to introduce a denial of service attack into your computer system;

(e) As a result of a threat to introduce a virus or other malicious instruction into your computer system which is designed to damage, destroy or corrupt data or computer programs stored within your computer system;

(f) As a result of a threat to contaminate, pollute or render substandard your products or goods; or

(g) As a result of a threat to disseminate, divulge or utilize:

(i) Your confidential information; or

(ii) Weaknesses in the source code within your computer system.

(2) But, this Exclusion does not apply under Insuring Agreement **A.6.** to loss of "money", "securities" or "other property" while outside the "premises" in the care and custody of a "messenger" if you:

(a) Had no knowledge of any threat at the time the conveyance began; or

(b) Had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

g. Vandalism

Loss from damage to the "premises" or its exterior, or to any safe, vault, cash register, cash box, cash drawer or "other property" by vandalism or malicious mischief.

h. Voluntary Parting Of Title To Or Possession Of Property

Loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

4. Insuring Agreement **A.7.** does not cover:

a. Credit Card Transactions

Loss resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

b. Funds Transfer Fraud

Loss resulting from a "fraudulent instruction" directing a financial institution to transfer, pay or deliver "funds" from your "transfer account".

c. Inventory Shortages

Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

(1) An inventory computation; or

(2) A profit and loss computation.

5. Insuring Agreement **A.8.** does not cover:

COMPUTER FRAUD

Loss resulting from the use of any computer to fraudulently cause a transfer of "money", "securities" or "other property".

E. Conditions

The following Conditions apply in addition to the Common Policy Conditions:

1. Conditions Applicable To All Insuring Agreements

a. Additional Premises Or Employees

If, while this insurance is in force, you establish any additional "premises" or hire additional "employees", such "premises" and "employees" shall automatically be covered under this insurance. Notice to us of an increase in the number of "premises" or "employees" need not be given and no additional premium need be paid for the remainder of the Policy Period shown in the Declarations.

b. Concealment, Misrepresentation Or Fraud

This insurance is void in any case of fraud by you as it relates to this insurance at any time. It is also void if you or any other Insured, at any time, intentionally conceal or misrepresent a material fact concerning:

(1) This insurance;

(2) The property covered under this insurance;

(3) Your interest in the property covered under this insurance; or

(4) A claim under this insurance.

c. Cooperation

You must cooperate with us in all matters pertaining to this insurance as stated in its terms and conditions.

d. Duties In The Event Of Loss

After you "discover" a loss or a situation that may result in loss of or damage to "money", "securities" or "other property" you must:

(1) Notify us as soon as possible. If you have reason to believe that any loss (except for loss covered under Insuring Agreement **A.1.**, **A.2.** or **A.3.**) involves a violation of law, you must also notify the local law enforcement authorities.

(2) Submit to examination under oath at our request and give us a signed statement of your answers.

(3) Produce for our examination all pertinent records.

(4) Give us a detailed, sworn proof of loss within 120 days.

(5) Cooperate with us in the investigation and settlement of any claim.

e. Employee Benefit Plans

(1) The employee benefit plans shown in the Declarations (hereafter referred to as Plan) are included as Insureds under Insuring Agreement **A.1.** or **A.2.**

(2) Any payment we make for loss sustained by any Plan will be made to the Plan sustaining the loss.

(3) The Deductible Amount applicable to Insuring Agreement **A.1.** or **A.2.** does not apply to loss sustained by any Plan.

f. Extended Period To Discover Loss

We will pay for loss that you sustained prior to the effective date of cancellation of this insurance, which is "discovered" by you no later than 1 year from the date of that cancellation.

However, this extended period to "discover" loss terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

g. Joint Insured

(1) If more than one Insured is named in the Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first Named Insured ceases to be covered, then the next Named Insured will become the first Named Insured.

(2) If any Insured or official of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.

(3) An "employee" of any Insured is considered to be an "employee" of every Insured.

(4) If this insurance or any of its coverages is cancelled as to any Insured, loss sustained by that Insured is covered only if it is "discovered" by you no later than 1 year from the date of that cancellation.

However, this extended period to "discover" loss terminates immediately upon the effective date of any other insurance obtained by that Insured, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

(5) We will not pay more for loss sustained by more than one Insured than the amount we would pay if all such loss had been sustained by one Insured.

(6) Payment by us to the first Named Insured for loss sustained by any Insured, other than an employee benefit plan, shall fully release us on account of such loss.

h. Legal Action Against Us

You may not bring any legal action against us involving loss:

(1) Unless you have complied with all the terms of this insurance;

(2) Until 90 days after you have filed proof of loss with us; and

(3) Unless brought within 2 years from the date you "discovered" the loss.

If any limitation in this Condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

i. Liberalization

If we adopt any revision that would broaden the coverage under this insurance without additional premium within 45 days prior to or during the Policy Period shown in the Declarations, the broadened coverage will immediately apply to this insurance.

j. Loss Sustained During Prior Insurance Issued By Us Or Any Affiliate

(1) Loss Sustained Partly During This Insurance And Partly During Prior Insurance

If you "discover" loss during the Policy Period shown in the Declarations, resulting directly from an "occurrence" taking place:

(a) Partly during the Policy Period shown in the Declarations; and

(b) Partly during the Policy Period(s) of any prior cancelled insurance that we or any affiliate issued to you or any predecessor in interest;

and this insurance became effective at the time of cancellation of the prior insurance, we will first settle the amount of loss that you sustained during this Policy Period. We will then settle the remaining amount of loss that you sustained during the Policy Period(s) of the prior insurance.

(2) Loss Sustained Entirely During Prior Insurance

If you "discover" loss during the Policy Period shown in the Declarations, resulting directly from an "occurrence" taking place entirely during the Policy Period(s) of any prior cancelled insurance that we or any affiliate issued to you or any predecessor in interest, we will pay for the loss, provided:

(a) This insurance became effective at the time of cancellation of the prior insurance; and

(b) The loss would have been covered under this insurance had it been in effect at the time of the "occurrence".

We will first settle the amount of loss that you sustained during the most recent prior insurance. We will then settle any remaining amount of loss that you sustained during the Policy Period(s) of any other prior insurance.

(3) In settling loss subject to this Condition:

(a) The most we will pay for the entire loss is the highest single Limit of Insurance applicable during the period of loss, whether such limit was written under this insurance or was written under the prior insurance issued by us.

(b) We will apply the applicable Deductible Amount shown in the Declarations to the amount of loss sustained under this insurance. If no loss was sustained under this insurance, we will apply the Deductible Amount shown in the Declarations to the amount of loss sustained under the most recent prior insurance.

If the Deductible Amount is larger than the amount of loss sustained under this insurance, or the most recent prior insurance, we will apply the remaining Deductible Amount to the remaining amount of loss sustained during the prior insurance.

We will not apply any other Deductible Amount that may have been applicable to the loss.

(4) The following examples demonstrate how we will settle losses subject to this Condition **E.1.j.**:

EXAMPLE NO. 1:

The insured sustained a covered loss of $10,000 resulting directly from an "occurrence" taking place during the terms of Policy **A** and Policy **B.**

POLICY A

The current policy. Written at a Limit of Insurance of $50,000 and a Deductible Amount of $5,000.

POLICY B

Issued prior to Policy **A.** Written at a Limit of Insurance of $50,000 and a Deductible Amount of $5,000.

The amount of loss sustained under Policy **A** is $2,500 and under Policy **B** is $7,500.

The highest single Limit of Insurance applicable to this entire loss is $50,000 written under Policy **A.** The Policy **A** Deductible Amount of $5,000 applies. The loss is settled as follows:

1. The amount of loss sustained under Policy **A** ($2,500) is settled first. The amount we will pay is nil ($0.00) because the amount of loss is less than the Deductible Amount (i.e., $2,500 loss - $5,000 deductible = $0.00).

2. The remaining amount of loss sustained under Policy **B** ($7,500) is settled next. The amount recoverable is $5,000 after the remaining Deductible Amount from Policy **A** of $2,500 is applied to the loss (i.e., $7,500 loss - $2,500 deductible = $5,000).

The most we will pay for this loss is $5,000.

EXAMPLE NO. 2:

The insured sustained a covered loss of $250,000 resulting directly from an "occurrence" taking place during the terms of Policy **A** and Policy **B.**

POLICY A

The current policy. Written at a Limit of Insurance of $125,000 and a Deductible Amount of $10,000.

POLICY B

Issued prior to Policy **A.** Written at a Limit of Insurance of $150,000 and a Deductible Amount of $25,000.

The amount of loss sustained under Policy **A** is $175,000 and under Policy **B** is $75,000.

The highest single Limit of Insurance applicable to this entire loss is $150,000 written under Policy **B.** The Policy **A** Deductible Amount of $10,000 applies. The loss is settled as follows:

1. The amount of loss sustained under Policy **A** ($175,000) is settled first. The amount we will pay is the Policy **A** Limit of $125,000 because $175,000 loss - $10,000 deductible = $165,000 which is greater than the $125,000 policy limit.

2. The remaining amount of loss sustained under Policy **B** ($75,000) is settled next. The amount we will pay is $25,000 (i.e., $150,000 Policy **B** limit - $125,000 paid under Policy **A** = $25,000).

The most we will pay for this loss is $150,000.

EXAMPLE NO. 3:

The insured sustained a covered loss of $2,000,000 resulting directly from an "occurrence" taking place during the terms of Policies **A, B, C** and **D.**

POLICY A

The current policy. Written at a Limit of Insurance of $1,000,000 and a Deductible Amount of $100,000.

POLICY B

Issued prior to Policy **A.** Written at a Limit of Insurance of $750,000 and a Deductible Amount of $75,000.

POLICY C

Issued prior to Policy **B.** Written at a Limit of Insurance of $500,000 and a Deductible Amount of $50,000.

POLICY D

Issued prior to Policy **C.** Written at a Limit of Insurance of $500,000 and a Deductible Amount of $50,000.

The amount of loss sustained under Policy **A** is $350,000, under Policy **B** is $250,000, under Policy **C** is $600,000 and under Policy **D** is $800,000.

The highest single Limit of Insurance applicable to this entire loss is $1,000,000 written under Policy **A.** The Policy **A** Deductible Amount of $100,000 applies. The loss is settled as follows:

1. The amount of loss sustained under Policy **A** ($350,000) is settled first. The amount we will pay is $250,000 (i.e., $350,000 loss - $100,000 deductible = $250,000).
2. The amount of loss sustained under Policy **B** ($250,000) is settled next. The amount we will pay is $250,000 (no deductible is applied).
3. The amount of loss sustained under Policy **C** ($600,000) is settled next. The amount we will pay is $500,000, the policy limit (no deductible is applied).
4. We will not make any further payment under Policy **D** as the maximum amount payable under the highest single Limit of Insurance applying to the loss of $1,000,000 under Policy **A** has been satisfied.

The most we will pay for this loss is $1,000,000.

k. Loss Sustained During Prior Insurance Not Issued By Us Or Any Affiliate

(1) If you "discover" loss during the Policy Period shown in the Declarations, resulting directly from an "occurrence" taking place during the policy period of any prior cancelled insurance that was issued to you or a predecessor in interest by another company, and the period of time to discover loss under that insurance had expired, we will pay for the loss under this insurance, provided:

(a) This insurance became effective at the time of cancellation of the prior insurance; and

(b) The loss would have been covered under this insurance had it been in effect at the time of the "occurrence".

(2) In settling loss subject to this Condition:

(a) The most we will pay for the entire loss is the lesser of the Limits of Insurance applicable during the period of loss, whether such limit was written under this insurance or was written under the prior cancelled insurance.

(b) We will apply the applicable Deductible Amount shown in the Declarations to the amount of loss sustained under the cancelled insurance.

(3) The insurance provided under this Condition is subject to the following:

(a) If loss covered under this Condition is also partially covered under Condition **E.1.j.,** the amount recoverable under this Condition is part of, not in addition to, the amount recoverable under Condition **E.1.j.**

(b) For loss covered under this Condition that is not subject to Paragraph **(3)(a),** the amount recoverable under this Condition is part of, not in addition to, the Limit of Insurance applicable to the loss covered under this insurance and is limited to the lesser of the amount recoverable under:

(i) This insurance as of its effective date; or

(ii) The prior cancelled insurance had it remained in effect.

l. Other Insurance

If other valid and collectible insurance is available to you for loss covered under this insurance, our obligations are limited as follows:

(1) Primary Insurance

When this insurance is written as primary insurance, and:

(a) You have other insurance subject to the same terms and conditions as this insurance, we will pay our share of the covered loss. Our share is the proportion that the applicable Limit of Insurance shown in the Declarations bears to the total limit of all insurance covering the same loss.

(b) You have other insurance covering the same loss other than that described in Paragraph **(1)(a),** we will only pay for the amount of loss that exceeds:

(i) The Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not; or

(ii) The Deductible Amount shown in the Declarations;

whichever is greater. Our payment for loss is subject to the terms and conditions of this insurance.

(2) Excess Insurance

(a) When this insurance is written excess over other insurance, we will only pay for the amount of loss that exceeds the Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not. Our payment for loss is subject to the terms and conditions of this insurance.

(b) However, if loss covered under this insurance is subject to a Deductible, we will reduce the Deductible Amount shown in the Declarations by the sum total of all such other insurance plus any Deductible Amount applicable to that other insurance.

m. Ownership Of Property; Interests Covered

The property covered under this insurance is limited to property:

(1) That you own or lease; or

(2) That you hold for others whether or not you are legally liable for the loss of such property.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this insurance must be presented by you.

n. Records

You must keep records of all property covered under this insurance so we can verify the amount of any loss.

o. Recoveries

(1) Any recoveries, whether effected before or after any payment under this insurance, whether made by us or you, shall be applied net of the expense of such recovery:

(a) First, to you in satisfaction of your covered loss in excess of the amount paid under this insurance;

(b) Second, to us in satisfaction of amounts paid in settlement of your claim;

(c) Third, to you in satisfaction of any Deductible Amount; and

(d) Fourth, to you in satisfaction of any loss not covered under this insurance.

(2) Recoveries do not include any recovery:

(a) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or

(b) Of original "securities" after duplicates of them have been issued.

p. Territory

This insurance covers loss that you sustain resulting directly from an "occurrence" taking place within the United States of America (including its territories and possessions) and Puerto Rico.

q. Transfer Of Your Rights Of Recovery Against Others To Us

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

r. Valuation – Settlement

(1) The value of any loss for purposes of coverage under this policy shall be determined as follows:

(a) Loss of "money" but only up to and including its face value.

(b) Loss of "securities" but only up to and including their value at the close of business on the day the loss was "discovered". We may, at our option:

(i) Pay the market value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities"; or

(ii) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

i. Market value of the "securities" at the close of business on the day the loss was "discovered"; or

ii. The Limit of Insurance applicable to the "securities".

(c) Loss of or damage to "other property" or loss from damage to the "premises" or its exterior for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:

(i) The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;

(ii) The amount you actually spend that is necessary to repair or replace the lost or damaged property; or

(iii) The Limit of Insurance applicable to the lost or damaged property.

With regard to Paragraphs **r.(1)(c)(i)** through **r.(1)(c)(iii),** we will not pay on a replacement cost basis for any loss or damage:

i. Until the lost or damaged property is actually repaired or replaced; and

ii. Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.

(2) Any property that we pay for or replace becomes our property.

2. Conditions Applicable To Insuring Agreements A.1. And A.2.

a. Indemnification

We will indemnify any of your officials who are required by law to give individual bonds for the faithful performance of their duties against loss through "theft" committed by "employees" who serve under them, subject to the applicable Limit of Insurance.

b. Termination As To Any Employee

This Insuring Agreement terminates as to any "employee":

(1) As soon as:

(a) You; or

(b) Any of your officials or employees authorized to manage, govern or control your "employees" not in collusion with the "employee";

learn of "theft" or any other dishonest act committed by the "employee" whether before or after becoming employed by you.

(2) On the date specified in a notice mailed to the first Named Insured. That date will be at least 30 days after the date of mailing.

We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice.

c. Territory

We will pay for loss caused by any "employee" while temporarily outside the territory specified in the Territory Condition **E.1.p.** for a period of not more than 90 consecutive days.

3. Conditions Applicable To Insuring Agreement A.3.

a. Deductible Amount

The Deductible Amount does not apply to legal expenses paid under Insuring Agreement **A.3.**

b. Electronic And Mechanical Signatures

We will treat signatures that are produced or reproduced electronically, mechanically or by other means the same as handwritten signatures.

c. Proof Of Loss

You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.

d. Territory

We will cover loss that you sustain resulting directly from an "occurrence" taking place anywhere in the world. Territory Condition **E.1.p.** does not apply to Insuring Agreement **A.3.**

4. Conditions Applicable To Insuring Agreements A.5. And A.6.

a. Armored Motor Vehicle Companies

Under Insuring Agreement **A.6.,** we will only pay for the amount of loss you cannot recover:

(1) Under your contract with the armored motor vehicle company; and

(2) From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

b. Special Limit Of Insurance For Specified Property

We will only pay up to $5,000 for any one "occurrence" of loss of or damage to manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

5. Conditions Applicable To Insuring Agreement A.7.

a. Special Limit Of Insurance For Specified Property

We will only pay up to $5,000 for any one "occurrence" of loss of or damage to manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

b. Territory

We will cover loss that you sustain resulting directly from an "occurrence" taking place anywhere in the world. Territory Condition **E.1.p.** does not apply to Insuring Agreement **A.7.**

F. Definitions

1. "Banking premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.

2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.

3. "Custodian" means you, or any "employee" while having care and custody of property inside the "premises", excluding any person while acting as a "watchperson" or janitor.

4. "Discover" or "discovered" means the time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this insurance has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known.

"Discover" or "discovered" also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this insurance.

5. "Employee":

a. "Employee" means:

(1) Any natural person:

(a) While in your service and for the first 30 days immediately after termination of service, unless such termination is due to "theft" or any other dishonest act committed by the "employee";

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee" as defined in Paragraph **a.(1),** who is on leave; or

(b) To meet seasonal or short-term workload conditions;

while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the "premises";

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **a.(2);**

(4) Any natural person who is:

(a) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any employee benefit plan(s); and

(b) An official of yours while that person is engaged in handling "funds" or "other property" of any employee benefit plan;

(5) Any natural person who is a former official, "employee" or trustee retained as a consultant while performing services for you; or

(6) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the "premises".

b. "Employee" does not mean any agent, independent contractor or representative of the same general character not specified in Paragraph **5.a.**

6. "Forgery" means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.

7. "Fraudulent instruction" means:

a. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;

b. A written instruction (other than those described in Insuring Agreement **A.3.**) issued by you, which was forged or altered by someone other than you without your knowledge or consent, or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or

c. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an "employee" but which was in fact fraudulently transmitted by someone else without your or the "employee's" knowledge or consent.

8. "Funds" means "money" and "securities".

9. "Messenger" means you or any "employee" while having care and custody of property outside the "premises".

10. "Money" means:

a. Currency, coins and bank notes in current use and having a face value; and

b. Travelers checks, register checks and money orders held for sale to the public.

11. "Occurrence" means:

a. Under Insuring Agreement **A.1.**:

(1) An individual act;

(2) The combined total of all separate acts whether or not related; or

(3) A series of acts whether or not related;

committed by an "employee" acting alone or in collusion with other persons, during the Policy Period shown in the Declarations, except as provided under Condition **E.1.j.** or **E.1.k.**

b. Under Insuring Agreement **A.2.**:

(1) An individual act;

(2) The combined total of all separate acts whether or not related; or

(3) A series of acts whether or not related;

committed by each "employee" acting alone or in collusion with other persons, during the Policy Period shown in the Declarations, except as provided under Condition **E.1.j.** or **E.1.k.**

c. Under Insuring Agreement **A.3.**:

(1) An individual act;

(2) The combined total of all separate acts whether or not related; or

(3) A series of acts whether or not related;

committed by a person acting alone or in collusion with other persons, involving one or more instruments, during the Policy Period shown in the Declarations, except as provided under Condition **E.1.j.** or **E.1.k.**

d. Under All Other Insuring Agreements:

(1) An individual act or event;

(2) The combined total of all separate acts or events whether or not related; or

(3) A series of acts or events whether or not related;

committed by a person acting alone or in collusion with other persons, or not committed by any person, during the Policy Period shown in the Declarations, except as provided under Condition **E.1.j.** or **E.1.k.**

12. "Other property" means any tangible property other than "money" and "securities" that has intrinsic value. "Other property" does not include computer programs, electronic data or any property specifically excluded under this insurance.

13. "Premises" means the interior of that portion of any building you occupy in conducting your business.

14. "Robbery" means the unlawful taking of property from the care and custody of a person by one who has:

    a. Caused or threatened to cause that person bodily harm; or

    b. Committed an obviously unlawful act witnessed by that person.

15. "Safe burglary" means the unlawful taking of:

    a. Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or

    b. A safe or vault from inside the "premises".

16. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or property and includes:

    a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

    b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

    but does not include "money".

17. "Theft" means the unlawful taking of property to the deprivation of the Insured.

18. "Transfer account" means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of "funds":

    a. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or

    b. By means of written instructions (other than those described in Insuring Agreement **A.3.**) establishing the conditions under which such transfers are to be initiated by such financial institutions through an electronic funds transfer system.

19. "Watchperson" means any person you retain specifically to have care and custody of property inside the "premises" and who has no other duties.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADD FAITHFUL PERFORMANCE OF DUTY COVERAGE FOR GOVERNMENT EMPLOYEES

This endorsement modifies insurance provided under the following:

GOVERNMENT CRIME COVERAGE FORM
GOVERNMENT CRIME POLICY

and applies to the Insuring Agreements designated below:

SCHEDULE

	Insuring Agreement	Limit Of Insurance
	Employee Theft – Per Loss Coverage	$
	Employee Theft – Per Employee Coverage	$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.		

1. The following is added to the Employee Theft Insuring Agreement designated above:

We will pay for loss or damage to "money", "securities" and "other property" resulting directly from the failure of any "employee" to faithfully perform his or her duties as prescribed by law, when such failure has as its direct and immediate result a loss of your covered property. The most we will pay for loss arising out of any one "occurrence" is the Limit of Insurance shown in the Schedule. That Limit, is part of, not in addition to, the Limit of Insurance shown in the Declarations.

2. The following exclusions are added to Section **D.2. Exclusions:**

a. Loss resulting from the failure of any entity acting as a depository for your property or property for which you are responsible.

b. Damages for which you are legally liable as a result of:

(1) The deprivation or violation of the civil rights of any person by an "employee"; or

(2) The tortious conduct of an "employee", except the conversion of property of other parties held by you in any capacity.

3. The **Indemnification** Condition is replaced by the following:

We will indemnify any of your officials who are required by law to give bonds for the faithful performance of their duties against loss through the failure of any "employee" under the supervision of that official to faithfully perform his or her duties as prescribed by law, when such failure has as its direct and immediate result a loss of your covered property.

4. Part **(l)** of the **Termination As To Any Employee** Condition is replaced by the following:

(1) As soon as:

(a) You; or

(b) Any official or employee authorized to manage, govern or control your "employees" learn of any act committed by the "employee" whether before or after becoming employed by you which would constitute a loss covered under the terms of the Employee Theft Insuring Agreement, as amended by this endorsement.

EXHIBIT 7
STATEMENT OF WORK – CONSTRUCTION PROJECTS

PROVIDER: City of Bonita Springs

Project: Public Improvements – Multi Model Transportation Pathways

PROVIDER is responsible for implementing public improvements projects as identified below. Each project site is located within city limits, owned by the City of Bonita Springs, and meets the National Objective of benefiting low and moderate-income persons under the LMA category.

1. Description of Projects:

   Installation of new pedestrian/bike path and pocket park(s) along various locations within City of Bonita Springs to facilitate the City's master plan of multi model transportation pathways. Current locations with approved Environmental Assessments include but not limited to: W Terry St from US 41 and several routes north connecting to Old 41. All locations identified with approved under contract #7762 remain eligible.

   CDBG funds will only be used to fund sections within a designated low/moderate income area.

   Additional locations to be determined. Additional sites as identified must receive an approved Environmental Assessment prior to commitment of funds.

   CDBG funds support soft and hard costs of constructing portions of the path that meets the National Objective of benefiting low and moderate income persons in a primarily residential area under the LMA category.

2. Schedule Completion Dates:
   a. Public Improvements

Site Selection	Completed and Ongoing
Design	Completed and ongoing
Construction	September 30, 2021

3. Estimated Budget:

Public Improvements	
CDBG HUD Year 28 funding (17/18)	$41,898
CDBG HUD Year 29 funding (18/19)	$380,808
CDBG HUD Year 30 funding (19/20)	$323,104
Total	$745,810

ATTACHMENT A: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM GUIDELINES
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
CFDA # 14.218

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

The CDBG program was authorized by the Housing and Community Development Act of 1974. The primary objective is the development of viable urban communities by providing decent housing, a suitable living environment, and expanded economic opportunities. Projects must principally benefit persons of low to moderate income. All projects must address one of three national objectives:

1. Benefit lower income families, or
2. Aid in preventing or eliminating "slums and blight" or
3. Meet an "urgent need"

Regulatory guidance on the CDBG program is found at 24 CFR part 570, specifically in subparts C, J, and K and other Federal regulations found at 24 CFR parts 5 and 2 CFR 200 also apply.

The **PROVIDER (SUBRECIPIENT)** shall comply with all federal laws and regulations described in the HUD regulations, 24 CFR Part 570, and other applicable Federal regulations, including 2 CFR 200. CDBG funds made available under this agreement shall be used to assist low and moderate-income families. This may be determined by individually qualifying households for eligibility or by the determination that the census block in which the project is located is a low income area. The method used to determine compliance will be at the discretion of Lee County.

A. SUBCONTRACTS

The **PROVIDER (SUBRECIPIENT)** shall insure that any County approved subcontracts let in the performance of this agreement shall be awarded on a fair and non-collusive basis. All provisions of this agreement shall be included and made part of any subcontract executed in the performance of this agreement. The **PROVIDER (SUBRECIPIENT)** shall not enter into a transaction with debarred, suspended or ineligible contractors and participants included on the Federal Excluded Parties List or, for contracts over $35,000, a person or affiliate placed on the Florida Department of Management Services' Convicted Vendor List. Verification of vendors can be found at:

http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists

B. PROCUREMENT

1. The **PROVIDER (SUBRECIPIENT)** shall comply with current Lee County policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property.

2. The **PROVIDER (SUBRECIPIENT)** shall procure all materials, property or services in accordance with the requirements of 2 CFR 200 Procurement Standards, and shall subsequently follow Property Management Standards in accordance to 2 CFR 200, covering utilization and disposal of property.

3. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

C. DOCUMENTATION AND RECORD-KEEPING

1. The **PROVIDER (SUBRECIPIENT)** shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this agreement, including but not limited to:
   a. A full description of each activity undertaken and its eligibility criteria.
   b. Client data demonstrating client eligibility for services provided.

   c. Documentation of the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503, as applicable.
   d. Compliance with fair housing and equal opportunity components of the CDBG program.
   e. Financial records as required by 24 CFR Part 570.502 and 2 CFR 200; and other records to comply with Subpart K of 24 CFR 570.

D. RESTRICTIONS ON USE OF FUNDS

The **PROVIDER (SUBRECIPIENT)** is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.

1. HATCH ACT- The **PROVIDER (SUBRECIPIENT)** agrees that no funds provided, nor personnel employed under this agreement shall be in any way engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code. Employment Restrictions.

2. CONFLICT OF INTEREST - The **PROVIDER (SUBRECIPIENT)** agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants and certifies that it presently has no financial interest, and that no employee, agent, consultant, or officer will acquire any financial interest, which would conflict in any manner or degree with the performance of any service required under this agreement.

3. LOBBYING - The **PROVIDER (SUBRECIPIENT)** hereby certifies that no federal funds have or will be paid by, or on its behalf, to any person influencing or attempting to influence a member of Congress, or an officer or employee of any agency, or of an office of Congress in connection with the award of any Federal contract, the making of any Federal grant or loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. If any non-Federal funds have been used for such influence, the **PROVIDER (SUBRECIPIENT)** shall submit a "Disclosure Form to Report Lobbying" in accordance with its instructions.

4. RELIGIOUS ORGANIZATION - The **PROVIDER (SUBRECIPIENT)** agrees that funds provided under this agreement to either a faith based organization or faith based program cannot be utilized for inherently religious activities, and must be utilized in accordance with the federal regulations specified in 24 CFR 570.200. Faith-based organizations must provide appropriate written notice in accordance to 24 CFR 5.109 describing certain protections available to applicants participating in the activities held at their facility.

E. ENVIRONMENTAL CONDITIONS

The **PROVIDER (SUBRECIPIENT)** agrees to comply with any instructions or requests made by the County pursuant to the completion of any applicable environmental review, as well as the following regulations insofar as they apply to the performance of this agreement:

1. Clean Air Act, 42 U.S. C. 7401, et seq.
2. Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, et seq., as amended.
3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR, Part 50, as amended.
4. Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), which requires that activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards shall require flood insurance under the National Flood Insurance Program.
5. Lead-Based Paint regulations at 24 CFR 570.608, and 24 CFR Part 35 pertaining to all HUD assisted housing, which require that notice be provided that all properties constructed prior to 1978 may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment, and precautions that should be taken, and the advisability and availability of blood lead level screening for children under seven.
6. Historic Preservation under the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800.

F. PROGRAM INCOME

The **PROVIDER (SUBRECIPIENT)** shall report and remit to the grantee (Lee County) all program income as defined at 24 CFR 570.500 generated by activities carried out with CDBG funds at the end of the program year. Lee County will determine and utilize the program income in compliance with the requirements set forth at 24 CFR 570.504. Preference for use of the funds will be given to projects in the urban county's jurisdiction that remitted the program income, however due to the County's need to meet timeliness requirements, funds will be spent on eligible activities as determined necessary by the County.

G. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT

The **PROVIDER (SUBRECIPIENT)** agrees to comply with the following:

1. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR and 24 CFR 570.606;
2. Residential Anti-Displacement and Relocation Assistance Plan requirements of 24 CFR 570.606 under Section 104 of the Housing and Community Development Act; and
3. Optional relocation policies requirements of 570.606.

H. CIVIL RIGHTS

The **PROVIDER (SUBRECIPIENT)** agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1964 as amended, Section 1104 and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1965, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

The **PROVIDER (SUBRECIPIENT)** will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, or other handicap, age, marital/familial status, or status with regard to public assistance, unless in areas allowable by the Civil Rights Act of 1964, as amended. The **PROVIDER (SUBRECIPIENT)** will take affirmative action to insure that all employment practices are free of such discrimination. The **PROVIDER (SUBRECIPIENT)** agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

LAND COVENANTS - This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.602 and 603. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the **PROVIDER (SUBRECIPIENT)** shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the **COUNTY (RECIPIENT)** and the United States are beneficiaries of and entitled to enforce such covenants. The **PROVIDER (SUBRECIPIENT)** in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

SECTION 504 - The **PROVIDER (SUBRECIPIENT)** agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally assisted program.

AFFIRMATIVE ACTION - The **PROVIDER (SUBRECIPIENT)** agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. The **PROVIDER (SUBRECIPIENT)** will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this agreement. The term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The **PROVIDER (SUBRECIPIENT)** may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation. The **PROVIDER (SUBRECIPIENT)** will, in all solicitations or advertisements for employees placed by or on behalf of the **PROVIDER (SUBRECIPIENT),** state that it is an Equal Opportunity or Affirmative Action employer. The **PROVIDER (SUBRECIPIENT)** will include the provisions of Paragraph X A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own **PROVIDER (SUBRECIPIENT)s** or subcontractors.

DAVIS BACON ACT - The **PROVIDER (SUBRECIPIENT)** agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 U.S.C. 276c), and all other applicable Federal, state, and local laws and regulations pertaining to labor standards applicable to this agreement. The **PROVIDER (SUBRECIPIENT)** shall maintain documentation that demonstrates compliance with hour and wage requirements of this part.

The **PROVIDER (SUBRECIPIENT)** shall cause or require to be inserted in full provisions meeting the requirements of 29 CFR 5.5. All contractors or subcontractors on contracts in excess of $2,000 which involve the employment of mechanics or laborers shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR. Part 5). Contractors and subcontractors shall be required to submit weekly payroll certifications concerning compliance with the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.

SECTION 3 CLAUSE - Compliance with the provisions of Section 3 and the regulations set forth in 24 CFR 135 shall be a condition of the Federal financial assistance provided under this agreement and binding upon the **COUNTY (RECIPIENT)**, the **PROVIDER (SUBRECIPIENT)**, and any of the **PROVIDER (SUBRECIPIENT)**s and subcontractors. The **PROVIDER (SUBRECIPIENT)** certifies and agrees that no contractual or other impediment exists which would prevent compliance with these requirements. The **PROVIDER (SUBRECIPIENT)** further agrees to comply with these Section 3 requirements and to include the following language in subcontracts executed under this agreement:

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low and very low-income persons residing in the metropolitan area in which the project is located."

I. CLOSEOUTS

The **PROVIDER (SUBRECIPIENT)'S** obligation to the **COUNTY (RECIPIENT)** shall not end until all closeout requirements are completed. Activities during this closeout period shall include but are not limited to making final payments, disposing of program assets, reporting of beneficiaries, or any other activities related to CDBG compliance.

REVERSION OF ASSETS Upon expiration of the contract, the **PROVIDER (SUBRECIPIENT)** shall transfer to the recipient any CDBG funds on hand at the time of the expiration and any accounts receivable attributable to the use of CDBG funds. It shall also include provisions designed to ensure that any real property under the **PROVIDER (SUBRECIPIENT)'s** control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the sub recipient in the form of a loan) in excess of $25,000 is either:

a) Used to meet one of the national objectives until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or

b) Not used to meet one of the national objectives, in which event the **PROVIDER (SUBRECIPIENT)** shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

J. PAYMENTS AND REPORTS

1. Payment requests will be subject to the **COUNTY (RECIPIENT)'s** execution of its Master Agreement with HUD and the activity being assigned a number in IDIS (Integrated Disbursement and Information System).

2. Construction Contract Payments – Requests for payment must be based upon actual uncompensated construction costs provided during the contract period and shall be accompanied by invoices for services rendered. Payment Requests shall be submitted within 20 days after the end of the reporting period, even <u>if no activity has occurred</u>. If the **PROVIDER (SUBRECIPIENT)** fails to submit a Payment Request by the stated deadline, payment will be delayed until the following month. The **PROVIDER (SUBRECIPIENT)** will not receive payment without submission of all applicable reports. Failure to submit a Payment Request within 60 days after the end of the reporting period will result in the PROVIDER (SUBRECIPIENT) forfeiting all right to payment.

All payment requests (Exhibit 1) must be signed by the **PROVIDER (SUBRECIPIENT)'s** Executive Director or other duly authorized person, and accompanied by the contractor's signed request for payment (invoice). Final payment will not be made until the final inspection is made and approved by the Lee County or City Building Department, as applicable.

3. **PROVIDER (SUBRECIPIENT)** shall submit reports as required to assist the **COUNTY (RECIPIENT)** in the preparation of HUD Labor Relations, WBE/MBE, Equal Opportunity Employment, and HUD Section 3 reports, pursuant to 24 CFR 570.502, 507, and 92.

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-04-086

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve agreement between Florida Department of Economic Opportunity (FDEO) and the City of Bonita Springs utilizing Community Development Block Grant – Disaster Recovery (CDBG-DR) funds for the Voluntary Home Buyout Program

MEETING DATE: April 1, 2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
X	CONSENT		STATUTE	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager

BACKGROUND: On July 1, 2019, the DEO announced the Rebuild Florida's CDBG-DR Voluntary Home Buyout Program. The focus of the program is to acquire properties that are in a Special Flood Hazard Area (SFHA), and in high-risk flood areas to help reduce the impact of future disasters. The program also assists property owners to relocate outside the threat of flooding.

Staff submitted a request for funding to acquire residential structures predominantly in the Quinn/Downs/Dean/West of Imperial Parkway but was also open to all homeowners with the City limits on September 27, 2019. The City received a Notice of Award was received on November 26, 2019 for $5,000,000. The amount funded was the cap set by FDEO.

The attached agreement provides project tasks, outlines federal requirements, spending thresholds and timelines/deadlines.

Attachment: FDEO Voluntary Home Buyout Program Agreement

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? X **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? 1) Improve Stormwater Management, 3) Strengthen/Enhance City Finances, 4) Environmental Protection, 7) Government Transparency

STAFF RECOMMENDATIONS: Approve agreement between FDEO and the City of Bonita Springs utilizing CDBG-DR funds for the Voluntary Home Buyout Program

REVIEWED BY:

City Manager: Carl M H____________________

City Attorney: ____________________

City Clerk: ____________________

Department Director: ____________________

COUNCIL ACTION:

____ **APPROVED**

____ **DENIED**

____ **DEFERRED**

____ **OTHER**

State of Florida
Department of Economic Opportunity

Federally-Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) Voluntary Home Buyout Program
Subrecipient Agreement

THIS AGREEMENT is entered into by the State of Florida, Department of Economic Opportunity, (hereinafter referred to as "DEO") and the City of Bonita Springs, a Florida Municipal Corporation in the State of Florida, hereinafter referred to as the "Subrecipient" (each individually a "Party" and collectively "the Parties").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, pursuant to Public Law (P.L.) 114-254, the "Further Continuing and Security Assistance Appropriations Act, 2017" and P.L. 115-31, the "Consolidated Appropriations Act, 2017, (hereinafter jointly referred to as the "Appropriation Acts"), and the "Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant - Disaster Recovery DEOs", 81 Fed. Reg. 224 (November 21, 2016); 82 Fed. Reg. 11 (January 18, 2017); and 82 Fed. Reg. 150 (August 7, 2017) (hereinafter collectively referred to as the "Federal Register Guidance"), the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") has awarded Community Development Block Grant - Disaster Recovery (CDBG-DR) funds to DEO for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the State of Florida Action Plan for Disaster Recovery (hereinafter referred to as the "Action Plan"). DEO is hereinafter referred to from time to time as "Grantee".

WHEREAS, CDBG-DR funds made available for use by the Subrecipient under this Agreement constitute a subaward of the DEO's Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations and the terms and conditions of DEO's Federal award.

WHEREAS, the Subrecipient has legal authority to enter into this Agreement and by signing this Agreement, the Subrecipient represents and warrants to DEO that it will comply with all the requirements of the subaward described herein.

WHEREAS, the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income persons in a manner that ensures at least 70 percent of the grant amount awarded under this Agreement is expended for activities that benefit such persons.

NOW THEREFORE, DEO and the Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this Agreement includes Attachment A, Scope of Work. With respect to Attachment B, Project Budget Detail, and Attachment C, Activity Work Plan, the Subrecipient shall submit to DEO such Attachments in conformity with the current examples attached hereto as necessary and appropriate. Provided further, if there is a disagreement between the Parties, with respect to the formatting and contents of such attachments, then DEO's decisions with respect to same shall prevail, at DEO's sole and absolute discretion.

(2) Incorporation of Laws, Rules, Regulations and Policies. The Subrecipient agrees to abide by all applicable State and Federal laws, rules and regulations, including but not necessarily limited to, the Federal laws and regulations set forth at 24 CFR 570 and the State's Action Plan.

(3) Period of Agreement. This Agreement begins upon execution by both Parties (effective date) and ends 24 months after execution by DEO, unless otherwise terminated as provided in this Agreement. DEO shall not grant any extension of the Agreement unless the Subrecipient provides justification satisfactory to DEO in its sole discretion, and the Director of DEO's Office of Disaster Recovery approves such extension.

(4) Modification of Agreement. Modifications to this Agreement shall be valid only when executed in writing by the Parties. Any modification request by the Subrecipient constitutes a request to negotiate the terms of this Agreement. DEO may accept or reject any proposed modification based on DEO's sole determination and absolute discretion, that any such acceptance or rejection is in the State's best interest.

(5) Records.

(a) The Subrecipient's performance under this Agreement shall be subject to 2 C.F.R. part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.

(b) Representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government and their duly authorized representatives shall have access to any of the Subrecipient's books, documents, papers and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) The Subrecipient shall maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by DEO under this Agreement.

(d) The Subrecipient will provide to DEO all necessary and appropriate financial and compliance audits in accordance with Paragraph (6) titled "Audit Requirements" and Attachments J and K herein and ensure that all related party transactions are disclosed to the auditor.

(e) The Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this Agreement for a period of six (6) years from the date DEO issues the final closeout for this award. The Subrecipient shall also comply with the provisions of 24 CFR 570.502(a)(7)(ii). The Subrecipient shall further ensure that audit working papers are available upon request for a period of six (6) years from the date DEO issues the final closeout of this Agreement, unless extended in writing by DEO. The six-year period may be extended for the following reasons:

1. Litigation, claim or audit initiated before the six-year period expires or extends beyond the six-year period, in which case the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

2. Records for the disposition of non-expendable personal property valued at $1,000 or more at the time of acquisition shall be retained for six (6) years after final disposition.

3. Records relating to real property acquired shall be retained for six (6) years after the closing on the transfer of title.

(f) The Subrecipient shall maintain all records and supporting documentation for the Subrecipient and for all contractors, subcontractors and consultants paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other applicable laws and regulations.

(g) The Subrecipient shall either (i) maintain all funds provided under this Agreement in a separate bank account or (ii) ensure that the Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement. Provided further, that the only option available for advanced funds is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Agreement with any other funds, projects or programs. DEO may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (21)(e), Repayments.

(h) The Subrecipient, including all of its employees or agents, contractors, subcontractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(6) Audit Requirements

(a) The Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 C.F.R. part 200 if it expends seven hundred fifty thousand dollars ($750,000) or more in Federal awards from all sources during its fiscal year.

(b) Within sixty (60) calendar days of the close of the fiscal year, on an annual basis, the Subrecipient shall electronically submit a completed Audit Compliance Certification to audit@deo.myflorida.com, and DEO's grant manager; a blank version of which is attached hereto as Attachment K. The Subrecipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between DEO and the Subrecipient.

(c) In addition to the submission requirements listed in Attachment J titled "Audit Requirements", the Subrecipient shall send an electronic copy of its audit report to DEO's grant manager for this Agreement by June 30 following the end of each fiscal year in which it had an open CDBG-DR subgrant.

(d) Subrecipient shall also comply with the Federal Audit Clearinghouse rules and directives, including but not limited to the pertinent Report Submissions provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

(7) Reports. The Subrecipient shall provide DEO with all reports and information set forth in Attachment G titled "Reports." Both the monthly and quarterly reports, as well as the administrative closeout reports must include the status and progress of the Subrecipient and all subcontractors in completing the work described in the Scope of Work and the expenditure of funds under this Agreement. Upon request by DEO, the Subrecipient shall provide additional program updates or information. If all required reports and copies are not sent to DEO or are not completed in a manner acceptable to DEO, payments may be withheld until the reports are properly completed. DEO may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

(8) Inspections and Monitoring

(a) The Subrecipient shall permit DEO and auditors to have access to the Subrecipient's records and financial statements as DEO determines is necessary for DEO to meet the requirements of 2 C.F.R. part 200.

(b) The Subrecipient must submit to monitoring of its activities by DEO as DEO determines necessary to ensure that the subaward is used for authorized purposes in compliance with Federal statutes, regulations and the terms and conditions of this agreement.

(c) This review must include: (1) reviewing financial and performance reports required by DEO, (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from DEO as detected through audits, on-site reviews and other means and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the Subrecipient from DEO as required by 2 C.F.R. §200.521.

(d) Corrective Actions:

DEO may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. DEO may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the pass-through entity as detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this Agreement, DEO may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

(9) Duplication of Benefits. The Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 *et seq.*) and described in Appropriations Acts. The Subrecipient must comply with HUD's requirements for duplication of benefits, imposed by the Federal Register Guidance. The Subrecipient shall carry out the activities under this Agreement in compliance with DEO's procedures to prevent duplication of benefits. Subrecipient shall sign a Subrogation Agreement (See Attachment M).

(10) Liability.

(a) If the Subrecipient is a state agency or subdivision, as defined in Section 768.28(2), F.S., pursuant to Section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.

(b) The Subrecipient further agrees to assume sole responsibility, training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, Florida Statutes. The subrecipient shall hold DEO harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. Nothing herein shall be construed as consent by the Subrecipient to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

(c) If the Subrecipient is a state agency or subdivision, as defined in Section 768.28, F.S., then the Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against DEO. The subrecipient agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

(d) Nothing herein is intended to serve as a waiver of sovereign immunity by DEO or the Subrecipient.

(11) Events of Default. If any of the following events occur ("Events of Default"), DEO may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in Paragraph (12) Remedies or pursue any remedy at law or in equity, without limitation: (a) Any warranty or representation made by the Subrecipient, in this Agreement or any previous agreement with DEO, is or becomes false or misleading in any respect, or if the Subrecipient fails to keep or perform any of the obligations, terms, or covenants in this Agreement or any previous agreement with DEO, and/or has not cured them in timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;

(b) Any material adverse change occurs in the financial condition of the Subrecipient at any time during the term of this Agreement and the Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by DEO;

(c) The Subrecipient fails to submit any required report or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by DEO;

(d) The Subrecipient fails to perform or timely complete any of its obligations under this Agreement, including participating in DEO's Implementation Workshop.

The Parties agree that in the event DEO elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise any remedies allowable herein or at law and without becoming liable to make any further payment.

(e) Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay the Subrecipient believes is excusable under this paragraph, Subrecipient shall notify DEO in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Subrecipient could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date Subrecipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE SUBRECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY**. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. DEO, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Subrecipient of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against DEO. Subrecipient shall not be entitled to an increase in the Agreement price or payment of any kind from DEO for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Subrecipient shall perform at no increased cost, unless DEO determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to DEO or the State, in which case, DEO may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to DEO with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Subrecipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

(12) Remedies. If an Event of Default occurs, DEO shall provide thirty (30) calendar days written notice to the Subrecipient and if the Subrecipient fails to cure within those thirty (30) calendar days DEO may choose to exercise one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement upon twenty-four (24) hour written notice by DEO sent in conformity with Paragraph (16) Notice and Contact;

(b) Begin any appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Demand that the Subrecipient return to DEO any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and

(e) Exercise any corrective or remedial actions, including but not limited to:

1. Requesting additional information from the Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance;
2. Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
3. Advising the Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question.

Pursuit of any of the above remedies does not preclude DEO from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by DEO to require strict performance does not affect, extend or waive any other right or remedy available or affect the later exercise of the same right or remedy by DEO for any other default by the Subrecipient.

(13) Dispute Resolution. DEO shall decide disputes concerning the performance of the Agreement, document dispute decisions in writing and serve a copy of same on the Subrecipient. All decisions are final and conclusive unless the Subrecipient files a petition for administrative hearing with DEO within twenty-one (21) days from the date of receipt of the decision. Exhaustion of administrative remedies prescribed in Chapter 120, F.S., is an absolute condition precedent to the Subrecipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in Chapter 120, F.S.

(14) Citizen Complaints. The goal of the State is to provide an opportunity to resolve complaints in a timely manner, usually within fifteen (15) business days as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All applications, guidelines and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

Applicants are allowed to appeal program decisions related to one of the following activities:

(a) A program eligibility determination

(b) A program assistance award calculation and

(c) A program decision concerning housing unit damage and the resulting program outcome.

Citizens may file a written complaint or appeal through the Office of Disaster Recovery email at CDBG-DR@deo.myflorida.com or submit by postal mail to the following address:

Attention: Office of Disaster Recovery
Florida Department of Economic Opportunity

107 East Madison Street
The Caldwell Building, MSC 160
Tallahassee, Florida 32399

The subrecipient will handle citizen complaints by conducting:

(a) Investigations as necessary
(b) Resolution or
(c) Follow-up actions.

If the complainant is not satisfied by the Subrecipient's determination, then the complainant may file a written appeal by following the instructions issued in the letter of response. If, at the conclusion of the appeals process, the complainant has not been satisfied with the response, a formal complaint may then be addressed directly to the DEO at:

Department of Economic Opportunity
Caldwell Building, MSC-400
107 E Madison Street
Tallahassee, FL 32399

The Florida Office of Disaster Recovery operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free), 1-800-927-9275 (TTY) or www.hud.gov/fairhousing.

(15) Termination.

(a) DEO may suspend or terminate this Agreement for cause upon twenty-four (24) hour written notice, from the date notice is sent by DEO. Cause includes, but is not limited to the Subrecipient's improper or ineffective use of funds provided under this Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies, directives or laws; failure, for any reason, to timely and/or properly perform any of the Subrecipient's obligations under this Agreement; submission of reports that are incorrect or incomplete in any material respect and refusal to permit public access to any document, paper, letter or other material subject to disclosure under law, including Chapter 119, F.S., as amended. The aforementioned reasons for Termination are listed in the immediately preceding sentence for illustration purposes but are not limiting DEO's sole and absolute discretion with respect to DEO's right to terminate this Agreement. In the event of suspension or termination, the Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

(b) DEO may unilaterally terminate this Agreement, in whole or in part, for convenience by providing the Subrecipient fourteen (14) days written notice from the date notice is sent by DEO, setting forth the reasons for such termination, the effective date and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, DEO determines that the remaining portion of the award will not accomplish the purpose for which the award was made, DEO may terminate the portion of the award which will not accomplish the purpose for which the award was made. The Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, the Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.

(c) The Parties may terminate this Agreement for their mutual convenience in writing, in the manner agreed upon by the Parties, which must include the effective date of the termination.

(d) In the event that this Agreement is terminated, the Subrecipient shall not incur new obligations under the terminated portion of the Agreement after the date the Subrecipient has received the notification of termination. The Subrecipient shall cancel as many outstanding obligations as possible. DEO shall disallow all costs incurred after the Subrecipient's receipt of the termination notice. The Subrecipient shall not be relieved of liability to DEO because of any breach of the Agreement by the Subrecipient. DEO may, to the extent authorized by law, withhold payments to the Subrecipient for the purpose of set-off until the exact amount of damages due to DEO from the Subrecipient is determined.

(e) Upon expiration or termination of this Agreement the Subrecipient shall transfer to DEO any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

(f) Upon expiration or termination of this Agreement, the Subrecipient shall follow the agreement closeout procedures set forth in rule 73C- 23.0051 (5), FAC

(g) Any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the subrecipient in the form of a loan) in excess of $25,000 must either:

1. Be used to meet a national objective until five years after expiration or termination of this Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or

2. If not used to meet a national objective, Subrecipient shall pay to DEO an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

(h) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, first class or certified mail with return receipt requested, to the representative identified below at the address set forth below or said notification attached to the original of this Agreement.

(b) The name and address of DEO's Grant Manager for this Agreement is:

Joshua Bradt
107 East Madison Street - MSC 160
Tallahassee, Florida 32399-6508
Phone: (850) 717-8436
Fax:(850) 921-3117
Email: joshua.bradt@deo.myflorida.com

(c) The name and address of the Local Government Project Contact for this Agreement is:

Elly McKuen
9101 Bonita Beach Rd
Bonita Springs, FL 34135
Phone: (239) 949-6246
Fax:
Email: elly.mckuen@cityofbonitasprings.org

(d) If different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as stated in Paragraph (16) above.

(17) Contracts. If the Subrecipient contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions or other changes thereto, must be forwarded to DEO for prior written approval. For each contract, the Subrecipient shall report to DEO as to whether that contractor or any subcontractors hired by the contractor, is a minority vendor, as defined in Section 288.703, F.S. The Subrecipient shall comply with the procurement standards in 2 C.F.R. §200.318 - §200.326 when procuring property and services under this Agreement (refer to Attachment D).

The Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

(a) the period of performance or date of completion;

(b) the performance requirements;

(c) that the contractor is bound by the terms of this Agreement;

(d) that the contractor is bound by all applicable State and Federal laws, rules, and regulations;

(e) that the contractor shall hold DEO and the Subrecipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;

(f) the obligation of the Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;

(g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment L)

The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 C.F.R. 570.489(l)), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

The Subrecipient must ensure all contracts and agreements clearly state the period of performance or date of completion and incorporate performance requirements.

The Subrecipient shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

(18) Terms and Conditions. This Agreement contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous understandings. No waiver by DEO may be effective unless made in writing by an authorized DEO official

(19) Attachments.

(a) If any inconsistencies or conflict between the language of this Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(b) This Agreement contains the following attachments:

Attachment A – Scope of Work

Attachment B – Project Detail Budget (Example)

Attachment C – Activity Work Plan (Example)

Attachment D – Program and Special Conditions

Attachment E – State and Federal Statutes, Regulations and Policies
Attachment F – Civil Rights Compliance
Attachment G – Reports
Attachment H – Warranties and Representations
Attachment I – Audit Requirements
Exhibit 1 to Attachment I – Funding Sources
Attachment J – Audit Compliance Certification
Attachment K – SERA Access Authorization Form
Attachment L - 2 CFR Appendix II to Part 200
Attachment M – Subrogation Agreement

(20) Funding/Consideration.

(a) The funding for this Agreement shall not exceed **Five Million dollars and Zero Cents ($5,000,000.00)** subject to the availability of funds. The State of Florida and DEO's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. or the Florida Constitution.

(b) DEO will provide funds to the Subrecipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through DEO's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, the Subrecipient agrees to comply with all terms, conditions, assurances, restrictions or other instructions listed in the NFA.

(c) By execution of this Agreement, the Subrecipient certifies that necessary written administrative procedures, processes and fiscal controls are in place for the operation of its CDBG-DR program for which the Subrecipient receives funding from DEO. These written administrative procedures, processes and fiscal controls must, at minimum, comply with applicable state and federal law, rules, regulations, guidance and the terms of this Agreement. The Subrecipient agrees to comply with all the terms and conditions of Attachment D titled "Program and Special Conditions".

(d) The Subrecipient shall expend funds only for allowable costs and eligible activities, in accordance with the Scope of Work.

(e) The Subrecipient shall request all funds in the manner prescribed by DEO. The authorized signatory for the Subrecipient set forth on the SERA Access Authorization Form, Attachment L, to this Agreement, must approve the submission of each Request for Funds ("RFF") on behalf of the Subrecipient.

(f) Except as set forth herein, or unless otherwise authorized in writing by DEO, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG-DR funds.

(g) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or under Subparagraph (20)(i), Mandated Conditions of this Agreement, all obligations on the part of DEO to make any further payment of funds will terminate and the Recipient shall submit its administrative closeout report and subgrant agreement closeout package within thirty (30) calendar days from receipt of notice from DEO.

(h) The Subrecipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by the Subrecipient.

(21) Repayments.

(a) The Subrecipient shall only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. The Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.

(b) In accordance with Section 215.971, F.S., the Subrecipient shall refund to DEO any unobligated funds which have been advanced or paid to the Subrecipient.

(c) The Subrecipient shall refund to DEO any funds paid in excess of the amount to which the Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Agreement.

(d) The Subrecipient shall refund to DEO any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 C.F.R. § 570.483(b), (c) and (d); provided, however, the Subrecipient is not required to repay funds for subgrant administration unless DEO, in its sole discretion, determines the Subrecipient is at fault for the ineligibility of the activity in question.

(e) The Subrecipient shall refund to DEO any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to DEO, by the Subrecipient, within thirty (30) calendar days from Subrecipient's receipt of notification of such non-compliance.

(f) In accordance with Section 215.34(2), F.S., if a check or other draft is returned to DEO for collection, the Subrecipient shall pay to DEO a service fee of $15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to DEO under this Agreement are to be made payable to the order of "Department of Economic Opportunity" and mailed directly to DEO at the following address:

Department of Economic Opportunity
Community Development Block Grant Programs Cashier
107 East Madison Street – MSC 400
Tallahassee, Florida 32399-6508

(22) Mandated Conditions.

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by the Subrecipient in this Agreement, in any later submission or response to a DEO request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.

(b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.

(c) If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

(d) Any power of approval or disapproval granted to DEO under the terms of this Agreement shall survive the term of this Agreement.

(e) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(f) The Subrecipient shall comply with all applicable local, state and federal laws, including the Americans With Disabilities Act of 1990, as amended; the Florida Civil Rights Act, as amended, Chapter 760, Florida Statutes; Title VII of the Civil Rights Act of 1964, as amended; (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*) and laws which prohibit discrimination by public and private entities on in employment, public accommodations, transportation, state and local government services and telecommunications.

(g) Pursuant to Section 287.133(2)(a), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of thirty-five thousand dollars ($35,000) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Agreement, the Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list. The Subrecipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.

(h) Pursuant to Section 287.134(2)(a), F.S., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity. By executing this Agreement, the Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. The Subrecipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(j) Any bills for travel expenses shall be submitted and reimbursed in accordance with Section 112.061, F.S., the rules promulgated thereunder and 2 C.F.R. § 200.474.

(k) If the Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to DEO or be applied against DEO's obligation to pay the Agreement award amount.

(l) The Subrecipient hereby acknowledges that the Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) with respect to the meetings of the Subrecipient's governing board or the meetings of any subcommittee making recommendations to the governing board. The Subrecipient hereby agrees that all such aforementioned meetings shall be publicly noticed, open to the public and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

(m) The Subrecipient shall comply with section 519 of P. L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(23) Lobbying Prohibition.

(a) No funds or other resources received from DEO under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Subrecipient certifies, by its signature to this Agreement, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant,

the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. The Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Paragraph (22), above. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

(24) Copyright, Patent and Trademark.

Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by the Subrecipient to the State of Florida.

(a) If the Subrecipient has a pre-existing patent or copyright, the Subrecipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, the Subrecipient shall refer the discovery or invention to DEO for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films or other copyrightable material are produced, the Subrecipient shall notify DEO. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Subrecipient to the State of Florida.

(c) Within thirty (30) calendar days of execution of this Agreement, the Subrecipient shall disclose all intellectual properties relating to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Subrecipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and DEO shall have the right to all patents and copyrights which accrue during performance of the Agreement.

(25) Legal Authorization.

(a) The Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Subrecipient certifies that the undersigned person has the authority to legally execute and bind the Subrecipient to the terms of this Agreement. DEO may, at its discretion, request documentation evidencing the undersigned has authority to bind the Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.

(b) The Subrecipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation or any other legal or financial condition that would in any way prohibit, restrain or diminish the Subrecipient's ability to satisfy its Agreement obligations. The Subrecipient shall immediately notify DEO in writing if its ability to perform is compromised in any manner during the term of the Agreement.

(26) Public Record Responsibilities.

(a) In addition to the Subrecipient's responsibility to directly respond to each request it receives for records, in conjunction with this Agreement and to provide the applicable public records in response to such request, the Subrecipient shall notify DEO of the receipt and content of all such requests by sending an email to PRRequest@deo.myflorida.com within one (1) business day from receipt of the request.

(b) The Subrecipient shall keep and maintain public records required by DEO to perform the Subrecipient's responsibilities hereunder. The Subrecipient shall, upon request from DEO's custodian of public records, provide DEO with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, F.S., or as otherwise provided by law. The Subrecipient shall allow public access to all documents, papers, letters or other materials made or received by the Subrecipient in conjunction with this Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by the Subrecipient in conjunction with this Agreement, the Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., the Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

(c) This Agreement may be terminated by DEO for refusal by the Subrecipient to comply with Florida's public records laws or to allow public access to any public record made or received by the Subrecipient in conjunction with this Agreement.

(d) If, for purposes of this Agreement, the Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), the Subrecipient-contractor shall transfer to DEO, at no cost to DEO, all public records upon completion including termination, of this Agreement or keep and maintain public records required by DEO to perform the service. If the Subrecipient-contractor transfers all public records to the public agency upon completion of the Agreement, the Subrecipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Subrecipient-contractor keeps and maintains public records upon completion of the Agreement, the Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. All records stored electronically must be provided to DEO, upon request from DEO's custodian of public records, in a format that is compatible with the information technology systems of DEO.

(e) If DEO does not possess a record requested through a public records request, DEO shall notify the Subrecipient-contractor of the request as soon as practicable, and the Subrecipient-contractor must provide the records to DEO or allow the records to be inspected or copied within a reasonable time. If the Subrecipient-contractor does not comply with DEO's request for records, DEO shall enforce the provisions set forth in this Agreement. A Subrecipient-contractor who fails to provide public records to DEO within a reasonable time may be subject to penalties under Section 119.10, F.S.

(f) The Subrecipient shall notify DEO verbally within twenty-four (24) chronological hours and in writing within seventy-two (72) chronological hours if any data in the Subrecipient's possession related to this Agreement is subpoenaed or improperly used, copied or removed (except in the ordinary course of business) by anyone except an authorized representative of DEO. The Subrecipient shall cooperate with DEO, in taking all steps as DEO deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.

(g) The Subrecipient acknowledges that DEO is subject to the provisions of Chapter 119, F.S., relating to public records and that reports, invoices and other documents the Subrecipient submits to DEO under this Agreement constitute public records under Florida Statutes. The Subrecipient shall cooperate with DEO regarding DEO's efforts to comply with the requirements of Chapter 119, F.S.

(h) If the Subrecipient submits records to DEO that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by the Subrecipient prior to submittal to DEO. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, F.S., prior to submittal of the record to DEO serves as the Subrecipient's waiver of a claim of exemption. The Subrecipient shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Subrecipient-contractor does not transfer the records to DEO upon completion, including termination, of the Agreement.

(i) **IF SUBRECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT-CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at** PRRequest@deo.myflorida.com**, or by mail at Department of Economic Opportunity, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.**

(j) To the extent allowable by law, the Subrecipient shall be fully liable for the actions of its agents, employees, partners, contractors and subcontractors and shall fully indemnify, defend, and hold harmless the State and DEO, and their officers, agents and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused in whole or in part by the Subrecipient, its agents, employees, partners, contractors or subcontractors, provided, however, that the Subrecipient does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or DEO. DEO, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.

(k) DEO does not endorse any Subrecipient, commodity, or service. Subject to Chapter 119, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from DEO, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying DEO or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Agreement or the name of DEO or the State in any material published, either in print or electronically, to any other entity that is not a Party to this Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.

(l) The Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. The Subrecipient shall amend each of the Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. DEO may terminate this Agreement if the Subrecipient does not comply with this provision.

(27) Employment Eligibility Verification.

(a) Executive Order 11-116, signed May 27, 2011, by the Governor of Florida, requires DEO contracts in excess of nominal value to expressly require the Subrecipient to:

1. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Subrecipient during the Agreement term; and,

2. Include in all contracts under this Agreement the requirement that contractors, subcontractors, consultants and subrecipients performing work or providing services pursuant to this Agreement use the E-Verify system to verify the employment eligibility of all new employees hired by the contractors, subcontractors, consultants and subrecipients during the term of the contract.

(b) The Department of Homeland Security's E-Verify system can be found at:

http://www.uscis.gov/e-verify

(c) If the Subrecipient does not have an E-Verify MOU in effect, the Subrecipient must enroll in the E-Verify system prior to hiring any new employee after the effective date of this Agreement.

(28) Program Income.

(a) The Subrecipient shall report to DEO all program income (as defined at 24 C.F.R. § 570.500(a) or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Agreement as part of the Subrecipient's Quarterly Progress Report. The Subrecipient shall use program income in accordance with the applicable requirements of 2 C.F.R. part 200, 24 C.F.R. part 570.504, and the terms of this Agreement.

(b) Program income generated after closeout shall be returned to DEO. Program income generated prior to closeout shall be returned to DEO unless the program income is used to fund additional units of CDBG-DR activities, specified in a modification to this Agreement and duly executed prior to administrative closeout.

(29) National Objectives

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. The Subrecipient certifies that the activities carried out under this Agreement shall meet the following national objectives and satisfy the following criteria:

(a) Benefit to low- and moderate- income persons;

(b) Aid in prevention or elimination of slums or blight; and

(c) Meet a need having particular urgency (referred to as urgent need).

(30) Independent Contractor.

a) In the Subrecipient's performance of its duties and responsibilities under this Agreement, it is mutually understood and agreed that the Subrecipient is at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership or joint venture between the Parties. The Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Nothing in this Agreement shall be construed to create any agency or employment relationship between DEO and the Subrecipient, its employees, subcontractors or agents. 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.

(b) The Subrecipient, its officers, agents, employees, subcontractors or assignees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint venturer, or partner of the State of Florida.

(c) Subrecipient shall have sole right to control the manner, method and means by which the services required by this Agreement are performed. DEO shall not be responsible to hire, supervise or pay Subrecipient's employees. Neither the Subrecipient, nor its officers, agents, employees, subcontractors or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.

(d) The Subrecipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint venturer or partner of the State of Florida.

(e) Unless justified by the Subrecipient and agreed to by DEO in the Scope of Work, DEO will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial or clerical support) to the Subrecipient or its subcontractor or assignee.

(f) DEO shall not be responsible for withholding taxes with respect to the Subrecipient's use of funds under this Agreement. The Subrecipient shall have no claim against DEO for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits or employee benefits of any kind. The Subrecipient shall ensure that its employees, subcontractors and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.

(g) The Subrecipient, at all times during the Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

(h) DEO shall not provide any training to Subrecipient, its employees, assigns, agents, representatives or subcontractors in the professional skills necessary to perform the work services required by the Agreement.

~Remainder of this page is intentionally left blank ~

State of Florida
Department of Economic Opportunity
Federally Funded Subrecipient Agreement
Signature Page

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and, in the attachments, and exhibits hereto, the Parties executed this Agreement by their duly authorized undersigned officials.

CITY OF BONITA SPRINGS, A FLORIDA MUNCIPAL CORPORATION IN THE STATE OF FLORIDA		DEPARTMENT OF ECONOMIC OPPORTUNITY	
By	______________________ Signature ______________________	By	______________________ Signature Ken Lawson
Title	______________________	Title	Executive Director
Date	______________________	Date	______________________
Federal Tax ID #	______________________		
DUNS #	196164110		

Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ECONOMIC OPPORTUNITY

By: ______________________

Approved Date: ______________________

Attachment A – Scope of Work

1. Project Description

The U.S. Department of Housing and Urban Development (HUD) allocated Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the State of Florida to be distributed in the Federal Emergency Management Agency (FEMA) declared counties impacted by Hurricane Irma for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 et seq.) and described in the State of Florida Action Plan for Disaster Recovery.

The City of Bonita Springs, a Florida Municipal Corporation in the State of Florida has been selected to participate in the Voluntary Home Buyout (VHB) CDBG-DR program. These funds will be used to principally benefit low- and moderate-income persons. Funds will be used to acquire properties that are in Special Flood Hazard Area (SFHA), and in high risk-flood areas to help reduce the impact of future disasters, and to assist property owners relocate outside the threat of flooding with the focus on properties that do not have flood insurance.

There are two options under this grant: The first option is to use the CDBG-DR funding as a leverage to match funding projects that are also eligible for the Hazard Mitigation Grant Program (HMGP) provided by the Federal government. The second option is to work directly with DEO to acquire contiguous parcels of properties of residential areas that meet low- and moderate- income area requirements, and/or assist low-and moderate-income households.

Necessary assistance will be provided in the form of buyout and demolition of existing housing units. Housing units whose occupants qualify as low- to moderate-- income (LMI) households will be acquired and demolished in compliance with the local building code and the U.S. Department of Housing and Urban Development's standards outlined in the Federal Register Notices.

Awards to eligible homeowners will be based on the overall level of damage in the proposed buyout area, as determined by condemnation, flood levels and/or status as beyond reasonable repair for each property, and the extent to which the proposed buyout program supports overall flood mitigation plans for the area and community.

2. Subrecipient Responsibilities

A. CDBG-DR Voluntary Home Buyout Policies and Procedures and Implementation

The City of Bonita Springs, a Florida Municipal Corporation in the State of Florida will conduct the program design and implementation services necessary to mobilize and launch its production implementation systems to support the programs and projects to help people, properties and communities recover from storm related damage due to Hurricane Irma as follows:

1. Complete and submit to DEO within 45 days of agreement execution, a staffing plan for The City of Bonita Springs, a Florida Municipal Corporation in the State of Florida, CDBG-DR Program that includes:

   a. Organizational chart; and,

   b. Job descriptions for Subrecipient's employees, contracted staff, vendors, and contractors.

   c. Scope of work and procurement plan for all contracted staff, vendors, and contractors.

2. Develop and submit a copy of the following policies and procedures to the DEO Agreement Manager within 45 days of agreement execution:

    a. Procurement policies and procedures that incorporate 2 CFR Part 200.317-326.
    b. Administrative financial management policies, which must comply with all applicable HUD CDBG-DR and State of Florida rules.
    c. Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDBG-DR and DEO Policies
    d. Policies and procedures that at a minimum, include information about the VHB application process, application requirements, underwriting criteria, compliance requirements, and reporting methodology
    e. Policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of applicant information, monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring, and which items will be monitored, and procedure for referring instances of fraud, waste and abuse to HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov).
    f. Policies and procedures for the requirements under 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award.

3. Establish and administer a system of record and production and grants management reporting systems within 45 days of agreement execution.

4. Complete and submit a Project Detail Budget (Attachment B) for approval by DEO no later than 60 days after the execution of the subrecipient agreement.

5. Complete and submit an Activity Work Plan (Attachment C) for approval by DEO no later than 30 days after the execution of the subrecipient agreement.

6. Maintain organized subrecipient agreement files and make them accessible to DEO or its representatives upon request.

7. Comply with all terms and conditions of the subrecipient agreement, Voluntary Home Buyout Program Guidelines and Design, Action Plan, Action Plan Amendments, and Federal, State and local laws.

8. Attend fraud related training by HUD OIG to assist in the proper management of CDBG-DR grant funds when available.

9. Update all applicable VHB policies and procedures as needed and upon DEO request.

10. Complete procurement of all vendors for internal grants management and compliance and direct program and project production, including:

a. Selection of vendors, subrecipients, and/or staff that will be responsible for managing applicant intake and related operations, compliance, finance and administration;
b. Selection of vendors, subrecipients, and/or staff that will be responsible for managing demolition and/or construction;
c. Selection of vendors, subrecipients, and/or staff that will be responsible for managing Land and Structure Buyout; and,
d. Selection of vendors, subrecipients, and/or staff that will be responsible for Appraisal, Environmental Review, title services, and legal services.

11. Meet or exceed federal underwriting standards. Subrecipients must establish underwriting criteria that, at a minimum, complies with CDBG underwriting criteria found at 24 CFR 570.209. Project costs must be demonstrated to be reasonable. All other sources of financing must be committed or otherwise unavailable to the applicant. Project costs must be need-based, and documentation must be sufficient to prove that CDBG funds will not supplant non-federal financial funding or support.

12. Include the following statement on all program materials and applications "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729."

13. Ensure all projects seeking assistance under the current CDBG-DR funds for Hurricane Irma, and any future funds allocated for Hurricane Irma, provided by DEO, receive the required Environmental Clearance from DEO prior to the Subrecipient being able to commit CDBG-DR funds.

14. Evaluate each grant applicant for the potential for duplication of benefits and decline any grant amount that would constitute such a duplication.

15. Develop and submit a monthly revised detailed budget measuring the actual cost versus projected cost by the 10th day of the following month.

16. Develop and submit a monthly revised detailed timeline for implementation consistent with the milestones outlined in the VHB program guidelines and report actual progress against the projected progress.

17. Develop and submit both a monthly and quarterly report to DEO by the 10th day of the following month or quarter, that outlines the progress made to date, the projected activities to be completed in the upcoming month or quarter, and any risks or issues identified for the delivery of the project. The reports must include metrics that demonstrate the implementation costs to date with projected spending, and any other information DEO determines is necessary.

18. Obtain approval from DEO and FEMA before conveying ownership.

19. Provide scope of land use in accordance with DEO's direction, prior to closing.

20. Enforce the proper land use according to *83 Fed. Reg. 5863* in perpetuity for a use that is compatible with open space, recreational, or floodplain and wetlands management practices.

21. Enforce and monitor all deed restrictions.

22. Approve the conveying of property and the proper use of land.

23. Utilize a certified appraiser for each property that is eligible to be acquired.

24. Utilize a certified damage inspector to assess damages of each property to assure that damages were caused by Hurricane Irma.

25. The Subrecipient shall adhere to the following deadlines for the project. If the Subrecipient is unable to meet a deadline, the subrecipient shall request an extension of such deadline from DEO in writing no later than thirty (30) business days prior to the deadline. Deadlines shall not be extended outside of the Term of this agreement except by a formal amendment executed in accordance with section (4) Modification of Agreement.

Activity	Deadline
Program Design and Implementation, as outlined in Section 2., B.	9/15/2020
Completion of Homeowner buyout and Incentives, as outlined in Section 2., C.	6/15/2021
Completion of Demolition and Closeout as outlined in Section 2., D.	6/15/2022

B. Deliverable I: Program Design and Implementation

Task 1: Perform Intake for VHB applicants, which shall include the following components:
- Intake application processing
- Phone calls and/or in-person meetings with applicants
- Assist applicants with proper documentation
- Review and analyze submitted documentation
- Analyze for priority, if applicable

Task 2: Perform VHB Eligibility analysis which shall include the following components:
- Perform application authorizations
- Confirming ownership
- Confirming primary residence
- Identify priority status
- Perform damage assessment
- Identify tieback to disaster
- Income Certifications
- National Objectives Determination

Task 3: Perform Duplication of Benefits (DOB) analysis, which shall include the following components:

- Perform FEMA data analysis
- Perform SBA data analysis
- Perform NFIP data analysis
- Perform Private Insurance data analysis
- Perform Non-profits data analysis
- Perform other assistance analysis
- Analyze spent funds
- Verify funds were spent for their intended purpose
- Complete DOB review
- Complete DOB final worksheet

Task 4: Perform the Review and Approval of VHB applicants, which shall include the following components:

- Review applicant files for completeness
- Determine pre-disaster fair market value
- Determine final applicant eligibility / award amount
- Issue grant award to eligible applicant
- Applicant appeal process

Task 5: Complete the Environmental Review Record (ERR), which shall include the following components:

- Analyze applicant housing to determine proper ERR
- Inspection of property
- Complete tier 1 review
- Complete tier 2 review
- Complete and analyze lead-based paint testing
- Complete and analyze asbestos testing

Task 6: Perform Final Scope and Feasibility assessments, which shall include the following components:

- Revise scope for State Historic Preservation Office (SHPO) requirements
- Revise scope for lead-based paint mitigation
- Revise scope for asbestos mitigation
- Analyze for cost reasonableness and feasibility of the project
- Complete and review final inspection reports

Task 7: Complete the necessary Procurement and Closing activities which shall include the following components:

- Prepare statement of work for contractor bid
- Prepare and advertise procurement documents
- Review and respond to procurement questions
- Revise bid documents if necessary
- Review submissions and select contractor
- Conduct debarment check and contractor licensing

- Award bid
- Review and modify agreement and award amounts
- Closing coordination
- Prepare and receive escrow
- Execute agreement with contractor

C. Deliverable II: Homeowner Buyout and Incentives

Task: 1 Complete the Homeowner Buyout and Incentive Program activities which shall include the following components:

- Property Appraisals
- Legal Services
- Conduct Title and lien searches
- Uniform Relocation Act (URA) compliance, when applicable
- Recording fees
- Perform homeowner buyout
- Perform homeowner incentives, if applicable
- Execute closing documents

D. Deliverable III: Demolition and Closeout

Task 1: Complete Demolition activities which shall include the following components:

- Notice to Proceed (NTP)
- Contractor obtains all permits
- Conduct inspections
- Conduct final walkthrough
- Process payments

Task 2: Complete grant agreement Closeout Packages which shall include the following components:

- Complete final inspection report
- Review project files prior to final closeout
- Compile closeout documentation

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3. **DELIVERABLES:**

The Subrecipient agrees to provide the following services as specified:

Deliverable I	**Minimum Level of Service (to submit for request for payment)**	**Financial Consequences**
Project Design and Implementation Subrecipient shall complete an eligible deliverable task as detailed in Attachment A, Section 2., B. Above.	The Subrecipient shall be reimbursed upon completion of a minimum of one deliverable task per housing unit as detailed in Attachment A, Section 2, B., evidenced by invoices(s) noting completed tasks with supporting documentation (such as payroll, invoices from contractors, etc.) as applicable upon the approval from DEO along with the submission of both a monthly report and a quarterly report detailing the work completed in Deliverable I. The completion of the monthly and quarterly reports alone does not meet the minimum level of service required for payment.	Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.
Deliverable II	**Minimum Level of Service (to submit for request for payment)**	**Financial Consequences**
Homeowner Buyout and Incentives Subrecipient shall complete an Eligible deliverable task as detailed in Attachment A, Section 2., C. above	The Subrecipient shall be reimbursed upon completion of a minimum of one project deliverable task as detailed in Attachment A, Section 2. C; evidenced by invoices(s) noting completed tasks with supporting documentation (such as payroll, invoices from contractors, etc.) as applicable upon the approval from DEO and along with the submission of both a monthly and quarterly report detailing the work completed in Deliverable II. The completion of the monthly and quarterly reports alone does not meet the minimum level of service required for payment.	Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.
Deliverable III	**Minimum Level of Service (to submit for request for payment)**	**Financial Consequences**
Demolition and Closeout Subrecipient shall complete an Eligible deliverable task as detailed in Attachment A, Section 2., D. above	The Subrecipient shall be reimbursed upon completion of a minimum of one project deliverable task as detailed in Attachment A, Section 2. D; evidenced by invoices(s) noting completed tasks with supporting documentation (such as payroll, invoices from contractors, etc.) as applicable upon the approval from DEO and along with the submission of both a monthly and quarterly	Failure to perform the minimum level of service shall result in nonpayment for this deliverable for each payment request.

	report detailing the work completed in Deliverable III. The completion of the monthly and quarterly reports alone does not meet the minimum level of service required for payment. The Subrecipient shall be reimbursed upon completion of a minimum of 100 percent of the demolition activities for each project; evidenced by the final inspection of the site after the activities have been completed, signed by the contractor, certified by the housing specialist or building inspector for the project	
		TOTAL AWARD NOT TO EXCEED $5,000,000.00

4. DEO Responsibilities:

DEO shall receive and review the Deliverables and, upon DEO's acceptance of the Deliverables and receipt of the Subrecipient's pertinent invoices in compliance with the invoice procedures of this Agreement, DEO shall process payment to the Subrecipient in accordance with the terms and conditions of this Agreement.

DEO will administer and oversee the jurisdiction in which the program applies. DEO will be responsible for the following:

1. Provide the Voluntary Home Buyout Program Guidelines and Design, Action Plan, and Action Plan Amendments to the Subrecipient.

2. Provide updates of policies and procedures to the Subrecipient.

3. Approve the outreach campaign established by the Subrecipient that will target homeowners impacted by Hurricane Irma.

4. Approve the application process, application requirements, compliance requirements, and reporting methodology provided by the Subrecipient.

5. Review the detailed budget and measure actual cost versus projected cost on a monthly basis.

6. Review the progress made to date, the projected activities to be completed in the upcoming month, and any risks or issues identified for the delivery of the project as reported in the subrecipients required monthly and quarterly report.

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Attachment B – Project Budget Detail (Example)

Subrecipient: ______ Contract Number: ______ Modification Number: ______

Activity/Project		National Objective			Beneficiaries					Budget			
Activity	**Description**	**LMI**	**Slum & Blight**	**Urgent Need**	**VLI**	**LI**	**MI**	**Non-LMI**	**Total**	**CDBG-DR Amount**	**Other Funds**	**Source***	**Total Funds**
1. Land & Structure Buyout													
	Appraisal												
	Environmental Review												
	Legal Services												
	Title Services												
	Inspection												
	Permitting												
2. Demolition													
3. Audit & Closeout													
4. Administration													
	Application Development												
	Policies & Procedures Development												
	Develop Underwriting Criteria												
	Implement Public Outreach												

	Relocation Activities												
	Reporting												
	Totals:												

***Show the sources and amounts of Other Funds needed to complete the project below, including local funds, grants from other agencies and program income.**

Source of Other Funds	Amount
1. Leveraged Funding	
2. Match	
3.	
4.	

Attachment C – Activity Work Plan (Example)

Subrecipient ____________________ Activity: ____________________ Project Budget: __________

Contract Number: ____________________ Date Prepared: ____________________ Modification Number: ______

Start Date (month/year)	**End Date** (month/year)	**Describe Proposed Action to be Completed by the "End Date."** ***Examples of Actions:*** *Procure Administrator or Engineer, Complete Environmental Review and Obtain Release of Funds, Request Wage Decision, Complete and Submit Design and Specifications, Advertise for and Open Bids, Issue Notice to Proceed, Construction Completion (33, 66, and 100 percent or 25, 50, 75, and 100 percent), Complete Construction Procurement Process, Advertise Availability of Housing Rehabilitation Funds, Complete Rankings of Homes per HAP, Number of Houses Rehabilitated and Submit Closeout Package to DEO.*	**Estimated Units to be Completed by the "End Date"**	**Estimated Funds to be Requested by the "End Date"**

Attachment D – Program and Special Conditions

Program Conditions

1. The Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan. If the Subrecipient does not comply with the activity work plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to DEO within 21 calendar days of receiving DEO's request for justification for the delay. Any project for which the Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless DEO agrees that the Subrecipient has provided adequate justification for the delay.

2. The Subrecipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in the Project Detail Budget and Activity Work Plan.

3. The Subrecipient shall request DEO's approval for all professional services contracts and/or agreements that will be reimbursed with CDBG-DR funds. Copies of the following procurement documents must be provided to DEO for review:

   a. When publication of a Request for Proposal (RFP) is used as a means of solicitation, a copy of the advertisement, including an affidavit of publication;
   b. DEO will either approve the procurement or notify the Subrecipient that the procurement cannot be approved because it violates State, Federal or local procurement guidelines. The Subrecipient shall notify DEO in writing no later than 90 calendar days from the effective date of this agreement if it will not be procuring any professional services or if it will be using non-CDBG-DR funds to pay for professional services.

4. Prior to the obligation or disbursement of any funds, except for administrative expenses and not to exceed $5000, the Subrecipient shall complete the following:
   a. Submit for DEO's approval the documentation required in paragraph 3 above for any professional services contract. The Subrecipient proceeds at its own risk if more than the specified amount is incurred before DEO approves the procurement. If DEO does not approve the procurement of a professional services contract, the local government will not be able to use CDBG-DR funds for that contract beyond $5,000.
   b. Comply with 24 C.F.R. part 58 and the regulations implementing the National Environmental Policy Act, 40 C.F.R. §§ 1500-1508. When the Subrecipient has completed the environmental review process, it shall submit a Request for Release of Funds and Certification. DEO will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of DEO. If DEO has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, DEO shall provide the Subrecipient a written update regarding the status of the review process. **SUBRECIPIENT SHALL NOT BEGIN CONSTRUCTION BEFORE DEO HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**

5. The Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601-4655; hereinafter, the "URA"), implementing regulations at 24 C.F.R. part 42, 49 C.F.R. part 24 and 24 C.F.R. § 570.606(b), the requirements of 24 C.F.R. § 42.325 – 42.350 governing the Residential Anti-displacement and Relocation Assistance Plan under

section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. § 5304(d)), and the requirements in 24 C.F.R. § 570.606(d), governing optional relocation assistance policies.

6. If the Subrecipient undertakes any activity subject to the URA, the Subrecipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that DEO can determine whether remedial action may be needed. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 C.F.R. § 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

7. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions);
Section 3 Participation Report (Construction Prime Contractor); Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor), (if applicable); and Section 3 Participation Report (Construction Subcontractor), (if applicable).

8. In addition, each construction contract or agreement for new or replacement housing must contain language that requires the contractor to meet the Green Building Standard for Replacement and New Construction of Residential Housing, as defined in the Allocation notice published in the Federal Register Volume 81, Number 224 on Monday, November 21, 2016.

9. For each Request for Funds (RFF) that includes reimbursement of construction costs, the Subrecipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by DEO, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by DEO. For each RFF that includes construction costs, the Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by DEO, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by DEO, if applicable.

10. For each project, when the Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to DEO:
    a. Notice to Proceed;
    b. The contractor's performance bond (100 percent of the contract price); and
    c. The contractor's payment bond (100 percent of the contract price).

11. The Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 C.F.R. § 570.487(b)(4).

12. The CDBG-DR portion of the cost of post-administrative closeout audits.

13. The Subrecipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG-DR funds. This restriction shall limit the use of that real property or facility to the use stated in the subgrant application and that title shall remain in the name of the Subrecipient. Such deed restriction shall be made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 C.F.R. § 570.505. Any future change of use of real property shall be in accordance with 24 C.F.R. § 570.489(j).

14. The Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 C.F.R. part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 C.F.R. 67, and Guidelines for Rehabilitating Historic Buildings.

15. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. § 3545, the Subrecipient shall update and submit Form HUD 2880 to DEO within thirty (30) calendar days of the Subrecipient's knowledge of changes in situations which would require that updates be prepared. The Subrecipient must disclose:
    a. All developers, contractors, consultants and engineers involved in the application or in the planning, development or implementation of the project or CDBG-DR-funded activity; and
    b. Any person or entity that has a financial interest in the project or activity that exceeds $50,000 or 10 percent of the grant, whichever is less.

16. If required, the Subrecipient shall submit a final Form HUD 2880, to DEO with the Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.

17. Conflicts of interest relating to procurement shall be addressed pursuant to 24 C.F.R. § 570.489(g). Title 24 C.F.R. § 570.489(h) shall apply in all conflicts of interest not governed by 24 C.F.R. § 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG-DR financial assistance to beneficiaries, businesses or other third parties; or any other financial interest, whether real or perceived. Additionally, the Subrecipient agrees to comply with, and this Agreement is subject to, Chapter 112 F.S.

18. Any payment by the Subrecipient using CDBG-DR funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by DEO prior to distribution of the funds. Should the Recipient fail to obtain DEO pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-DR funds.

19. The Subrecipient shall take photographs or video of all activity locations prior to initiating any construction. As the construction progresses, additional photography or videography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to DEO with the administrative closeout package for this Agreement.

20. If an activity is designed by an engineer, architect or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.

Attachment E – State and Federal Statutes, Regulations, and Policies

The CDBG-DR funds available to the Subrecipient through this agreement constitute a subaward of the DEO's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes terms and conditions of the DEO's Federal award that are imposed on the Subrecipient and the Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this agreement.

The Subrecipient agrees to, and, by signing this Agreement, certifies that, it will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this agreement. These Federal Register notices include, but are not limited to, Federal Register Guidance (82 FR 5591 & 82 FR 36812 and 81 FR 83254). Notwithstanding the foregoing, (1) the Subrecipient does not assume the any of DEO's responsibilities for environmental review, decision-making and action, described in 24 CFR part 58 and (2) the Subrecipient does not assume any of the DEO's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations and policies that govern the use of the CDBG-DR funds in complying with its obligations under this agreement, regardless of whether CDBG-DR funds are made available to the Subrecipient on an advance or reimbursement basis.

The Subrecipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. The Subrecipient further agrees to comply with all other applicable Federal, State and local laws, regulations and policies governing the funds provided under this Agreement, including, but not limited to the following:

I. State of Florida Requirements

State of Florida Requirements are stated throughout this Agreement and Attachments thereto.

II. Audits, Inspections, and Monitoring

1. Single Audit

The Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

2. Inspections and Monitoring

The Subrecipient shall permit DEO and auditors to have access to the Subrecipient's records and financial statements as necessary for DEO to meet the requirements of 2 CFR part 200.

The Subrecipient must submit to monitoring of its activities by DEO as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this Agreement.

This review must include: (1) reviewing financial and performance reports required by the DEO; (2) following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from DEO detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the Subrecipient from DEO as required by 2 CFR §200.521.

3. Corrective Actions

The Subrecipient shall be subject to reviews and audits by DEO, including onsite reviews of the Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2). DEO may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. DEO may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, DEO may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

III. Drug-Free Workplace

Drug-free workplace. The Subrecipient must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

IV. Procurement and Contractor Oversight

The Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.326 when procuring property and services under this agreement. The Subrecipient shall impose the Subrecipient's obligations under this agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities at [insert 24 CFR 570.609 or 24 CFR 570.489(l) as appropriate]. CDBG funds may not be provided to excluded or disqualified persons.

The Subrecipient shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Agreement.

V. Property Standards

Real property acquired by the Subrecipient under this agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). The Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314 through 2 CFR 200.316. The Subrecipient shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income and equipment not needed by the Subrecipient for activities under this agreement shall be transferred to DEO for its CDBG-DR program or shall be retained after Subrecipient appropriately compensates DEO

The Subrecipient shall also comply with the Property Standards in 2 CFR 200.310 through 2 CFR 200.316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

VI. Federal Funding Accountability and Transparency Act (FFATA)

The Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The Subrecipient must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and must have a Data Universal Numbering System (DUNS) number. The Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

VII. Relocation and Real Property Acquisition

The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606. In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the URA shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act".

VIII. Nondiscrimination

1. 24 CFR part 6

The Subrecipient will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. The Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, the Subrecipient shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

2. Architectural Barriers Act and the Americans with Disabilities Act

The Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995 and meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

3. State and Local Nondiscrimination Provisions

The Subrecipient must comply with the Florida Small and Minority Business Assistance Act (§§ 288.703-288.706, F.S.);

Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

(i) General Compliance:

The Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended. No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The Subrecipient shall not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(ii) Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this Agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient's assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives DEO and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to the Subrecipient Under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

<u>Affirmative Action</u>

(iii) Approved Plan

The Subrecipient agrees that it shall carry out pursuant to the DEO's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR 60. DEO shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

(iv) Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the Subrecipient procures property or services under this Agreement.

(v) Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(vi) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

IX. Labor and Employment

1. Labor Standards

The Subrecipient shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this Agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis- Bacon Act, as amended (40 U.S.C. 3141, *et seq.*) and 29 CFR part 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

The Subrecipient agrees to comply with the Copeland Anti- Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall promptly be made available to DEO for review upon request.

X. Section 3 of the Housing and Urban Development Act of 1968

1. A low-income person, as this term is defined in Section 3 (b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher and or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low—income families; or (ii) A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437 a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

2. Compliance

The Subrecipient shall comply with the provisions of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its implementing regulations at 24 CFR part 135. The Subrecipient shall include the following "Section 3 clause" at 24 CFR 135.38 in every "Section 3 covered contract" (as defined in 24 CFR 135.5).

A. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
B. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
C. The Subrecipient will require its contractors to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
D. The Subrecipient will require its contractors to include a materially similar Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Subrecipient will require its contractors to not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
E. The Subrecipient will require its contractors to certify any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

3. Recipients of HUD federal financial assistance shall meet the following hiring and contract numerical goals to achieve compliance with Section 3 as found at 24 CFR 135.30 (Numerical goals for meeting the greatest extent feasible requirement.).

(3) Recipients of Section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in Section 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ Section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one-year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one-year period beginning in 1996; and

(iii) 30 percent of the aggregate number of new hires for the one-year period beginning in FY 1997 and continuing thereafter.

(c) Contracts. Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all Section 3 covered projects and Section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in Section 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to Section 3 business concerns:

(1) At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three

(3) percent of the total dollar amount of all other Section 3 covered contracts.

XI. Conduct

1. Hatch Act

The Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

Conflict of Interest

In the procurement of supplies, equipment, construction and services pursuant to this agreement, the Subrecipient shall comply with the conflict of interest provisions in the DEO's procurement policies and procedures. In all cases not governed by the conflict of interest provisions in the DEO's procurement policies and procedures, the Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

Lobbying Certification

The Subrecipient hereby certifies that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(iii) The language of paragraph (a) through (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

(iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

XII. Religious Activities

The Subrecipient agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

XIII. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 CFR 58.22 even though the Subrecipient is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision- making and action (see 24 CFR part 58) and is not delegated the DEO's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. If DEO has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, DEO shall provide the Subrecipient a written update regarding the status of the review process.

Air and Water

The Subrecipient shall comply with the following requirements insofar as they apply to the performance of this agreement:

- Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93); and
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

Flood Disaster Protection

The Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award and listed at the beginning of this Attachment.

Lead-Based Paint

The Subrecipient shall follow DEO approved procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.

Historic Preservation

The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state or local historic property list.

Attachment F – Civil Rights Compliance

Fair Housing

As a condition for the receipt of CDBG-DR funds, the Subrecipient must certify that it will "affirmatively further fair housing" in its community. The Subrecipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

The Subrecipient shall:

1) Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion and sex);
2) Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;
3) Publish the Fair Housing Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website;
4) Establish a system to record the following for each fair housing call:
    a) The nature of the call,
    b) The actions taken in response to the call,
    c) The results of the actions taken and
    d) If the caller was referred to another agency, the results obtained by the referral agency;
5) Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and
6) Display a fair housing poster in the CDBG-DR Office. (This does not count as a fair housing activity.)

The Subrecipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

- Define where discriminatory practices are occurring,
- Help the community measure the effectiveness of its outreach efforts, and
- Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

- Making fair housing presentations at schools, civic clubs and neighborhood association meetings;
- Conducting a fair housing poster contest or an essay contest;
- Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales and church festivals; and
- Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a DEO-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

The Subrecipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG-DR project file and include information about the activities in the comment section of each quarterly report.

Equal Employment Opportunity

As a condition for the receipt of CDBG-DR funds, the Subrecipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-DR funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. The Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Subrecipient shall:

1) Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age or genetics;
2) Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;
3) Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4) Establish a system to record the following for each EEO call:
   a) The nature of the call,
   b) The actions taken in response to the call and
   c) The results of the actions taken;

Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. The Subrecipient shall use this list to solicit companies to bid on CDBG-DR-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Department of Management Services maintains a list of certified minority- and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: https://osd.dms.myflorida.com/directories.

Section 504 and the Americans with Disabilities Act (ADA)

As a condition for the receipt of CDBG-DR funds, the Subrecipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. The Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

The Subrecipient shall:

1) Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:
   a) Has a physical or mental impairment which substantially limits one or more major life activities,
   b) Has a record of such an impairment, or
   c) Is regarded as having such an impairment;
2) Designate an employee as the Section 504/ADA Coordinator who is available during regular business hours to receive Section 504/ADA calls;
3) Publish the Section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4) Establish a system to record the following for each Section 504/ADA call:
   a) The nature of the call,
   b) The actions taken in response to the call and

c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 C.F.R. part 84) apply to service availability, accessibility, delivery, employment and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A Subrecipient of Federal financial assistance may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits,
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
- Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 C.F.R. part 35, and Title III, 28 C.F.R. part 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation and commercial facilities. Public accommodations are private entities who own, lease, lease to or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

Section 3 - Economic Opportunities for Low- and Very Low-Income Persons

The Subrecipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-DR-funded projects in the community. The Subrecipient and its contractors shall keep records to document the number of low- and moderate-income people who are hired to work on CDBG-DR-funded projects. The number of low- and moderate-income residents who are hired to work of the project shall be reported in the comment section of the quarterly report.

The following clause from 24 C.F.R. § 135.38 is required to be included in CDBG-DR-funded contracts of $100,000 or more.

Section 3 Clause

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.

B. The Parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 135.

F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Civil Rights Regulations

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will abide by the following Federal laws and regulations:

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 C.F.R. § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 C.F.R. § 570.490(b) – Unit of general local government's record;
6. 24 C.F.R. § 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;
8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving CDBG-DR funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 C.F.R. part 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

I hereby certify that ____________________________ shall comply with all of the provisions and Federal regulations listed in this attachment.

By: ______________________________ **Date:** ______________________________

Name: ______________________________

Title: ______________________________

Attachment G – Reports

The following reports must be completed and submitted to DEO in the time frame indicated below. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Agreement.

1. A **Monthly Progress Report** must be submitted to DEO on forms to be provided by DEO ten (10) calendar days after the end of each month.
2. A **Quarterly Progress Report,** must be submitted to DEO on forms to be provided by DEO no later than the tenth day of every April, July, October, and January.
3. A **Contract and Subcontract Activity** form, Form HUD-2516, currently available at http://www.flrules.org/Gateway/reference.asp?No=Ref-05360; which is incorporated herein by reference, must be submitted by April 15 and October 15 each year through the DEO's SERA reporting system. The form must reflect all contractual activity for the period, including Minority Business Enterprise and Woman Business Enterprise participation. If no activity has taken place during the reporting period, the form must indicate "no activity".

The Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to DEO) and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the Subrecipient shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Further, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 C.F.R. part 200, should the Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 C.F.R. part 200 and submitted to DEO no later than nine months from the end of the Subrecipient's fiscal year. If the Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to DEO no later than nine months from the end of the Subrecipient's fiscal year.
5. A copy of the **Audit Compliance Certification** form, Attachment K, must be emailed to audit@deo.myflorida.com within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.
6. The **Section 3 Summary Report**, form HUD-60002, must be completed and submitted through DEO's SERA reporting system by July 31, annually. The form must be used to report annual accomplishments regarding employment and other economic opportunities provided to persons and businesses that meet Section 3 requirements.

7. Request for Funds must be submitted as required by DEO and in accordance with the ***Project Description and Deliverables; Project Narrative, Project Budget Detail and Activity Work Plan.***

8. All forms referenced herein are available online or upon request from DEO's grant manager for this Agreement.

Attachment H – Warranties and Representations

Financial Management

The Subrecipient's financial management system must comply with the provisions of 2 C.F.R. part 200 (and particularly 2 C.F.R 200.302 titled "Financial Management"), Section 218.33, F.S., and include the following:

(1) Accurate, current and complete disclosure of the financial results of this project or program.

(2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.

(4) Comparison of expenditures with budget amounts for each Request for Funds (RFF). Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 C.F.R. part 200 (and particularly 2 C.F.R. 200 Subpart E titled "Costs Principles") and the terms and conditions of this Agreement.

(6) Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions must follow the provisions of 2 C.F.R. §§ 200.318-200.326 and be conducted in a manner providing full and open competition. The Subrecipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

Codes of Conduct

The Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of the Subrecipient shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees or agents of the Subrecipient. (*See* 2 C.F.R. § 200.318(c)(1).)

Business Hours

The Subrecipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

Licensing and Permitting

All contractors or employees hired by the Subrecipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Subrecipient.

Attachment I – Audit Requirements

The administration of resources awarded by DEO to the Subrecipient may be subject to audits and/or monitoring by DEO as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200 Subpart F (Audit Requirements) and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEO staff, limited scope audits as defined by 2 CFR part 200, as revised, and/or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by DEO. In the event DEO determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by DEO staff to the Subrecipient regarding such audit. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the Subrecipient is a State or local government or a non-profit organization as defined in 2 CFR 200, as revised.

1. In the event that the Subrecipient expends $750,000 or more in federal awards in its fiscal year, the Subrecipient must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200 Subpart F (Audit Requirements), as revised. In determining the federal awards expended in its fiscal year, the Subrecipient shall consider all sources of federal awards, including federal resources received from DEO. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR 200 Subpart F (Audit Requirements), as revised. An audit of the Subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR 200 Subpart F (Audit Requirements), as revised, will meet the requirements of this part.

2. In connection with the audit requirements addressed in Part I, paragraph 1, the Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200 Subpart F (Audit Requirements), as revised.

3. If the Subrecipient expends less than $750,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR 200 Subpart F (Audit Requirements), as revised, is not required. In the event that the Subrecipient expends less than $750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200 Subpart F (Audit Requirements), as revised, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Subrecipient resources obtained from other than federal entities).

4. Although 2 CFR 200 Subpart F (Audit Requirements) does not apply to commercial (for-profit) organizations, the pass-through entity has an obligation to ensure that for-profit subrecipients that

expend $750,000 or more in federal awards must comply with federal awards guidelines (see 2 CFR 200.501(h)). Additionally, for-profit entities may be subject to certain specific audit requirements of individual federal grantor agencies.

Additional Federal Single Audit Act resources can be found at:
https://harvester.census.gov/facweb/Resources.aspx

PART II: STATE FUNDED

This part is applicable if the Subrecipient is a non-state entity as defined by Section 215.97(2), F.S.

1. In the event that the Subrecipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such Subrecipient, the Subrecipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from DEO, other state agencies and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1, the Subrecipient shall ensure that the audit complies with the requirements of Section 215.97(8), F.S. This includes submission of a financial reporting package as defined by Section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the Subrecipient expends less than $750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, F.S., is not required. In the event that the Subrecipient expends less than $750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the Subrecipient's resources obtained from other than State entities).

Additional information regarding the Florida Single Audit Act can be found at:
https://apps.fldfs.com/fsaa/

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with Section 215.97, F.S. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

N/A

PART IV: REPORT SUBMISSION

1. Copies of reporting packages, to include any management letter issued by the auditor, for audits conducted in accordance with 2 CFR 200 Subpart F (Audit Requirements), as revised, and required by PART I of this Exhibit Agreement shall be submitted by or on behalf of the Subrecipient directly to each of the following at the address indicated:

   A. Department of Economic Opportunity
   Financial Monitoring and Accountability (FMA)
   The copy submitted to the FMA section should be sent via email to: FMA-RWB@deo.myflorida.com

   B. The Federal Audit Clearinghouse designated in 2 CFR 200 Subpart F (Audit Requirements), as revised, electronically at: https://harvester.census.gov/facweb/

2. Copies of audit reports for audits conducted in accordance with 2 CFR 200 Subpart F (Audit Requirements), as revised, and required by Part I (in correspondence accompanying the audit report, indicate the date that the Subrecipient received the audit report); copies of the reporting package described in Section .512(c), 2 CFR 200 Subpart F (Audit Requirements), as revised, and any management letters issued by the auditor; copies of reports required by Part II of this Exhibit must be sent to DEO at the addresses listed in paragraph three (3) below.

3. Copies of financial reporting packages required by PART II of this Agreement shall be submitted by or on behalf of the Subrecipient directly to each of the following:

   A. DEO at the following address:

   Electronic copies: Audit@deo.myflorida.com

   B. The Auditor General's Office at the following address:

   Auditor General
   Local Government Audits/342
   Claude Pepper Building, Room 401
   111 West Madison Street
   Tallahassee, FL 32399-1450

   Email Address: flaudgen_localgovt@aud.state.fl.us

4. Any reports, management letter or other information required to be submitted to DEO pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200 Subpart F, 215.97 F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Recipients and subrecipients, when submitting financial reporting packages to DEO for audits done in accordance with Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit

organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the recipient/subrecipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of six (6) years from the date the audit report is issued, or five (5) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow DEO, or its designee, the Chief Financial Officer (CFO) or Auditor General access to such records upon request. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer. The Subrecipient shall ensure that audit working papers are made available to DEO, or its designee, CFO or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by DEO.

Exhibit 1 to Attachment I – Funding Sources

Federal Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	$5,000,000.00
Catalog of Federal Domestic Assistance Title:	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii
Catalog of Federal Domestic Assistance Number:	14.228
Project Description: *This is not a research and development award.*	The purpose of Rebuild Florida's CDBG-DR Voluntary Home Buyout Program is to acquire properties that are in a Special Flood Hazard Area (SFHA), and in high-risk flood areas to help reduce the impact of future disasters, and to assist property owners to relocate outside the threat of flooding.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

Federal Program

1. The Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
2. The Subrecipient shall perform its obligations in accordance with 24 C.F.R. §§ 570.480 – 570.497.
3. The Subrecipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. The Subrecipient shall perform the obligations in accordance with chapter 73C-23.0051(1) and (3), F.A.C.
5. The Subrecipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Award Terms & Conditions and Other Instructions of the Subrecipient's Notice of Subgrant Award/Fund Availability (NFA).

State Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:
N/A

Matching Resources for Federal Programs: *N/A*

Subject to Section 215.97, Florida Statutes: *N/A*

Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows: *N/A*

NOTE: Title 2 C.F.R. § 200.331 and Section 215.97(5), F.S., require that the information about Federal Programs and State Projects included in Exhibit 1 and the Notice of Subgrant Award/Fund Availability be provided to the Subrecipient.

Attachment J – Audit Compliance Certification

Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@deo.myflorida.com.

Subrecipient:	
FEIN:	Subrecipient's Fiscal Year:
Contact Name:	Contact's Phone:
Contact's Email:	

1. Did the Subrecipient expend state financial assistance, during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Subrecipient and the Department of Economic Opportunity (DEO)? ☐ Yes ☐ No

   If the above answer is yes, answer the following before proceeding to item 2.

   Did the Subrecipient expend $750,000 or more of state financial assistance (from DEO and all other sources of state financial assistance combined) during its fiscal year? ☐ Yes ☐ No

   If yes, the Subrecipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of Section 215.97, Florida Statutes and the applicable rules of the Department of Financial Services and the Auditor General.

2. Did the Subrecipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Subrecipient and DEO? ☐ Yes ☐ No

   If the above answer is yes, also answer the following before proceeding to execution of this certification:

   Did the Subrecipient expend $750,000 or more in federal awards (from DEO and all other sources of federal awards combined) during its fiscal year? ☐ Yes ☐ No

   If yes, the Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 C.F.R. part 200, subpart F, as revised.

By signing below, I certify, on behalf of the Subrecipient, that the above representations for items 1 and 2 are true and correct.

Signature of Authorized Representative	Date
Printed Name of Authorized Representative	Title of Authorized Representative

Attachment K – Subrecipient Enterprise Resource Application (SERA) Form

Current SERA Form will be provided under separate cover.

Attachment L
2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C.

3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

Attachment M

State of Florida
Department of Economic Opportunity

Federally-Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) Subrogation Agreement

This Subrogation and Assignment Agreement ("Agreement") is made and entered into on this ___day of ______________________, 20____, by and between ________________ (hereinafter referred to as "Subrecipient") and the State of Florida, Department of Economic Opportunity (hereinafter referred to as "DEO").

In consideration of Subrecipient's receipt of funds or the commitment by DEO to evaluate Subrecipient's application for the receipt of funds (collectively, the "Grant Proceeds") under the DEO Community Development Block Grant-Disaster Recovery Program (the "CDBG-DR Program") administered by DEO, Subrecipient hereby assigns to DEO all of Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs") that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-DR Program and that are determined in the sole discretion of DEO to be a duplication of benefits ("DOB") as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds." Upon receiving any Proceeds, Subrecipient agrees to immediately notify DEO who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to DEO, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to DEO shall not exceed the amount received from the CDBG-DR Program.

Subrecipient agrees to assist and cooperate with DEO to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by DEO. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by DEO, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to DEO, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-DR Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by DEO to consummate and make effective the purposes of this Agreement.

Subrecipient explicitly allows DEO to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by DEO to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to DEO.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to DEO, if Subrecipient received Grant Proceeds under the CDBG-DR Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to DEO, and DEO will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If the Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by DEO.
2. If the Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by DEO to reduce payments of the Grant Proceeds to the Subrecipient, and all Subsequent DOB Proceeds shall be returned to the Subrecipient.
3. If the Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by DEO.
4. If DEO makes the determination that the Subrecipient does not qualify to participate in the CDBG-DR Program or the Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, and this Agreement shall terminate.

Once DEO has recovered an amount equal to the Grant Proceeds paid to Subrecipient, DEO will reassign to Subrecipient any rights assigned to DEO pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

The person executing this Agreement on behalf of the Subrecipient hereby represents that he\she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by Subrecipient.

In any proceeding to enforce this Agreement, DEO shall be entitled to recover all costs of enforcement, including actual attorney's fees.

SUBRECIPIENT

[*insert Subrecipient name*]

By:________________________
Name:______________________
Title:_______________________

DEO:

[*insert name of administrative entity*]

By:_______________________________
Name:____________________________
Title:_____________________________

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-04-087

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve the amendment of the lease agreement with Kristin Pimentel for the use of Artist Cottage #1 for another one year term.

MEETING DATE: April 1, 2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
X	CONSENT	X	OTHER	Nicole Perino Parks and Recreation Director

BACKGROUND:

In 2006, City Council authorized staff to advertise a Request for Proposals (RFP) for Letters of Interest from artists and other similar type vendors for use of the six (6) historic fishing cottages at Riverside Park behind the Liles Hotels. The letters of interest were reviewed by the Art in Public Places board for the members to rank the six (6) top candidates to begin negotiations for a use agreement of each cottage. Since 2006, we have advertised a request for proposals for any vacant cottage that may be available for use. The intent of leasing the cottages to artists was to create an "artist village" that would enhance arts and culture in the downtown as well as encourage economic development in the area.

Kristin Pimentel would like to exercise their right to renew for another one year term under the same terms and conditions. The agreement provides for hours of operation for special events, security, utilities, cancellation of lease, renewal option and insurance requirements. The agreement requires the artist to rent the premises for the sum of $250.00 per month from October to May and $150.00 per month from June to September, for the full term of the agreement.

Attachments: Amendment and original agreement

Is this a Strategic Decision? $\boxed{\textbf{YES}}$ **NO**

If YES, related to which Strategic Objective? #8 Economic Development

STAFF RECOMMENDATIONS: Approve the amendment of the lease agreement with Kristin Pimentel for the use of Artist Cottage #1 for renewal of another one year term.

REVIEWED BY:

City Manager: [signature] ______________________

City Attorney: ______________________

City Clerk: ______________________

Department Director: ______________________

COUNCIL ACTION:

____ **APPROVED**
____ **DENIED**
____ **DEFERRED**
____ **OTHER**

CITY OF BONITA SPRINGS
RENEWAL OF RIVERSIDE PARK COTTAGE USE AGREEMENTS
COTTAGE NO. 1

This Renewal of a lease agreement dated March 25, 2019 is made and entered into this 18th day of March 2020 between the CITY OF BONITA SPRINGS, a municipal corporation of the state of Florida *("lessor")*, and Kristin Pimentel, 15497 Cadiz Lane Naples, FL 34110 ("*lessee*").

WHEREAS, the City and Lessee enter into an agreement for use of a Riverside Park Artist Cottage.

WHEREAS, it is in the public interest to amend the Agreement dated March 25, 2019, attached hereto as Exhibit "A" to continue the services for another one-year period under the same terms and conditions.

NOW, THEREFORE, inconsideration of the above premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, the City and Lessee hereby agree to extend the Agreement as follows:

1. The recitals as set forth above are incorporated into the terms of this agreement as if set out herein at length.
2. Section V (B), Renewing Terms, is hereby extended in an increment of one year, to March 24, 2021.
3. All of the remaining terms in Exhibit "A", the Agreement, attached hereto, remain the same.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed Said Agreement is to become effective and operative upon filing with the City Clerk.

Lessee: KRISTIN PIMENTEL
Print name

By: Kristin Pimentel
Sign name

AUTHENTICATION:

____________________ Mayor

____________________ City Clerk

APPROVED AS TO FORM: ____________________
City Attorney's Office

Date filed with City Clerk: ________________

CITY OF BONITA SPRINGS
RIVERSIDE PARK COTTAGE USE AGREEMENT
COTTAGE NO. 1

THIS AGREEMENT is made this 25TH day of March, 2019, between the City of Bonita Springs, a Florida municipal corporation (hereinafter, the "City"), whose address is 9101 Bonita Beach Road, Bonita Springs, Florida 34135, and Kristin Pimentel (hereinafter, "Tenant"), whose address is 15497 Cadiz Lane, Naples, Florida 34110.

WITNESSETH:

WHEREAS, the City owns certain historic fishing cottages located at Riverside Park, 27300 Old US 41 Road, Bonita Springs, Florida 34135.

WHEREAS, it is an objective for City Council that the public is able to observe a "village" of artists and craftsmen in the park; and

WHEREAS, since 2006, the cottages have been leased to artists or other similar vendors in furtherance of this objective of hosting an artist village for public viewing; and

WHEREAS, Cottage No. 1 is currently vacant and available for tenancy; and

WHEREAS, on January 14th, 2019, the City issued an advertisement requesting letters of interest from artists or other similar vendors for use of the vacant Cottage No. 1 (RFP 19-03); and

WHEREAS, based upon the submissions received in response to RFP 19-03, the Art in Public Places Board has determined Tenant to be the most qualified bidder for tenancy of Cottage No. 1.

NOW, THEREFORE, in consideration of the mutual covenants and considerations contained herein, the parties agree as follows:

GENERAL TERMS OF USE

1. The City hereby agrees to lease unto Tenant the Cottage No. 1 located at Riverside Park, 27300 Old US 41 Road, Bonita Springs, FL 34135 (hereinafter, the "Premises") for the business use described in the proposal submitted by Tenant in response to RFP 19-03.

2. The City shall maintain and make all exterior and structural repairs to the Premises that are not made necessary by fault of Tenant, and maintain and repair all heating, ventilating and air-conditioning equipment, all wires, pipes, conduits and other equipment or facilities for supplying heat, light, power, hot and cold water services to the Premises, all drainage and waste pipes or facilities leading from the Premises, and those portions of all outside utility lines supplying the Premises (unless the utility lines are maintained or repaired by utility companies). The City shall not be liable to Tenant for damages, nor for abatement in rent, due to the City's failure to perform work under this Agreement. The provisions of this paragraph shall not apply to any of the installations that may be installed by Tenant as subsequently provided for herein.

3. The City shall furnish adequate electricity, air-conditioning, water and all utilities; Tenant shall be responsible for its telephone, high-speed internet connections, and DSL connections.

4. The City shall furnish its security system for the grounds (G4S Security Surveillance) and provide individual locks for each unit. Any additional security measures and associated costs shall be the responsibility of the Tenant alone.

5. Tenant shall maintain and operate the art studio in a first-class manner, in accordance with the highest standards for art studios, in furtherance of education to the public of the particular genre of art.

6. Tenant and Tenant's employees shall be clean, courteous, and neat in appearance. Tenant shall not employ any person who will violate any of the nondiscrimination terms of this Agreement.

7. In the performance of this Agreement, Tenant shall not discriminate against any worker, employee, or any member of the public, because of race, creed, color, religion, age, sex or national origin, nor otherwise commit any unfair employment practice. Tenant shall take affirmative action to ensure that employees are treated during employment without regard to their race, creed, color, religion, age sex or national origin.

8. Tenant shall similarly furnish services connected with Tenant's business on a fair, equal and nondiscriminatory basis to all customers or users.

9. Tenant agrees to be open for business during organized special events. The City shall provide fifteen (15) days' notice of any such event. Other than the mandated hours of operations described in this paragraph, Tenant may decide when it is advantageous to have the studio open for public viewing.

10. Tenant shall maintain the Premises in a clean, neat and sanitary condition, maintaining adequate and suitable receptacles for trash and refuse within the cottage and its immediately surrounding areas. Tenant shall empty trash and refuse receptacles in the dumpster as designated by the Parks and Recreation Director.

11. Tenant shall not erect or install, nor permit to be erected or installed, any signs or other similar advertising device in or upon the Premises or the building without first obtaining the written consent of the Parks and Recreation Director.

12. Tenant shall make no alterations, additions nor replacements to the Premises without obtaining prior written consent from the Parks and Recreation Director. At the time of the request, Tenant shall specifically state whether the desired modification will require new electrical or plumbing connections or any changes in the existing equipment on or in the Premises.

13. Any alterations, additions or other improvements to the Premises shall become part of the City-owned realty upon termination of this Agreement, unless removed during the course of the Agreement with written consent from the Parks and Recreation Director.

14. Tenant shall maintain the Premises in good and working order and repair, including but not limited to, all trade fixtures and equipment, furnishings, utility connections and services, mechanical and electrical arrangements, janitorial and custodian services, painting and decorating of the interior of the Premises (subject to approval of the Parks and Recreation Director), and all other related services necessary to maintain the Premises in a good, safe and sanitary condition during the term of this Agreement. Maintenance shall be at Tenant's sole expense and shall be subject to general inspection by the City to ensure a continuing quality of maintenance, health, and safety standards established by the City.

15. In the event that the Premises are not maintained by Tenant to the standards required herein, the City may enter the Premises for the purpose of curing the default of Tenant, without such entering causing or constituting a termination of this Agreement or an interference with the possession of the Premises by Tenant. Tenant agrees to pay the City all costs and expenses incurred through the curing any such default.

16. Tenant shall allow the City, or its authorized agents, access to the Premises at any reasonable hour for the purpose of inspecting or maintaining the Premises as required herein, or for any purpose necessary or connected with the exercise of its governmental functions. The City shall not be liable for any loss in business or damages of any nature to Tenant occasioned by the performance of the necessary work.

17. Tenant shall bear at its own expense all costs of operating its art studio and shall pay all other costs connected with the use of the Premises, including maintenance (except building structure, outside wall, and roof), insurance, taxes, janitorial services and supplies, and all permits and licenses required by law. TENANT SHALL ONLY USE TURPENOID AS THE CHEMICAL FOR THINNER, TURPENTINE, ETC., UNLESS NON-FLAMMABLE CHEMICALS ARE OTHERWISE AGREED UPON.

18. Tenant, Tenant's agents, all patrons and invitees, and any licensee of the Tenant shall have the right of ingress to and egress from the Premises without prior approval of the Parks and Recreation Director.

19. Tenant shall not assign, transfer, sublease, pledge, surrender, or otherwise encumber or dispose of the Premises, or any portion thereof, nor permit any other person(s), company or corporation to occupy the Premises, without first obtaining the written consent of City Council.

20. Tenant shall observe and obey all laws, ordinances, regulations and rules of the federal, state, county, and municipal governments that may be applicable to its operations. Tenant shall obtain and maintain all necessary permits and licenses for its operations. Tenant agrees to observe and obey any reasonable rule or regulation pertaining to the use of the building or related facilities that the City may adopt and enforce during the term of this Agreement.

TERM, RENT, RENEWALS & TERMINATION

21. The Term of this Agreement shall be for a period of one (1) year commencing on the date first written above, unless otherwise terminated or extended as provided for herein.

22. Tenant shall pay the City a sum of $250.00 per month as Rent for the Premises from October through May, and a sum of $150.00 per month as Rent for the Premises from June through September, due and payable on the first day of each month for the full term of this Agreement.

23. Tenant shall have the option for renewal of this Agreement so long as Tenant is not in default of any provision hereunder at the time of such election. Tenant shall provide written notice of election to renew not less than three (3) months prior to the expiration of the current term of the Agreement (original or extended). If Tenant opts to renew, the Agreement may be automatically renewed for subsequent one (1) year terms up to a maximum of three, upon all of the same terms, provisions, and conditions set forth in this Agreement.

24. In the event that Tenant holds over and remains in possession of the Premises after the expiration of this Agreement without any written renewal of the Agreement, that holding over shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a tenancy from month to month that may be terminated at any time by the City.

25. This Agreement shall be subject to cancellation by the Tenant in the event of any of the following events:
    a. The permanent abandonment of Riverside Park facility.
    b. The lawful assumption by the United States government, or its authorized agency, of the operation, control or use of the park, or any substantial part of the park, so as to substantially restrict Tenant's use of the Premises for a period of at least ninety (90) days.
    c. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Premises or of Riverside Park, and which remains in force for a period of at least ninety (90) days.

d. The default by the City in the performance of any covenant or provision herein required and the failure of the City to remedy that default within ten (10) days of receipt of written notice from Tenant demanding remedy of such default.
e. Upon ninety (90) days' written notice from Tenant or City.

26. Upon the termination of this Agreement by lapse of time or otherwise, except for Tenant's default, Tenant shall have the right to remove, or shall be obliged to remove upon direction from the City, all equipment, fixtures, and personal property installed by Tenant or located within the Premises (but not pipes, conduit, and wiring that Tenant may have installed and that may be affixed to or imbedded in walls, ceilings or floors). Tenant shall have thirty (30) days to remove any equipment and fixtures and personal property, and to fully restore the Premises to the condition in which it existed at the time that Tenant took possession, ordinary wear and tear excepted. After thirty (30) days, Tenant shall be deemed to have abandoned any equipment, fixtures, or personal property remaining in or on the Premises.

27. Upon the termination of this Agreement, Tenant shall have no further right to or interest in any of the leasehold improvements installed by Tenant.

28. At the expiration or termination of this Agreement, Tenant shall peaceably deliver possession of the Premises to the City in as good order and condition as it existed at the time that Tenant took possession, reasonable use and wear excepted.

DAMAGE OR DESTRUCTION OF PREMISES

29. If the Premises are damaged by fire, explosion, natural elements, the public enemy, or other casualty, but not rendered untenantable, the Premises may be repaired promptly by the City at the City's expense. If the damage is so extensive as to render the Premises untenantable and, in the City's judgment, cannot be repaired within ninety (90) days from the date that the damage occurred, the City may terminate this Agreement effective as of the date of the damage by giving Tenant written notice within thirty (30) days of the date that the damage occurred.

30. If the City does not terminate the Agreement as provided for in the paragraph above, the City shall promptly repair and restore the Premises to the condition in which it existed when originally delivered to the Tenant, and the rent payable shall completely abate from the date that the damage occurred until the Premises are substantially restored and is tenantable. If the Premises are not repaired or reconstructed within one hundred and twenty (120) days after the damage occurred, absent good cause, Tenant may give the City written notice of its intention to cancel the Agreement in its entirety as of the date of the damage.

REQUIRED INSURANCE & INDEMNIFICATION

31. Property Insurance. Tenant shall procure and keep in force a property insurance policy with special perils coverage upon its leasehold improvements, furniture, furnishings, fixtures and equipment, and business personal property to their full insurable value and shall provide the City with evidence that coverage has been procured and is being maintained in full force.

32. Workers' Compensation Insurance. The Tenant shall maintain workers' compensation insurance covering any employee whether part time, full time or casual in nature as required under Florida Statutes, including Employers' Liability Limit of $500,000. If the owner(s) and or officers are not permitted to a legal exemption, they shall also be covered as any other employee.

33. Liability Insurance. The Tenant shall maintain, throughout the term of this Agreement, a commercial general liability insurance policy with coverage limits of $1,000,000 bodily injury or property damage liability for each occurrence and $2,000,000 in the aggregate. Coverage shall include a least $50,000 fire legal liability and include products and completed operations. It is understood that the specified amounts of insurance in no way limits the liability of Tenant and that Tenant shall carry insurance in amounts so as to indemnify the City from all claims, suits, demands and actions. Tenant shall add the City as an additional insured including products and completed operations, and provide a certificate of insurance at the commencement of the lease and as often as requested by the City. Coverage shall be provided by an insurance carrier acceptable to the City.

34. Indemnification. To the fullest extent permitted by law, the Tenant shall indemnify and hold harmless the City, its consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the Tenant's fulfillment of this Agreement or the use of the Premises, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, pollution, or injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Tenant, the Tenant's subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified here under, except for gross negligence by the City.

TENANT DEFAULT & LIABILITY

35. Each of the following events shall constitute an Event of Default hereunder:
    a. Tenant's failure to pay when due any installment of rent and such failure continues for a period of ten (10) days after the due date, without any notice or demand being required.

b. Tenant's failure to perform or observe any other covenant, condition or other obligation of Tenant and such failure continues for a period of ten (10) days after Tenant receives written notice thereof.
c. The Premises become vacant and unoccupied for more than thirty (30) days.

36. Upon the occurrence of an Event of Default by Tenant that is not cured by Tenant within the applicable grace period specified above, the City or its agents or employees may immediately or at any time thereafter re-enter the Premises and remove Tenant, its agents, employees, licensees, and any other persons and all or any of its property from the Premises, either by summary dispossess proceedings or by any suitable action or proceedings at law or in equity or by force, self-help or otherwise, without being liable to indictment or prosecution of damages therefor, and repossess and enjoy the Premises, together with all alterations, additions, and improvements to the Premises.

37. The City's exercise of any of its remedies or its receipt of Tenant's keys shall not be considered an acceptance or surrender of the Premises by Tenant. A surrender must be agreed to in writing and signed by both parties.

38. In case of any termination, re-entry, or dispossession by summary proceedings or otherwise, the Rent and all other charges required to be paid up to the time of such termination, re-entry, or dispossession, shall be paid by Tenant, and Tenant also shall pay to the City all expenses which the City may then or thereafter incur for legal expenses, reasonable attorney's fees, and all other costs paid or incurred by the City as the result of such termination, re-entry, or dispossession, for restoring the Premises to good order and condition and for altering and otherwise preparing the Premises for reletting. The City may, but shall have no obligation, at any time relet the Premises, in whole or in part, for any rental then obtainable for a term that, at the City's option, may be for the remainder of the then current term of this Agreement or for any longer or shorter period.

39. Tenant shall remain liable to the City for damages in an amount equal to the Rent and other sums which would have been owing by Tenant hereunder for the balance of the Term had this Agreement not been terminated, less the net proceeds, if any, of any reletting of the Premises by the City after such termination, after deducting all of the City's expenses in connection with such recovery of possession or reletting. The City shall be entitled to collect and receive such damages from Tenant on the days on which the Rent and other amounts would have been payable if this Agreement had not been terminated. Alternatively, at the option of the City, the City shall be entitled to accelerate and declare the entire remaining unpaid Rent for the balance of the term to be immediately due and payable. The City shall be entitled to recover forthwith from Tenant, as damages for loss of the bargain and not as a penalty, an aggregate sum which, at the time of such termination of this Agreement, represents the present value of the aggregate of the Rent and other sums payable by Tenant hereunder that would have accrued for the balance of the term.

40. The City's rights and remedies set forth herein are cumulative and are in addition to the City's other rights and remedies at law or in equity or otherwise. The City's exercise of any such right or remedy shall not prevent the concurrent or subsequent exercise of any other right or remedy.

41. The City's delay or failure to exercise or enforce any of the City's rights or remedies or Tenant's obligations shall not constitute a waiver of any such rights, remedies or obligations. The City shall not be deemed to have waived any default unless such waiver expressly is set forth in an instrument signed by the City. Any such waiver shall not be construed as a waiver of any covenant or condition except as to the specific circumstances described in such waiver.

42. Neither Tenant's payment of an amount less than a sum due nor Tenant's endorsement or statement on any check or letter accompanying such payment shall be deemed an accord and satisfaction. Notwithstanding any request or designation by Tenant, the City may apply any payment received from Tenant to any payment then due. The City may accept the same without prejudice to the City's right to recover the balance of such sum or to pursue other remedies.

MISCELLANEOUS PROVISIONS

43. Force Majeure. The performance of all covenants contained here (except for the payment of rent which shall be paid if otherwise provided for herein), shall be postponed and suspended during any such period that performance is prevented by acts of God, accidents, weather and conditions arising from them, strikes, boycotts, lockouts and other labor troubles, riot, fire, earthquake, flood, storm, lightning, epidemic, insurrection, rebellion, revolution, civil war, hostilities, war, the declaration of existence of a national emergency and attendant conditions, the exercise of paramount power by the federal government, either through the taking of the Premises or the imposition of regulations restricting the conduct of business there, acts of enemies, sabotage, interference, restriction, limitation or prevention by legislation, regulation, decree, order of request of any federal, state or local government or any instrumentality or agency, including any court of competent jurisdiction, inability to secure labor or adequate supplies of materials, products or merchandise or any other delay or contingency beyond the reasonable control of the City or Tenant.

44. Independence of the Parties. It is understood and agreed that nothing contained herein is intended or should be construed as creating or establishing the relationship of copartners between the parties, or as constituting either party as the agent, representative, or employee of the other party for any purpose. Tenant is and remains an independent contractor with respect to all services performed under this Agreement.

45. Notices. Notices required herein shall be hand-delivered or sent via certified mail addressed to the respective addresses first written above. Notices to the City shall be addressed to the attention of the Parks and Recreation Director.

46. Nonrecording. Tenant shall not cause or allow this Agreement or any memorandum or disclosure thereof to be recorded or filed in any public land or other public records of any jurisdiction, and any attempt to do so may be treated by the City as a breach of this Agreement.

47. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall remain in effect and shall be enforceable to the full extent permitted by law.

48. Waiver of Jury Trial. EACH PARTY HEREBY KNOWINGLY AND VOLUNTARILY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY.

49. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. It is further agreed that the venue for any legal or equitable action between the parties relating to this Agreement shall be in the courts of appropriate jurisdiction in Lee County, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

KRISTIN PIMENTEL

By: ______________________

____
Witness 1

____
Witness 2

Attest:

By: ______________________
City Clerk

CITY OF BONITA SPRINGS

By: ______________________
Mayor Peter Simmons

Approved as to Legal Form: ______________________
City Attorney's Office

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-04-088

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Budget Resolution to increase the budgets of certain General Fund revenue accounts and related expenditure accounts, and to transfer FY 2020 budget among Capital Projects Fund and Stormwater Fund accounts.

MEETING DATE: 04/01/2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
	PRESENTATIONS	x	STATUTE §166.241	Anne K. Wright, CPA, CGFO *Finance Director*
x	CONSENT	x	ORDINANCE CITY CHARTER SECTION 46	
	PUBLIC HEARING		ADMIN. CODE	
	MAYOR AND COUNCIL MEMBER ITEMS		OTHER	
	MAYOR AND COUNCIL MEMBER'S REPORTS			
	CITY ATTORNEY ITEMS			
	CITY MANAGER ITEMS			

BACKGROUND:

As outlined in section 46(a) of the City Charter, if revenues in excess of those budgeted are available for appropriation, the City Council may make supplemental appropriations for the year in an amount not to exceed such excess revenues or carry over revenues into the next fiscal year. Section 46(d) allows the transfer of all or part of any unrestricted appropriations from one department to another.

Attached is a Budget Transfer Resolution to increase the budgets for certain revenue and related expenditure accounts, and to transfer funding among expenditure accounts to fund certain accounts requiring additional budget.

The General Fund budget amendment establishes a budget for donated funds received, and provides a budget for the related expenditure of those funds.

The Capital Projects Fund budget transfer is to address an over budget in the Storm Water Drainage Improvement Concepts account, and to provide additional funding for the Bandshell re-sod project.

Attachment: Budget Transfer Resolution

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? x YES ☐ NO

IF YES, WHICH STRATEGIC OBJECTIVE? #7 Government Transparency

STAFF RECOMMENDATIONS: Approve Budget Resolutions

REVIEWED BY:

City Manager: Arleen M Hunt

City Attorney: ______________________________

City Clerk: ______________________________

Department Director: ______________________________

COUNCIL ACTION:

____ **APPROVED**

____ **DENIED**

____ **DEFERRED**

____ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A 2020 FISCAL YEAR SUPPLEMENTAL APPROPRIATION FOR ACCOUNTS IN THE GENERAL FUND AND BUDGET TRANSFERS AMONG ACCOUNTS IN THE CAPITAL PROJECTS FUND AND STORMWATER FUND; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, Section 46(d) of the City Charter allows the transfer for all or part of any unrestricted appropriation from one department to another; and

WHEREAS, the City Charter, Section 46(a) allows for supplemental appropriations for the year in an amount not to exceed such excess revenues.

WHEREAS, funding is needed to cover budget overages or to provide additional needed funding in the below listed accounts.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bonita Springs, Lee County, Florida, that:

1.The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2.The Bonita Springs’ City Council authorizes the following budget supplemental appropriations and transfer to increase (decrease) budgeted amounts for the indicated accounts:

Account Description	Budget Incr (Decr)
General Fund:	
Contributions – Film Festival	$ 4,000
Film Festival Expenditures	4,000
Contributions – Veteran’s Fund	180
Veteran’s Bricks	180
Stormwater Fund:	
Billing and Collection Costs	83,031
Stormwater Expenditures	(83,031)
Capital Projects Fund:	
Storm Water Drainage Improvement Concepts	4,000
Spring Creek Restoration Plan	(4,000)
Bandshell Re-Sod	25,745
Pool Landscaping	(25,745)

3.This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 1st day of April, 2020.

AUTHENTICATION:

_______________________________ _____________________________
Mayor City Clerk

APPROVED AS TO FORM: _________________________
City Attorney

Vote:

Carr
Corrie
Forbes
Gibson

Purdon
Quaremba
Simmons

Date filed with City Clerk: ____________________

BONITA SPRINGS CITY COUNCIL	GREEN SHEET:	20-04-089

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve Budget Resolution to transfer FY 2020 Capital Project Fund budget to provide funding for playground lighting at Community Park

MEETING DATE: April 1, 2020

AGENDA:		REQUIREMENT/PURPOSE: (Specify)		REQUESTOR OF INFORMATION:
X	CONSENT	X	STATUTE §166.241	Mike Gibson, Deputy Mayor Nicole Perino, Parks & Recreation Director
		X	ORDINANCE CITY CHARTER SECTION 46	

BACKGROUND:

Section 46 of the City Charter allows the transfer of all or part of any unrestricted appropriation from one department to another.

Attached is a Budget Transfer Resolution to transfer funding among Capital project accounts to fund playground lighting at the Community Park. This lighting would allow for nightly use of the playground. The playground is in close proximity to the Community Park Baseball complex, which is currently used for night play.

The $7,650 requested transfer will be used to Install (2) 20' concrete poles with (2) LED flood fixtures on each pole as well as one LED fixture on an existing pole.

Attachment: Budget Transfer Resolution

Is this a Strategic Decision? **YES** **No**

If YES, related to which Strategic Objective? #7 Government Transparency

STAFF RECOMMENDATIONS: Approve Budget Resolution

REVIEWED BY:

City Manager: ______________________

City Attorney: ______________________

City Clerk: ______________________

Department Director: ______________________

COUNCIL ACTION:

____ **APPROVED**

____ **DENIED**

____ **DEFERRED**

____ **OTHER**

CITY OF BONITA SPRINGS, FLORIDA
RESOLUTION NO. 20 – ___

A RESOLUTION OF THE CITY OF BONITA SPRINGS, FLORIDA; APPROVING A 2020 FISCAL YEAR BUDGET TRANSFER AMONG ACCOUNTS IN THE CAPITAL PROJECTS FUND TO PROVIDE PLAYGROUND LIGHTING AT COMMUNITY PARK; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 19, 2019, the City of Bonita Springs adopted the budget for the fiscal year ending September 30, 2020; and

WHEREAS, Section 46(d) of the City Charter allows the transfer for all or part of any unrestricted appropriation from one department to another; and

WHEREAS, funding is requested to provide playground lighting at Community Park.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Bonita Springs, Lee County, Florida, that:

1.The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon its adoption.

2.The Bonita Springs’ City Council authorizes the following budget transfer to increase (decrease) budgeted amounts for the indicated accounts:

Account Description	Budget Incr (Decr)
Community Park Improvements	$ 7,650
Pool Landscaping	(7,650)

3.This Resolution shall become effective upon adoption by the Bonita Springs City Council.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 1st day of April, 2020.

AUTHENTICATION:

______________________________ ______________________________
Mayor City Clerk

APPROVED AS TO FORM: __________________________
City Attorney

Vote:

Carr
Corrie
Forbes
Gibson
Purdon
Quaremba
Simmons

Date filed with City Clerk: ______________________

BONITA SPRINGS CITY COUNCIL	**GREEN SHEET:**	20-04-090

AGENDA ITEM SUMMARY

REQUESTED MOTION: Approve a contract amendment with Alta Planning, Inc. to provide support in the preparation of the BUILD (Better Utilizing Investments to Leverage Development) grant application and authorize staff to submit for the Terry Street Corridor Project with the City Manager as the designated Authorized Official Representative (AOR).

MEETING DATE: April 1, 2020

AGENDA:		**REQUIREMENT/PURPOSE: (Specify)**		**REQUESTOR OF INFORMATION:**
X	CONSENT	X	OTHER	Matt Feeney Assistant City Manager Elly Soto McKuen Senior Project Manager

BACKGROUND: The U.S. Department of Transportation (USDOT) announced the Notice of Funding Opportunity for BUILD Transportation grants. The department has appropriated $1 billion in funds for the FY2020 BUILD Transportation grants program and will be awarded on a competitive basis for surface transportation infrastructure projects that will have a significant local or regional impact.

The definition of rural areas has significantly changed this year. In previous years the threshold for a rural classification was a population of 200,000 or less. Bonita Springs will now compete in the rural category. BUILD will fund eighty (80) percent of the design and construction cost. The City is required to match the remaining twenty (20) percent of the project cost. If funded, the Transportation Secretary may increase the federal share of costs above the 80 percent in a rural area.

Staff recommends requesting funds for the Terry Street Complete Street Project. Staff submitted a BUILD application in the previous two (2) fiscal year and although our application received a "Recommended" designation in the last applications, the Secretary only funded the "Highly Recommended" projects.

The Terry Street Complete Street Project consists of the design and construction of a 12'-wide non-motorized multi-use path with a five-foot buffered bicycle lane connecting residential neighborhoods to recreational, educational and cultural facilities. Terry Street is only one of two east-west corridors in the City. The pathway is bound on the west by Pine Avenue and on the east by Bonita Grande Drive. The improvements will be within the City's existing road right-of-way leveraging large uninterrupted expanses. The West Terry Street Multi-Use Pathway Project from Edenbridge Court to Pine Avenue is currently under construction utilizing grant funds from US Housing and Urban Development Community Development Block Grant (CDBG) and Florida Department of Environmental Protection (DEP) Recreational Trail Funds (RTF) and General Funds to construct the section of Terry Street. USDOT will not consider previously incurred costs or previously expended or encumbered funds towards the matching requirement for any project.

Alta Planning, Inc. has extensive experience with all components of the BUILD grant program and has worked with staff on the previous two (2) applications. Alta's application proposal is $ 20,795.

The application is due on May 18, 2020 and submitted electronically through Grants.Gov. One of the forms that must be submitted certified that the Authorized Official Representative (AOR) the information provided in the application is true and correct and can bind the City in the application process.

Attachment: Grant Announcement, Alta's Proposal, and Letter of Support

IS THIS RELATED TO A STRATEGIC PLAN OBJECTIVE? X **YES** ☐ **NO**

IF YES, WHICH STRATEGIC OBJECTIVE? 1) Improve stormwater management, 2) Transportation, 3) Strengthen City Finances, 4) Environmental Protection, 5) Community Aesthetics and 8) Economic Development

STAFF RECOMMENDATIONS: Approve contract with Alta Planning and authorize staff to submit for the Terry Street Corridor Project with a Letter of Support from City Council.

REVIEWED BY:

City Manager: ___[signature]___
City Attorney: ________________
City Clerk: ________________
Department Director: ________________

COUNCIL ACTION:

____ **APPROVED**
____ **DENIED**
____ **DEFERRED**
____ **OTHER**

BUILD Discretionary Grants

The May 18th, 2020 5pm E.D.T. application deadline is set by Congress in the FY 2020 Appropriations Act. The BUILD website and the Grants.gov opportunity will be updated if there are any changes to this deadline. Please identify any area(s) in the application narrative that may be affected by the ongoing COVID-19 situation for the Department's consideration in the project's evaluation.

U.S. Secretary of Transportation Elaine L. Chao Announces Availability of $1 Billion to Upgrade American Infrastructure

WASHINGTON – The U.S. Department of Transportation (DOT) today published a Notice of Funding Opportunity (NOFO) to apply for $1 billion in Fiscal Year (FY) 2020 discretionary grant funding through the Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants program.

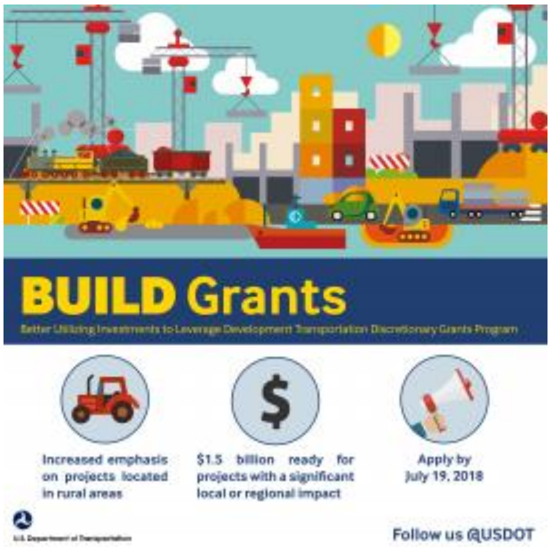
"BUILD grants will upgrade infrastructure across America, making our transportation systems safer and more efficient," said U.S. Transportation Secretary Elaine L. Chao.

As the Trump Administration looks to enhance America's infrastructure, FY 2020 BUILD Transportation grants are for planning and capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant local or regional impact. BUILD funding can support roads, bridges, transit, rail, ports or intermodal transportation.

Projects for BUILD will be evaluated based on merit criteria that include safety, economic competitiveness, quality of life, environmental sustainability, state of good repair, innovation, and partnership.

To better address the needs of rural America, which has historically been neglected, DOT intends to award 50% of BUILD Transportation grant funding to projects located in rural areas that deliver positive benefits for these communities, consistent with the Department's R.O.U.T.E.S. initiative. For this round of BUILD Transportation grants, the maximum grant award is $25 million, and no more than $100 million can be awarded to a single State, as specified in the appropriations act.

To provide technical assistance to prospective applicants, DOT is hosting a series of webinars during the FY 2020 BUILD grant application process. A webinar on how to compete for BUILD Transportation Grants for all applicants will be held on February 25, 2020. To register for the webinars visit www.transportation.gov/BUILDgrants/outreach. The deadline to submit an application is May 18, 2020 at 5pm Eastern.



524 Datura Street, Suite 216
West Palm Beach, FL 33401
(404) 272-4926
www.altaplanning.com

To: City of Bonita Springs, FL

From: Alta Planning + Design, Inc.

Date: March 13, 2020

Re: Scope of Services and Fee for Bonita Springs 2020 BUILD Grant Application Assistance

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The following is the proposed scope and services and budget estimate, prepared by Alta Planning + Design (Alta), for assisting the City of Bonita Springs in the 2020 BUILD Grant Application for W Terry Street. The extents of the project begin at S Tamiami Trail/US 41 and terminate at Bonita Grande Drive. The grant application will consider W Terry Street within these project limits, with the exception of the segments between Pine Avenue and Edenbridge Court, which has advanced to construction since the submission of the 2019 BUILD Grant application for the project.

TASK 1 - Project Initiation and Work Planning

Upon receiving a Notice to Proceed, Alta will attend a kickoff meeting with the City and partners to review:

- Roles and responsibilities
- Core grant production team
- Other team members who will be actively involved in the project
- External partners and what will be needed from them
- The project extent(s) and revisions from the last submittal
- Background information, supporting materials and data of Existing data/materials to be reviewed by Alta
- Needed data/materials to be generated or gathered by the City (including a review of inputs needed for the BCA)

At this meeting, Alta will lead a discussion to evaluate the project's strengths and weaknesses with respect to the selection criteria and other constraints, including environmental permitting. Alta will provide guidance on the elements of the project that best meet the grant criteria and innovative elements that can make the application more competitive. Based on this discussion, Alta will develop an outline to will guide the grant writing framework.

TASK 2- Project Concept Refinement

Immediately upon approval of the work plan, Alta will work with the City to refine proposed project extents and conceptual design elements of the proposed project. Alta will revise the corridor segments currently under construction and identify potential concept components that will further enhance the grant submittal.

TASK 3- Cost Estimates and Construction Schedule

Alta will prepare revised detailed cost estimates for all project components to be included in the grant application. The cost estimate will include a project schedule and estimates prepared by project phase (i.e. design, environmental permitting, right-of-way acquisition, construction and ongoing maintenance) and will be used as an input into the Benefit Cost Analysis, as well as the application narrative and project budget. Alta will provide consultation on the best format of the cost estimate and schedule information.

TASK 4 - Benefit Cost Analysis

Alta will update the Benefit Cost Analysis (BCA) with minor edits to the previously developed BCA for the FY2019 Bonita BUILD grant application. Alta will utilize data already incorporated into the BCA, where the new data will is primarily associated with updates to project costs. The BCA will quantify the positive impacts of the project and will demonstrate the project's utility across grant selection criteria, providing support to the narrative description of the project. Alta will follow USDOT guidelines to measure, in dollar terms, the project's net present value (NPV) to society as calculated from the stream of costs and benefits that will result from building the project. This analysis will result in estimates of reduced carbon and particulate emissions and resulting from the project.

TASK 5 - Draft Grant Application

Alta will provide minor refinements of the grant application narrative based on the updated BCA results and background/supporting information provided by the City. Any additional changes to the narrative will be completed by City staff. Alta will also utilize graphics already developed for the previous BUILD grant application.

The draft report will be organized based on the grant application outline suggested in the BUILD FY2020 NOFO, and will highlight how the selected project speaks to the primary and secondary selection criteria as defined by the USDOT. The draft grant application will include the grant narrative, the BCA results, up to two maps, up to two custom graphics and an inventory of required supporting materials and attachments (e.g. letters of support), as provided by the City.

TASK 6 - Final Grant Application

Alta will work closely with the City project manager to revise the draft application up to two times based on a consolidated set of non-contradictory city comments, including all final supporting materials and attachments. Alta graphic designers will integrate the final grant application narrative with the BCA results and supporting photos, maps, and graphics into a customized layout to create a graphically appealing final product. The final document will be provided in PDF format to the City, who will officially submit it to the USDOT through the required online portal.

Project Budget

Bonita Springs BUILD Grant Assistance

TASK	Alta Planning + Design						Task Hours	Total Task Fee
	Principal-in-Charge	*Project Manager*	*Senior Engineer*	*Engineer*	*Data Analyst*	*Graphics*		
	$169	$189	$218	$126	$138	$148		
1 Project Initation and Work Planning	**5**	**11**	**0**	**0**	**0**	**0**	**16**	**$2,924**
1.1 Kick Off Meeting	2	3					5	$905
1.2 Work Plan Development	1	2					3	$547
1.3 Coordination/Progress Update Calls	2	6					8	$1,472
2 Project Concept Refinement	**1**	**2**	**0**	**0**	**0**	**4**	**3**	**$1,139**
2.1 Project Extent and Conceptual Design Refinements	1	2				4	3	$1,139
3 Cost Estimates & Construction Schedule	**2**	**6**	**3**	**10**	**0**	**0**	**21**	**$3,386**
3.1 Cost Estimates	1	4	2	8			15	$2,369
3.2 Project Construction Schedule	1	2	1	2			6	$1,017
4 Benefit-Cost Analysis	**4**	**2**	**0**	**0**	**20**	**0**	**26**	**$3,814**
4.1 Benefit Cost Analysis	4	2			20		26	$3,814
5 Draft Grant Application	**4**	**12**	**0**	**0**	**0**	**16**	**32**	**$5,312**
5.1 Narrative	2	10					12	$2,228
5.2 Document Layout	2	2				16	20	$3,084
6 Final Grant Application	**4**	**8**	**0**	**0**	**4**	**10**	**26**	**$4,220**
6.1 Draft to Client and Revisions	4	8			4	10	26	$4,220
Staff Hours	20	41	3	10	24	30	121	$20,795
Reimbursable Expenses & Travel								$0
Project Total	$3,380	$7,749	$654	$1,260	$3,312	$4,440		**$20,795**

DATE

Honorable Elaine L. Chao
Office of the Secretary of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: City of Bonita Springs Terry Street Complete Street Project – FY2020 BUILD Grant Application

Dear Secretary Chao:

The City of Bonita Springs City Council is pleased to submit this letter of support on behalf of our constituents for the FY2020 U.S. Department of Transportation (USDOT) BUILD application.

The City's BUILD grant application will design and construct a complete street facility along the Terry Street Corridor. Components of the project include a 12-foot wide multi-use path with a 5-foot buffered bicycle lane, shared lane bicycle markings, pedestrian refuges, a modern roundabout, pedestrian bridges, stormwater improvements and underground utilities. The City's request will continue to build on our $30 million Downtown Improvement Project investment that incorporated the Complete Streets concept.

The City adopted a Complete Streets policy in 2014, joined the USDOT Secretary's Mayors Safety Challenge in 2015, undertook several complete street visionary projects beginning in 2015 and developed a bicycle/pedestrian master plan in 2016.

In 2017, the Smart Growth America organization, in partnership with the National Complete Streets Coalition recognized the City of Bonita Springs as one of 12 communities to receive national recognition for the Downtown Improvement Project.

The City has received numerous awards from the community coalition advocating for complete streets in Lee County, BikeWalkLee. I, along with myself and the other City Council, have tirelessly worked to implement the Complete Streets Program throughout the community.

Bonita Springs, along with the other jurisdictions and Lee County have been working collaboratively over the past eight years to implement complete street policies, adopt and implement bicycle/pedestrian and safety action plans, as well as filling the gaps in our bicycle/pedestrian network.

This application is a component of a much larger vision and effort by the City to make our community walkable and bikeable. We strongly support and ask for the Department's investment in our community. Thank you for considering our request.

Sincerely,

Peter Simmons
Mayor

NOTICE OF PUBLIC MEETING
CITY COUNCIL
CITY OF BONITA SPRINGS
OFFICIAL AGENDA
WEDNESDAY, MARCH 4, 2020
5:30 P.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135

I. CALL TO ORDER

Mayor Simmons called the meeting to order at 5:30 P.M.

II. INVOCATION:

Reverend Riley Grandell, with Gulf Shore Church, furnished the invocation.

III. PLEDGE OF ALLEGIANCE

At the request of Mayor Simmons, Council Member Laura Carr led in the Pledge of Allegiance.

IV. ROLL CALL ALL PRESENT

Mayor Simmons and all Council Members were in attendance.

V. PUBLIC COMMENT ON AGENDA ITEMS

5:32:27 pm Dwight Esmon commented on Items A. and B. of the Consent Agenda. He also suggested adoption of a Resolution addressing campaign reports.

5:35:04 pm Kathy McGrath voiced her support for Consent Agenda Item F., regarding the Caretaker's Agreement. She also addressed the Mobile Food Vendor Ordinance.

5:36:57 pm Al Greenwood addressed hot dog carts in downtown Bonita Springs.

5:41:09 pm John Paeno addressed the artist cottages which draw numerous people to the park. He feels the longer they can remain, the better. He also supports approval of the caretaker's agreement. He also addressed food trucks and food truck parks.

VI. CONSENT AGENDA: (NOTE: ITEMS ON THE CONSENT AGENDA WILL BE CONSIDERED AS ONE UNLESS A SPECIFIC ITEM IS REMOVED BY A COUNCIL MEMBER FOR SEPARATE DISCUSSION.)

Council Member Mike Gibson requested item E. be pulled, and Mayor Simmons pulled items A and B.

Council Member Fred Forbes motioned to approve the remainder of the Consent Agenda; Council Member Amy Quaremba seconded; and the motion carried unanimously.

A. ACCEPT PROPOSAL FROM WRIGHT CONSTRUCTION GROUP FOR STA NO. 2 TO THE CONSTRUCTION MANAGER AT RISK CONTINUING SERVICES AGREEMENT IN THE

AMOUNT NOT TO EXCEED $39,869.00 FOR PRECONSTRUCTION SERVICES FOR CITY HALL RENOVATIONS AND REMODEL. (GREENSHEET NO. 20-03-055)

5:45:14 PM City Manager Hunter furnished an overview, relating to issues with A/C and the roof at City Hall. Council discussion was held.

5:48:52 pm Todd Griffith, with Matern Professional Engineering, Inc., and Scott Loiacano, with Wright Construction, were in attendance to provide an overview and respond to Council questions.

In response to Mayor Simmons, Dwight Esmon addressed additional questions he felt needed to be addressed in relation to City Hall renovations.

6:08:11 pm Council Member Gibson motioned approve items A. and B.; Council Member Carr seconded; and the motion carried unanimously.

B. APPROVE TERMS OF THE PROPOSAL TO BE INCORPORATED INTO SUPPLEMENTAL TASK AUTHORIZATION NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH MATERN PROFESSIONAL ENGINEERING INC., IN THE AMOUNT OF $83,659.60 FOR ARCHITECTURAL SERVICES OF CITY HALL RENOVATIONS TO INCLUDE HVAC AND LIGHTING RENOVATIONS, ADA-UPGRADES, AND SECURITY UPGRADES. (GREENSHEET NO. 20-03-054)

C. REVIEW OF JANUARY 2020 CAPITAL IMPROVEMENT PROJECTS MONTHLY REPORT. (GREENSHEET NO. 20-03-048)

D. REVIEW OF JANUARY 2020 MONTHLY FINANCIAL REPORTS. (GREENSHEET NO. 20-03-049)

E. AUTHORIZE STAFF TO ADVERTISE RFP FOR LETTERS OF INTEREST FROM ARTISTS AND OTHER SIMILAR TYPE VENDORS FOR USE OF ARTIST COTTAGE #4 AT RIVERSIDE PARK. (GREENSHEET NO. 20-03-050)

6:10:21 pm Council Member Gibson pulled item E., to inform Council that the artists in the cottage are hoping for a little more consistency in being able to stay. Also, to have to go through the process to compete with others to take over a stop they've been in. He doesn't see this as fair, and the Chairman of the APPB and staff and its not easy to put in there to stay, and so they recommended to keep it how it is, but to where the APPB puts more preference on them already being in there. It would ultimately come back to City Council.

6:12:47 pm Council Member Quaremba, liaison to the APPB, stated she feels in this case and all of them, she feels it's better because there is a waiting list who want to get on, so it's not fair to them to foreclose the opportunity. One of the considerations is what they do for the downtown. She does feel there has to be an open process for all these things.

6:13:11 pm Council Member Gibson motioned to approve as is, noting that they were going to look at that preference when evaluating; Mayor Simmons seconded; and the motion carried unanimously.

F. APPROVE THE CARETAKER'S AGREEMENT FOR THE BONITA NATURE PLACE. (GREENSHEET NO. 20-03-051)

- OPPORTUNITY FOR CITY COUNCIL COMMENTS ON CONSENT AGENDA ITEMS

VII. PROCLAMATIONS AND PRESENTATIONS:

VIII. MAYOR AND COUNCIL MEMBER ITEMS:

A. DISCUSSION OF DRAFT LETTER TO FDEP REGARDING AIR QUALITY MONITORING STATIONS AT THE BONITA GRANDE MINE SITE LOCATED AT 25501 BONITA GRANDE DRIVE. (MAYOR SIMMONS; GREENSHEET NO 20-03-060)

6:14:40 PM John Dulmer, Community Development, furnished the history.

Mayor Simmons stated that he has heard concerns, which is why he brought this forward. Council Member Forbes voiced his support, but include language along the line "depending on the way the wind blows, the readings are going to be better or worse." He feels there should be different locations, and not just one. He wants at least two locations.

6:16:48 PM Council Member Quaremba stated she felt it was fine to send this letter, but she would like Arleen or Matt to reflect the authority here to regulate mines comes from the State. She is not sure which entity does it, but she does get regular readings on explosions and vibrations, etc. She would like to have reassurance that the authority that is supposed to be regulating these mines is doing the proper thing, and she feels that this letter would go a long way in reassuring this aspect of the regulation. The claim has always been that they've been compliant with all the regulations. Also, the mine is in the process of being redeveloped over some period of time, and so she assumes we have in place, or will have in place reclamation processes that will protect the environment there, so to follow up on what the Mayor is doing, that those things are as important or more important to go forward, so she requested a report on that so they understand what's happening there, and who really is the authority. City Attorney Rooney responded it's DEP – for everything dealing with the water and the Fire Marshall is in charge of everything relating to blasting. Council Member Quaremba stated she thinks they need to find out what they've been doing since they're the authority, and if there's any violations, and we could also ask them to do the air if that's a particular concern. Council Member Quaremba stated she likes the way the letter is written, as she thinks it should be just the way it is – a request for monitoring, and see what they say.

6:18:34 PM Mayor Simmons motioned to send the letter; Council Member Carr seconded; and the motion carried unanimously.

IX. FIRST READING AND PUBLIC HEARING OF THE FOLLOWING ORDINANCE:

A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, REVISING SECTION 7.02 COMPENSATION PLAN OF THE ADMINISTRATIVE REGULATIONS GUIDE, PROVIDING FOR SEVERABILITY, CONFLICTS OF LAW, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. (GREENSHEET NO. 20-03-047)

6:19:15 pm City Attorney Rooney read the title block into the record and provided a brief overview.

Council Member Gibson motioned to approve; Council Member Carr seconded.

No public comments were made.

The motion carried unanimously.

X. SECOND READING OF THE FOLLOWING ORDINANCES: (PUBLIC COMMENT ALLOWED):

A. AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING SECTION 4-87 OF THE LAND DEVELOPMENT CODE TO ADJUST TERM LIMITS ON THE PLANNING COMMISSION CHAIR; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION,

SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 20-03-056)

City Attorney Rooney read the title block into the record, and furnished a brief background.

6:20:19 PM Mayor Simmons motioned to approve; Council Member Carr seconded.

No public comments were made.

The motion carried unanimously. **ADOPTED ORDINANCE NO. 20-01**

B. **ADDENDUM 2 WITH REVISED ORDINANCE:** AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 37. SUBDIVISION II, TEMPORARY USES AND SUBDIVISION III. MOBILE FOOD VENDORS OF THE LAND DEVELOPMENT CODE RELATING TO MOBILE FOOD VENDORS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE. (GREENSHEET NO. 20-03-058)

City Attorney Rooney read the title block of the Ordinance into the record. John Dulmer, Community Development, addressed and Council discussion was held on suggested revisions, etc.

6:54:50 PM Mayor Simmons motioned to table to April 1, 2020; Council Member Gibson seconded; and the motion carried unanimously.

XI. PUBLIC COMMENT:

6:56:19 PM Kathy McGrath addressed the downtown redevelopment corridor can't envision an appropriate location anywhere downtown for a food truck park. She also addressed the upcoming election and encouraged all to go out and vote.

6:58:45 pm John Paeno thanked Council for everything and reminded everyone to get out and vote.

6:59:12 pm Dwight Esmon thanked Council for the discussion on City Hall.

XII. CITY ATTORNEY'S ITEMS:

XIII. CITY MANAGER'S ITEMS:

A. APPROVE RESOLUTION ADOPTING THE CITY'S EMERGENCY OPERATIONS PLAN. (GREENSHEET NO. 20-03-057)

6:59:59 PM Tony Backhurst, Neighborhood Services Manager, furnished a PowerPoint presentation (copy in clerk's file).

Council Member Quaremba motioned adoption of the Resolution; Council Member Quaremba seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-13**

B. DISCUSSION ON REGULATIONS RELATING TO ELEVATORS. (GREENSHEET NO. 20-03-052)

7:07:59 pm John Dulmer, Community Development, furnished a brief PowerPoint presentation (copy in Clerk's file) on existing elevator regulations to address the Florida Building Code, the Florida Accessibility Code, the Florida Statutes, and the Elevator Safety Code. Permitting Agencies are permitted and inspected by the Department of Business and Professional Regulation and the Local Building Department. For multi-family residential buildings it is anything greater than 3 stories. Discussion followed.

7:28:16 pm In response to Staff, Mayor Simmons responded that he wants options for people and builders. Further discussion was held, with City Manager Hunter suggested bringing back a map so they understand what the requirement is. Mayor Simmons explained that his goal was to allow handicap people and elderly people to live downtown if they can't walk up three flights of stairs.

7:30:13 pm Council Member Carr stated she likes the City Managers idea to bring back a map on the existing regulations. City Manager Hunter stated she felt what Staff needed to do is clarify the sections of the Form-Based Code that would require the mixed use that there is no residential on the first floor, and if Mr. Dulmer can verify through the building code that that's complete, that that would require an elevator, then they can look at where that is, and then Council might want to look . Direction to Staff was provided.

C. UPDATE ON LOI #19-16 FOR WONDER GARDENS CAFÉ PROPERTY AND REQUEST COUNCIL MEMBER TO ASSIST STAFF IN LEASE NEGOTIATIONS. (GREENSHEET NO. 20-03-053)

7:33:36 pm City Manager Hunter furnished the history of the request. In December City Council awarded the Letter of Interest to the Everglades Wonder Gardens and in February Council direction was given to provide notification to them of our interest in looking at the overall lease agreement. Staff was also encouraged to communicate with CBRE to understand current rental rates downtown and would be appropriate square footage wise. Staff is requesting a member of City Council to volunteer to sit at the negotiation table to go over those recommended rates. She further suggested addressing looking at this holistically or keep it individual to the café area, etc.

7:35:27 pm Council Member Carr stated she would volunteer. Council Member Quaremba stated she would also volunteer.

Mayor Simmons nominated Council Member Carr.

Council Member Quaremba explained she would like to address each item, so they can provide direction to Council Member Carr.

7:35:59 pm City Manager Hunter explained that they would like to discuss rental rates of square footage. Also, would Council like to address the lease agreement holistically or separate. Council Member Carr addressing and then bring back to Council – flush out what needs to be discussed and move from there. Discussion was held relating to the lease.

Council Member Gibson seconded; and the motion carried unanimously.

D. DISCUSSION OF THE VACANT CITY-OWNED LOT LOCATED AT 2773 HORNE AND DIRECTION TO STAFF. (GREENSHEET NO. 20-03-059)

7:40:59 pm City Manager Hunter provided and overview, informing Council of correspondence received from an interested party regarding parcel 22, located on Horne Avenue. Council Member Quaremba agreed that the School Board should have first right of refusal since they are using it as a parking lot.

Council Member Carr motioned to contact them, get a price, and offer the first right of refusal, and then list it.

7:42:08 pm City Attorney Rooney requested Council offer this as surplus.

Council Member Carr motioned to declare this surplus; Council Member Quaremba seconded; and the motion carried unanimously.

XIV. MAYOR AND COUNCIL MEMBER REPORTS:

7:44:11 PM Council Member Carr informed everyone of available grant monies the Historic Preservation Board had available. She also reported two vacancies on the Board.

7:44:53 pm Mayor Simmons along with City Manager Hunter provided an update on the Coronavirus.

XV. APPROVAL OF MINUTES: 02/19/20

Council Member Forbes motioned approval of the Minutes; Council Member Gibson seconded; and the motion carried unanimously.

XVI. PUBLIC COMMENT:

Phil Douglas, on the Board for the Wonder Gardens, expressed his appreciation to Council and thanked Staff for all their cooperation and discussions with Council Member Carr.

7:49:12 pm Ben Hershenson commended Council and Staff on the amount of grants they received to date.

XVII. ADJOURNMENT.

There being no further items to discuss, the meeting adjourned at 7:50 P.M.

Respectfully submitted,

____
Debra Filipek, City Clerk

APPROVED:
CITY COUNCIL

Date: ____________________________
AUTHENTICATED:

____
Peter Simmons, Mayor

SPECIAL MEETING OF CITY COUNCIL
CITY OF BONITA SPRINGS
FRIDAY, MARCH 13, 2020, 10:00 A.M.
CITY HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135
MINUTES

I. CALL TO ORDER

Mayor Peter Simmons called the meeting to order at 10:00 A.M.

II. ROLL CALL

Mayor Simmons and all Council Members were in attendance.

III. PLEDGE OF ALLEGIANCE

At the request of Mayor Simmons, Deputy Mayor Mike Gibson led in the Pledge of Allegiance.

IV. DISCUSSION OF CORONAVIRUS

10:01:32 AM City Manager Arleen Hunter next furnished an update on the City's operations. She informed Council that Staff is meeting regularly with the EOC, with LCSO, the Bonita Springs Fire District, efforts across jurisdictions. Lee County held a meeting with all the municipalities yesterday evening as well. Lee County has not declared a State of Local Emergency at this time. The EOC is also not activated at this time. She further addressed City Council meetings and the ability to send in public comments for the record at the following: citymeetings@cityofbonitasprings.org, or send to the City Clerk. The City will continue to live stream the meetings as well. She next addressed safety of all operations. Health and safety information is continually posted on all media outlets and websites, and hand sanitizer is available at all city facilities. She further addressed.

10:05:17 AM Lora Taylor, Director of Communications, updated Council on communications, scheduled City events and special events, activities, etc. To date 5 events have cancelled. The City had decided to postpone Celebrate Bonita and Movies in the Park.

10:07:03 AM City Manager Hunter next requested discussion on remaining special events that the event organizers wish to continue hosting. The Governor's office has issued a recommendation consistent with the CDC in that events that are over 1,000 in size are strongly encouraged to be postponed. She explained that City Council does have a portion of the special event permit that provides an opportunity for revoking those special events in cases of emergency. City Attorney Derek Rooney stated this is one of the few areas where the city does have a public interest and obligation as a policy matter and decide about these things. He noted that Staff is recommending that City Council cancel those events.

PUBLIC COMMENT:

10:09:53 AM Kevin Barry, Founder and President of the Bonita Blues Festival and Bonita Blues Charitable Foundation, stated that he understands there are issues with Coronavirus, and informed Council of safety steps they are taking, including taking temperatures of attendees, hand wash stations, antibacterial soap, etc. They are also ready to take temperatures as well. He further explained, noting if they are not allowed to go forward they will go bankrupt. They are completely set up for the festival. They have everything on hold. They are a not for profit organization. He further addressed.

10:16:13 AM Council Member Carr motioned to close – we give the city one week close down.

10:18:40 AM Council Member Forbes feels that they should let this event go on.

10:20:46 AM Council Member Gibson feels tough decision. Feels need to be on the side of caution and urge everyone to close their events.

10:22:57 AM Council Member Quaremba stated that Lee County suggested avoiding crowds and cancel events. Agrees this is a tough decision, and that the city has to make the decision. Need to be strong for our community.

10:26:51 AM City Attorney Rooney stated that the Governor's recommendation is 1,000 people/30 days.

10:29:05 AM Michael Shallies stated that the festival is a great event and feels that a compromise can be made.

10:30:12 AM Barren Sawyer people who were going to attend are probably already in town. He supports moving forward with the festival.

10:31:57 AM Staff Attorney Carley Sanseverino read a quote from the Governor's Order 20-52.

10:34:24 AM Chief Greg DeWitt addressed health safety and welfare of Bonita Springs at this point. Stated all we are doing is limiting our liability.

10:36:37 AM Mayor Simmon's stated that for public, health, safety and welfare and economics, that we cancel and place money in this summer's budget, which is something he is willing to do. Council Member Carr stated she would support that, as well as the situation this year – to put that in the budget for next year. Mr. Barry stated that he doesn't know the numbers right now, but they would be able to put the numbers together. It's something they could be put together, and provided a guess of about $70,000 to $80,000. They do have sponsorships.

10:41:17 AM City Manager Hunter informed Council that as of right now Celebrate Bonita is postponed, which has a budget line of $20,000 in this fiscal year. If the Bonita Blues would like to talk about some type of partnership where maybe Celebrate could be incorporated into an event together. She further explained.

10:43:21 AM Mayor Simmons motioned to postpone this year's Blues Festival, and work with the Blues Festival what has been out of pocket and what their losses would be, which he will be sponsoring in this year's budget workshop to work with them.

10:44:14 AM City Attorney Rooney stated that as an addendum to that if Council would consider any other events planned, to make it a blanket postponement. Mayor Simmons stated yes. City Attorney Rooney suggested considering starting with the 1,000 Bonita Blues Fest for 30 days, and if Council is willing to consider it, granting the City Manager additional cancellations or changes for up to an additional 30 days based on guidance coming from the Department of Health and the Governor's Office and other relevant House officials. That would give a maximum 60-day window.

Mayor Simmons stated he would then include 30 days 999 or less and to give the City Manager the administrative authority to make decisions as this evolves and changes. She would also have the authority to lift it. Mayor Simmons agreed. Council Member Quaremba seconded.

10:47:03 AM Council Member Carr stated that she was uncomfortable including a number for safety.

10:49:37 AM Council Member Quaremba addressed Council Member Carr's concern regarding the number of attendees, and suggested at events, if they could encourage them to take the names of people at the event so that if there is a transmission of the disease then the entities that have to trace this, will have a much easier time of it.

10:50:46 AM Council Member Gibson feels the number should be lower also. He feels they should call those planning on holding large events and urge them to postpone or cancel, and let them know that number may change. City Manager Hunter informed Council that Staff has reached out to every permit hold and urged them to postpone or to cancel. Council Member Gibson stated that if limited to 1,000, why not let him hold his event to those who have tickets now.

10:53:56 AM City Attorney Rooney stated that it's a complicated mix to get into mitigating damages for an event, and noted that staff is recommending taking action on events. He would separate that from whether or not we're supporting one individual or another. He explained that he read the motion as 1,000 cancelled including the Blues Fest and direct according.

10:56:11 AM City Attorney Rooney, after further discussion, stated that the motion would be to cancel all events of any size for 30 days. Also, to grant the City Manager the authority to make such changes for an additional 30 days as necessary.

10:56:49 AM Mayor Simmons clarified his motion, which is to cancel all events for 30 days, specifically, in this instance with the Bonita Blues Festival, work with them this summer at a summer budget workshop to figure out what the damage was incurred by them, and make a recommendation in the summer budget to cover those costs, and for the next 30 days cancel all events in Bonita Springs. Also, authority to Arleen to make decisions as she needs in consult with Council. Council Member Quaremba seconded.

10:58:05 AM Council Member Carr stated she would like to remove compensation. They will do that, but not to put it in a motion, as she feels that would open up the door to others saying "what about us." We don't know what is going to happen in the future, and it could be we're not able to do what's implied. She trusts that they and the city will do the right thing. She would prefer having a straight motion regarding gatherings. Council Member Gibson agreed, noting that his concern is saying that we're going to cover the costs. We don't know the exact costs. He further addressed. Council Member Forbes stated he wants to make sure that the Blues Festival is not going to be mentioned at all, as that's singling out one event. It doesn't need to be in the motion.

10:59:54 AM Council Member Quaremba stated she agrees with the suggestions by Council Members Carr and Gibson, as she suggests withdrawing that part of it.

11:00:25 AM City Attorney Rooney stated the motion now is to cancel all events and an additional 30 days delegated to the City Manager to make decisions as necessary.

11:01:14 AM Mayor Simmons suggested voting on the amendment first, which is to be non-specific as to names, events, or people or the costs.

Amendment (as stated): The motion carried unanimously.

Original Motion – to cancel all events for the next 30 days, and give the City Manager the administrative approval to make decisions in consult with Council without holding a meeting over the next 30 days. Sooner if it is lifted. The motion carried unanimously.

11:02:11 AM Martha Simons tough decision. She urged everyone to follow all precautions.

11:04:12 AM Terry Lemaine with the Bonita Blues Planning Committee and on the Special events Committee and Director of the BS Assistance Office, thanked Council, and Bonita Blues Foundation.

11:08:41 AM Ben Hershenson commended Council on their decision. Number 1 priority health, safety, and welfare.

V. UPDATE ON CITY OPERATIONS: Addressed above.

VI. ADJOURNMENT

There being no further items to discuss, the meeting adjourned at 11:10 A.M.

Respectfully submitted,

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Debra Filipek, City Clerk

APPROVED:

CITY COUNCIL

Date: ____________________________

AUTHENTICATED:

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Peter Simmons, Mayor

SPECIAL MEETING OF CITY COUNCIL
CITY OF BONITA SPRINGS
TUESDAY, MARCH 17, 2020
8:30 A.M.
CIYT HALL
9101 BONITA BEACH ROAD
BONITA SPRINGS, FLORIDA 34135
MINUTES

I. CALL TO ORDER

Mayor Peter Simmons called the meeting to order at 9:03 A.M.

II. ROLL CALL

Mayor Simmons and all Council Members were in attendance.

III. PLEDGE OF ALLEGIANCE

At the request of Mayor Simmons, Council Member Laura Carr led in the Pledge of Allegiance.

IV. ADOPT A RESOLUTION DECLARING A LOCAL STATE OF EMERGENCY FOR CORONAVIRUS

8:38:12 AM Mayor Simmons read the request into the record.

8:38:23 AM Arleen Hunter, City Manager, began by informing Council that Lee County will also be considering adopting a State of Emergency for all of Lee County. She updated Council on Staff activities, including coordination with Lee County Emergency Operations Center, staff travel and City closures. The City is working closely with Bonita Springs Fire Control and Rescue District and the Lee County Sheriff's Office to ensure public safety. Public comments can be emailed to citymeetings@cityofbonitasprings.org. Public can also reach out to the City's Clerk. She next addressed city facilities and closings, noting that at the beginning Wednesday, March 18, 2020 the recreation center and community pool will be closed. Closures will be in effect until Monday, April 13, 2020, at which point they will be reassessed.

8:44:12 AM City Attorney Derek Rooney addressed the draft Resolution and requested Council authorize the City Manager to take any additional steps that are requested or prudent under the circumstances.

8:45:08 AM Council Member Laura Carr addressed the State of emergency for the City needs and suggested a link on the City's website for those in need of assistance. City Manager Hunter recommended residents dial 211, the United Way, that operates through the EOC, who will direct them to the appropriate resources. Staff to include the link to 211 on the website. Discussion was addressed about restaurant, to which Staff indicated it would be the State that would have to address restaurants.

8:51:07 AM Council Member Forbes motioned adoption of the Resolution; Council Member Amy Quaremba seconded; and the motion carried unanimously. **ADOPTED RESOLUTION NO. 20-14**

V. PUBLIC COMMENT

8:51:56 AM Terri Lemaine, Director of the Bonita Assistance Office, thanked Council and provided an update on the Bonita Assistance Office.

Council Member Quaremba questioned holding future Council meetings without an audience. City Attorney Rooney stated that is something he will look into, noting that the Sunshine addresses the public be in attendance to be allowed to comment. He knows that there has been requests that the Governor's Office address this issue. Council Member Quaremba asked that this be followed up on.

8:57:41 AM At the request of Mayor Simmons, both Chief Greg DeWitt and Lieutenant Bogliole provided an update.

VI. ADJOURNMENT

There being no further items to discuss, the meeting adjourned at 9:05 A.M.

Respectfully submitted,

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Debra Filipek, City Clerk

APPROVED:

CITY COUNCIL

Date: ____________________________

AUTHENTICATED:

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Peter Simmons, Mayor