

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: June 5, 2007 Consent Regular
 Public Hearing
Department: Housing and Community Development
Submitted By: Housing and Community Development
 =====

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: Amendment No. 004 to an Agreement (R2002-1178) with Everglades Venture Company, LLC, to: **A)** extend the expiration date of the agreement from May 30, 2007, to August 31, 2007; and, **B)** increase the funding amount from \$224,596 to \$394,596 in Community Development Block Grant (CDBG) funds.

Summary: The amendment provides an extension of three months to the term of the agreement for this economic development project located in the Pahokee City Marina adjacent to Lake Okeechobee. County CDBG funds provided under this agreement will be used to construct a building to house a restaurant, a children's game area, and a camping and marine store. The other components of the project include a bar, a covered dining pavilion, and a pool. The project is under construction for a total cost of \$1,001,460. The original contract amount was \$856,720. Additions to the project have increased the cost resulting in this request. The time extension will provide an additional three months to allow the completion of the project. These are Federal CDBG funds which do not require local matching funds. (District 6) (TKF)

Background and Justification: The County entered into an Agreement with Everglades Venture Company, LLC, on July 23, 2002 (R2002-1178), with to provide \$224,596 in CDBG funding. The Agreement was amended by Amendment No. 001(R2004-0178) on February 3, 2004, Amendment No. 002(R2005-0560) on March 15, 2005, and Amendment No. 003(R2006-1281) on July 11, 2006. The three Amendments provided time extensions to the term of the Agreement. This project is funded as an economic development activity under the CDBG program. In exchange for the use of the County's \$394,596, Everglades Venture Company, LLC, is required to create 27 full-time jobs that are held by low income persons. The site is owned by the State of Florida and is leased to the City of Pahokee until December 15, 2031. The City of Pahokee has sub-leased the land to Everglades Venture Company, LLC, until the end of its lease with the State.

Attachments:

- A. Amendment 004 to the Agreement with Everglades Venture Company, LLC, w/Attach. 1
- B. Amendment 003 (R2006-1281) to the Agreement with Everglades Venture Company, LLC
- C. Amendment 002 (R2005-0560) to the Agreement with Everglades Venture Company, LLC
- D. Amendment 001 (R2004-0178) to the Agreement with Everglades Venture Company, LLC
- E. Agreement (R2002-1178) with Everglades Venture Company, LLC with exhibits A to E
- F. Everglades Venture Company, LLC, letter of April 8, 2007

(SEE PAGE 2 FOR OFMB/PREM/CONTRACT ADMINISTRATION COMMENTS.)

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Recommended by: Edward B. Romp 4/27/07
Department Director Date
Approved By: Shannon Q. Bay 5/13/07
Assistant County Administrator Date
 =====

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2007 | 2008 | 2009 | 2010 | 2011 |
|---|-------------|------|------|------|------|
| Capital Expenditures | \$170,000 | | | | |
| Operating Costs | | | | | |
| External Revenues | <\$170,000> | | | | |
| Program Income (County) | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | -0- | | | | |
| # ADDITIONAL FTE POSITIONS (Cumulative) | -0- | | | | |

Is Item Included In Current Budget? Yes XXX No
 Budget Account No.:

Fund 1101 Unit 143 Org 1431 Object 8201 Program Code/Period BG102-GY98

B. Recommended Sources of Funds/Summary of Fiscal Impact:
 Source:

Approval of this agenda item will allocate an additional \$170,000 to Everglades Venture Company, LLC, for improvements in the Pahokee City Marina.

C. Departmental Fiscal Review: Larry D. Brown, Financial Analyst II *EDB*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Funding provided through US Dept of Housing & Urban Development.

5/1/07 *5-2-07*
 OFMB *5/1/07* *4/30/07*
5/2/07 *5/13/07*
 Contract Development and Control

B. Legal Sufficiency:

This amendment complies with our review requirements.

5/7/07
 Assistant County Attorney

C. Other Department Review:

Edward B. Lomax
 Department Director

This summary is not to be used as a basis for payment.

**AMENDMENT 004 TO THE AGREEMENT
WITH
EVERGLADES VENTURE COMPANY, LLC**

Amendment 004 entered into this ____ day of _____, 2007, by and between Palm Beach County and Everglades Venture Company, LLC.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement with Everglades Venture Company, LLC, on July 23, 2002, approved by Document R2002-1178, as amended on February 3, 2004, by Document R2004-0178, as amended on March 15, 2005, by Document R2005-0560, and as amended on July 11, 2006, by Document R2006-1281 to provide \$224,596 of Community Development Block Grant funds for construction of a building in the Pahokee City Marina; and

WHEREAS, the parties wish to increase the amount funded by the Agreement, and extend the project completion date of the Agreement, and

WHEREAS, both parties mutually agree that the original Agreement entered into on July 23, 2002, as amended, is hereby further amended as follows:

A. Part III - Section 1 - Maximum Compensation:

Substitute "\$394,596" for "\$224,596", and substitute "August 31, 2007" for "May 30, 2007".

B. Part III - Section 2 - Time of Performance:

Substitute "August 31, 2007" for "May 30, 2007".

C. Exhibit A - Section I.I - Work Schedule:

Delete the contents of this Section and replace them with: "The time frame for completion of the outlined activities shall be August 31, 2007. The Company assures the County that it shall endeavor to complete the construction work on all buildings in this project, including the building being funded under this Agreement, by June 15, 2007, and shall endeavor to obtain a certificate of occupancy from the building department of jurisdiction for all buildings in this project."

D. Exhibit A - Section I.J - Job Creation:

Substitute "twenty seven (27)" for "fifteen (15)".

E. Exhibit A - Section I.M - Acceptance by City of Pahokee:

Add the following after the first sentence in this Section: "Upon execution of Amendment 004, the Company shall cause the City of Pahokee to execute and deliver to the County an Acceptance of Terms and Conditions provided in substantial form in Attachment 1 to Amendment 004".

F. Exhibit A - Section II.A:

Substitute "\$394,596" for "\$224,596".

G. Exhibit E:

Adjust the number of full time jobs listed in this Exhibit as follows:

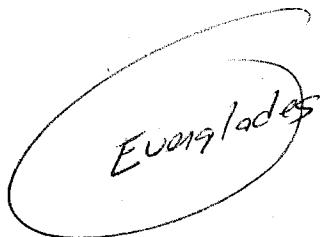
- Increase facility maintenance staff from 3 to 4.
- Increase clerical staff from 1 to 2.
- Increase contract labor for marina/campground from 1 to 2.
- Increase reception desk staff from 1 to 3.
- Increase server staff (bar) from 2 to 3.
- Add book keeper staff of 1.
- Add marina maintenance staff of 2.
- Add marina attendant staff of 2.
- Add server staff of 2.

All other listed jobs remain the same.


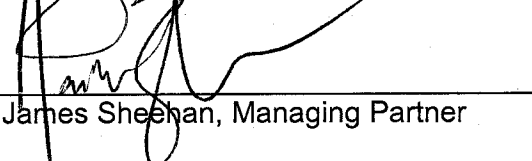
NOW THEREFORE, all items in the previous Agreement in conflict with this Amendment shall be and are hereby changed to conform to this Amendment.

All provisions not in conflict with this aforementioned Amendment are still in effect and shall be performed at the same level as specified in the Agreement.

(AGENCY SEAL)



EVERGLADES VENTURE COMPANY, LLC

BY: 
John H. Sprague, Managing Partner
BY: 
James Sheehan, Managing Partner

(COUNTY SEAL)

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS**

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____
Addie L. Greene, Chairperson
Board of County Commissioners

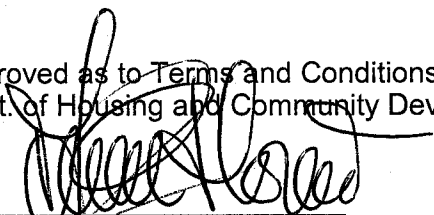
By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Housing and Community Development

By: 
Tammy K. Fields
Senior Assistant County Attorney

By: 
Amin Houry, Manager
Housing and Capital Improvements

S:\CapImprv\EconDev\EvergladesVentureCo\AgrAmnd4.wpd

ATTACHMENT 1

Return to:

Palm Beach County
Housing & Community Development
160 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Senior Assistant County Attorney
Attention: Amin Houry

ACCEPTANCE OF TERMS AND CONDITIONS

The City of Pahokee, in consideration of funding certain improvements to the below described land (leased by the City of Pahokee until 2030), in the amount of one hundred seventy thousand Dollars (\$170,000), as funded by Palm Beach County Board of County Commissioners (the "County"), does hereby accept and agree to the terms and conditions contained in the Agreement between the Everglades Venture Company, LLC, and Palm Beach County dated July 23, 2002, as amended. The subject property is legally described as:

A tract of land describing all that portion of the Herbert Hoover Dike Levee D-9 lying between the southeasterly right-of-way line and the waters of Lake Okeechobee from station 108+69.5 to station 163+06.5, all according to the right-of-way map prepared by the Central and Southern Florida Flood Control District, DWG. No. L-D9-2, more particularly described as follows:

Commencing at the southwest corner of fractional Section 18, Township 42 South, Range 37 East, Palm Beach County, Florida; thence North 0° 26' 16" West, along the West line of said Section 18, a distance of 1910.19 feet to a point on the southeasterly right-of-way line of the Herbert Hoover Dike Levee D-9, a works of the Central and Southern Florida Flood Control District, as now laid out and in use, said point being station 99+65.03; thence North 57° 00' 46" East, along the said right-of-way line, a distance of 904.47 feet to the Point of Beginning, said point being station 108+69.50; thence continue North 57° 00' 48" East, along the said right-of-way line, a distance of 3486.16 feet to a point, said point being station 143+55.68; thence North 59° 06' 15" East, along the said right-of-way line, a distance of 1950.82 feet to a point, said point being station 163+06.50; thence North 30° 53' 45" West, to the waters edge of Lake Okeechobee; thence in a southwesterly direction, along the waters edge of Lake Okeechobee, to a point on a line (said line bearing North 32° 59' 12" West from the Point of Beginning above described); thence South 32° 59' 12" East to the Point of Beginning, said point being station 108+69.50. Containing 30 acres, more or less.

1. The City of Pahokee agrees to assume the operation and maintenance of the marina and campground should Everglades Venture Company, LLC not be able to continue the operation. Further, the City of Pahokee agrees to fulfill the job creation requirements and reporting requirements contained in the agreement between the County and Everglades Venture Company, LLC.
2. The City of Pahokee agrees in regard to the use of the Property whose acquisition or improvements were funded through the grant agreement that for a period not less than ten (10) years after the expiration date of said agreement (as may be amended from time to time):
 - a) The City of Pahokee may not change the use or planned use, or discontinue use, of the Property (including the beneficiaries of such use) from that for which the acquisition or improvements were made, unless the City of Pahokee provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:
 - i) The new use of the Property, in the opinion of the County, qualifies as meeting one of the national objectives defined in the regulations governing the CDBG program, and is not a building for the general conduct of government; or
 - ii) The requirements of paragraph 2(b) of this section are met.

- b) If the City of Pahokee determines, after consultation with affected citizens, that it is appropriate to change the use of the Property to a use which does not qualify under paragraph 2(a)(i) of this section or discontinue use of the Property, it may retain or dispose of the facility for such use if the County is reimbursed in the amount of the current fair market value of the facility/property less any portion thereof attributable to expenditures of non-CDBG funds for improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.

Executed this ____ day of _____, 2007

(MUNICIPALITY SEAL)

CITY OF PAHOKEE

(DO NOT SIGN THIS EXHIBIT)

BY: _____
James P. Sasser, Mayor

(DO NOT SIGN THIS EXHIBIT)

By: _____
Patricia McLean, City Clerk

STATE OF FLORIDA
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this ____ day of _____, 2007, by James P. Sasser, as Mayor of the City of Pahokee, and by Patricia McLean, as City Clerk of the City of Pahokee, who are personally known to me or have produced _____ as identification and who did (did not) take an oath.

(Print or type name above)
Notary Public State of Florida

(Signature)

My Commission Expires:

(Notary Seal)

S:\CapImprv\EconDev\EvergldsVentureCo\AgrAmnd4.wpd

R2005 0560

AMENDMENT 002 TO THE AGREEMENT WITH EVERGLADES VENTURE COMPANY, LLC

Amendment 002 entered into this ___ day of MAR 15 2006, 2005, by and between Palm Beach County and Everglades Venture Company, LLC.

WITNESSETH:

WHEREAS, Palm Beach County entered into an agreement with Everglades Venture Company, LLC, on July 23, 2002, approved by Document R2002-1178, as amended on February 3, 2004, by Document R2004-0178, to provide \$224,596 of Community Development Block Grant funds for construction of a building; and

WHEREAS, the parties wish to extend the project completion date, and

WHEREAS, both parties mutually agree that the original agreement entered into on July 23, 2002, as amended, is hereby further amended as follows:

A. Part III - Section 1 - Maximum Compensation: Substitute "January 31, 2006" for "January 30, 2005".

B. Part III - Section 2 - Time of Performance: Substitute "January 31, 2006" for "January 30, 2005".

C. Exhibit A - Section I.I. - Work Schedule: In both places substitute "January 31, 2006" for "January 30, 2005".

NOW THEREFORE, all items in the previous agreement in conflict with the amendment shall be and are hereby changed to conform to this amendment.

All provisions not in conflict with this aforementioned amendment are still in effect and shall be performed at the same level as specified in the Agreement.

(AGENCY SEAL)

EVERGLADES VENTURE COMPANY, LLC

BY: [Signature] John H. Sprague, Managing Partner

BY: [Signature] James Sheehan, Managing Partner

(COUNTY SEAL)

PALM BEACH COUNTY, FLORIDA, a Political Subdivision of the State of Florida

BOARD OF COUNTY COMMISSIONERS

ATTEST: Sharon R. Cook,

Clerk & Controller

By: [Signature] Deputy Clerk

Approved as to Form and Legal Sufficiency

By: [Signature] Tammy K. Fields Assistant County Attorney

By: [Signature] Tony Masilotti, Chairman Board of County Commissioners

R2005 0560

Document No.:

Approved as to Terms and Conditions Dept. of Housing and Community Development

By: [Signature] Amin Houry, Manager Housing and Capital Improvements

R2004 0178

AMENDMENT 001 TO THE AGREEMENT
WITH
EVERGLADES VENTURE COMPANY, LLC

Amendment 001 entered into this _____ day of FEB 03 2004, 2004 by and between Palm Beach County and Everglades Venture Company, LLC.

WITNESSETH:

WHEREAS, Palm Beach County entered into an agreement with Everglades Venture Company, LLC, on July 23, 2002, approved by Document R2002-1178, to provide \$224,596 of Community Development Block Grant funds for recreation building; and

WHEREAS, the parties wish to modify the agreement, and extend the project completion date, and

WHEREAS, both parties mutually agree that the original agreement entered into on July 23, 2002, is hereby amended as follows:

A. Part III - Section 1 - Maximum Compensation:
Substitute "January 30, 2005" for "January 30, 2004".

B. Part III - Section 2 - Time of Performance:
Substitute "January 30, 2005" for "January 30, 2004".

C. Exhibit A - Section I.I. - Work Schedule:
In both places substitute "January 30, 2005" for "January 30, 2004".

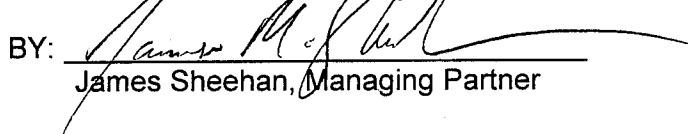
NOW THEREFORE, all items in the previous agreement in conflict with the amendment shall be and are hereby changed to conform to this amendment.

All provisions not in conflict with this aforementioned amendment are still in effect and shall be performed at the same level as specified in the agreement.

(AGENCY SEAL)

EVERGLADES VENTURE COMPANY, LLC

BY: 
John H. Sprague, Managing Partner

BY: 
James Sheehan, Managing Partner

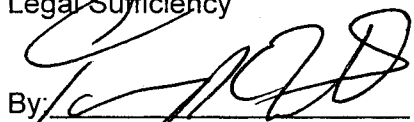
PALM BEACH COUNTY, Florida, a
Political Subdivision of the State of Florida

FOR ITS BOARD OF COUNTY

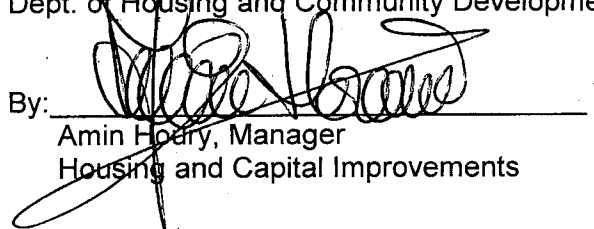
COMMISSIONERS

By: 
Robert Weisman, County Administrator

Approved as to Form and
Legal Sufficiency

By: 
Tammy K. Fields
Assistant County Attorney

Approved as to Terms and Conditions
Dept. of Housing and Community Development

By: 
Amin Hoary, Manager
Housing and Capital Improvements

AGREEMENT BETWEEN PALM BEACH COUNTY
AND
EVERGLADES VENTURE COMPANY, LLC

R2002 1178

JUL 23 2002

THIS AGREEMENT, entered into this _____ day of _____, 2002, by and between Palm Beach County, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program, and Everglades Venture Company, LLC, a limited liability company duly organized and authorized to do business in the State of Florida, having its principal office at 190 Lake Avenue, Pahokee, Florida: 33476, and its Federal Tax Identification Number as 65-1107443, hereinafter referred to as the Company.

WHEREAS, Palm Beach County has entered into an Agreement with the United States Department of Housing and Urban Development for a grant for the execution and implementation of a Community Development Block Grant Program in certain areas of Palm Beach County, pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

WHEREAS, Palm Beach County, in accordance with the Annual Consolidated Plan, and Everglades Venture Company, LLC desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage Everglades Venture Company, LLC to implement such undertakings of the Community Development Block Grant Program.

NOW, THEREFORE, in consideration of the mutual premises and covenants herein contained, it is agreed as follows:

PART I

DEFINITION AND PURPOSE

1. **DEFINITIONS**

- (1) "County" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program of Palm Beach County.
- (3) "HCD" means Palm Beach County Housing and Community Development.
- (4) "Company" means Everglades Venture Company, LLC.
- (5) "HCD Approval" means the written approval of the HCD Director or his designee.
- (6) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "Low and moderate income persons" means the definition set by U.S. HUD.
- (8) "Held by or made available to" is the definition set by US HUD.

2. **PURPOSE**

The purpose of this Agreement is to state the covenants and conditions under which the Company will implement the Scope of Services set forth in Part II of this Agreement. **At least fifty-one percent (51%) of the jobs created/retained through this Agreement must be made available to low-and moderate-income persons.**

PART II

SCOPE OF SERVICES

The Company shall, in a satisfactory and proper manner as determined by HCD, perform the tasks necessary to conduct the program outlined in Exhibit "A" and submit invoices using the cover sheet in Exhibit "B", both of which are attached hereto and made a part hereof.

PART III

COMPENSATION, TIME OF PERFORMANCE, METHOD, AND CONDITIONS OF PAYMENT

1. MAXIMUM COMPENSATION

The Company agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and HCD Director or designee-approved expenditures and encumbrances made by the Company under this Agreement. Said services shall be performed in a manner satisfactory to HCD. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of **\$224,596** for the period of July 23, 2002 through and including January 30, 2004. Any funds not obligated by the expiration date of this Agreement automatically revert to the County.

Further budget changes within the designated contract amount can be approved in writing by the HCD Director at his discretion up to ten percent (10%) on a cumulative basis of the contract amount during the contract period. Such requests for changes must be made in writing by the Company to the HCD Director. Budget changes in excess of this ten percent (10%) must be approved by the Board of County Commissioners.

2. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds by HUD under Grant No. B-98-UC-12-0004. The effective date shall be the date of execution of this Agreement, and the services of the Company shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the Company prior to January 30, 2004.

3. METHOD OF PAYMENT

The County agrees to make payments and to reimburse the Company for all budgeted costs permitted by Federal, State, and County guidelines. In no event shall the County provide advance funding to the Company or any subcontractors hereunder.

Requests by the Company for payments or reimbursements shall be accompanied by proper documentation of expenditures. The Company shall not request reimbursement for payments made by the Company after the expiration date of this Agreement. Payment shall be made by the Palm Beach County Finance Department upon proper presentation of invoices and reports approved by the Company and HCD. For purposes of this section, originals of invoices, receipts, or other evidence of indebtedness shall be considered proper documentation. When original documents cannot be presented, the Company must adequately justify their absence, in writing, and furnish copies.

4. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The Company shall implement this Agreement in accordance with applicable Federal, State, and County laws, ordinances and codes, and amendments and additions thereto as may from time to time be made. The Federal, State, and County laws, ordinances and codes are minimal regulations which may be supplemented by more restrictive guidelines set forth by HCD. No reimbursements will be made without evidence of the appropriate insurance as required by this Agreement. No payments for multi-funded projects will be made until a cost allocation plan has been approved by the HCD Director or designee.

Should a project receive additional funding after the commencement of this Agreement, the Company shall notify HCD in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HCD Director or his designee within forty-five (45) days of said notification.

(2) FINANCIAL ACCOUNTABILITY

The County may have a financial systems analysis and/or an audit of the Company or any of its subcontractors performed by an independent auditing firm employed by the County or by the County Internal Audit Department at any time the County deems necessary to determine if the project is being managed in accordance with Federal, State, and County requirements.

(3) SUBCONTRACTS

None of the work or services covered by this Agreement, including but not limited to consultant work or services, shall be subcontracted or reimbursed without the prior written approval of the HCD Director or designee. Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase

order. All subcontracts shall be submitted by the Company to HCD and approved by HCD prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations. This includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Palm Beach County Engineering Department and U.S. HUD. Contracts for architecture, engineering, survey, and planning shall be negotiated fixed fee contracts. All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursables will be at cost.

None of the work or services covered by this Agreement, including but not limited to consultant work or services, shall be subcontracted or reimbursed without prior written approval of the HCD Director or his designee.

(4) PURCHASING

All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Ordinance, as well as 48 CFR Part 31 and 24 CFR Part 84.40-48, which are incorporated herein by reference.

(5) REPORTS, AUDITS, AND EVALUATIONS

Payment will be contingent on the receipt of complete and accurate reports required by this Agreement, and in the resolution of monitoring or audit findings identified pursuant to this Agreement.

(6) ADDITIONAL COUNTY AND U.S. HUD REQUIREMENTS

The State or Federal funds being provided hereunder cannot be used as a match for other State or Federal grants to the grantee and the grantee cannot submit requests for the same expenses to more than one funding source or under more than one program.

HCD shall have the right under this Agreement to suspend or terminate payments until the Company complies with any additional conditions that may be imposed by the County or U.S. HUD.

(7) PRIOR WRITTEN APPROVALS-SUMMARY

The following includes but is not limited to activities that require the prior written approval of the HCD Director or his designee to be eligible for reimbursement or payment:

- (a) All subcontracts and agreements pursuant to this Agreement;
- (b) All capital equipment expenditures of \$1,000 or more;
- (c) All out-of-town travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
- (d) All change orders; and
- (e) Requests to utilize uncommitted funds after the expiration of this agreement for programs described in Exhibit A.
- (f) All rates of pay and pay increases paid out of GDBG funds, whether for merit or cost of living.

PART IV

GENERAL CONDITIONS

1. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The Company agrees that no person shall on the ground of race, color, national origin, religion, disability, age, familial status, or sex be excluded from the benefits of, or be subjected to discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

To the greatest feasible extent, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. At a minimum, the subrecipient shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

Everglades Venture Company, LLC

2. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Company shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and minority/women-owned business enterprises shall be located in or owned by residents of the areas designated by Palm Beach County in the Annual Consolidated Plan approved by U.S. HUD.

3. PROGRAM BENEFICIARIES

At least fifty-one percent (51%) of the jobs created/retained through this project must be made available to or held by low- and moderate-income persons. If the project is located in an entitlement city, as defined by U.S. HUD, or serves beneficiaries countywide, more than 30 percent (30%) of the beneficiaries assisted directly through the use of funds under this Agreement must reside in unincorporated Palm Beach County or in municipalities participating in the County's Urban County Qualification Program. **The Company shall provide written verification of compliance as described in Exhibit A of this Agreement to HCD upon HCD's request.**

4. EVALUATION AND MONITORING

The Company agrees that HCD will carry out periodic monitoring and evaluation activities as determined necessary by HCD or the County and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement. The Company agrees to furnish upon request to HCD, the County, or the County's designees copies of transcriptions of such records and information as is determined necessary by HCD or the County. The Company shall submit status reports required under this Agreement on forms approved by HCD to enable HCD to evaluate progress. The Company shall provide information as requested by HCD to enable HCD to complete reports required by the County or HUD. The Company shall allow HCD, the County, or HUD to monitor the Company on site. Such visits may be scheduled or unscheduled as determined by HCD or HUD.

5. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HCD, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, the Company shall make available all its records with respect to all matters covered by this Agreement.

6. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures purchased, developed, prepared, assembled, or completed by the Company for the purpose of this Agreement shall become the property of the County without restriction, reservation, or limitation of their use and shall be made available by the Company at any time upon request by the County or HCD. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to HCD if requested. In any event the **Company shall keep all documents and records for three (3) years** after expiration of this Agreement.

7. INDEMNIFICATION

The Company shall protect, defend, reimburse, indemnify and hold the County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during performance of the terms of this Agreement or due to the acts or omissions of the Company. Company's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. The Company will hold the County harmless and will indemnify the County for funds which the County is obligated to refund the Federal Government arising out of the conduct of activities and administration of Company.

8. INSURANCE

Unless otherwise specified in this Agreement, the Company shall, at its sole expense, maintain in full force and effect at all times during the life of this Agreement, insurance coverages, limits, including endorsements, as described herein. The requirements contained herein as to types and limits, as well as the County's review or acceptance of insurance maintained by the Company, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Company under this Agreement.

Everglades Venture Company, LLC

- (1) **COMMERCIAL GENERAL LIABILITY**
The Company shall agree to maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by the County's Risk Management Department. The Company agrees this coverage shall be provided on a primary basis.
- (2) **BUSINESS AUTOMOBILE LIABILITY**
The Company shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event the Company does not own any automobiles, the Business Auto Liability requirement shall be amended allowing the Company to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. Company agrees this coverage shall be provided on a primary basis.
- (3) **WORKER'S COMPENSATION & EMPLOYER'S LIABILITY**
The Company shall agree to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. The Company agrees this coverage shall be provided on a primary basis.
- (4) **PROPERTY, WINDSTORM AND FLOOD**
The Company shall agree to maintain for the period of the Declarations of Restrictions (which is provided as Exhibit D to this Agreement): (1) All-Risk Property insurance in an amount not less than amount expended by the County under this Agreement, including betterments and improvements made by or on behalf of Company with CDBG funds, (2) Windstorm insurance, unless included as a covered peril in the property insurance, in an amount not less than amount expended by the County under this Agreement, including betterments and improvements made by or on behalf of Company with CDBG funds; or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less. (3) Flood insurance, regardless of the flood zone, in an amount not less than amount expended by the County under this Agreement, including betterments and improvements made by or on behalf of Company with CDBG funds; or the maximum amount available from the National Flood Insurance Program, whichever is less. Company shall agree to be fully responsible for any deductible or self-insured retention, and agree to name the County as a LOSS PAYEE on each policy as their interest may appear in connection with all betterments and improvements made by or on behalf of Company with CDBG funds.
- (5) **ADDITIONAL INSURED**
The Company shall agree to endorse the County as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Housing and Community Development". The Company shall agree the Additional Insured endorsements provide coverage on a primary basis.
- (6) **CERTIFICATE OF INSURANCE**
The Company shall agree to deliver to the County a certificate(s) of insurance evidencing the required insurance is in full force and effect within thirty (30) calendar days prior to the execution of this Agreement by the County. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be included on the certificate(s).
- (7) **RIGHT TO REVIEW AND ADJUST**
The Company shall agree that the County, by and through its Risk Management Department, in cooperation with the Department of Housing and Community Development, reserves the right to periodically review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the life of this Agreement. The County reserves the right, but not the obligation, to review and reject any insurer providing coverage because of it's poor financial condition or failure to operate legally.

Everglades Venture Company, LLC

9. **CONFLICT OF INTEREST**

The Company covenants that no person who presently exercises any functions or responsibilities in connection with the project has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the Company. Any possible conflict of interest on the part of the Company or its employees shall be disclosed in writing to HCD provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of low and moderate-income residents of the project target area.

10. **CITIZEN PARTICIPATION**

The Company will cooperate with HCD in the implementation of the Citizen Participation Plan by informing project beneficiaries and the community of the activities the Company is undertaking in carrying out the provisions of this Agreement.

11. **RECOGNITION**

All property purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The Company will include a reference to the financial support herein provided by HCD in all publications and publicity. In addition, the Company will make a good faith effort to recognize HCD's support for all activities made possible with funds made available under this Agreement.

12. **CONTRACT DOCUMENTS**

The following documents are herein incorporated by reference and made a part hereof, and shall constitute and be referred to as this Agreement; and all of said documents taken as a whole constitute the contract between the parties hereto and are as fully a part of this Agreement as if they were set forth verbatim and at length herein:

- (1) This Agreement, including its Exhibits
- (2) 48 CFR Part 31
- (3) Palm Beach County Purchasing Ordinance
- (4) Palm Beach County's Tangible Property Disposal Ordinance
- (5) Community Development Block Grant Regulations (24 CFR Part 570), as amended
- (6) The Company's Incorporation Certificate
- (7) The Company's Certificates of Insurance and Bonding

The Company shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

13. **TERMINATION**

In the event of termination, the Company shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Company, and the County may withhold any payment to the Company for set-off purposes until such time as the exact amount of damages due to the County from the Company is determined.

(1) **TERMINATION FOR CAUSE**

If through any cause either party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement or suspend payments in whole or part by giving written notice of such termination or suspension of payments and specify the effective date of termination or suspension. The agency shall repay the full value of this grant, unless otherwise specified by HCD, within a time period specified by the County.

(2) **TERMINATION DUE TO CESSATION**

In the event the grant to the County under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date U.S. HUD specifies. In the event the Company ceases to exist, or ceases or suspends its operation for any reason, this Agreement shall be suspended or terminated on the date the County specifies. The determination that the Company has ceased or suspended its operation shall be made solely by the County, and the Company, its successors or assigns in interest agrees to be bound by the County's determination. At the County's sole discretion, the Company shall return all funds received through this Agreement to the County within a time period specified by the County.

Everglades Venture Company, LLC

(3) TERMINATION FOR CONVENIENCE OF COUNTY

The County may terminate this Agreement at any time by giving at least ten (10) working days notice in writing from the County to the Company. This Agreement is terminated by the County as provided herein, the Company will be paid for allowable services and allowable expenses under Part II of this Agreement until the effective date of termination.

(4) TERMINATION FOR CONVENIENCE OF THE Company

At any time during the term of this Agreement, the Company may, at its option and for any reason, terminate this Agreement upon ten (10) working days prior written notice to HCD. If the Company has received funds through this agreement the Company shall return all funds to the County prior to the termination of this Agreement.

14. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

15. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes in Federal, State, County, or U.S. HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Palm Beach County Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and signed by both parties.

16. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HCD at its office at 3323 Belvedere Road, Building 501, West Palm Beach, Florida 33406, and to the Company when delivered to its office at the address listed on Page One (1) of this Agreement.

17. INDEPENDENT AGENT AND EMPLOYEES

The Company agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the County provisions of the law applicable to County employees relative to employment compensation and employee benefits.

18. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

19. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this contract or performing any work in furtherance hereof, the Company certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

20. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of twenty (20) enumerated pages which include the exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

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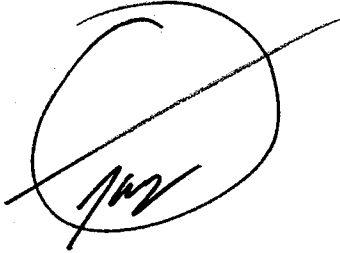
Everglades Venture Company, LLC

21. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior Agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

WITNESS our Hands and Seals on this 23 day of JUL 23 2002, 2002.

(COMPANY SEAL)



EVERGLADES VENTURE COMPANY, LLC

BY: [Signature]
Guy C. Bisong, Managing Partner

BY: [Signature]
John H. Sprague, Managing Partner

BY: [Signature]
James Sheehan, Managing Partner

(COUNTY SEAL)

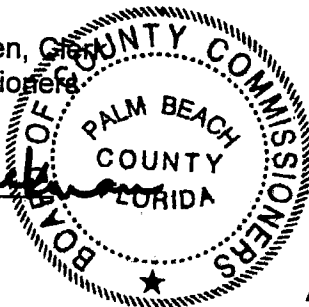
**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

BOARD OF COUNTY COMMISSIONERS

ATTEST: Dorothy H. Wilken, Clerk
Board of County Commissioners

By: [Signature]
Warren H. Newell, Chairman
Board of County Commissioners

By: [Signature]
Deputy Clerk



Document No.: R2002 1178

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Housing and Community Development

By: [Signature]
Tammy K. Fields
Assistant County Attorney

By: [Signature]
Amy Houty, Manager
Housing and Capital Improvements

EXHIBIT "A"
WORK PROGRAM NARRATIVE

I. THE COMPANY AGREES TO:

A. **PROFESSIONAL SERVICES:** The Company shall procure the services of an architectural/engineering consultant for this project to provide design services to create plans and specifications for the below described improvements. The consultant shall also prepare, obtain and review bids, prepare contract documents, inspect work in progress, recommend payment to contractor and provide other professional services customarily provided by similar professionals provision of which must be approved by the County. The consultant shall also coordinate the design and construction work with the asbestos abatement contractor, should such abatement become necessary. The Company shall fund the cost of the consultant from its own sources.

B. **PROJECT SCOPE :** The scope of this project subject to funding availability shall include the following :

- Construction of a building (approximately 2000 square feet) to house an indoor recreation center, a children's game room, a camping and marine store, restrooms, and landscaping and all other incidental work to make the building functional. The building shall be located in the Pahokee City Marina adjacent to Lake Okeechobee.

NOTE 1: The Company shall submit its bid package and drawings/specifications to HCD and obtain a letter of approval prior to bidding the construction work. In submitting the bid package and drawings/specifications to HCD, the Company shall also demonstrate that it has submitted its drawings/specifications to the City of Pahokee building department and the U.S. Corp of Engineers for plan review, and that these drawings/specifications comply with all applicable building code and requirements.

NOTE 2: The Company shall prioritize the work in the project, and shall bid such work in a manner that would allow the receipt of itemized costs from bidders which would then allow the award of items that can be funded by the budget.

NOTE 3: The Company shall not award the construction contract for the project until sufficient funding is available to complete the established scope of work. All construction work shall be included in one contract. The Company shall obtain HCD approval prior to awarding the construction contract to be funded through this agreement. After awarding such contract the Company shall obtain HCD approval prior to executing any change orders to such contract.

NOTE 4: The Company shall not request reimbursement from HCD for materials or equipment received and stored on the project site or elsewhere. The Company shall only request reimbursement for materials and equipment that have been installed.

NOTE 5: The Company shall expend its portion of the construction costs for the project first prior to requesting the County for reimbursement.

NOTE 6: The Company and the County recognize that issuance of a submerged lands lease to the Company as referred to in its Sublease Number 3471-01 with the City of Pahokee, is an integral part of the Company's business plan and is essential to enable it to undertake its business activities and to implement the improvements to be funded through this Agreement. The Company accordingly agrees that as a condition precedent to the expenditure of funds made available through this Agreement, the Company shall secure such a lease and provide a copy of it to HCD.

NOTE 7: This agreement shall become null and void at the sole discretion of HCD, if HCD is unsatisfied with the Company's performance for any material matter that may affect the timely completion of this project.

The Company further agrees that HCD, in consultation with any parties it deems necessary, shall be the final arbiter on the Company's compliance with the above.

C. **PROJECT LOCATION AND CONSENT TO IMPROVE PROPERTY:** The Company assures the County that the improvements to be funded through this Agreement shall be located on the property whose legal description is contained in Exhibit D attached hereto. The Company further assures the County that it has obtained the consent of the City of Pahokee, Florida (with whom it has entered into a sub-lease agreement for the property), to make the improvements being funded through this Agreement.

Everglades Venture Company, LLC

- D. **ASBESTOS REQUIREMENTS:** The Company shall comply with all applicable requirements contained in Exhibit C, attached hereto, for construction work in connection with the project funded through this agreement.
- E. **DAVIS-BACON ACT:** The Company shall request the County to obtain a Davis-Bacon wage decision for the project prior to advertising the construction work. The Company shall incorporate a copy of the Davis-Bacon wage decision and disclose the requirements of the Davis-Bacon Act in its construction bid solicitation and contract.
- F. **BONDING REQUIREMENTS:** The Company shall comply with the requirements of OMB Circular A-110 and 24CFR Part 84 in regard to bid guarantees, performance bonds, and payment bonds.
- G. **CONSTRUCTION PAYMENT RETAINAGE:** The Company shall apply a retainage of at least 5% on all construction draws which retainages shall be released in conjunction with the final draw upon satisfactory completion of the project. The Company agrees not to release such retainages until it has obtained approval from the County that the contractor and subcontractors have complied with the requirements of the Davis-Bacon Act.
- H. **FORMER PROJECTS:** The Company shall maintain all previously completed CDBG funded projects. Failure to do so will result in forfeiture of future CDBG funds and will delay funding for ongoing activities.
- I. **WORK SCHEDULE:** The time frame for completion of the outlined activities shall be January 30, 2004.

| | |
|---------------------------|--------------|
| Complete Design Documents | Oct 1, 2002 |
| Complete Permitting | Feb 1, 2003 |
| Advertise & Accept Bids | Mar 1, 2003 |
| Award Contract | Apr 1, 2003 |
| Start Construction | Jun 1, 2003 |
| Complete Construction | Jan 30, 2004 |

- J. **JOB CREATION:** Subsequent to the effective date of this Agreement and within one (1) year of the expiration date of this Agreement, **the Company shall create fifteen (15) jobs, on a full-time equivalent basis, where at least 51% of the jobs will be held by low- and moderate-income persons.** A full-time job shall mean employment for a minimum of 2,080 hours per year and for a wage or salary equal to or better than the minimum wage as determined by the U.S. Department of Labor. Low- and moderate-income status is based on the person's income at the time of hire and is not affected by subsequent raises or promotions. Said jobs will include, but may not be limited to, the jobs listed in Exhibit E. The Company will register said jobs with and consider applicants referred by the Palm Beach County Workforce Development Board.
- K. **SECURITY AGREEMENT:** To secure the grant amount, the Company hereby covenants and agrees to comply with the above Job Creation requirements for a period of **three (3) years** commencing with the expiration date of this Agreement (as may be amended from time to time). The Company agrees that if it fails to comply with the job creation requirements, it shall reimburse the County in an amount equivalent to the current fair market value of the facility/property less any portion thereof attributed to expenditures of non-CDBG funds for acquisition of, or improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.

The provisions of this clause shall survive the expiration of this Agreement.

- L. **REPORTS:** The Company shall submit the reports listed below to HCD.
 - 1) Monthly updates during the term of this Agreement that describe the status of the activity funded under this Agreement.
 - 2) Written verification of job creation, satisfactory to HCD at HCD's sole discretion. Verification shall include job title, salary, fringe benefits, full-time equivalency status, name and address of person hired, proof said person is low- and moderate-income, and dates of employment. Said written verification shall be provided to HCD at the completion of the activity funded under this Agreement and annually thereafter for a period of **three (3) years** commencing with the expiration date of this Agreement (as may be amended from time to time).
 - 3) The Company's business tax returns for a period of **three (3) years** commencing with the expiration date of this Agreement.

The provisions of this clause shall survive the expiration of this Agreement.

- M. **ACCEPTANCE BY CITY OF PAHOKEE:** Upon execution of this Agreement the Company shall cause the **City of Pahokee** to execute and deliver to the County an **Acceptance of Terms and Conditions** provided in substantial form in **Exhibit D** attached hereto. The Company shall obtain HCD's approval of the final text of said Acceptance of Terms and Conditions prior to obtaining the City of Pahokee's above mentioned signature, and HCD shall modify the text of said document to the extent necessary in HCD's opinion, and in consultation with the County Attorney's office.
- N. **USE OF THE PROJECT FACILITY:** The Company agrees in regard to the use of the facility whose acquisition or improvements are being funded in part or in whole by CDBG funds as provided by this Agreement, that it will comply with the provisions of this Agreement.
- O. **SECTION 3 REQUIREMENTS:** The Company agrees to comply with all Section 3 requirements applicable to contracts funded through this agreement. Information on Section 3 is available at HCD upon request. The Company shall include the following, referred to as the Section 3 Clause, in every solicitation and every contract for every Section 3 covered project:

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 recipients of HUD assistance for housing.
- b. The parties to this contract agree to comply with HUD's requirements in 24 CFR 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 commitment 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 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 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 CFR 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 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.

Everglades Venture Company, LLC

II. THE COUNTY AGREES TO:

- A. Provide construction funding for the above specified improvements described in the Scope of the Project, during the term of this Agreement, in the amount of \$224,596. However, the County shall not provide any funding for the construction work until it is assured that sufficient funds are available to complete the project.
- B. Provide project administration and inspection to the Company to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Company at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HCD, be conducted by HCD staff or its contractor, and will serve to ensure compliance with U.S. Department of HUD regulations, that planned activities are conducted in a timely manner, and to verify the accuracy of reporting to HCD on program activities.
- D. The County shall perform an environmental review of the project, and review and approve project design and bids submitted for the work. The County shall also perform Davis Bacon Act Labor Standards monitoring and enforcement. Environmental review costs incurred by the County may be charged to the project budget identified above.
- E. Allowable costs that may be paid by the County under this Agreement in addition to those stated in II.A above:
 - i) Costs of asbestos surveys, asbestos abatement, and abatement monitoring.
 - ii) Cost of soil testing.
 - iii) Reproduction costs of plans and specifications for the project.
 - iv) Costs of any other services customarily associated with projects of the nature of the project contemplated by this Agreement.

The County shall review requests by the Company for expenditures on the above items prior to undertaking the services associated with them, and approve any such expenditures it deems appropriate for this project.

EXHIBIT "B" LETTERHEAD STATIONERY

TO: Remar M. Harvin, Director
Housing and Community Development
3323 Belvedere Road, Building #501
West Palm Beach, FL 33406

FROM: Name of Subgrantee: _____

Address: _____

Phone: _____

RE: INVOICE REIMBURSEMENT

Attached, you will find Invoice # _____, requesting reimbursement in the amount of \$ _____ . The expenditures for this invoice covers the period _____ through _____ . You will also find attached back-up original documentation relating to the expenditures being invoiced.

Approved for Payment

EXHIBIT "C"
ASBESTOS REQUIREMENTS

PART A - SPECIAL CONDITIONS - ASBESTOS - PROCEDURES FOR REHABILITATION AND DEMOLITION OF STRUCTURES: The provisions of this part apply to all rehabilitation and demolition work contemplated in this agreement and described in Exhibit A of this agreement:

1. ASBESTOS NOTIFICATION

Federal and state asbestos regulations require, prior to the rehabilitation or demolition of any structure:

- (1) an inspection for asbestos-containing materials (ACM),
- (2) removal of specified ACM, and
- (3) an asbestos notification of rehabilitation or demolition received at least ten (10) business days prior to demolition.

To meet requirements #1 and #2 above, the Company shall request the County to survey the all structure(s) to be rehabilitated or demolished in connection with this agreement for the presence of ACM and the Company shall make every effort to remove Regulated Asbestos-Containing Material (RACM) and Category II Non-Friable ACM (e.g. asbestos-cement board and shingles) before commencing any rehabilitation or demolition work on such structure(s). If not attached, it is the Company responsibility to contact the Project Manager of the County department overseeing this project, or the County's Risk Management/Loss Control section to obtain:

- (A) a copy of the pre-rehabilitation or pre-demolition asbestos, inspection report; and
- (B) a copy of the County's Risk Management/Loss Control's memo addressed to the County department overseeing this project.

To meet requirement #3 above for rehabilitation or demolition work, the Company is responsible for submitting a complete and accurate asbestos notification form titled "Notice of Asbestos Removal Project" [i.e. NESHAP notification, 40 CFR Part 61.145(b)], for each separate address where work will be performed to the below listed agencies at least 10 business days prior to demolition. The 4-copy forms are available from the Department of Environmental Protection and the County's Risk Management/Loss Control.

SEND ORIGINAL TO:

State Asbestos Coordinator
FL Dept. of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2409

SEND YELLOW COPY TO:

Environmental Specialist
FL Dept. Of Environmental Protection
P. O. Box 15425
West Palm Beach, FL 33416-5425

SEND PINK COPY OR FAX OF ORIGINAL TO:

PBC Risk Management/Loss Control
Attn: NESHAP
P.O. Box 21229
West Palm Beach, FL 33416-1229
FAX: (561) 233-5420

The Company must notify the County's Risk Management/Loss Control (phone (561) 233-5430) immediately if the demolition Start Date changes. No demolition may start before the Start Date on the NESHAP notification and no demolition may occur without the notice to proceed from the County department. It is the responsibility of the Company to call and submit revised NESHAP notification to the above listed agencies, adhering to required NESHAP time frames.

The Company is responsible for physical checking the structure(s) before submitting the NESHAP notification to ensure that all RACM and Category II ACM, as identified in the pre-rehabilitation or pre-demolition asbestos inspection report, have been removed. If RACM or Category II ACM is discovered, the Company shall immediately contact the County's Project Manager or Loss Control.

Everglades Venture Company, LLC

2. WORK PRACTICES

The Company will utilize wet methods to control airborne emissions during the demolition process and during loading onto transport vehicles, regardless whether Category I is present or not. The Company is responsible for supplying water meters, hoses, and adequate volume of water to the demolition site.

Recycling of any building materials with either presumed or confirmed asbestos-containing Category I (e.g. floor tile, sheet vinyl, and/or roofing materials) is not permitted, unless written authorization is provided to the Company by the County.

3. OSHA AND FLORIDA STATUTES COMPLIANCE

In accordance with OSHA, (reference 29 CFR 1926.1101) in the event ACM is present the Company must have a competent person onsite who: (1) is capable of identifying existing asbestos hazards in the workplace, (2) is capable of selecting the appropriate control strategy for asbestos exposure, and (3) has the authority to take prompt corrective action to eliminate them. This person must be trained in accordance with Chapter 469 Florida Statutes as an onsite supervisor.

Copies of training certificates of the onsite supervisor shall be made available to the County upon request.

4. ROOFING - REMOVAL OF CONFIRMED OR PRESUMED ASBESTOS-CONTAINING BITUMINOUS ROOFING MATERIALS

It is the responsibility of the Company to determine if the roofing materials do not contain asbestos. If the Company wishes not to sample and analyze for asbestos, the materials will be presumed to contain asbestos and handled accordingly. If the Company elects to sample the roof system, she/he must first notify the County of the sampling, including date, location, and number of samples to be collected. The bulk sample analyses must be performed by a NVLAP-accredited laboratory (NVLAP is the National Voluntary Laboratory Accreditation Program). Results, if proven less than one percent asbestos, shall be provided to the County prior to the start of any work.

The Company will be required to meet all Federal, State, and Local regulations pertaining to the handling, removal, and disposal of confirmed or presumed asbestos-containing roofing materials. This includes, but is not limited to:

- (1) Meeting the requirements listed in Chapter 469.012(2) & (3) Florida Statutes regarding training of onsite roofing supervisors involved in the removal of asbestos containing bituminous resinous roofing materials, and;
- (2) Utilizing removal methods that will maintain the roofing material's Category I non-friable status and will not create dust, i.e. employ methods other than sanding, grinding, drilling, abrading, rotary blade or saw cutting. Suggested methods are slicing, shearing, or punch cutting while using wet methods where feasible.

In the event ACM is found, the Company will submit the following documentation to the County department coordinating this project.

- (1) Copies of training certificates of the onsite roofing supervisor in compliance with the current requirements of Chapter 469 Florida Statutes;
- (2) Resume of the onsite roofing supervisor documenting asbestos-containing roofing removal jobs performed with the last two (2) years;
- (3) Approval of a landfill to accept confirmed or presumed asbestos-containing roofing material and any conditions associated with its acceptance, and;
- (4) A plan of action, as specified by OSHA 29 CFR 1926.1101 which addresses:
 - a. Method of removal
 - b. Worker protection
 - c. Protection of building occupants and ventilation systems
 - d. Method and location of disposal

Everglades Venture Company, LLC

PART B - SPECIAL CONDITIONS - ASBESTOS - PROCEDURES FOR NEW CONSTRUCTION AND REHABILITATION AND DEMOLITION OF STRUCTURES: The provisions of this part apply to new construction work and to all rehabilitation and demolition work contemplated in this agreement and described in Exhibit A of this agreement:

1. **HANDLING AND DISPOSAL OF ASBESTOS CEMENT PIPE**

GENERAL

Federal regulations (40 CFR Part 61, Subpart M) classify asbestos-cement pipe (AC pipe) as Category II non-friable asbestos-containing material. AC pipe must be handled in a manner which will maintain this classification. Therefore, all cutting and disposal of AC pipe must be performed by a Florida Licensed Asbestos Contractor.

The Company will make every effort to identify and quantify the locating of known AC pipe and material prior to onset of work.

If the Company during the course of work observes, uncovers, or otherwise becomes aware of the existence of any asbestos-cement pipe, pieces, or material at the site to which the Company or any subcontractor, supplier, or other person may be exposed, the Company shall immediately notify the County and confirm any verbal notice in writing. The County shall promptly consult with the Project Engineer concerning such condition and determine the necessity of the County retaining special consultants or qualified experts. The Company shall not perform any work near or in connection with the suspect material until receipt of special written instructions from the County.

The Company will ensure that all subcontractors follow these procedures.

PRE-WORK SUBMITTALS

The Company shall submit the name of the Asbestos Contractor and a copy of his/her Florida Asbestos Contractor license to the Palm Beach County department coordinating this project, prior to start of work.

WORKER PROTECTION

Licensed asbestos contractors will comply with the requirements of OSHA 29 CFR 1929.1101 concerning worker protection.

EXECUTION OF WORK

AC pipe will be kept wet during all phases of removal. No visible emissions are permitted. Wet the pipe using an airless sprayer or utilize available water.

Apply dropcloth of 6-mil poly to the area beneath and a minimum of 3 feet beyond the section of pipe to be cut.

Break, cut, or snap pipe into sections suitable in size to the disposal facility. Abrasive disc saws are prohibited.

Apply lockdown encapsulant to exposed edges of pipe. Pick up all pipe debris that may have fallen outside dropcloth.

Use of compressed air to clean AC pipes is prohibited.

At no time should AC pipe or pieces be mixed in with fill.

DISPOSAL

Wrap pipe in existing dropcloth. Transfer pipe to a clean dropcloth outside the trench, and wrap and secure in second layer of 6-mil poly.

Affix the following labels to the exterior of each separately wrapped section of pipe. Labels are to be waterproof, legible, and large enough in size to be readily visible:

First Label:

CAUTION
Contains Asbestos Fibers
Avoid Opening or Breaking Container
Breathing Asbestos is Hazardous to Your Health

Everglades Venture Company, LLC

Second Label:

DANGER
Contains Asbestos Fibers
Avoid Breathing Dust
Cancer and Lung Disease Hazard
Breathing Airborne Asbestos, Tremolite, Anthophyllite or
Actinolite Fibers is Hazardous to Your Health

Third Label:

RQ HAZARDOUS SUBSTANCE
Solid, NOS
ORM-E, NA9188
(Asbestos)

Fourth Label:

Label each container with the name of the generator (owner) and the location at which the waste was generated.

Properly dispose of all AC pipe generated each day. All wrapped sections may be stored in a secure, locked enclosure pending disposal, if authorized by owner. At no time are section pieces of AC pipe to be left on the worksite uncapped and unsecured at the end of the workday.

All vehicles and/or containers used to haul asbestos-containing waste material shall be lined with a minimum of 6-mil poly layer.

Label trucks used to transport asbestos-containing waste material during loading and unloading as follows (refer to 29 CFR 1910.145(d)(4) for sign format):

DANGER
Asbestos Dust Hazard
Cancer and Lung Disease Hazard
Authorized Personnel Only

POST WORK SUBMITTALS

The Company or Asbestos Contractor, as waste generator shall complete a Waste Shipment Record (WSR) for each shipment of asbestos-cement pipe disposed. Refer to 40 CFR Part 61, Revision Final Rule for an example of WSR or contact Palm Beach County Risk Management/Loss Control.

The Company or his designated subcontractor will submit the following documents to the Palm Beach County department coordinating this project prior to payment.

- A copy of the WSR prior to shipment.
- A copy of the WSR signed by the disposal facility within thirty-five (35) days of shipment.

PART C - SPECIAL CONDITIONS - REGULATIONS: The provisions of this part apply to all projects contemplated in this agreement and described in Exhibit A of this agreement:

Environmental Protection Company: 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants; Asbestos NESHAP Revision Final Rule November 20, 1990.

Occupational Safety and Health Administration: 29 CFR 1926.1101 - Asbestos, Construction Industry Standard.

Department of Business and Professional Regulations, Chapter 469 Florida Statutes, Licensure of Consultants and Contractors.

EXHIBIT "D"

Return to:
Palm Beach County
Housing & Community Development
3323 Belvedere Road, Building 501
West Palm Beach, Florida 33406
Prepared by: Tammy K. Fields,
Assistant County Attorney
Attention: Amin Houry

ACCEPTANCE OF TERMS AND CONDITIONS

The City of Pahokee, in consideration of funding certain improvements to the below described land (leased by the City of Pahokee until 2030), in the amount of two hundred twenty four thousand and five hundred ninety six Dollars (\$224,596), as funded by Palm Beach County Board of County Commissioners (the "County"), does hereby accept and agree to the terms and conditions contained in the Agreement between the Everglades Venture Company, LLC and Palm Beach County dated July 23, 2002. The subject property is legally described as:

A tract of land describing all that portion of the Herbert Hoover Dike Levee D-9 lying between the southeasterly right-of-way line and the waters of Lake Okeechobee from station 108+69.5 to station 163+06.5, all according to the right-of-way map prepared by the Central and Southern Florida Flood Control District, DWG. No. L-D9-2, more particularly described as follows:

Commencing at the southwest corner of fractional Section 18, Township 42 South, Range 37 East, Palm Beach County, Florida; thence North 0° 26' 16" West, along the West line of said Section 18, a distance of 1910.19 feet to a point on the southeasterly right-of-way line of the Herbert Hoover Dike Levee D-9, a works of the Central and Southern Florida Flood Control District, as now laid out and in use, said point being station 99+65.03; thence North 57° 00' 46" East, along the said right-of-way line, a distance of 904.47 feet to the Point of Beginning, said point being station 108+69.50; thence continue North 57° 00' 48" East, along the said right-of-way line, a distance of 3486.16 feet to a point, said point being station 143+55.68; thence North 59° 06' 15" East, along the said right-of-way line, a distance of 1950.82 feet to a point, said point being station 163+06.50; thence North 30° 53' 45" West, to the waters edge of Lake Okeechobee; thence in a southwesterly direction, along the waters edge of Lake Okeechobee, to a point on a line (said line bearing North 32° 59' 12" West from the Point of Beginning above described); thence South 32° 59' 12" East to the Point of Beginning, said point being station 108+69.50. Containing 30 acres, more or less.

1. The City of Pahokee agrees to assume the operation and maintenance of the marina and campground should Everglades Venture Company, LLC not be able to continue the operation. Further, the City of Pahokee agrees to fulfill the job creation requirements and reporting requirements contained in the agreement between the County and Everglades Venture Company, LLC.
2. The City of Pahokee agrees in regard to the use of the Property whose acquisition or improvements were funded through the grant agreement that for a period not less than ten (10) years after the expiration date of said agreement (as may be amended from time to time):
 - a) The City of Pahokee may not change the use or planned use, or discontinue use, of the Property (including the beneficiaries of such use) from that for which the acquisition or improvements were made, unless the City of Pahokee provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:
 - i) The new use of the Property, in the opinion of the County, qualifies as meeting one of the national objectives defined in the regulations governing the CDBG program, and is not a building for the general conduct of government; or
 - ii) The requirements of paragraph 2(b) of this section are met.

Everglades Venture Company, LLC

- b) If the City of Pahokee determines, after consultation with affected citizens, that it is appropriate to change the use of the Property to a use which does not qualify under paragraph 2(a)(i) of this section or discontinue use of the Property, it may retain or dispose of the facility for such use if the County is reimbursed in the amount of the current fair market value of the facility/property less any portion thereof attributable to expenditures of non-CDBG funds for improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.

Executed this ____ day of _____, 2002

(MUNICIPALITY SEAL)

CITY OF PAHOKEE

(DO NOT SIGN THIS EXHIBIT)

BY: _____
Roy Singletary, Mayor

(DO NOT SIGN THIS EXHIBIT)

By: _____
Debra Palmer, City Clerk

STATE OF FLORIDA
COUNTY OF PALM BEACH

The forgoing instrument was acknowledged before me this ____ day of _____, 2002, by Roy Singletary, as Mayor of the City of Pahokee, and by Debra Palmer, as City Clerk of the City of Pahokee, who are personally known to me or have produced _____ as identification and who did (did not) take an oath.

(Print or type name above)
Notary Public State of Florida

(Signature)

My Commission Expires:

(Notary Seal)

EXHIBIT "E"

**SCHEDULE OF JOBS TO BE CREATED/RETAINED, AND TO BE HELD BY
OR MADE AVAILABLE TO LOW - AND MODERATE - INCOME PERSONS**

The following positions are to be created/retained through this Agreement:

| <u>Job Title</u> | <u>Number of Jobs</u> | | <u>Create/Retain</u> |
|---|-----------------------|------------------|----------------------|
| | <u>Full Time</u> | <u>Part Time</u> | |
| Operations Manager | 1 | | Create |
| Marina Manager | 1 | | Create |
| Marketing Manager | 1 | | Create |
| Facility Maintenance | 3 | | Create |
| Clerical | 1 | | Create |
| Attendant | 2 | | Create |
| Recreation Director | 1 | | Create |
| Contract Labor (boatyard/campground) | 1 | | Create |
| Clerk | 1 | | Create |
| Receptionist | 1 | | Create |
| Server (bar) | 2 | | Create |

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Everglades Adventures RV & Sailing Resort

Your Gateway to Outdoor Recreation on Lake Okeechobee

A NEW RESORT
ON THE EASTERN
SHORE OF LAKE
OKEECHOBEE

Five Star Service

115 Waterfront
Sites w/Patios

Heated, Screen
Enclosed Pool

Indoor REC Center
& Camper Kitchen

Kayak, Canoe
And Pontoon Boat
Rentals

Fishing Pier

Guided Fishing
Tours

Tennis & Golf

Frec. Shuttle
Service

Planned Recreation
Programs

Everglades
Eco-Tours

Lake Okeechobee's
Only Deep Water
Marina

Discount Marine
Equipment
& Supplies

COMING SOON

Haul & Launch
Service to 50'

Full Service &
Do-it-Yourself
Boatyard

State of Florida
CLEAN MARINA
Designation

Dry Storage

Pumpout
Facilities

April 8, 2007

Mr. Edward Lowery, Director
Housing and Community Development
3323 Belvedere Rd., BLDG #501
West Palm Beach, Fl. 33406

Dear Mr. Lowery:

The purpose of this letter is to request additional funding in the amount of \$170,000 for the resort complex that is currently under construction. The original construction estimate for the project was \$856,720. As more components to the project have been added and the overall project phasing has been accelerated the overall budget has increased to more than \$1,200,000.

Because the project has significantly increased in scope additional jobs will be created. Once completed this facility will generate employment opportunities for more than 27 full time employees and provide a significant economic benefit to the region.

Palm Beach County has been a substantial partner in this project and has been a driving force in creating economic change in the Glades. In a short time this project will begin to generate significant economic results, in large part to the County's ongoing efforts to assist the Lake Region.

If I can be of assistance in any way please don't hesitate to call me at 561-924-7832.

Sincerely,

James Sheehan, Managing Partner

190 North Lake Avenue, Pahokee, Florida 33476

Phone: 800-335-6560, Fax: 561-924-7271, Email: evergladesadventures@earthlink.net