

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

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<b>Meeting Date:</b>	<b>June 23, 2015</b>	<b>[X] Consent</b>	<b>[ ] Regular</b>
		<b>[ ] Ordinance</b>	<b>[ ] Public Hearing</b>

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**Department:**      **Department of Economic Sustainability**

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**I. EXECUTIVE BRIEF**

**Motion and Title:** **Staff recommends motion to approve:** Amendment No. 002 to an Agreement (R2013-1424) with the City of Lake Worth to provide additional funding in the amount of \$30,000 and extend the project completion date.

**Summary:** On October 22, 2013, the County entered into an Agreement (R2013-1424) with the City of Lake Worth, as amended by Amendment No. 001 (R2013-1805) on December 17, 2013, to provide \$450,750 in Community Development Block Grant (CDBG) funds for the design and reconstruction of the roadway along 7<sup>th</sup> Avenue South between South A Street and South F Street. This Amendment provides \$30,000 in additional CDBG funds to enable the City to implement an expanded scope of roadway improvements. These are surplus funds from the City's 10<sup>th</sup> Avenue CDBG funded project which were reprogrammed through the 19<sup>th</sup> Amendment to the Fiscal Year 2012-2013 Action Plan. The completion date is being extended from December 31, 2015 to May 31, 2016 to provide sufficient time to undertake the project. **These are Federal CDBG grant funds which require no local match.** (DES Contract Development) District 7 (JB)

**Background and Justification:** The City of Lake Worth has an executed Interlocal Agreement with Palm Beach County to participate in the CDBG Program as funded by the United States Department of Housing and Urban Development.

**Attachments:**

1. Amendment No. 002 to the Agreement with the City of Lake Worth
  2. Amendment No. 001 (R2013-1805) to the Agreement with the City of Lake Worth
  3. Agreement (R2013-1424) with the City of Lake Worth
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<b>Recommended By:</b>		<u>6-10-15</u>
	<b>Department Director</b>	<b>Date</b>

<b>Approved By:</b>		<u>6/18/15</u>
	<b>Assistant County Administrator</b>	<b>Date</b>

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures					
Operating Costs	30,000				
External Revenues	(30,000)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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Is Item Included In Current Budget? Yes   X   No       

Budget Account No.:

Fund 1101 Dept 143 Unit 1431 Object 8201 Program Code/Period BG35N/GY08


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

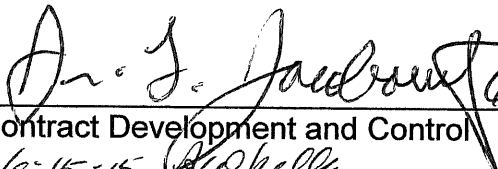
Approval of this agenda item will allocate an additional \$30,000 in CDBG funds to the City of Lake Worth.

C. Departmental Fiscal Review:  6-10-15  
Shairette Major, Fiscal Manager II

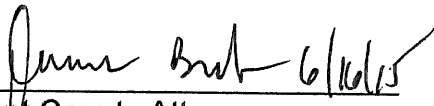
III. REVIEW COMMENTS

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

  
OFMB 6/10/15 6/11/15

 6/15/15  
Contract Development and Control

B. Legal Sufficiency:

 6/16/15  
Assistant County Attorney

C. Other Department Review:

\_\_\_\_\_  
Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

**AMENDMENT 002 TO THE AGREEMENT  
WITH  
CITY OF LAKE WORTH**

Amendment 002 entered on \_\_\_\_\_ by and between **Palm Beach County** and the **City of Lake Worth**.

**W I T N E S S E T H:**

WHEREAS, Palm Beach County entered into an Agreement (R2013-1424) with the City of Lake Worth on October 22, 2013, as amended by Amendment 001 (R2013-1805) on December 17, 2013, to provide \$450,750 of Community Development Block Grant (CDBG) funds for the design and construction of roadway improvements along 7<sup>th</sup> Avenue South; and

WHEREAS, the parties wish to among other things, provide additional funding for the project and extend the project completion date; and

WHEREAS, both parties desire to amend the original Agreement, as amended, in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**A. INCORPORATION OF RECITALS**

The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Agreement.

**B. SECTION 5: MAXIMUM COMPENSATION**

Provide additional funding for the project: Replace "\$450,750" with "\$480,750",  
Extend the project completion date: Replace "December 31, 2015" with "May 31, 2016".

**C. SECTION 6: TIME OF PERFORMANCE**

Extend the project completion date: Replace "December 31, 2015" with "May 31, 2016"

**D. SECTION 9 and SECTION 10: OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE and OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESSES**

Delete these two Sections and replace them with the following:

**9. CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY**

The Municipality acknowledges that it is the express policy of the Board of County Commissioners of Palm Beach County, Florida that the County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. In compliance with the County's requirements, the Municipality has either submitted a copy of its written non-discrimination policy which is consistent with the policy detailed above, or has submitted an executed statement affirming that its non-discrimination policy is in conformance with the policy detailed above.

In furtherance of such policy, the Municipality shall not, on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information, exclude any person from the benefits of, or subject any person 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.

**10. OPPORTUNITIES FOR RESIDENTS AND SMALL/MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES**

To the greatest extent feasible, 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. The Municipality shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Municipality 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 CDBG areas designated by Palm Beach County in the CDBG Annual Consolidated Plan approved by U.S. HUD.

**E. PERFORMANCE REQUIREMENTS:**

Extend the time frame for completion of the outlined activities: Replace “December 31, 2015” with “May 31, 2016”, and revise the performance requirements listed below to read as follows:

Accept Bids by:	June 24, 2015
Start Construction by:	August 31, 2015
Complete Construction by:	February 28, 2016
Submit Final Reimbursement Request by:	April 4, 2016

**F. EXHIBIT A: SECTION 2. A: COUNTY OBLIGATIONS**

Provide additional funding for the project: Replace “\$450,750” with “\$480,750”.

Except as modified by this Amendment 002, and previously, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 002 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.

IN WITNESS WHEREOF, the Municipality and the County have caused this Amendment 002 to be executed on the date first above written.

(MUNICIPALITY SEAL BELOW)



**CITY OF LAKE WORTH**

By: *Mary Triolo* 6/8/15  
Pam Triolo, Mayor

By: *Pamela J. Lopez*  
Pamela J. Lopez, City Clerk

By: *[Signature]*  
Attorney for Municipality (Optional)

(COUNTY SEAL BELOW)

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

ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By: \_\_\_\_\_  
Shelley Vana, Mayor  
Palm Beach County

By: \_\_\_\_\_  
Deputy Clerk

Document No.: \_\_\_\_\_

Approved as to Form and  
Legal Sufficiency

Approved as to Terms and Conditions  
Department of Economic Sustainability

By: \_\_\_\_\_  
James Brako  
Assistant County Attorney

By: *Sherry Howard*  
Sherry Howard  
Deputy Director

**R2013 : 1805**  
**AMENDMENT 001 TO THE AGREEMENT**  
**WITH**  
**CITY OF LAKE WORTH**

**DEC 17 2013**

Amendment 001 entered on \_\_\_\_\_ by and between **Palm Beach County and City of Lake Worth.**

**WITNESSETH:**

WHEREAS, Palm Beach County entered into an Agreement (R2013-1424) with the City of Lake Worth on October 22, 2013, to provide \$450,750 of Community Development Block Grant (CDBG) funds for the design and construction of roadway improvements along 7<sup>th</sup> Avenue South; and

WHEREAS, the parties wish to modify the Agreement to expand the Scope of Work; and

WHEREAS, both parties desire to amend the original Agreement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**A. INCORPORATION OF RECITALS**

The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Agreement.

**B. EXHIBIT A – SECTION 1 (A): PROFESSIONAL SERVICES**

Section 1 (A) is hereby modified to include the installation of water mains and appurtenances as part of the reconstruction of 7<sup>th</sup> Avenue South between South "A" and South "F" Streets, and as such, shall be included in the design and construction services.

**C. EXHIBIT A – SECTION 1(B): PROJECT SCOPE**

Section 1 (B) is modified to include the installation of water mains and appurtenances as part of the scope of work for the project, and such installation of water mains and appurtenances shall be part of the street improvements for and reconstruction of the 7<sup>th</sup> Avenue South roadway between South "A" and South "F" Streets in the City of Lake Worth.

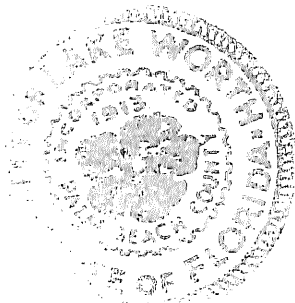
Except as modified by this Amendment 001, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 001 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.

(continued on next page)

**ATTACHMENT 2**

IN WITNESS WHEREOF, the Municipality and the County have caused this Amendment 001 to be executed on the date first above written.

(MUNICIPALITY SEAL BELOW)



CITY OF LAKE WORTH

By: [Signature] 12/3/13  
Pam Triolo, Mayor

By: [Signature]  
Pamela J. Lopez, City Clerk

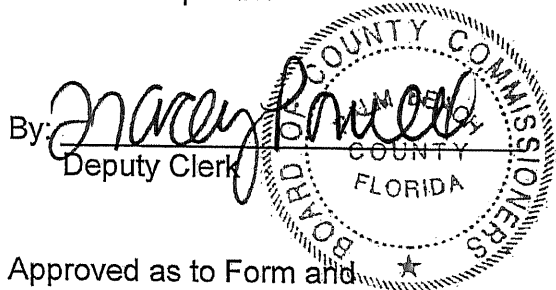
By: [Signature] For  
Attorney for Municipality (Optional)  
Glen J. Torcivia, City Attorney

(COUNTY SEAL BELOW)

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

ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By: [Signature]  
Priscilla A. Taylor, Mayor  
Palm Beach County



By: [Signature]  
Deputy Clerk

Document No.: R2013-1805  
DEC 17 2013

Approved as to Form and  
Legal Sufficiency

Approved as to Terms and Conditions  
Department of Economic Sustainability

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

By: [Signature]  
Sherry Howard  
Deputy Director

**AGREEMENT BETWEEN PALM BEACH COUNTY**

**AND**

**CITY OF LAKE WORTH**

R 2013 : 1424

THIS AGREEMENT, entered into on OCT 22 2013, 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 the City of Lake Worth, a Municipality duly organized and existing by virtue of the laws of the State of Florida, having its principal office at 7 North Dixie Highway, Lake Worth, FL 33460.

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 accord with the annual Action Plan, as amended, and the City of Lake Worth, desire to provide the activities specified this Agreement; and

WHEREAS, Palm Beach County desires to engage the City of Lake Worth to implement such undertakings of the Community Development Block Grant Program.

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

**1. DEFINITIONS**

- (A) "County" means Palm Beach County.
- (B) "CDBG" means the Community Development Block Grant Program of Palm Beach County.
- (C) "DES" means Palm Beach County Department of Economic Sustainability
- (D) "Municipality" means the City of Lake Worth.
- (E) "DES Approval" means the written approval of the DES Director or his designee.
- (F) "U.S. HUD" means the Secretary of Housing and Urban Development or a person authorized to act on its behalf.
- (G) "Low- and Moderate- Income Persons" means the definition set by U.S. HUD.

**2. PURPOSE**

The purpose of this Agreement is to state the covenants and conditions under which the Municipality will implement the Scope of Services set forth in this Agreement.

**3. CDBG ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVE**

The Municipality shall implement the herein described improvements on 7<sup>th</sup> Avenue South, which activities have been determined to be **Public Facilities and Improvements**, under 24 Code of Federal Regulations (CFR) 570.201(c). Both Parties acknowledge that the eligible activities carried out under this Agreement, as described in the scope of work in Exhibit A, will benefit **Low- and Moderate- Income Persons on an Area-Wide Basis** and meet the National Objective as defined in 24 CFR 570.208(a)(1)(i).



**4. SCOPE OF SERVICES**

The Municipality shall, in a satisfactory and proper manner as determined by DES, perform the tasks necessary to conduct the program outlined in Exhibit A as attached hereto and made a part hereof.

**5. MAXIMUM COMPENSATION**

The Municipality agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and DES Director or designee-approved expenditures and encumbrances made by the Municipality, which shall not be unreasonably withheld. These services shall be performed in a manner satisfactory to DES. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of \$450,750 for the period of October 22, 2013, through and including December 31, 2015. Any funds not obligated by the expiration date of this Agreement shall remain with the County and not be eligible for reimbursement to the Municipality.

**6. TIME OF PERFORMANCE**

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project by U. S. HUD under Grant Numbers B-10-UC-12-0004, B-11-UC-12-0004, and B-12-UC-12-0004. The effective date shall be the date of execution of this Agreement, and the services of the Municipality 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 Municipality prior to December 31, 2015.

**7. METHOD OF PAYMENT**

The County agrees to make payments and to reimburse the Municipality for all budgeted costs permitted by Federal, State, and County guidelines. The Municipality shall not request reimbursement for payments made by the Municipality before the effective date of this Agreement, nor shall it request reimbursement for payments made after the expiration date of this Agreement, and in no event shall the County provide advance funding to the Municipality or any subcontractors hereunder. The Municipality shall request payments or reimbursements from the County by submitting to DES proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Municipality may furnish copies if deemed acceptable by DES. Each request for payment or reimbursement submitted by the Municipality shall be accompanied by a letter from the Municipality, provided on the Municipality's letterhead, referencing the name of the project funded herein, the date of this Agreement and/or its document number, and containing a statement requesting the payment or reimbursement and its amount, as well as the name and signature of the person making the request. Payment shall be made by the Palm Beach County Finance Department upon presentation of the aforesaid proper documentation of expenditures as approved by DES. The Municipality may at any time after the expiration of this agreement request from the County reimbursement for payments made by the Municipality during the term of this Agreement by submitting to DES the aforesaid proper documentation of expenditures, and the Palm Beach County Finance Department shall make payment as stated above, provided that DES has determined that the funds allocated to the Municipality through this agreement are still available for payment, and provided that DES approves such payment.

**8. CONDITIONS ON WHICH PAYMENT IS CONTINGENT****(A) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES**

The Municipality shall implement this Agreement in accordance with applicable Federal, State, County, and local laws, ordinances and codes. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by DES. No payments for projects funded by more than one funding source will be made until a cost allocation plan has been approved by the DES Director or designee. Should a project receive additional funding after the

commencement of this Agreement, the Municipality shall notify DES in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the DES Director or designee within forty-five (45) days of said official notification.

(B) FINANCIAL ACCOUNTABILITY

The County may have a financial systems analysis and/or an audit of the Municipality or of any of its subcontractors, 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.

(C) SUBCONTRACTS

Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by the Municipality to DES and approved by DES 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 Palm Beach County and HUD. Contracts for architecture, engineering, survey, and planning shall be 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 DES Director or his designee.

(D) PURCHASING

Purchases 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 Code, as well as Federal Management Circulars A-87, A-102, A-128, and 24 CFR Part 85 (a/k/a the Common Rule), which are incorporated herein by reference.

(E) REPORTS, AUDITS, AND EVALUATIONS

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

(F) ADDITIONAL DES, COUNTY, AND U.S. HUD REQUIREMENTS

DES shall have the right under this Agreement to suspend or terminate payments if after fifteen (15) days written notice the Municipality has not complied with any additional conditions that may be imposed, at any time, by DES, the County, or U.S. HUD.

(G) PRIOR WRITTEN APPROVALS - SUMMARY

The following activities among others require the prior written approval of the DES Director or designee to be eligible for reimbursement or payment:

- (1) All subcontracts and agreements pursuant to this Agreement;
- (2) All capital equipment expenditures of \$1,000 or more;
- (3) All out-of-county travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
- (4) All change orders;
- (5) All requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit A; and
- (6) All rates of pay and pay increases paid out of CDBG funds, whether for merit or cost of living.

DES, or the County's designees copies of transcriptions of such records and information as is determined necessary by DES. The Municipality shall submit status reports required under this Agreement on forms approved by DES to enable DES to evaluate progress. The Municipality shall provide information as requested by DES to enable DES to complete reports required by the County or HUD. The Municipality shall allow DES, or HUD to monitor the Municipality on site. Such visits may be scheduled or unscheduled as determined by DES or HUD.

**13. AUDITS AND INSPECTIONS**

At any time during normal business hours and as often as DES, the County, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the Municipality to DES, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement. If during the year, the Municipality expends over \$500,000 of Federal awards, the Municipality shall comply with the provisions of OMB Circular A-133. The Municipality shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within the earlier of, 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which DES-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the Municipality's choosing, subject to the County's approval. In the event the Municipality anticipates a delay in producing such audit, the Municipality shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Municipality. In the event the Municipality is exempt from having an audit conducted under A-133, the Municipality shall submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Municipality as defined by A-133. Technical assistance will be provided to the Municipality, as deemed necessary by the County.

**14. UNIFORM ADMINISTRATIVE REQUIREMENTS**

The Municipality agrees to comply with the applicable uniform administrative requirements as described in Federal CDBG Regulations 24 CFR 570.502.

**15. CDBG FUNDING AT EXPIRATION**

Upon expiration or termination of this Agreement, any funds not obligated by the Municipality shall remain with the County and shall no longer be available for reimbursement to the Municipality. Municipality shall transfer to the County any accounts receivable that are attributable to the use of CDBG funds. Any real property under the Municipality's control upon expiration of this Agreement which was acquired or improved in whole or part with CDBG in the excess of \$25,000 must either be used to meet one of the national objectives in Federal CDBG Regulations 24 CFR 570.508 for a period of five years after expiration of this Agreement (unless a longer period is specified elsewhere in this Agreement), or, the Municipality shall pay the County 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.

**16. DATA BECOMES COUNTY PROPERTY**

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Municipality for the purpose of this Agreement shall be made available to the County by the Municipality upon request by the County, DES, or the Palm Beach County Inspector General's office, as indicated herein. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to DES, if requested. The Municipality shall keep all documents and records for five (5) years after expiration of this Agreement.

**17. INDEMNIFICATION**

Each party to this Agreement shall be liable for its own actions and negligence and, to the extent permitted by law, the County shall indemnify, defend, and hold harmless the Municipality against any actions, claims, or damages arising out of the County's negligence in connection with this Agreement, and the Municipality shall indemnify,

defend, and hold harmless the County against any actions, claims, or damages arising out of the Municipality's negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statute, section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions. The Municipality shall hold the County harmless and shall 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 the Municipality. The provisions of this indemnification clause shall survive the termination of this Agreement.

**18. INSURANCE BY MUNICIPALITY:**

Without waiving the right to sovereign immunity as provided by S. 768.28 F.S., the Municipality acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event the Municipality maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self-insurance under s.768.28 F.S., the Municipality shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage

The Municipality agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, the Municipality shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverage.

Compliance with the foregoing requirements shall not relieve the Municipality of its liability and obligations under this Agreement.

**19. MAINTENANCE OF EFFORT**

The intent and purpose of this Agreement is to increase the availability of the Municipality's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Municipality. The Municipality agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

**20. CONFLICT OF INTEREST**

The Municipality 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 Municipality. Any possible conflict of interest on the part of the Municipality or its employees shall be disclosed in writing to DES 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 area.

**21. CITIZEN PARTICIPATION**

The Municipality shall cooperate with DES in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents informed of the activities the Municipality is undertaking in carrying out the provisions of this Agreement. Representatives of the Municipality shall attend meetings and assist DES in the implementation of the Citizen Participation Plan, as requested by DES.

**22. RECOGNITION**

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

**23. AGREEMENT DOCUMENTS**

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

- (A) This Agreement, including its Exhibits, which the County may revise from time to time, as required, and to be provided for use by the Agency;
- (B) Office of Management and Budget Circulars A-87, A-102, A-133, and 24CFR Part 85;
- (C) Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- (D) Executive Orders 11246, 11478, 11625, 12432, the Davis Bacon Act, and Section 3 of the Housing and Community Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;
- (E) Executive Orders 11063, 12259, 12892, Fair Housing Act of 1988, and Section 109 of the Housing and Community Development Act of 1974, as amended;
- (F) Florida Statutes, Chapter 112;
- (G) Palm Beach County Purchasing Code;
- (H) Federal Community Development Block Grant Regulations (24 CFR Part 570), and Federal Consolidated Plan Regulations (24 CFR Part 91), as amended;
- (I) The Municipality's personnel policies and job descriptions; and
- (J) The Municipality's Certificate of Insurance.

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

**24. TERMINATION**

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the Municipality with funds under this Agreement shall be returned to DES or the County.

In the event of termination, the Municipality 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 Municipality, and the County may withhold any payment to the Municipality for set-off purposes until such time as the exact amount of damages due to the County from the Municipality is determined.

**(A) TERMINATION FOR CAUSE**

If through any cause either party shall fail to fulfill in a 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 in whole or part by giving a fifteen (15) working day written notice of such termination to the other party and specifying therein the effective date of termination.

**(B) TERMINATION FOR CONVENIENCE**

At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the County shall pay the Municipality for services rendered pursuant to this Agreement through and including the date of termination. If Municipality elects to terminate the

Agreement after CDBG funds have been expended and the national objective will not be met, the Municipality is responsible to refund to the County funds equivalent to the CDBG dollars expended on the project. The County may withhold future CDBG allocations pending the Municipality's compliance with the national objective requirement and/or the repayment of CDBG funds.

(C) 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 the U.S. HUD specifies.

25. 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.

26. AMENDMENTS

The County may, at its discretion, amend this Agreement to conform with changes required by 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 the governing body of the Municipality, and signed by both parties.

27. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to DES at its office at 100 Australian Avenue, Suite 500, West Palm Beach, Florida 33406, and to the Municipality when delivered to its address on Page 1 of this Agreement.

28. INDEPENDENT AGENT AND EMPLOYEES

The Municipality 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, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

29. 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.

30. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the Municipality 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 thirty six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

31. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Agency, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation

CITY OF LAKE WORTH

shall be in violation of Palm Beach County Code, Section 2-421 to 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

32. **EXCLUSION OF THIRD PARTY BENEFICIARIES**

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the Municipality.

33. **COUNTERPARTS OF THE AGREEMENT**

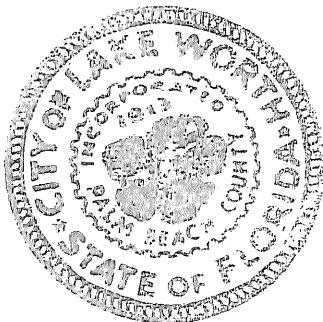
This Agreement, consisting of twenty (20) enumerated pages which include the Exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument. A copy of this Agreement shall be filed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

34. **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 \_\_\_\_\_ day of OCT 22 2013, 20\_\_.

(MUNICIPALITY SEAL BELOW)



CITY OF LAKE WORTH

By: [Signature]  
Pam Triolo, Mayor

By: [Signature]  
Pamela J. Lopez, City Clerk

By: [Signature] *PA*  
Attorney for Municipality  
(Signature Optional)

(COUNTY SEAL BELOW)

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

By: [Signature]  
Steven L. Abrams, Mayor  
Board of County Commissioners

ATTEST: Sharon R. Bock,  
Clerk & Comptroller

By: [Signature]  
Deputy Clerk



Document No.: R2013-1424

Approved as to Form and  
Legal Sufficiency

Approved as to Terms and Conditions  
Department of Economic Sustainability

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

By: [Signature]  
Sherry Howard,  
Deputy Director



**EXHIBIT A**  
**WORK PROGRAM NARRATIVE**

**1. MUNICIPALITY OBLIGATIONS:**

- A. PROFESSIONAL SERVICES:** The Municipality shall advertise and procure the services of a an engineering consultant (a Florida Professional Engineer) to provide design services to create plans and specifications for the reconstruction of 7<sup>th</sup> Avenue South between South "A" and South "F" Streets in the City of Lake Worth. The consultant shall also prepare, obtain and review bids, prepare contract documents, inspect work in progress, recommend payment to contractors, and provide other professional services customarily provided by similar professionals for this type of project. The consultant shall also coordinate the design and construction work with the asbestos abatement contractor, if necessary.

The Municipality shall procure such services as permitted under the purchasing requirements contained herein provided that the Municipality first obtain DES approval of its solicitation method as well as DES approval of the Municipality's award of the contract for consultant services.

The Municipality's procurement of the consultant shall be a formal competitive proposal process in compliance with the Palm Beach County Purchasing Code. The Municipality understands that the aforesaid process for the procurement of its consultant is set forth as a Request for Proposal (RFP) in the Palm Beach County Purchasing Code, and the Municipality agrees to procure these services according to the requirements contained therein.

The procurement process of the consultant shall incorporate any sub-consultants which shall be funded as reimbursables under the consultant's contract for services. Reimbursement for sub-consultants shall be at cost. Such sub-consultants may include surveyors, testing services, or others as deemed necessary for the nature of the project. (Note: The consultant's compensation shall not be based on a percentage of construction costs, nor a cost plus percentage of cost).

Before seeking submittals from consultants, the Municipality shall submit the following to DES and obtain DES's approval to proceed with the solicitation of submittals: a copy of the RFP document that describes the project and the consultant's desired scope of work, that contains the public entity crimes statement if required by F.S. 287.133, and that specifies the factors to be used to evaluate respondents. At minimum, the solicitation shall seek a description of the respondents' approach and understanding of the project, and a description of the work proposed by the respondents to complete the project. The solicitation may seek work references from respondents, and a price for their services.

After receiving and evaluating proposals, the Municipality shall obtain DES approval prior to awarding the contract for consultant services to be funded through this Agreement. In this regard, the Municipality shall provide a letter to DES transmitting the following:

- Proof of Publication
- List of firms that submitted proposals
- Final Ranking
- A recommendation as to which consultant is to be awarded the consultant services contract
- A justification for the recommended award
- Advise if any respondents were rejected and why
- Advise if any protests were received and how they were addressed

- B. PROJECT SCOPE:** The Municipality provided scope of work for the project, subject to funding availability, shall include, but not be limited to, the following street improvements on 7th Avenue South between South "A" Street and South "F" Streets in the City of Lake Worth:



Reconstruction of the roadway including removal of the existing base material, construction of a new compacted sub-grade, new road base, installation of curbs and gutters, asphalt roadway, concrete sidewalks, sod, and restoration of areas affected by construction activity.

(1) Should the Municipality use brand names in the bid package/drawings/specifications for this project, then these documents shall:

- (a) Clearly note that the specified brand name is used for descriptive purposes only,
- (b) State that "equal" equipment or materials will be accepted, and
- (c) Identify the minimum requirements to establish equality.

The Municipality agrees that the use of more than one brand name shall not be regarded as having met the above requirements.

(2) The Municipality shall submit its bid package/drawings/specifications, and an itemized opinion of probable construction cost prepared by its consultant, to DES and obtain a letter of approval prior to bidding the construction work. Furthermore, the Municipality shall obtain DES approval prior to issuing any addenda to its bid documents for this project.

(3) The Municipality shall prioritize the work on 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 provided that the extent of work awarded will result in a functioning roadway in the opinion of DES.

(4) The Municipality shall assure that neither the prime contractor nor any subcontractor shall be allowed to perform one hundred percent (100%) of their work on this project on nights, weekends, or County recognized holidays, and shall assure that the prime contractor and all subcontractors shall, at a minimum, perform work on this project for the duration of one regular working day. The Municipality may request DES for a waiver to the above requirement should the nature of the project so necessitate, and in such instance, DES may, at its discretion, grant the Municipality such waiver.

(5) The Municipality 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 Municipality shall obtain DES approval prior to awarding the construction contract to be funded through this Agreement. After awarding such contract, the Municipality shall obtain DES approval prior to executing any change orders to such contract.

Should the consultant contract amount plus the construction contract amount exceed the amount to be funded by the County through this Agreement, then the Municipality shall fund all amounts in excess of the amount to be funded by the County. The Municipality shall first disburse 100% of their funds toward the contract amount, and shall provide DES with satisfactory documentation in this regard. DES will then fund the contract amount contained herein and as presently available in this project's budget in the form of reimbursements to the Municipality.

The Municipality may request the County to participate with a portion of the County's funding for construction costs first prior to participating with its funds. Under such a scenario, the Municipality would disburse an amount up to 75% of the County's funding amount made available for the project through this Agreement for construction costs and request reimbursement from the County for such amount, then disburse its portion of funding for the project (without being reimbursed by the County for such amount), and finally, the Municipality would disburse an amount equivalent to the County's remaining funding amount made available for the project through this Agreement for construction costs and request reimbursement from the County for such amount.

(7) The Municipality shall not request reimbursement from DES for materials or equipment received and stored on the project site or elsewhere. The Municipality shall only request reimbursement for materials and equipment that have been installed.

(8) The Municipality shall inform DES of any environmental findings or conditions discovered during activity implementation. Applicable mitigation measures must be incorporated in order to proceed with the project. Such mitigation measures may affect the total project cost.

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

- C. **ASBESTOS REQUIREMENTS:** The Municipality shall comply with all applicable requirements contained in Exhibit C, attached hereto, for construction work in connection with the project funded through this Agreement.
- D. **DAVIS-BACON ACT:** The Municipality shall request the County to obtain a Davis-Bacon wage decision for the project prior to advertising the construction work. The Municipality 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.
- E. **BONDING REQUIREMENTS:** The Municipality shall comply with the requirements of 24 CFR Part 85 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$100,000, the Municipality shall require a bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$100,000, the Municipality shall also require a performance bond on the part of the contractor for 100 percent (100%) of the contract price and a payment bond on the part of the contractor for 100 percent (100%) of the contract price.  
  
A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. All bonds shall be executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida. The Municipality may follow its own requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of \$100,000, or less.
- F. **CONSTRUCTION PAYMENT RETAINAGE:** Throughout the term of this contract, the Municipality shall withhold retainage upon each progress draw at the maximum percentage allowed by Florida law. The Municipality shall abide by Florida law regarding the payment of retainage funds and project closeout procedures. The Municipality shall ensure that its contractor and subcontractors have complied with the requirements of the Davis-Bacon Act, and that satisfactory project closeout documentation has been submitted and approved by DES.
- G. **FORMER PROJECTS:** The Municipality 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.
- H. **PERFORMANCE REQUIREMENTS:** The time frame for completion of the outlined activities shall be December 31, 2015. The Municipality shall meet these performance requirements by the timely performance, documentation, and completion of the following tasks:

Prepare RFP/County Approval by:	November 30, 2013
Accept Responses by:	January 31, 2014
Consultant Award/Start Design by:	April 30, 2014
Complete Design by:	August 31, 2014
Accept Bids by:	December 31, 2014
Start Construction by:	March 31, 2015
Complete Construction by:	September 30, 2015
Submit Final Reimbursement Request by:	November 30, 2015

- I. **REPORTS:** The Municipality shall submit to DES a detailed Monthly Performance Report in the form provided as Exhibit B to this Agreement. Each Report must account for the total activity for which the Municipality is funded under this Agreement, and a Municipality representative must certify that all of the Municipality's Monthly Performance Requirements contained herein have been met during the reporting period. These Monthly Performance Reports shall be used by DES to assess the Municipality's progress in implementing the project.

This Agreement may be amended to decrease and/or recapture funds from the Municipality depending upon the timely completion of the monthly performance requirements and/or the rate of expenditure of funds, as determined by DES.

**The Municipality may be subject to decrease and/or recapture of project funds by the County if the above Monthly Performance Requirements are not met. Failure by the Municipality to comply with these requirements may negatively impact ability to receive future grant awards.**

- J. **USE OF THE PROJECT FACILITY/PROPERTY:** The Municipality agrees in regard to the use of the facility/property whose acquisition or improvements are being funded in part or in whole by CDBG funds as provided by this Agreement, that for a period of five (5) years after the expiration date of this Agreement (as may be amended from time to time):

- (1) The Municipality may not change the use or planned use, or discontinue use, of the facility/property (including the beneficiaries of such use) from that for which the acquisition or improvements are made, unless the Municipality provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:
  - a. The new use of the facility/property 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
  - b. The requirements of paragraph (2) of this section are met.
- (2) If the Municipality determines, after consultation with affected citizens, that it is appropriate to change the use of the facility/property to a use which does not qualify under paragraph (1) (a) of this section or discontinue the use of the facility/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 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.
- (3) Following the reimbursement of CDBG funds by the Municipality to the County pursuant to paragraph (2) above, the facility/property will then no longer be subject to any CDBG requirements.

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

- K. **SECTION 3 REQUIREMENTS:** The Municipality agrees to comply with all Section 3 requirements applicable to contracts funded through this Agreement. Information on Section 3 is available at DES upon request. The Municipality 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**

- (1) 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. 170 1u (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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.

- L. **ENVIRONMENTAL CONDITIONS:** The County shall perform an Environmental Review (ER) of the project to review existing conditions and identify all potential environmental impacts, whether beneficial or adverse, and any required conditions or mitigation measures that Municipality must consider in the design and implementation of the project. The Municipality will receive notification from DES following completion of the ER. The notification letter will include a description of any conditions and mitigation measures required to be undertaken by the Municipality. Where applicable, the Municipality shall submit to DES a plan of action and an implementation schedule for complying with the identified conditions requiring mitigation. The Municipality shall comply with all required actions established by the County as a result of the ER.

ER costs incurred by the County may be charged to the project identified above. In addition, the Municipality shall immediately inform DES of any environmental findings or conditions discovered during activity implementation, and agrees that applicable mitigation measures, subject to DES approval, shall be incorporated in order to proceed with the project. The Municipality acknowledges that such mitigation measures may affect the total project cost and that Municipality may be responsible for implementation of corrective actions and the costs associated therewith.

2. **COUNTY OBLIGATIONS:**

- A. Provide funding for the above specified improvements as described above in "Project Scope", during the term of this Agreement, in the amount of \$450,750. However, the County shall not provide any funding for the construction work until the Municipality provides documentation, acceptable to the County, showing that sufficient funds are committed to the project and available to complete the project.
- B. Provide project administration and inspection to the Municipality to ensure compliance with U.S. HUD and the Department of Labor, and applicable State, Federal and County laws and regulations.
- C. Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced, as determined by DES, 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 DES on program activities.
- D. Perform Davis-Bacon Act Labor Standards monitoring and enforcement.

3. **OTHER PROJECT EXPENDITURES:**

Allowable costs that may be paid by the County under this Agreement in addition to those stated in 2.A above:

- (1) Costs of asbestos surveys, asbestos abatement, and abatement monitoring.
- (2) 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 Municipality for expenditures on the above items prior to undertaking the services associated with them, and approve any such expenditure it deems appropriate for this project.

**EXHIBIT B**  
**PALM BEACH COUNTY ECONOMIC SUSTAINABILITY**  
**MONTHLY PERFORMANCE REPORT**

<b>Report For:</b>	Month: _____ Year: _____
<b>Sub-Recipient Name:</b>	City of Lake Worth
<b>Project Name:</b>	7 <sup>th</sup> Avenue South Roadway Improvements
<b>Report Prepared By:</b>	<div></div> <div>Name _____ Signature _____ Date _____</div>

**BUDGETING AND EXPENDITURES**

Amounts Expended this Reporting Period: CDBG Funds:\$\_\_\_\_\_ Other Funds:\$\_\_\_\_\_

**Amounts Expended to Date:**

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ 450,750.00	\$	%
Other Funds:_____	\$	\$	%
Other Funds:_____	\$	\$	%
TOTAL:	\$	\$	%

Describe any changes in budgeted amounts during this reporting period and the source of funds:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe your efforts to obtain any additional funds for the project during this reporting period (if your project is underfunded): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROJECT ACTIVITIES**

Describe your accomplishments during the reporting period: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any problems encountered during this reporting period: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, do hereby certify that the City of Lake Worth has met all of its Monthly Performance Requirements (Exhibit A, Paragraph H) referenced in the Agreement during this reporting period.

\_\_\_\_\_  
**Name & Title of Certifying Representative**

Send Monthly Performance Report to: Bud Cheney, Manager of CREIS  
Department of Economic Sustainability  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406

**EXHIBIT C****ASBESTOS REQUIREMENTS**  
**SPECIAL CONDITIONS FOR DEMOLITION AND RENOVATION OF BUILDINGS**

The provisions of this part apply to all demolition and renovation work contemplated in this Agreement and described in Exhibit A of this Agreement.

**I. DEFINITIONS**

ACM:	Asbestos Containing Materials
AHERA:	Asbestos Hazard Emergency Response Act
EPA:	Environmental Protection Agency
FLAC:	Florida Licensed Asbestos Consultant
DES:	Palm Beach County Department of Housing and Community Development
NESHAP:	National Emission Standards for Hazardous Air Pollutants
NRCA:	National Roofing Contractors Association
NVLAP:	National Voluntary Laboratory Accreditation Program
OSHA:	Occupational Safety & Health Administration
PBCAC:	Palm Beach County Asbestos Coordinator (in Risk Management)
PLM:	Polarized Light Microscopy
RACM:	Regulated Asbestos Containing Materials
TEM:	Transmission Electron Microscopy

**II. ASBESTOS SURVEYS**

All properties scheduled for renovation and/or demolition are required to have a comprehensive asbestos survey conducted by a Florida Licensed Asbestos Consultant (FLAC). The survey shall be conducted in accordance with AHERA guidelines. Analysis must be performed by a NVLAP accredited laboratory.

For Renovation Projects (projects which will be reoccupied):

- Point counting should be conducted on all RACM indicating 1% - 10% asbestos by PLM analysis. If the asbestos content by PLM is less than 10%, the building owner/operator can elect to:
  1. Assume the material is greater than 1% and treat it as RACM, or
  2. Require verification by point counting
- Samples of resilient vinyl floor tile indicating asbestos not detected must be confirmed by transmission electron microscopy (TEM)
- Joint compound shall be analyzed as a separate layer
- Roofing material shall be sampled only if a renovation requires the roof to be disturbed. In lieu of sampling the roof, it will be presumed to contain asbestos

For Demolition Projects:

- Point counting should be conducted on all RACM indicating 1% - 10% asbestos by PLM analysis. If the asbestos content by PLM is less than 10%, the building owner/operator can elect to:
  1. Assume the material is greater than 1% and treat it as RACM, or
  2. Require verification by point counting
- Composite sample analysis is permitted for drywall systems (combining the drywall and joint compound constituents)
- All Category I and II non-friable materials, as defined in EPA/NESHAP, shall be sampled to determine asbestos content

If the Municipality has a recent asbestos survey report prepared by a Florida Licensed Asbestos Consultant, a copy may be provided to DES for review by the PBCAC to determine if the survey is adequate to proceed with renovation/demolition work. If no survey is available, a survey may be initiated by Municipality or requested by DES. If the survey is through DES, a copy of the completed survey will be forwarded to the Municipality.

### III. ASBESTOS ABATEMENT

#### A. RENOVATION

- (a) Prior to a renovation, all asbestos containing materials that will be disturbed during the renovation, must be removed by a Florida Licensed Asbestos Contractor under the direction of a FLAC. Exceptions may be granted by DES prior to the removal. The Municipality must obtain approval for all exceptions from DES. DES will request the PBCAC to review and approve all exceptions.
- (b) Asbestos abatement work may be contracted for by the Municipality, or by DES upon request.
- (c) If the Municipality contracts the asbestos abatement, the following documents are required to be provided to the DES.
  - 1. An Asbestos Abatement Specification (Work Plan)
  - 2. Post Job submittals, reviewed and signed by the FLAC
- (d) If the Municipality requests DES to contract the asbestos abatement, DES will initiate the request through the PBCAC who will contract the asbestos abatement. DES will provide a copy of all contractor and consultant documents to the Municipality.
- (e) Materials containing <1% asbestos are not regulated by EPA/NESHAPS. However, OSHA compliance is mandatory. OSHA requirements include training, wet methods, prompt cleanup in leak tight containers, etc. The renovation contractor must comply with US Dept of Labor, OSHA Standard Interpretation, "Compliance requirements for renovation work involving material containing <1% asbestos", dated 11/24/2003. The renovation contractor must submit a work plan to DES prior to removal of the materials.

#### B. DEMOLITION

All RACM must be removed by a Florida Licensed Asbestos Contractor under the direction of an FLAC prior to demolition. Examples of RACM include: popcorn ceiling finish, drywall systems, felt or paper-backed linoleum, resilient floor tile which is not intact, asbestos cement panels/pipes/shingles ("transite").

NESHAP Category I non-friable materials, such as intact resilient floor tile & mastic and intact roofing materials, may be demolished with the structure, using adequate controls. The demolition contractor shall be made aware of the asbestos-containing materials and shall exercise adequate control techniques (wet methods, etc.). Any exceptions to these guidelines shall be requested through and approved by DES prior to the removal. Demolition work should be monitored by a FLAC to ensure proper control measures and waste disposal. This is the responsibility of the Municipality.

- (a) Asbestos Abatement work may be contracted by the Municipality, or by DES upon request.
- (b) If the Municipality contracts the asbestos abatement, the following documents must be provided to the DES and reviewed by the PBCAC.
  - 1. An Asbestos Abatement Specification (Work Plan).
  - 2. Post Job submittals, reviewed and signed by the FLAC.



- (c) If the Municipality requests DES to contract the asbestos abatement, DES will initiate the request through the PBCAC who will contract the asbestos abatement. DES will provide a copy of all contractor and consultant documents to the Municipality.
- (d) Recycling, salvage or compacting of any asbestos containing materials or the substrate is strictly prohibited.
- (e) In all cases, compliance with OSHA "Requirements for demolition operations involving material containing <1% asbestos" is mandatory.
- (f) If suspect materials are discovered that were not previously sampled and identified in the survey, stop all work that will disturb these materials and immediately notify DES.

#### IV. NESHAP NOTIFICATION

##### A. RENOVATION

A NESHAP form must be prepared by the Municipality or its Contractor and submitted to the Palm Beach County Health Department at least ten (10) working days prior to an asbestos activity that involves removal of regulated asbestos containing material, including linoleum, greater than 160 square feet or 260 linear feet or 35 cubic feet. For floor tile removal greater than 160 square feet, the Municipality or its Contractor shall provide a courtesy NESHAP notification to the Palm Beach County Health Department at least three (3) working days prior to removal.

The Municipality shall provide a copy of the asbestos survey to the renovation contractor to keep onsite during the work activity.

##### B. DEMOLITION

A NESHAP form must be prepared by the Municipality or its Contractor and submitted to the Palm Beach County Health Department at least ten (10) working days prior to the demolition for projects demolished by the Municipality.

##### C. NESHAP FORM

The NESHAP form is available online through the Florida Department of Environmental Regulations. The notification shall be sent to the address shown below. A copy shall be included in the Municipality's post job documentation submitted to DES. All fees shall be paid by the Municipality.

Palm Beach County Department of Health  
Asbestos Coordinator  
800 Clematis Street  
Post Office Box 29  
West Palm Beach, Florida 33402

**V. APPLICABLE ASBESTOS REGULATIONS/GUIDELINES**


The Municipality, through its demolition or renovation contractor, shall comply with the following asbestos regulations/guidelines. This list is *not* all inclusive:

- (a) Environmental Protection Agency (EPA) NESHAP, 40 CFR Parts 61 Subpart M National Emission Standard for Asbestos, revised July 1991
- (b) Occupational Safety & Health Administration (OSHA) Construction Industry Standard, 29 CFR 1926.1101
- (c) EPA: A Guide to Normal Demolition Practices under the Asbestos NESHAP, September 1992
- (d) Demolition practices under the Asbestos NESHAP, EPA Region IV
- (e) Asbestos NESHAP Adequately Wet Guidance
- (f) Florida State Licensing and Asbestos Laws
  1. Title XVIII, Chapter 255, Public property and publicly owned buildings.
  2. Department of Business and Professional Regulations, Chapter 469 Florida Statute, Licensure of Asbestos Consultants and Contractors
- (g) Resilient Floor Covering Institute (RFCI), Updated Recommended Work Practices and Asbestos Regulatory Requirements, current version.
- (h) Florida Roofing Sheet Metal and Air Conditioning Contractors Association, NRCA, June 1995, or current version.
- (i) US Dept of Labor, OSHA Standard Interpretation
  1. Application of the asbestos standard to demolition of buildings with ACM in Place, dated 8/26/2002.
  2. Requirements for demolition operations involving material containing <1% asbestos, dated 8/13/1999.
  3. Compliance requirements for renovation work involving material containing <1% asbestos, dated 11/24/2003.

### **NOTE**

**The documents attached to this page are provided for the use of Contract Development & Control and are to be retained by them.**

**These documents are not a part of this agenda item and are not to be processed to the Clerk's office with this agenda item.**

CERTIFICATE OF COVERAGE		ISSUED ON: 6/2/2015
COVERAGE PROVIDED BY: <b>PREFERRED GOVERNMENTAL INSURANCE TRUST</b>		
PACKAGE AGREEMENT NUMBER: PX FL1 0502013 14-05		COVERAGE PERIOD: 10/1/2014 TO 10/1/2015 12:01 AM
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 subject to all the terms, exclusions and conditions of such agreement.		
Mail to: Certificate Holder Palm Beach County Board of County Commissioners 301 North Olive Avenue West Palm Beach, FL 33401		Designated Member City of Lake Worth 7 North Dixie Hwy.  Lake Worth, FL 33460
<b>LIABILITY COVERAGE</b> X Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury  Limit \$1,000,000 \$100,000 SIR Public Officials Liability Limit Employment Practices Liability Limit X Employee Benefits Liability Limit \$1,000,000 \$100,000 SIR Law Enforcement Liability Limit		<b>WORKERS' COMPENSATION COVERAGE</b>  X Self Insured Workers' Compensation \$500,000 Self Insured Retention X Statutory Workers' Compensation  X Employers Liability \$1,000,000 Each Accident \$1,000,000 By Disease \$1,000,000 Aggregate Disease
<b>PROPERTY COVERAGE</b> X Buildings & Personal Property Per schedule on file with \$25,000 Deductible Trust Limit <i>Note: See coverage agreement for details on wind, flood, and other deductibles.</i> X Rented, Borrowed and Leased Equipment Limit \$100,000 TIV See Schedule for Deductible X All other Inland Marine Limit \$1,482,714 TIV See Schedule for Deductible  <b>CRIME COVERAGE</b> X Employee Dishonesty Limit \$250,000 \$25,000 Deductible X Forgery or Alteration Limit \$250,000 \$25,000 Deductible X Theft Disappearance & Destruction Limit \$250,000 \$25,000 Deductible X Computer Fraud Limit \$250,000 \$25,000 Deductible		<b>AUTOMOBILE COVERAGE</b> Automobile Liability Limit \$1,000,000 \$100,000 SIR X All Owned Specifically Described Autos X Hired Autos X Non-Owned Autos  Automobile Physical Damage  Comprehensive Collision Hired Auto with limit of  Garage Keepers  Liability Limit Liability Deductible Comprehensive Deductible Collision Deductible
NOTE: The most we will pay is further limited by the limitations set forth in Section 768.28(5), Florida Statutes (2010) or the equivalent limitations of successor law which are applicable at the time of the loss.		
Description of Operations/ Locations/ Vehicles/Special items: Certificate is issued with respect to the Community Development Block Grant (CDBG) funded 7th Avenue South Roadway Improvements project. <i>This section completed by member's agent, who bears complete responsibility and liability for its accuracy.</i>		
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.		
Administrator Public Risk Underwriters@ P.O. Box 958455 Lake Mary, FL 32795-8455  Producer Public Risk Insurance Agency P. O. Box 2416  Daytona Beach, FL 32115		CANCELLATIONS SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, PREFERRED GOVERNMENTAL INSURANCE TRUST WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE, OR 10 DAYS WRITTEN NOTICE FOR NON-PAYMENT OF PREMIUM, 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
PGIT-CERT (11/09) PRINT FORM		6/2/2015