

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs	\$609,204				
External Revenues	(\$609,204)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes X No
 Does this Item include the use of Federal funds? Yes X No

Fund 1101 Dept. 143 Unit 1431 Object 8101 Program Code/Period BC475/6y18 \$335,000
 Fund 1101 Dept. 143 Unit 1431 Object 8101 Program Code/Period BC1685/6y18 \$10,401
 Fund 1101 Dept. 143 Unit 1431 Object 8101 Program Code/Period BC1685/6y16 \$32,000
 Fund 1101 Dept. 143 Unit 1431 Object 8101 Program Code/Period BC506/Various \$231,803

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

Approval of this Agenda Item will allocate CDBG Funds from various fiscal years to these four (4) sub-recipients totaling \$609,204.

C. Departmental Fiscal Review: 
 Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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

 10/21/18
 OFMB 10/11 2/10/11

 10/14/18
 Contract Development and Control

B. Legal Sufficiency:

 10/4/18
 Assistant County Attorney

C. Other Department Review:

 Department Director

Background and Justification: (Continued from Page 1)

B) On January 3, 2018, the County entered into an Agreement (R2018-0073) with the Town of Mangonia Park to provide \$31,334 in CDBG funds for the installation of playground equipment and improvements at Addie Greene Park. The Town has requested that its Fiscal Year 2018-2019 CDBG allocation of \$10,401 be added to the project budget and that additional time to complete the project be provided. Amendment 001, entered into on October 1, 2018, added \$10,401 to the project budget, revised Exhibits A and B, and provided an additional 13 months to the term of the Agreement. (District 7)

C) On February 6, 2018, the County entered into an Agreement (R2018-0166) with the Town of Mangonia Park to provide \$316,372 in CDBG funds for the design and installation of a sanitary sewer main along Jeffery Avenue and Sherwood Avenue. The Town has requested that additional funding be added to the project budget to defray the design costs of the improvements and that additional time to complete the project be provided. Amendment 001, entered into on October 1, 2018, added \$32,000 to the project budget by way of the County's 2nd Amendment to the Fiscal Year 2017-2018 CDBG Program, revised Exhibits A and B, and provided an additional 16 months to the term of the Agreement. (District 7)

D) On March 13, 2018, the County entered an Agreement (R2018-0272) with the CRA to provide \$114,000 in CDBG funds for the development of the Oswego Oaks Neighborhood Park. The engineer's estimate for the project was approximately \$345,000. The CRA requested additional funding from the County to develop the park. Amendment 001, entered into on October 1, 2018, added \$231,803 to the project budget by way of the County's 12th Amendment to its Fiscal Year 2016-2017 CDBG Program, revised Exhibits A and B, and provided an additional three (3) months to the term of the Agreement. (District 2)

**AMENDMENT 002 TO THE AGREEMENT
WITH
CITY OF SOUTH BAY**

Amendment 002 entered into on **October 1, 2018** by and between **Palm Beach County** and the **City of South Bay**.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2016-0567) with the City of South Bay on May 3, 2016, as amended by Amendment 001 (R2017-1816) on December 5, 2017, to provide \$456,101 of Community Development Block Grant (CDBG) funds for project design and construction improvements to Cox Park and Tanner Park; and

WHEREAS, the County wishes to revise the Agreement to, among other things, provide \$335,000 in additional funding for the project through the County's FY 2018/2019 CDBG allocation, and modify both the project completion date and performance requirements associated with the project; and

WHEREAS, both parties desire to further 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. SECTION 6: MAXIMUM COMPENSATION

Replace the original allocation of "\$456,101" with "\$791,101" and replace the project completion date of "December 31, 2018" with "June 30, 2019", and add the following to the end of this Section:

1. The Municipality acknowledges that it will contribute \$120,000 towards the playground equipment and/or installation of the park improvements.
2. The Municipality acknowledges that the additional \$335,000 contained herein is funded from the County's FY 2018/2019 CDBG allocation, effective October 1, 2018, and will be available following the County's completion of its required administrative functions pursuant to the FY 2018/2019 CDBG award. The County shall notify the Municipality when this additional funding is available for expenditure.

C. SECTION 7: TIME OF PERFORMANCE

Replace the project completion date of "December 31, 2018" with "June 30, 2019".

D. SECTION 10: NON-DISCRIMINATION

Delete this Section and replace it with the following:

SECTION 10: CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY

"The Municipality acknowledges that the County is committed to assuring equal opportunity in the award of grants or contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Municipality warrants and represents that throughout the term of this Agreement, including any renewals thereof, all of its employees are treated equally during employment with regard to race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. Failure to meet this requirement shall be considered cause for termination of this Agreement.

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”.

E. EXHIBIT A – WORK PROGRAM NARRATIVE

Delete “EXHIBIT A” in its entirety and replace it with “EXHIBIT A-1”.

F. EXHIBIT A – MONTHLY PERFORMANCE REPORT

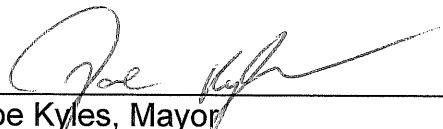
Delete “EXHIBIT B” in its entirety and replace it with “EXHIBIT B-1”.


Except as modified by this Amendment 002, and previously by Amendment 001, 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)

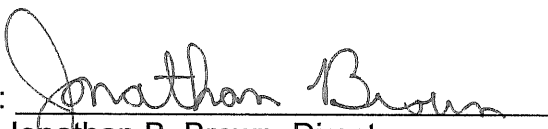
CITY OF SOUTH BAY

By: 
Joe Kyles, Mayor

By: 
Jessica Figueroa, City Clerk

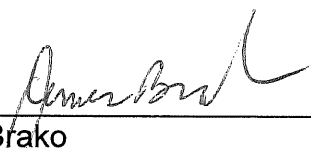
By: 
Attorney for Municipality (Optional)

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

By: 
Jonathan B. Brown, Director
Dept. of Housing & Economic Sustainability

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Housing & Economic Sustainability

By: 
James Brako
Assistant County Attorney

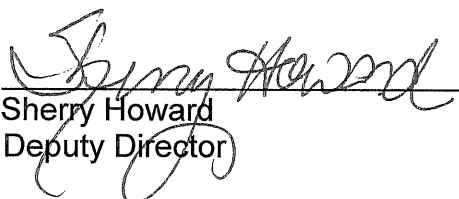
By: 
Sherry Howard
Deputy Director

EXHIBIT "A - 1"
WORK PROGRAM NARRATIVE

1. MUNICIPALITY OBLIGATIONS:

- A. PROFESSIONAL SERVICES:** The Municipality, using its own resources, shall retain an engineering consultant (a Florida Licensed Professional Engineer) to provide design services to create plans and specifications for the improvements to Cox Park and Tanner Park. Additionally, the Municipality and consultant shall 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, should abatement become necessary.

Alternatively, the Municipality shall have the option of performing any portion of the consultant's services described above by its own staff provided such staff possesses the competency to do so. All costs associated with the above services shall be paid for by the Municipality from sources other than the CDBG funds provided under this agreement.

- B. PROJECT SCOPE:** The scope of the project shall be as follows:

I. Proposed Scope of Work: Cox Park

Improvements, subject to the availability of funds, may include, but not be limited to the following items listed below. Work items typical of these types of projects are deemed eligible expenses.

- Restroom painting and door replacement
- Resurface/restripe basketball courts
- New equipment for basketball courts
- New playground equipment
- BBQ grilles, benches and litter receptacles
- Sidewalk and grading improvements
- Gazebo
- Fencing

II. Proposed Scope of Work: Tanner Park

Improvements, subject to the availability of funds, may include, but not be limited to the following items listed below. Work items typical of these types of projects are deemed eligible expenses.

- Community Center exterior safety improvements
- Resurface/restripe basketball and tennis courts
- New equipment for tennis and basketball courts
- New playground equipment
- Restroom building renovations including ADA compliance
- Fencing
- Benches and litter receptacles
- Gazebos(s)
- Grading improvements and sidewalks

Following the bid process, the Municipality shall submit to HES a copy of the bid document package including any addendums, a notice of contract award, a copy of the executed construction contract, and documentation regarding any protests filed regarding the bids.

Prior to the Municipality's first reimbursement, HES shall review the Municipality's procurement process and contract award to determine compliance with 2 CFR 200 and all procurement regulations applicable to CDBG funding and this Agreement.

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.

Should the amount of eligible costs 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 inform HES of any environmental findings or conditions discovered during project implementation. Applicable mitigation measures must be incorporated into the project by the Municipality in order to proceed with the project. Such mitigation measures may affect the total project cost. Where funds are not available from the CDBG allocation contained herein, the Municipality shall be responsible for all costs of mitigation.

The Municipality shall recognize Palm Beach County as a funding participant in the project's implementation and shall affix the County's logo to any project sign on the project site during the construction process. The Municipality shall also acknowledge the County's participation whenever the situation presents itself.

The Municipality further agrees that HES, in consultation with any parties it deems necessary, shall be the final arbiter on the Municipality's compliance with this Agreement's requirements and shall make the final determination in the Municipality's compliance with applicable regulations governing the CDBG funding of this project.

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 AND RELATED ACTS (DBRA):
The Municipality has requested from the County a copy of the Requirements for Federally Funded Projects and the applicable DBRA Wage Decision for the project. PRIOR to contract award, the Municipality shall obtain an updated DBRA Wage Decision from the County. The Municipality shall incorporate a copy of the updated DBRA Wage Decision and the Requirements for Federally Funded Projects as part of the construction contract. The Municipality shall require the contractor to include these in all subcontracts for the work performed under the construction contract.

The Municipality shall perform all tasks required for DBRA compliance, including, but not limited to the following:

- Contractor and sub-contractor debarment clearance
- Obtaining contractor and subcontractor certified payrolls
- Review of certified payrolls and documentation related thereto
- Compliance actions for payroll related issues
- Employee/worker interviews and follow-up review of certified payrolls
- Ensure restitution due underpaid workers has been paid prior to project completion

The Municipality shall certify, at the time they request a reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Municipality staff, and that any DBRA compliance issues have been or are in the process of being resolved.

The Municipality shall submit a copy of the reviewed payrolls from the contractor and any subcontractors at the time each reimbursement request is submitted to HES.

The Municipality shall certify, at the time they request final reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Municipality staff, and shall certify to HES that the project meets DBRA compliance and all workers have been paid in accordance with DBRA requirements.

HES may monitor the Municipality, its contractors, and subcontractors for DBRA compliance at any time per Section 13 of this Agreement.

As part of the County's commitment to assist the Municipality and its contractors/subcontractors to conveniently comply with legal and contractual requirements including Davis Bacon and Related Acts (DBRA), the County may establish a Labor Compliance Reporting System ("LCRS") for this project. Upon implementation of the LCRS by the County, the Municipality's contractors and sub-contractors will no longer be required to submit paper copies of fringe benefits statements, weekly certified payroll reports and/or work performed reports, and shall instead use the LCRS for all DBRA reporting and tracking. The LCRS will be an online system and shall be available for use 24-hours a day, 7 days a week, at no cost for reporting weekly certified payrolls and labor compliance related documents.

- E. **BONDING REQUIREMENTS:** The Municipality shall comply with the requirements of 2 CFR 200 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$150,000, 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 the bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$150,000, 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 \$150,000, 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 as specified in the construction contract. The Municipality shall abide by Florida law and this Agreement regarding the payment of retainage funds and project closeout procedures. The Municipality shall certify to HES that the contractor and subcontractors have complied with the requirements of DBRA, that all wages and restitution due to workers has been paid, and that satisfactory project closeout documentation has been reviewed and approved by the Municipality prior to releasing retainage/final payment.
- G. **MONTHLY PERFORMANCE REQUIREMENTS:** The time-frame for completion of the outlined activities shall be June 30, 2019.

Award Contract by:	October 2018
Start Construction by:	November 2018
50% of Funds Expended by:	February 2019
Complete Construction by:	April 2019
Submit Final Reimbursement no later than:	May 2019
100% of Funds Expended by:	June 2019

NOTE: 100% of these CDBG funds awarded must be expended by June 30, 2019 and all necessary reimbursement documentation to meet this expenditure requirement must be submitted to HES, no later than May 31, 2019.

If unforeseen circumstances occur that impact the accuracy of the performance dates and require revisions thereto, the Municipality shall request, in writing, that the dates used as performance requirement listed above be revised/amended. The County Administrator, or his/her designee may, at their sole discretion, revise/amend the performance dates via written notification to the Municipality. The Completion Date for all activities may be revised only by an Amendment to this Agreement.

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.

- H. **REPORTS:** The Municipality shall submit to HES a detailed Monthly Performance Report in the form provided as Exhibit "B-1" to this Agreement, or other form as may be required by HES. 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 HES to assess the Municipality's progress in implementing the project.
- I. **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 shall properly maintain the facility/project, and 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 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 or early termination of this Agreement.

- J. **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 HES 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 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.

K. ENVIRONMENTAL CONDITIONS: The County has performed an Environmental Review (ER) of the project to investigate existing conditions and identify all potential environmental impacts, whether beneficial or adverse, and any required conditions or mitigation measures that the Municipality must consider in the design and implementation of the project. The Municipality acknowledges receipt of the letter dated December 14, 2017, detailing the results of the ER. Where applicable, the Municipality shall submit to HES a plan of action and an implementation schedule for complying with any identified conditions requiring mitigation. The Municipality shall comply with all requirements established by the County emulating from the completion of the ER.

The installation of improvements contained in this Agreement shall not begin until the results of the ER have been conveyed to the Municipality and the County has received a Release of Funds from HUD.

ER costs incurred by the County may be charged to the project identified above. In addition, the Municipality shall immediately inform HES of any environmental findings or conditions discovered during activity implementation, and agrees that applicable mitigation measures, subject to HES 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 \$791,101. However, the County shall not provide any funding for the construction work until the Municipality provides documentation showing that sufficient funds are available to complete the project.
- B.** County shall not provide any funding for the consulting and/or construction work until the Municipality provides documentation showing that Municipality's procurement of the consulting and/or construction contract has been made in compliance with applicable requirements for the CDBG funds provided under this Agreement.
- C.** Provide technical assistance to the Municipality when requested.
- D.** Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced, as determined by HES, 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 HES on program activities.
- E.** 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 - 1"
PALM BEACH COUNTY HOUSING & ECONOMIC SUSTAINABILITY

MONTHLY PERFORMANCE REPORT

Report For:	Month: _____ Year: _____			
Municipality Name:	City of South Bay			
Project Name:	Cox Park/Tanner Park Project			
Report Prepared By:	<table border="0" style="width:100%"> <tr> <td style="width:50%">Name _____</td> <td style="width:30%">Signature _____</td> <td style="width:20%">Date _____</td> </tr> </table>	Name _____	Signature _____	Date _____
Name _____	Signature _____	Date _____		

BUDGETING AND EXPENDITURES

Funds To Be Expended by March 31, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Funds To Be Expended by June 30, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Amounts Expended to Date:

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ 791,101.00	\$	%
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 South Bay 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 CIREIS
 Department of Housing & Economic Sustainability
 100 Australian Avenue, Suite 500
 West Palm Beach, FL 33406

**AMENDMENT 001 TO THE AGREEMENT
WITH
TOWN OF MANGONIA PARK**

Amendment 001 entered into on October 1, 2018, by and between **Palm Beach County** and the **Town of Mangonia Park**.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2018-0073) with the Town of Mangonia Park on January 3, 2018, to provide \$31,334 in Community Development Block Grant (CDBG) funds for playground equipment and improvements at Addie Green Park; and

WHEREAS, both parties desire to modify the original Agreement to among other things, allocate additional funding in the amount of \$10,401 and revise the project completion date; and

WHEREAS, the additional funding is from the Town of Mangonia Park's CDBG allocation for FY 2018-2019, as requested by the Town; and

WHEREAS, both parties desire to modify 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. SECTION 6 - MAXIMUM COMPENSATION

Replace the original allocation of "\$31,334" with "\$41,735" and replace the project completion date of "September 1, 2018" with "September 30, 2019".

Add the following language to the end of this Section:

"The Municipality acknowledges:

1. It has requested its entire FY 2018-2019 CDBG allocation of \$10,401 be the source of the additional funds contained in this Amendment, and
2. The additional funding will become available following the County's completion of all administrative requirements for the release of the FY 2018/2019 CDBG funds.
3. It shall not obligate any of the additional funding contained herein until it is notified by the County that HUD has authorized expenditures from this additional allocation.

C. SECTION 7 – TIME OF PERFORMANCE

Replace the project completion date of "September 1, 2018" with "September 30, 2019".

D. SECTION 10: CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION

Delete this Section and replace it with the following:

"The Municipality acknowledges that the County is committed to assuring equal opportunity in the award of grants or contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Municipality warrants and represents that throughout the term of this Agreement, including any renewals thereof, all of its employees are treated equally during employment with regard to race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. Failure to meet this requirement shall be considered cause for termination of this Agreement.

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”.

E. EXHIBIT A – WORK PROGRAM NARRATIVE

Delete “EXHIBIT A” in its entirety and replace it with “EXHIBIT A-1”.

F. EXHIBIT B – MONTHLY PERFORMANCE REPORTS

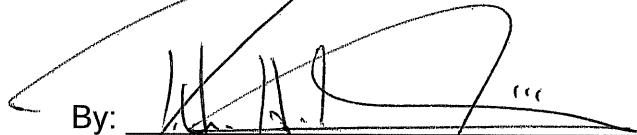
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Except as modified by this Amendment 001, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 001 is expressly contingent upon the approval of the County and shall become effective only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

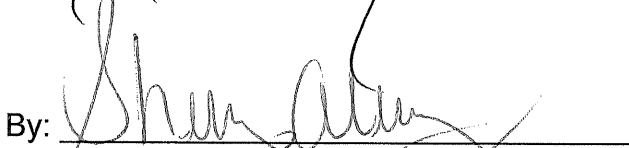
IN WITNESS WHEREOF, Municipality and County have caused this Amendment 001 to be executed on the date first above written.

(MUNICIPALITY SEAL BELOW)

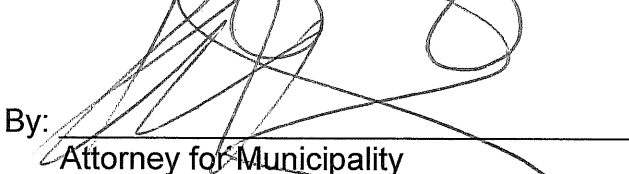
TOWN OF MANGONIA PARK

By: 

William H. Albury III, Mayor

By: 

Sherry Albury, Town Clerk

By: 

Attorney for Municipality
(Signature Optional)

(COUNTY SEAL BELOW)

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

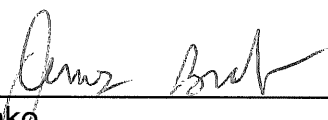
For its BOARD OF COUNTY COMMISSIONERS

By: 

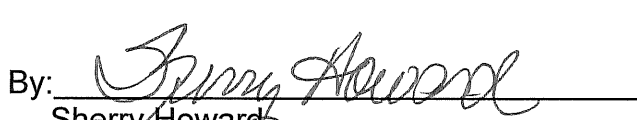
Jonathan B. Brown, Director
Dept. of Housing & Economic Sustainability

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,
Deputy Director

EXHIBIT "A - 1"
WORK PROGRAM NARRATIVE

1. MUNICIPALITY OBLIGATIONS:

- A. PROFESSIONAL SERVICES:** The Municipality, using its own resources, shall retain an engineering consultant (a Florida Licensed Professional Engineer) to provide design services to create plans and specifications for playground equipment and/or any other amenities at Addie Green Park. Additionally, the Municipality and consultant shall 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, should abatement be necessary.

Alternatively, the Municipality shall have the option of performing any portion of the consultant's services described above by its own staff provided such staff possesses the competency to do so. All costs associated with the above services shall be paid for by the Municipality from sources other than the CDBG funds provided under this agreement.

- B. PROJECT SCOPE:** The scope of the project contained herein shall consist of, but not be limited to the following: site preparation, playground equipment, park benches and litter receptacles, a water fountain and other site amenities consistent with the development of a neighborhood park.

An itemized opinion of probable cost (containing a schedule of values listed on AIA Form G703 or similar), prepared by the Municipality's Consultant or qualified staff shall be submitted to HES prior to advertising the project for bid.

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

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

(2) The Municipality shall prepare a RFQ/bid package complete with drawings, specifications, and any items required for a competitive bid of the project. The bid process shall not allow for any local procurement preferences with regard to contract award.

The Municipality's advertisement shall contain language noting that the project is federally funded through funds provided by Palm Beach County via of the US Department of HUD, and that Davis-Bacon and Related Acts and wage rates apply. The advertisement shall also encourage participation by MBE/WBE and Section 3 businesses.

Following the procurement process, the Municipality shall submit to HES a copy of the procurement document package including any addendums, a notice of contract award, a copy of the executed construction contract, and documentation regarding any protests filed regarding the bids.

Prior to the Municipality's first reimbursement, HES shall review the Municipality's procurement process and contract award to determine compliance with 2 CFR 200 and all procurement regulations applicable to CDBG funding and this Agreement.

(3) The Municipality shall prioritize the work in the project, and shall procure such work in a manner that requires the receipt of itemized costs from bidders. This would then allow the award of items that can be funded by the budget provided such that the extent of work awarded will result in a functioning facility in the opinion of HES.

(4) 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.

(5) Should the amount of eligible costs 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.

(6) The Municipality shall inform HES of any environmental findings or conditions discovered during project implementation. Applicable mitigation measures must be incorporated into the project by the Municipality in order to proceed with the project. Such mitigation measures may affect the total project cost. Where funds are not available from the CDBG allocation contained herein, the Municipality shall be responsible for the all costs of mitigation.

(7) The Municipality shall recognize Palm Beach County as a funding participant in the project's implementation and shall affix the County's logo to any project sign on the project site during the construction process. The Municipality shall also acknowledge the County's participation whenever the situation presents itself.

The Municipality further agrees that HES, in consultation with any parties it deems necessary, shall be the final arbiter on the Municipality's compliance with this Agreement's requirements and shall make the final determination of the Municipality's compliance with applicable regulations governing the CDBG funding of this project.

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 AND RELATED ACTS (DBRA):**

The Municipality shall request from the County a copy of the Requirements for Federally Funded Projects and the applicable DBRA Wage Decision for the project PRIOR to advertising the construction work. The Municipality shall incorporate a copy of the DRBA Wage Decision and the Requirements for Federally Funded Projects in its bid documents and shall include these documents as part of the construction contract. The Municipality shall require the contractor to include these in all subcontracts for the work performed under the construction contract.

The Municipality shall perform all tasks required for DBRA compliance, including, but not limited to the following:

- Contractor and sub-contractor debarment clearance
- Obtaining contractor and subcontractor certified payrolls
- Review of certified payrolls and documentation related thereto
- Compliance actions for payroll related issues
- Employee/worker interviews and follow-up review of certified payrolls
- Ensure restitution due underpaid workers has been paid prior to project completion

The Municipality shall certify, at the time they request a reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Municipality staff, and that any DBRA compliance issues have been or are in the process of being resolved.

The Municipality shall submit a copy of the reviewed payrolls from the contractor and any subcontractors at the time each reimbursement request is submitted to HES.

The Municipality shall certify, at the time they request final reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Municipality staff, and shall certify to HES that the project meets DBRA compliance and all workers have been paid in accordance with DBRA requirements.

HES may monitor the Municipality's, contractors', and subcontractors' for DBRA compliance at any time per Section 13 of this Agreement.

As part of the County's commitment to assist the Municipality and its contractors/subcontractors to conveniently comply with legal and contractual requirements including Davis Bacon and Related Acts (DBRA), the County may establish a Labor Compliance Reporting System ("LCRS") for this project. Upon implementation of the LCRS by the County, the Municipality's contractors and sub-contractors will no longer be required to submit paper copies of fringe benefits statements, weekly certified payroll reports and/or work performed reports, and shall instead use the LCRS for all DBRA reporting and tracking. The LCRS will be an online system and shall be available for use 24-hours a day, 7 days a week, at no cost for reporting weekly certified payrolls and labor compliance related documents.

- E. BONDING REQUIREMENTS:** The Municipality shall comply with the requirements of 2 CFR 200 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$150,000, 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 the bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$150,000, 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 \$150,000, 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 as specified in the construction contract. The Municipality shall abide by Florida law and this Agreement regarding the payment of retainage funds and project closeout procedures. The Municipality shall certify to HES that the contractor and subcontractors have complied with the requirements of DBRA, that all wages and restitution due to workers has been paid, and that satisfactory project closeout documentation has been reviewed and approved by the Municipality prior to releasing retainage/final payment.

- G. MONTHLY PERFORMANCE REQUIREMENTS:** The time-frame for completion of the outlined activities shall be September 30, 2019.

Complete Design by:	September 2018
Advertise and Award Contract by:	November 2018
Start Construction by:	March 2019
50% of CDBG Funds Expended by:	June 2019
Complete Construction by:	August 2019
Submit Final Reimbursement by:	September 2019
100% of CDBG Funds Expended by:	September 2019

NOTE: 100% of these CDBG funds awarded must be expended by September 30, 2019 and all necessary reimbursement documentation to meet this expenditure requirement must be submitted to HES, no later than September 1, 2019.

If unforeseen circumstances occur that impact the accuracy of the performance dates and require revisions thereto, the Municipality shall request, in writing, that the dates used as performance requirements listed above be revised/amended. The County Administrator, or his/her designee may, at their sole discretion, revise/amend the performance dates via written notification to the Municipality. The Completion Date for all activities may be revised only by an Amendment to this Agreement.

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.

- H. **REPORTS:** The Municipality shall submit to HES a detailed Monthly Performance Report in the form provided as Exhibit "B" to this Agreement, or other form as may be required by HES. 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 HES to assess the Municipality's progress in implementing the project.
- I. **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 shall properly maintain the facility/project, and 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 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 or early termination of this Agreement.

- J. **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 HES 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 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.

K. ENVIRONMENTAL CONDITIONS: The County has performed an Environmental Review (ER) of the project to assess existing conditions and identify all potential environmental impacts, whether beneficial or adverse, and any required conditions or mitigation measures that the Municipality must consider in the design and implementation of the project. The Municipality acknowledges receipt of the letter dated September 20, 2017, detailing the results of the ER. Where applicable, the Municipality shall submit to HES a plan of action and an implementation schedule for complying with any identified conditions requiring mitigation. The Municipality shall comply with all requirements established by the County emulating from the completion of the ER.

The installation of improvements contained in this Agreement shall not begin until the results of the ER have been conveyed to the Municipality and the County has received a Release of Funds from HUD.

ER costs incurred by the County may be charged to the project identified above. In addition, the Municipality shall immediately inform HES of any environmental findings or conditions discovered during activity implementation, and agrees that applicable mitigation measures, subject to HES 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 \$41,735. However, the County shall not provide any funding for the construction work until the Municipality provides documentation showing that sufficient funds are available to complete the project.
- B.** County shall not provide any funding for the consulting and/or construction work until the Municipality provides documentation showing that Municipality's procurement of the consulting and/or construction contract has been made in compliance with applicable requirements for the CDBG funds provided under this Agreement.
- C.** Provide technical assistance to the Municipality when requested.
- D.** Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced, as determined by HES, 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 HES on program activities.
- E.** 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 - 1"
PALM BEACH COUNTY HOUSING & ECONOMIC SUSTAINABILITY

MONTHLY PERFORMANCE REPORT

Report For:	Month: _____ Year: _____
Municipality Name:	Town of Mangonia Park
Project Name:	Addie Green Park Project
Report Prepared By:	_____
	Name _____ Signature _____ Date _____

BUDGETING AND EXPENDITURES

Funds To Be Expended by February 28, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Funds To Be Expended by May 31, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Amounts Expended to Date:

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ 41,735.00	\$	%
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 Town of Mangonia Park 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 CIREIS
 Department of Housing & Economic Sustainability
 100 Australian Avenue, Suite 500
 West Palm Beach, FL 33406

**AMENDMENT 001 TO THE AGREEMENT
WITH
TOWN OF MANGONIA PARK**

Amendment 001 entered into on October 1, 2018, by and between **Palm Beach County** and the **Town of Mangonia Park**.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2018-0166) with the Town of Mangonia Park on February 6, 2018, to provide \$316,372 in Community Development Block Grant (CDBG) funds for the design and installation of sanitary sewers along Jeffrey Avenue and Sherwood Avenue; and

WHEREAS, both parties desire to modify the original Agreement, to among other things, allocate additional funding in the amount of \$32,000; and

WHEREAS, both parties desire to modify 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. SECTION 6 - MAXIMUM COMPENSATION

Replace the project allocation of "\$316,372" with "\$348,372" and replace the project completion date of "June 30, 2019" with "October 31, 2020".

C. SECTION 7 – TIME OF PERFORMANCE

Replace the project completion date of "June 30, 2019" with "October 31, 2020".

D. SECTION 10: CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION

Delete this Section and replace it with the following:

"The Municipality acknowledges that the County is committed to assuring equal opportunity in the award of grants or contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Municipality warrants and represents that throughout the term of this Agreement, including any renewals thereof, all of its employees are treated equally during employment with regard to race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. Failure to meet this requirement shall be considered cause for termination of this Agreement.

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".

E. EXHIBIT A – WORK PROGRAM NARRATIVE

Delete "EXHIBIT A" in its entirety and replace it with "EXHIBIT A-1".

F. EXHIBIT B – MONTHLY PERFORMANCE REPORT


Delete "EXHIBIT B" in its entirety and replace it with "EXHIBIT B-1".

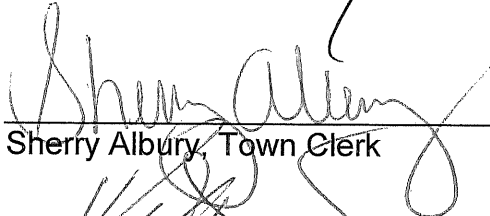
Except as modified by this Amendment 001, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 001 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.

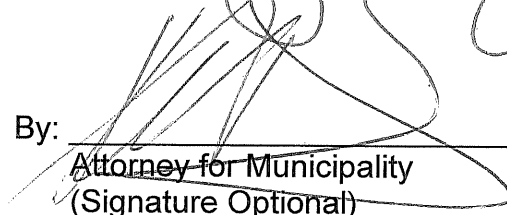
IN WITNESS WHEREOF, Municipality and County have caused this Amendment 001 to be executed on the date first above written.

(MUNICIPALITY SEAL BELOW)

TOWN OF MANGONIA PARK

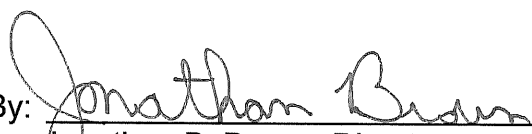
By:  _____
William H. Albury III, Mayor

By:  _____
Sherry Albury, Town Clerk

By:  _____
Attorney for Municipality
(Signature Optional)

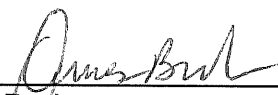
**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

For its BOARD OF COUNTY COMMISSIONERS

By:  _____
Jonathan B. Brown, Director
Dept. of Housing & Economic Sustainability

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By:  _____
James Brako,
Assistant County Attorney

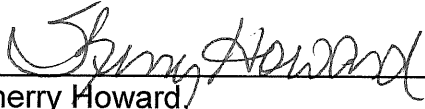
By:  _____
Sherry Howard,
Deputy Director

EXHIBIT "A - 1"
WORK PROGRAM NARRATIVE

1. MUNICIPALITY OBLIGATIONS:

- A. PROFESSIONAL SERVICES:** The Municipality shall advertise and procure the services of an architect or engineering consultant (a Florida Licensed Professional Architect or Engineer) to provide design services to create plans and specifications for the sanitary sewer improvements. 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's procurement of the consultant shall be a formal competitive proposal process in compliance with the Municipality's purchasing requirements and 2 CFR 200. The Municipality acknowledges that the aforesaid process for the procurement of its consultant is set forth as a Request for Submittal (RFS), Request for Proposal (RFP) or a Request for Quote (RFQ).

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 a project of this nature. (Note: The consultant's contract shall not be based on a percentage of construction costs, nor shall it be a cost plus percentage of cost contract).

At a 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.

The Municipality's advertisement shall contain language noting the project is federally funded via Palm Beach County via of the US Department of HUD. The advertisement shall also encourage participation by MBE/WBE and Section 3 businesses.

Following the consultant procurement process, the Municipality shall submit to HES a copy of the procurement document package including any addendums, a notice of contract award, a copy of the executed consultant's contract, and documentation regarding any protests filed regarding the bids.

Prior to the Municipality's first reimbursement for consulting services, HES shall review the Municipality's procurement process and contract award to determine compliance with 2 CFR 200 and all procurement regulations applicable to CDBG funding and this Agreement.

- B. PROJECT SCOPE:** The overall scope of the project contained herein shall consist of the design and installation of a sanitary sewer main along Sherwood Avenue and Jeffrey Avenue. The installation of improvements shall include excavation for the sewer main, installation of the sewer main, repair and/or reconstruction of all areas impacted by the sewer installation and any other items typical of these types of projects.

An itemized opinion of probable cost (containing a schedule of values listed on AIA Form G703 or similar), prepared by the Municipality's Consultant shall be submitted to HES prior to advertising the project for bid.

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

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

(2) Following design completion, the Municipality's consultant shall prepare a bid package complete with drawings, specifications, and any items required for a competitive bid of the project. The bid process shall not allow for any local procurement preferences with regard to contract award.

The Municipality's advertisement shall contain language noting that the project is federally funded through funds provided by Palm Beach County via of the US Department of HUD, and that Davis-Bacon and Related Acts and wage rates apply. The advertisement shall also encourage participation by MBE/WBE and Section 3 businesses.

Following the construction procurement process, the Municipality shall submit to HES a copy of the procurement document package including any addendums, a notice of contract award, a copy of the executed construction contract, and documentation regarding any protests filed regarding the bids.

Prior to the Municipality's first reimbursement for construction expenses, HES shall review the Municipality's procurement and contract award to determine compliance with 2 CFR 200 and all procurement regulations applicable to CDBG funding and this Agreement.

(3) The Municipality shall prioritize the work in the project, and shall procure such work in a manner that requires the receipt of itemized costs from bidders. This would then allow the award of items that can be funded by the budget provided such that the extent of work awarded will result in a functioning facility in the opinion of HES.

(4) 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.

(5) Should the amount of eligible costs 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.

(6) The Municipality shall inform HES of any environmental findings or conditions discovered during project implementation. Applicable mitigation measures must be incorporated into the project by the Municipality in order to proceed with the project. Such mitigation measures may affect the total project cost. Where funds are not available from the CDBG allocation contained herein, the Municipality shall be responsible for all costs of mitigation.

(7) The Municipality shall recognize Palm Beach County as a funding participant in the project's implementation and shall affix the County's logo to any project sign on the project site during the construction process. The Municipality shall also acknowledge the County's participation whenever the situation presents itself.

The Municipality further agrees that HES, in consultation with any parties it deems necessary, shall be the final arbiter on the Municipality's compliance with this Agreement's requirements and shall make the final determination of the Municipality's compliance with applicable regulations governing the CDBG funding of this project.

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 AND RELATED ACTS (DBRA):

The Municipality shall request from the County a copy of the Requirements for Federally Funded Projects and the applicable DBRA Wage Decision for the project PRIOR to advertising the construction work. The Municipality shall incorporate a copy of the DBRA Wage Decision and the Requirements for Federally Funded Projects in its bid documents and shall include these documents as part of the construction contract. The Municipality shall require the contractor to include these in all subcontracts for the work performed under the construction contract.

The Municipality shall perform all tasks required for DBRA compliance, including, but not limited to the following:

- Contractor and sub-contractor debarment clearance
- Obtaining contractor and subcontractor certified payrolls
- Review of certified payrolls and documentation related thereto
- Compliance actions for payroll related issues
- Employee/worker interviews and follow-up review of certified payrolls
- Ensure restitution due underpaid workers has been paid prior to project completion

The Municipality shall certify, at the time they request a reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Municipality staff, and that any DBRA compliance issues have been or are in the process of being resolved.

The Municipality shall submit a copy of the reviewed payrolls from the contractor and any subcontractors at the time each reimbursement request is submitted to HES.

The Municipality shall certify, at the time they request final reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Municipality staff, and shall certify to HES that the project meets DBRA compliance and all workers have been paid in accordance with DBRA requirements.

HES may monitor the Municipality, its contractors, and subcontractors for DBRA compliance at any time per Section 13 of this Agreement.

As part of the County's commitment to assist the Municipality and its contractors/subcontractors to conveniently comply with legal and contractual requirements including Davis Bacon and Related Acts (DBRA), the County may establish a Labor Compliance Reporting System ("LCRS") for this project. Upon implementation of the LCRS by the County, the Municipality's contractors and sub-contractors will no longer be required to submit paper copies of fringe benefits statements, weekly certified payroll reports and/or work performed reports, and shall instead use the LCRS for all DBRA reporting and tracking. The LCRS will be an online system and shall be available for use 24-hours a day, 7 days a week, at no cost for reporting weekly certified payrolls and labor compliance related documents.

- E. BONDING REQUIREMENTS:** The Municipality shall comply with the requirements of 2 CFR 200 in regard to bid guarantees, performance bonds, and payment bonds. For contracts exceeding \$150,000, 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 the bid, execute such contractual documents as may be required within the time specified. In addition, for contracts exceeding \$150,000, 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 \$150,000, 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 as specified in the construction contract. The Municipality shall abide by Florida law and this Agreement regarding the payment of retainage funds and project closeout procedures. The Municipality shall certify to HES that the contractor and

subcontractors have complied with the requirements of DBRA, that all wages and restitution due to workers has been paid, and that satisfactory project closeout documentation has been reviewed and approved by the Municipality prior to releasing retainage/final payment.

G. MONTHLY PERFORMANCE REQUIREMENTS: The time-frame for completion of the outlined activities shall be October 31, 2020.

Procure Design Consultant by:	November 2018
Complete Design by:	June 2019
Award Construction Contract by:	October 2019
Start Construction by:	December 2019
50% of CDBG Funds Expended by:	June 2020
Complete Construction by:	September 2020
Submit Final Reimbursement by:	October 2020
100% of CDBG Funds Expended by:	October 2020

NOTE: 100% of these CDBG funds awarded must be expended by October 31, 2020 and all necessary reimbursement documentation to meet this expenditure requirement must be submitted to HES, no later than October 1, 2020.

If unforeseen circumstances occur that impact the accuracy of the performance dates and require revisions thereto, the Municipality shall request, in writing, that the dates used as performance requirement listed above be revised/amended. The County Administrator, or his/her designee may, at their sole discretion, revise/amend the performance dates via written notification to the Municipality. The Completion Date for all activities may be revised only by an Amendment to this Agreement.

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.

H. REPORTS: The Municipality shall submit to HES a detailed Monthly Performance Report in the form provided as Exhibit "B-1" to this Agreement, or other form as may be required by HES. 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 HES to assess the Municipality's progress in implementing the project.

I. 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 shall properly maintain the facility/project, and 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 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 or early termination of this Agreement.

- J. **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 HES 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 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.

- K. **ENVIRONMENTAL CONDITIONS:** The County has performed an Environmental Review (ER) of the project to assess existing conditions and identify all potential environmental impacts, whether beneficial or adverse, and any required conditions or mitigation measures that the Municipality must consider in the design and implementation of the project. The Municipality acknowledges receipt of the letter dated February 21, 2018, detailing the results of the ER. Where applicable, the Municipality shall submit to HES a plan of action and an implementation schedule for complying with any identified conditions requiring mitigation. The Municipality shall comply with all requirements established by the County emulating from the completion of the ER.

The installation of improvements contained in this Agreement shall not begin until the results of the ER have been conveyed to the Municipality and the County has received a Release of Funds from HUD.

ER costs incurred by the County may be charged to the project identified above. In addition, the Municipality shall immediately inform HES of any environmental findings or conditions discovered during activity implementation, and agrees that applicable mitigation measures, subject to HES 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 \$348,372. However, the County shall not provide any funding for the construction work until the Municipality provides documentation showing that sufficient funds are available to complete the project.
- B. County shall not provide any funding for the consulting and/or construction work until the Municipality provides documentation showing that Municipality's procurement of the consulting and/or construction contract has been made in compliance with applicable requirements for the CDBG funds provided under this Agreement.
- C. Provide technical assistance to the Municipality when requested.
- D. Monitor the Municipality at any time during the term of this Agreement. Visits may be announced or unannounced, as determined by HES, 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 HES on program activities.
- E. 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 - 1"
PALM BEACH COUNTY HOUSING & ECONOMIC SUSTAINABILITY

MONTHLY PERFORMANCE REPORT

Report For:	Month: _____ Year: _____
Municipality Name:	Town of Mangonia Park
Project Name:	Sanitary Sewer Project
Report Prepared By:	_____
	Name _____ Signature _____ Date _____

BUDGETING AND EXPENDITURES

Funds To Be Expended by June 30, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Funds To Be Expended by December 31, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Amounts Expended to Date:

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ 348,372.00	\$	%
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 Town of Mangonia Park 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 CIREIS
 Department of Housing & Economic Sustainability
 100 Australian Avenue, Suite 500
 West Palm Beach, FL 33406

**AMENDMENT 001 TO THE AGREEMENT
WITH
WESTGATE/BELVEDERE HOMES COMMUNITY REVELOPMENT AGENCY**

Amendment 001 entered into on **October 1, 2018**, by and between **Palm Beach County** and the **Westgate/Belvedere Homes Community Redevelopment Agency (WCRA)**.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2018-0272) with the WCRA on March 13, 2018, to provide \$114,000 of Community Development Block Grant (CDBG) funds for the development of the Oswego Oaks Neighborhood Park; and

WHEREAS, the WCRA has requested, and the County wishes to provide \$231,803 in additional funding for the project, and to modify both the project completion date and performance requirements associated with the project; 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. SECTION 6: MAXIMUM COMPENSATION

Replace the original allocation of "\$114,000" with "\$345,803" and replace the project completion date of "March 31, 2019" with "June 30, 2019".

C. SECTION 7: TIME OF PERFORMANCE

Replace the project completion date of "March 31, 2019" with "June 30, 2019".

D. SECTION 10: CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY

The Municipality acknowledges that the County is committed to assuring equal opportunity in the award of grants or contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Municipality warrants and represents that throughout the term of this Agreement, including any renewals thereof, all of its employees are treated equally during employment with regard to race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. Failure to meet this requirement shall be considered cause for termination of this Agreement.

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.

E. EXHIBIT A – WORK PROGRAM NARRATIVE

Delete "EXHIBIT A" in its entirety and replace it with "EXHIBIT A-1", attached hereto.

F. EXHIBIT B – MONTHLY PERFORMANCE REPORT

Delete "EXHIBIT B" in its entirety and replace it with "EXHIBIT B-1", attached hereto.

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.

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

(AGENCY SEAL BELOW)

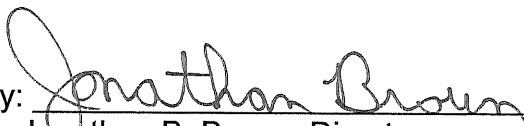
WESTGATE/BELVEDERE HOMES CRA

By: 
Ronald Daniels, Chair

By: 
Elizee Michel, Executive Director


By: 
Attorney for Agency (Optional)

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

By: 
Jonathan B. Brown, Director
Dept. of Housing & Economic Sustainability

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Housing & Economic Sustainability

By: 
James Brako
Assistant County Attorney

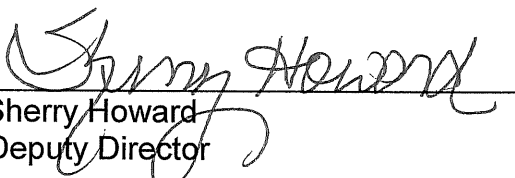
By: 
Sherry Howard
Deputy Director

EXHIBIT "A - 1"
WORK PROGRAM NARRATIVE

1. AGENCY OBLIGATIONS:

- A. PROFESSIONAL SERVICES:** The Agency, using its own resources, shall retain an engineering consultant (a Florida Licensed Professional Engineer) to provide design services to create plans and specifications for the development of the Oswego Oaks Neighborhood Park. Additionally, the Agency and consultant shall 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, should abatement be necessary.

Alternatively, the Agency shall have the option of performing any portion of the consultant's services described above by its own staff provided such staff possesses the competency to do so. All costs associated with the above services shall be paid for by the Agency from sources other than the CDBG funds provided under this agreement.

- B. PROJECT SCOPE:** The scope of the project contained herein shall consist of, but not be limited to the following: Site grading and preparation, electrical and lighting installations, construction of pathways, parking, irrigation, fencing, benches signage, a gazebo and other site amenities consistent with the development of a neighborhood park.

An itemized opinion of probable cost (containing a schedule of values listed on AIA Form G703 or similar), prepared by the Agency's Consultant or qualified staff shall be submitted to HES prior to advertising the project for bid.

(1) Should the Agency use a brand name or multiple brand names in its bid package/drawings/ specifications for this project, then these documents shall:

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

(2) The Agency shall prepare a bid package complete with drawings, specifications, and any items required for a competitive bid of the project. The bid process shall not allow for any local procurement preferences with regard to contract award.

The Agency's advertisement for bid shall contain language noting that the project is federally funded through funds provided by Palm Beach County via the US Department of HUD, and that Davis-Bacon and Related Acts and wage rates apply. The advertisement shall also encourage participation by MBE/WBE and Section 3 businesses.

Following the bid process, the Agency shall submit to HES a copy of the bid document package including any addendums, a notice of contract award, a copy of the executed construction contract, and documentation regarding any protests filed regarding the bids.

Prior to the Agency's first reimbursement, HES shall review the Agency's procurement process and contract award to determine compliance with 2 CFR 200 and all procurement regulations applicable to CDBG funding and this Agreement.

(3) The Agency shall prioritize the work in the project, and shall bid such work in a manner that requires the receipt of itemized costs from bidders. This would then allow the award of items that can be funded by the budget provided such that the extent of work awarded will result in a functioning facility in the opinion of HES.

(4) The Agency 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.

(5) Should the amount of eligible costs exceed the amount to be funded by the County through this Agreement, then the Agency shall fund all amounts in excess of the amount to be funded by the County.

(6) The Agency shall inform HES of any environmental findings or conditions discovered during project implementation. Applicable mitigation measures must be incorporated into the project by the Agency in order to proceed with the project. Such mitigation measures may affect the total project cost. Where funds are not available from the CDBG allocation contained herein, the Agency shall be responsible for all costs of mitigation.

(7) The Agency shall recognize Palm Beach County as a funding participant in the project's implementation and shall affix the County's logo to any project sign on the project site during the construction process. The Agency shall also acknowledge the County's participation whenever the situation presents itself.

The Agency further agrees that HES, in consultation with any parties it deems necessary, shall be the final arbiter on the Agency's compliance with this Agreement's requirements and shall make the final determination of the Agency's compliance with applicable regulations governing the CDBG funding of this project.

C. ASBESTOS REQUIREMENTS: The Agency 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 AND RELATED ACTS (DBRA):

The Agency shall request from the County a copy of the Requirements for Federally Funded Projects and the applicable DBRA Wage Decision for the project PRIOR to advertising the construction work. The Agency shall incorporate a copy of the DBRA Wage Decision and the Requirements for Federally Funded Projects in its bid documents and shall include these documents as part of the construction contract. The Agency shall require the contractor to include these in all subcontracts for the work performed under the construction contract.

The Agency shall perform all tasks required for DBRA compliance, including, but not limited to the following:

- Contractor and sub-contractor debarment clearance
- Obtaining contractor and subcontractor certified payrolls
- Review of certified payrolls and documentation related thereto
- Compliance actions for payroll related issues
- Employee/worker interviews and follow-up review of certified payrolls
- Ensure restitution due underpaid workers has been paid prior to project completion

The Agency shall certify, at the time they request a reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Agency staff, and that any DBRA compliance issues have been or are in the process of being resolved.

The Agency shall submit a copy of the reviewed payrolls from the contractor and any subcontractors at the time each reimbursement request is submitted to HES.

The Agency shall certify, at the time they request final reimbursement from HES that payrolls from the contractor and sub-contractors are current, have been reviewed and approved by Agency staff, and shall certify to HES that the project meets DBRA compliance and all workers have been paid in accordance with DBRA requirements.

HES may monitor the Agency, its contractors, and subcontractors for DBRA compliance at any time per Section 13 of this Agreement.

As part of the County's commitment to assist the Agency and its contractors/subcontractors to conveniently comply with legal and contractual requirements including Davis Bacon and Related Acts (DBRA), the County may establish a Labor Compliance Reporting System ("LCRS") for this project. Upon implementation of the LCRS by the County, the Agency's contractors and sub-contractors will no longer be required to submit paper copies of fringe benefits statements, weekly certified payroll reports and/or work performed reports, and shall instead use the LCRS for all DBRA reporting and tracking. The LCRS will be an online system and shall be available for use 24-hours a day, 7 days a week, at no cost for reporting weekly certified payrolls and labor compliance related documents.

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All bonds shall be executed by a corporate surety company of recognized standing, authorized to do business in the State of Florida. The Agency may follow its own requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of \$150,000, or less.

- F. CONSTRUCTION PAYMENT RETAINAGE:** Throughout the term of this contract, the Agency shall withhold retainage upon each progress draw at the maximum percentage allowed by Florida law as specified in the construction contract. The Agency shall abide by Florida law and this Agreement regarding the payment of retainage funds and project closeout procedures. The Agency shall certify to HES that the contractor and subcontractors have complied with the requirements of DBRA, that all wages and restitution due to workers has been paid, and that satisfactory project closeout documentation has been reviewed and approved by the Agency prior to releasing retainage/final payment.
- G. MONTHLY PERFORMANCE REQUIREMENTS:** The time-frame for completion of the outlined activities shall be June 30, 2019.

Advertise, Accept Bids and Award Contract by:	October 2018
Start Construction by:	December 2018
50% of Funds Expended by:	February 2019
Complete Construction by:	April 2019
Submit Final Reimbursement no later than:	May 2019
100% of Funds Expended by:	June 2019

NOTE: 100% of these CDBG funds awarded must be expended by June 30, 2019 and all necessary reimbursement documentation to meet this expenditure requirement must be submitted to HES, no later than May 31, 2019.

If unforeseen circumstances occur that impact the accuracy of the performance dates and require revisions thereto, the Agency shall request, in writing, that the dates used as performance requirement listed above be revised/amended. The County Administrator, or his/her designee may, at their sole discretion, revise/amend the performance dates via written notification to the Agency. The Completion Date for all activities may be revised only by an Amendment to this Agreement.

The Agency 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 Agency to comply with these requirements may negatively impact ability to receive future grant awards.

- H. **REPORTS:** The Agency shall submit to HES a detailed Monthly Performance Report in the form provided as Exhibit "B" to this Agreement, or other form as may be required by HES. Each Report must account for the total activity for which the Agency is funded under this Agreement, and a Agency representative must certify that all of the Agency's Monthly Performance Requirements contained herein have been met during the reporting period. These Monthly Performance Reports shall be used by HES to assess the Agency's progress in implementing the project.
- I. **USE OF THE PROJECT FACILITY/PROPERTY:** The Agency 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 Agency shall properly maintain the facility/project, and 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 Agency 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 Agency 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 (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 Agency 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 or early termination of this Agreement.

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

K. ENVIRONMENTAL CONDITIONS: The County has performed an Environmental Review (ER) of the project to assess existing conditions and identify all potential environmental impacts, whether beneficial or adverse, and any required conditions or mitigation measures that the Agency must consider in the design and implementation of the project. The Agency acknowledges receipt of the letter dated May 7, 2018, detailing the results of the ER. Where applicable, the Agency shall submit to HES a plan of action and an implementation schedule for complying with any identified conditions requiring mitigation. The Agency shall comply with all requirements established by the County emulating from the completion of the ER.

The installation of improvements contained in this Agreement shall not begin until the results of the ER have been conveyed to the Agency and the County has received a Release of Funds from HUD.

ER costs incurred by the County may be charged to the project identified above. In addition, the Agency shall immediately inform HES of any environmental findings or conditions discovered during activity implementation, and agrees that applicable mitigation measures, subject to HES approval, shall be incorporated in order to proceed with the project. The Agency acknowledges that such mitigation measures may affect the total project cost and that Agency 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 \$345,803. However, the County shall not provide any funding for the construction work until the Agency provides documentation showing that sufficient funds are available to complete the project.
- B. County shall not provide any funding for the consulting and/or construction work until the Agency provides documentation showing that Agency's procurement of the consulting and/or construction contract has been made in compliance with applicable requirements for the CDBG funds provided under this Agreement.
- C. Provide technical assistance to the Agency when requested.
- D. Monitor the Agency at any time during the term of this Agreement. Visits may be announced or unannounced, as determined by HES, 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 HES on program activities.
- E. 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 Agency 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 - 1"
PALM BEACH COUNTY HOUSING & ECONOMIC SUSTAINABILITY

MONTHLY PERFORMANCE REPORT

Report For:	Month: _____ Year: _____
Agency Name:	Westgate/Belvedere Homes CRA
Project Name:	Oswego Oaks Park Project
Report Prepared By:	_____
	Name _____ Signature _____ Date _____

BUDGETING AND EXPENDITURES

Funds To Be Expended by March 31, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Funds To Be Expended by June 30, 2019: CDBG Funds: \$ _____ Other Funds: \$ _____

Amounts Expended to Date:

////////////////////////////////////	BUDGETED	EXPENDED	PERCENTAGE
CDBG Funds:	\$ 345,000.00	\$	%
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 Westgate/Belvedere Homes CRA 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 CIREIS
 Department of Housing & Economic Sustainability
 100 Australian Avenue, Suite 500
 West Palm Beach, FL 33406