LEE COUNTY
SOUTHWEST FLORIDA

Board of County Commissioners
Meeting Agenda

District #1	District #2	District #3	District #4	District #5
John E. Manning Chair	Brian Bigelow Vice Chair	Ray Judah	Tammy Hall	Frank Mann

Karen B. Hawes
County Manager

Michael D. Hunt
County Attorney

August 21, 2012

If you plan to address the Board, please complete a blue "Request for Comment" card (located on the table outside the Chamber entrance) or you can submit your comment electronically by clicking here.
Completed cards should be returned to the Staff table at the right of the podium prior to the start of the meeting.
All back up for this agenda is available on the Internet at http://www.lee-county.com. Additional information is available in the **Public Resources Office,** 1st Floor, Administration Building, 2115 Second St., Fort Myers, FL
PLEASE NOTE: The Board may take action in its capacity as the Port Authority or Government Leasing Corporation.

COMMISSION CHAMBERS, 2120 MAIN STREET, FORT MYERS, FLORIDA
9:30 AM

Invocation: Pastor Tom Willetts, Good Shepherd United Methodist Church

Pledge of Allegiance

Recap

Public Comment on the Consent and Administrative Agenda

Consent Agenda
- Items to be pulled for discussion by the Board
- Motion to approve balance of items
- Consideration of items pulled for discussion

Administrative Agenda

Walk-ons and Carry-overs

Commissioners' Items/Committee Appointments

County Manager Items

County Attorney Items

Adjourn

CONSENT AGENDA

1. COUNTY ADMINISTRATION

A) **ACTION REQUESTED/PURPOSE:**
Present to the Board for information and filing the Object Code #504015 Expenditure Detail Report for the third quarter of FY11-12 (April through June 2012) as required by Lee County Ordinance #90-18. (#20120677-COUNTY MANAGER)
FUNDING SOURCE:
Combination of Economic Development, Fair Housing, Hearing Examiner, Human Services, Libraries, Parks & Recreation (Extension Services), Public Resources, Public Safety and Sustainability.
WHAT ACTION ACCOMPLISHES:
Allows Board to monitor expenditures being made by County Departments and Divisions to this object code.
MANAGEMENT RECOMMENDATION:
Approve.

2. COMMUNITY DEVELOPMENT

3. CONSTRUCTION AND DESIGN

4. COUNTY COMMISSIONERS

5. COUNTY LANDS

A) **ACTION REQUESTED/PURPOSE:**
A) Approve Utility Easement sale to Florida Power & Light Company (FPL) of .34 acres located at 11400 Luckett Road, further identified as Conservation Land Parcel No. 410, in the amount of $7,059;
B) Authorize the Chairman on behalf of the Board to execute the Utility Easement;
C) Authorize the sale proceeds to be deposited to Conservation Lands as described below;
D) Authorize County Lands Staff to execute and accept all documentation necessary to complete this transaction. (#20120671-COUNTY LANDS)
FUNDING SOURCE:
Fund: Capital Improvement-Environmentally Sensitive Land Management; Program: Parks and Recreation Operations; Project: Six Mile Cypress North.
WHAT ACTION ACCOMPLISHES:
Approves the sale of a Utility Easement to FPL.
MANAGEMENT RECOMMENDATION:
Approve.

6. HUMAN SERVICES

A) **ACTION REQUESTED/PURPOSE:**
1.) Authorize the Lee County Department of Human Services to utilize Neighborhood Stabilization Program 1 (NSP1) program income to contract with Habitat for Humanity Lee and Hendry Counties, Inc. This funding will reimburse Habitat for Humanity Lee and Hendry Counties, Inc. for the acquisition of the foreclosed Red Hibiscus subdivision located on Red Blossom Court (land with infrastructure improvements only), and related closing and program costs. This property will be used to construct 26 single family affordable housing units. Once constructed, these affordable housing units will be sold to homebuyers with income at or below 80 percent of the area median income.
2.) Authorize Board Chair to sign the contract between Lee County and Habitat for Humanity Lee and Hendry Counties, Inc. once prepared.
Habitat for Humanity has been in contact with the bank that foreclosed on the property. The above actions are contingent on Habitat for Humanity of Lee and Hendry Counties, Inc. entering into a contract for sale with the bank. (#20120659-HUMAN SERVICES)
FUNDING SOURCE:
Fund - Federal Grant through General Fund; Program - United States Housing and Urban Development (HUD); Project - Neighborhood Stabilization Program 1 (NSP1).
WHAT ACTION ACCOMPLISHES:
Provides funding to Habitat for Humanity Lee and Hendry Counties Inc. (Habitat for Humanity) to acquire land in order to build affordable housing.
MANAGEMENT RECOMMENDATION:
Approve.

7. INDEPENDENT

A) **ACTION REQUESTED/PURPOSE:**
Approve Change Order No. 1 under RFP-11-14 GROUP MEDICARE ADVANTAGE PLANS WITH PRESCRIPTION DRUG COVERAGE FOR RETIREES, with United Healthcare to allow for an increase in the billing rates and annual premium for the renewal period of January 1, 2013 to December 31, 2013. (#20120676-HUMAN RESOURCES)
FUNDING SOURCE:
Retiree contributions and OPEB Trust Fund withdrawals into the Group Medical Self-Ins Fund & Program.
WHAT ACTION ACCOMPLISHES:
Renews the existing annual contract with United Healthcare for an additional one year period with increased rates and annual premium.
MANAGEMENT RECOMMENDATION:
Approve.

8. NATURAL RESOURCES/SOLID WASTE

9. PARKS AND RECREATION

A) **ACTION REQUESTED/PURPOSE:**
Approve and execute a corrective easement applicable to Galt Preserve in order to add Florida Communities Trust (FCT) as a Grantee to the Conservation Easement recorded in the Lee County Public Records at Instrument No. 2012000050106. (#20120667-PARKS AND RECREATION)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Includes Florida Communities Trust as a Grantee under the conservation easement required by South Florida Water Management District in conjunction with the improvements to Galt Preserve.
MANAGEMENT RECOMMENDATION:
Approve.

9. PARKS AND RECREATION (Continued)

B) **ACTION REQUESTED/PURPOSE:**
Approve and execute a corrective easement applicable to Wild Turkey Strand Preserve in order to add Florida Communities Trust (FCT) as a Grantee to the Conservation Easement recorded in the Lee County Public Records at Instrument No. 2011000110952. (#20120668-PARKS AND RECREATION)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Includes Florida Communities Trust as a Grantee under the conservation easement required by South Florida Water Management District in conjunction with the improvements to Wild Turkey Strand Preserve.
MANAGEMENT RECOMMENDATION:
Approve.

10. PUBLIC SAFETY

11. PUBLIC WORKS ADMINISTRATION

12. TRANSPORTATION

13. UTILITIES

A) **ACTION REQUESTED/PURPOSE:**
Developer Contributed Asset - Bella Terra, Phase 8D: (BS 20120652/23558, THO/SDG): Approve construction of water and gravity main extensions to provide potable water service, fire protection and sanitary sewer service to "BELLA TERRA, PHASE 8D", a phased residential development. This is a Developer contributed asset project located on the south side of Corkscrew Road approximately 2 miles east of Ben Hill Griffin Parkway. (#20120652-UTILITIES)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Provides adequate utility infrastructure to support development of the subject property and complies with the Lee County Utilities Design Manual.
MANAGEMENT RECOMMENDATION:
Approval.

B) **ACTION REQUESTED/PURPOSE:**
With respect to CN-12-14 PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING:
A) Concur with the ranking by the Competitive Negotiations Committee in the following order: 1) Tetra Tech, Inc.; 2) Greeley and Hansen; and 3) AIM Engineering & Surveying, Inc. (all firms have local offices).
B) Authorize negotiations to commence with the number one ranked firm. (#20120657-UTILITIES)
FUNDING SOURCE:
Fund: Utilities Capital Improvements; Program: Capital Projects; Project: Palm Beach Blvd Force Main at Orange River.
WHAT ACTION ACCOMPLISHES:
Provides Lee County with a consultant to provide professional engineering services to replace an existing 24" force main pipe along Palm Beach Boulevard crossing the Orange River just east of I-75.
MANAGEMENT RECOMMENDATION:
Approve.

13. UTILITIES (Continued)

C) **ACTION REQUESTED/PURPOSE:**
Developer Contributed Asset - Red's Fresh Seafood House and Tavern (BS 20120658/23564, THO/SDG): Approve final acceptance, by Resolution, as a donation of a force main extension serving 'RED'S FRESH SEAFOOD HOUSE AND TAVERN', to provide sanitary sewer service to this existing restaurant. This is a Developer contributed asset project located on the east side of Stringfellow Road, approximately 1/2 mile north of Pine Island Road. (#20120658-UTILITIES)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Provides adequate sanitary sewer infrastructure to allow for the abatement of the existing failing septic system that now serves the subject property, and complies with the Lee County Utilities Design Manual.
MANAGEMENT RECOMMENDATION:
Approval.

D) **ACTION REQUESTED/PURPOSE:**
FDOT Agreement (BS 20120660/23566, JM/SDG): Authorize Chair, on behalf of the BOCC, to execute "Subordination of Utility Interests for Temporary Easements" Agreement and Resolution documents requested by the Florida Department of Transportation (FDOT); and approve recording of document for Parcel No. 704.2. (#20120660-UTILITIES)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Temporarily subordinates Lee County easement interests to FDOT at subject property. Lee County Utilities will continue to have utility rights at this property, except now it is subject to the control of FDOT.
MANAGEMENT RECOMMENDATION:
Approval.

E) **ACTION REQUESTED/PURPOSE:**
EDA Grant Acceptance (BS 20120669/23575, KAM/SDG): Approve the acceptance of a federal grant award from the Economic Development Administration (EDA) in the amount of $551,257 for the engineering design services for extending the wastewater force main along Alico Road. Also, approve a Budget Amendment Resolution in the amount of $551,257 for the grant, and a budget transfer in the amount of $551,257 from Gladiolus Water & Sewer Line Relocation project to Ben Hill Griffin Parallel Force Main project for the grant match. Amend the FY 11-12/15-16 CIP budget accordingly. (#20120669-UTILITIES)
FUNDING SOURCE:
Fund: Utilities Capital Improvements (includes grant); Program: Capital Projects; Project: Ben Hill Griffin Parallel Force Main.
WHAT ACTION ACCOMPLISHES:
Formal acceptance of the grant award from the Economic Development Administration. The budget amendment provides a funding source to be reimbursed by the grant and the budget transfer provides matching funds for the wastewater force main extension along Ben Hill Griffin Parkway and Alico Road.
MANAGEMENT RECOMMENDATION:
Approval.

14. COUNTY ATTORNEY

15. HEARING EXAMINER

16. CONSTITUTIONAL OFFICERS

A) **ACTION REQUESTED/PURPOSE:**
Approve the write-off of tax, interest, and penalties for fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances. The total amounts of these accounts are $6,659.72: Tax $4,176.27; Interest $462.14; Penalties $1,919.07; and Fees $102.24. All of the account balances are considered to be uncollectable. It is estimated that the departmental expense in continuing to see collection of these account balances would surpass the amount collected. The amount of the Write-off is minor considering our collection of nearly $24.3 million in FY 2011. (#20120679-INTERNAL AUDIT)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Cost savings and Operational Efficiency; This Action eliminates the costs of managing and maintaining records and continued collection efforts for these accounts. In addition, it provides for additional available time and effort to manage accounts deemed collectable.
MANAGEMENT RECOMMENDATION:
Approve the write-off of tax, interest, and penalties for fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances. The total amounts of these accounts are $6,659.72.

B) **ACTION REQUESTED/PURPOSE:**
Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BOCC Minutes and Documents link. (#20120680-FINANCE)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Florida Statute Chapter 136.06 (1) requires that all County disbursements be recorded in the Minutes of the Board.
MANAGEMENT RECOMMENDATION:
Compliance with the requirements of FS 136.06 (1).

C) **ACTION REQUESTED/PURPOSE:**
Request Board approval for the extension of the 2012 tax roll by the Property Appraiser to the Tax Collector prior to the completion of value adjustment board hearings, pursuant to Florida Statute 197.323. (#20120681-TAX COLLECTOR)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Allows the Tax Collector to mail 2012 tax notices on or before November 1, 2012; to collect and distribute tax revenue to taxing authorities before completion of value adjustment board hearings.
MANAGEMENT RECOMMENDATION:
Approve.

D) **ACTION REQUESTED/PURPOSE:**
Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of August 6 thru August 10, 2012: August 6, 2012 (Zoning), August 6, 2012 (Management & Planning), August 7, 2012 (Regular Meeting). (#20120683-MINUTES)
FUNDING SOURCE:
N/A.
WHAT ACTION ACCOMPLISHES:
Approval of the Board Minutes, pursuant to Florida Statute 286.011.
MANAGEMENT RECOMMENDATION:
Approve.

16. CONSTITUTIONAL OFFICERS (Continued)

E) **ACTION REQUESTED/PURPOSE:**
Approve disbursement of excess funds resulting from the sale of tax deed certificates to a claimant verified and certified under Florida Statutes 197.582. (20120684-DELINQUENT TAX)
FUNDING SOURCE:
Proceeds from a tax deed sale in excess of the taxes and/or liens owed are being held by the Board for disbursements in accord with Florida Statutes, Chapter 197.
WHAT ACTION ACCOMPLISHES:
Provides for disbursement of excess tax deed proceeds to an appropriate claimant in compliance with statutory rules and requirements.
MANAGEMENT RECOMMENDATION:
Approve disbursement to identified claimant.

17. PORT AUTHORITY AND OTHER GOVERNING BOARDS

ADMINISTRATIVE AGENDA

1. **COUNTY ADMINISTRATION**

2. **COMMUNITY DEVELOPMENT**

3. **CONSTRUCTION AND DESIGN**

4. **COUNTY COMMISSIONERS**

5. **COUNTY LANDS**

6. **HUMAN SERVICES**

7. **INDEPENDENT**

8. **NATURAL RESOURCES/SOLID WASTE**

9. **PARKS AND RECREATION**

10. **PUBLIC SAFETY**

11. **PUBLIC WORKS ADMINISTRATION**

12. **TRANSPORTATION**

13. **UTILITIES**

14. **COUNTY ATTORNEY**

    A) **ACTION REQUESTED/PURPOSE:**
    Approve negotiated settlement in the case of Lee County v. East County Water Control District, et al., Lee County Circuit Court Case No. 11-CA-3987. (#20120665-COUNTY ATTORNEY)
    FUNDING SOURCE:
    N/A.
    WHAT ACTION ACCOMPLISHES:
    Settles the case on terms negotiated by the Parties.
    MANAGEMENT RECOMMENDATION:
    Approve negotiated settlement.

15. **HEARING EXAMINER**

16. **CONSTITUTIONAL OFFICERS**

17. **PORT AUTHORITY AND OTHER GOVERNING BOARDS**

WALK ON AGENDA

1. ACTION REQUESTED/PURPOSE:

Approve Modification to County Emergency Operations Center (EOC) subgrant agreement #07-EC-33-09-46-01-490 with the State of Florida, Division of Emergency Management to extend the period of performance for Phase II, Construction to December 31, 2012. (#20120716-PUBLIC SAFETY)

FUNDING SOURCE:

N/A.

WHAT ACTION ACCOMPLISHES:

Provides an extension of the period of performance for the Phase II, Construction of the new EOC.

MANAGEMENT RECOMMENDATION:

Approve.

REASON FOR WALK ON:

The blue sheet provides an extension for the construction costs of a new EOC from August 30 to December 31, 2012.

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120677

1. ACTION REQUESTED/PURPOSE:
Present to the Board for information and filing the Object Code #504015 Expenditure Detail Report for the third quarter of FY11-12 (April through June 2012) as required by Lee County Ordinance #90-18.

2. FUNDING SOURCE:
Combination of Economic Development, Fair Housing, Hearing Examiner, Human Services, Libraries, Parks & Recreation (Extension Services), Public Resources, Public Safety and Sustainability.

3. WHAT ACTION ACCOMPLISHES:
Allows Board to monitor expenditures being made by County Departments and Divisions to this object code.

4. MANAGEMENT RECOMMENDATION: Approve.

5. Departmental Category: C1A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☒ Ordinance #90-18 ☐ Admin Code ☐ Other	**9. Request Initiated** **Commissioner:** **Department:** COUNTY MANAGER **Division:** **By:** Peter Winton

10. Background:
Lee County Ordinance #90-18 authorizes the expenditure of public funds for functions organized, sponsored, or co-sponsored by the Board of County Commissioners or its designees. The attached report is being provided in accordance with the requirements of that ordinance.

Attachment: Object Code #4015, FY11-12 3rd Quarter Report

11. Required Review:					
Pete Winton					
COUNTY MANAGER					

12. Commission Action:

APRIL - JUNE 2012

DEPARTMENT	AMOUNT	
ECONOMIC DEVELOPMENT	$1,701.50	(1)
FAIR HOUSING	$21.10	
HEARING EXAMINER	$174.36	
HUMAN SERVICES	$18.92	
LIBRARIES	$16,721.85	(2)
PARKS & RECREATION	$410.00	
PUBLIC RESOURCES	$11,310.01	(3)
PUBLIC SAFETY	$1,121.61	(4)
SUSTAINABILITY	$377.48	
FY11-12 THIRD QUARTER EXPENDITURES	$31,856.83	

(1) Economic Development - Day at the Stadium for Horizon Council Members

(2) Libraries - Reading Festival (privately funded)

(3) Public Resources - LeeGrows expenses: Busing, Food, Parking,

(4) Public Safety - EMS Week 2012

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120671

1. ACTION REQUESTED/PURPOSE:

A) Approve Utility Easement sale to Florida Power & Light Company (FPL) of .34 acres located at 11400 Luckett Road, further identified as Conservation Land Parcel No. 410, in the amount of $7,059;
B) Authorize the Chairman on behalf of the Board to execute the Utility Easement;
C) Authorize the sale proceeds to be deposited to Conservation Lands as described below;
D) Authorize County Lands Staff to execute and accept all documentation necessary to complete this transaction.

2. FUNDING SOURCE:

Fund: Capital Improvement-Environmentally Sensitive Land Management; Program: Parks and Recreation Operations; Project: Six Mile Cypress North

3. WHAT ACTION ACCOMPLISHES:

Approves the sale of a Utility Easement to FPL.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C5A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☒ Statute 125 ☐ Ordinance ☐ Admin Code ☐ Other	**9. Request Initiated** **Commissioner:** **Department:** COUNTY LANDS **Division:** No Divisions **By:** Karen Maguire

10. Background:

FPL will be constructing and maintaining new transmission facilities at its Buckingham Substation. Lee County Electric Cooperative (LCEC) connects to the FPL Substation which provides LCEC with its source of power for approximately 40,000 LCEC customers. The purpose of the proposed Utility Easement is to create an alternative pathway into the Substation called a "shoo-fly", which eliminates the need for taking the LCEC line out of service for various utility operation and maintenance activities. The current substation configuration limits cost effective alternatives available for the shoo-fly construction. The overall easement is .34 acre of which .22 acre is already encumbered by a LCEC easement.

Interest to Acquire: .34 acre Easement interest, of which, only .12 acres is unencumbered (new easement area).

Property Details:
Owner: Lee County
Address: 11400 Luckett Road, Fort Myers, FL 33905
STRAP No.: 13-44-25-P1-00001.0000
Sale Details:
Sales Price: $7,059
Costs to Close: None
Account: KH5722030105.347290.9229
Attachments: Justification, Utility Easement Sale Agreement, Location Map

11. Required Review:

Karen Maguire	*Emma Wolf*	*Anne Henkel*	*David Harris*	*David Harner*	*Susan M. Henderson*
COUNTY LANDS	Budget Analyst	Budget Analyst	Budget Services	PARKS AND RECREATION	County Attorney
Peter Winton					
County Manager					

12. Commission Action:

Sale Price Justification

Blue Sheet 20120671 **BOCC Agenda Date - August 21, 2012**

BUYER: Florida Power & Light Company (FPL)

SELLER: Lee County

Purchase: **.**34 Acre Utility Easement

Part of Tax ID STRAP No. 13-44-25-P1-00001.0000

Further Described as: Conservation Land Parcel 410

Parcel Basis:
On May 3, 2010 Lee County acquired Parcel 410 (317**.**35 acre) for the Conservation Land Program in the amount of $4,628,200 or $14,600 per acre.

The proposed .34 acre FPL easement area consists of:
.22 acre encumbrance by LCEC easement or 65% of the total easement area,
.12 acre is new FPL easement.

Negotiated Purchase Price	$7,059
Lee County Paid (for the .34 acres)	4,964
Benefit to Lee County (Dollar's over amount paid per acre)	**$2,095**

Full fee cost is being paid by FPL for an easement area of .34 acres; of which, .22 acres is currently encumbered by Lee County Electric Cooperative.

ORIGINAL

This document prepared by
County Lands Division
Post Office Box 398
Fort Myers, Florida 33902-0398

Project: Conservation Lands, #8800
Parcel: 410
Portion of STRAP No: 13-44-25-P1-00001.0000

UTILITY EASEMENT SALE AGREEMENT

THIS AGREEMENT for Utility Easement purchase and sale is made this ___ day of ____, 2012, between LEE COUNTY, a political subdivision of the State of Florida (Seller), and Florida Power & Light Company, a company organized under the laws of the State of Florida, (Buyer) whose address is P.O. Box 14000, Juno Beach, Florida 33408-0420, as follows:

1. **AGREEMENT TO SELL AND PURCHASE**: Seller agrees to sell and Buyer agrees to purchase an easement interest in land located in Lee County, Florida, and legally described in "Exhibit A" attached to this agreement.

2. **PURCHASE PRICE**: The purchase price for the property is Seven Thousand Fifty Nine Dollars, ($7,059), payable by certified funds at closing.

3. **DEPOSIT**: No deposit is required.

4. **TITLE**: At closing, Seller will convey to Buyer an easement interest to the property by Utility Easement (the form is attached as "Exhibit B"). The parties understand and agree that Buyer is purchasing the property in an "as is" condition and no express or implied warranties or guarantees exist with respect to marketable title, the condition of structures on the property, or the ability of Buyer to obtain title insurance on the property. Buyer acknowledges responsibility for any inquiries or investigations regarding property title or the condition of structures on the property. The parties also agree that Seller has no obligation or liability for the cost to correct any deficiencies discovered by Buyer through investigation or inquiry.

5. **INSPECTION/TERMINATION**: Buyer has a 10 day inspection and termination period that commences on the date this agreement is executed by the Buyer. During that period, Buyer may perform any inspections or other types of inquiries on or concerning the property at Buyer's sole expense. Buyer may, as a result of inspection or inquiry, terminate this agreement within the inspection and termination period by delivering written notice to the County stating, with specificity, the basis of the Buyer's decision to terminate. Upon appropriate termination by the Buyer no further obligations will exist under this agreement.

6. **DOCUMENTS AND EXPENSES**: Seller will prepare and execute the Utility Easement. Buyer is responsible for all other costs resulting under this agreement including but not limited to documentary stamps on deeds, survey and other types of closing costs.

7. **TIME AND BINDING AGREEMENT**:

a. Time is of the essence for closing this transaction.

b. Buyer's written acceptance of this offer constitutes a binding agreement between the parties, their successors and assigns for the purchase and sale an easement interest on the property.

8. **FAILURE OF PERFORMANCE; ATTORNEY'S FEES:**

a. If the Buyer alone defaults or otherwise fails to perform under this agreement, the parties agree Seller may, after providing written notice to Buyer as to default, thereafter, both parties are relieved of any further obligation under this agreement.

b. If Seller alone defaults or otherwise fails to perform under this agreement, after written notice from the Buyer to Seller concerning the default, the parties agree Buyer may terminate this agreement thereafter, both parties are relieved of any further obligations under this agreement.

c. The prevailing party in any litigation arising out of this agreement is entitled to receive reasonable attorney's fees.

9. **CLOSING:** Closing shall take place during normal business hours at such location as Seller may select, within 30 days after execution of the Sales Agreement between Buyer and Seller.

10. **AMENDMENT, OTHER AGREEMENTS:** Any amendments to the provisions of this agreement must be in writing, attached and incorporated into this document and signed or initialed by all parties. This agreement represents the entire agreement between the parties.

WITNESSES:

Judy Mass
Judy Mass
Print Name

Frank N. Cece
Frank N. Cece
Print Name

BUYER: Florida Power & Light Company,
a Florida corporation

8/3/2012
By: Mark L. Byers (DATE)
Its: Area Real Estate Manager

CHARLIE GREEN, CLERK

BY: _____
DEPUTY CLERK (DATE)

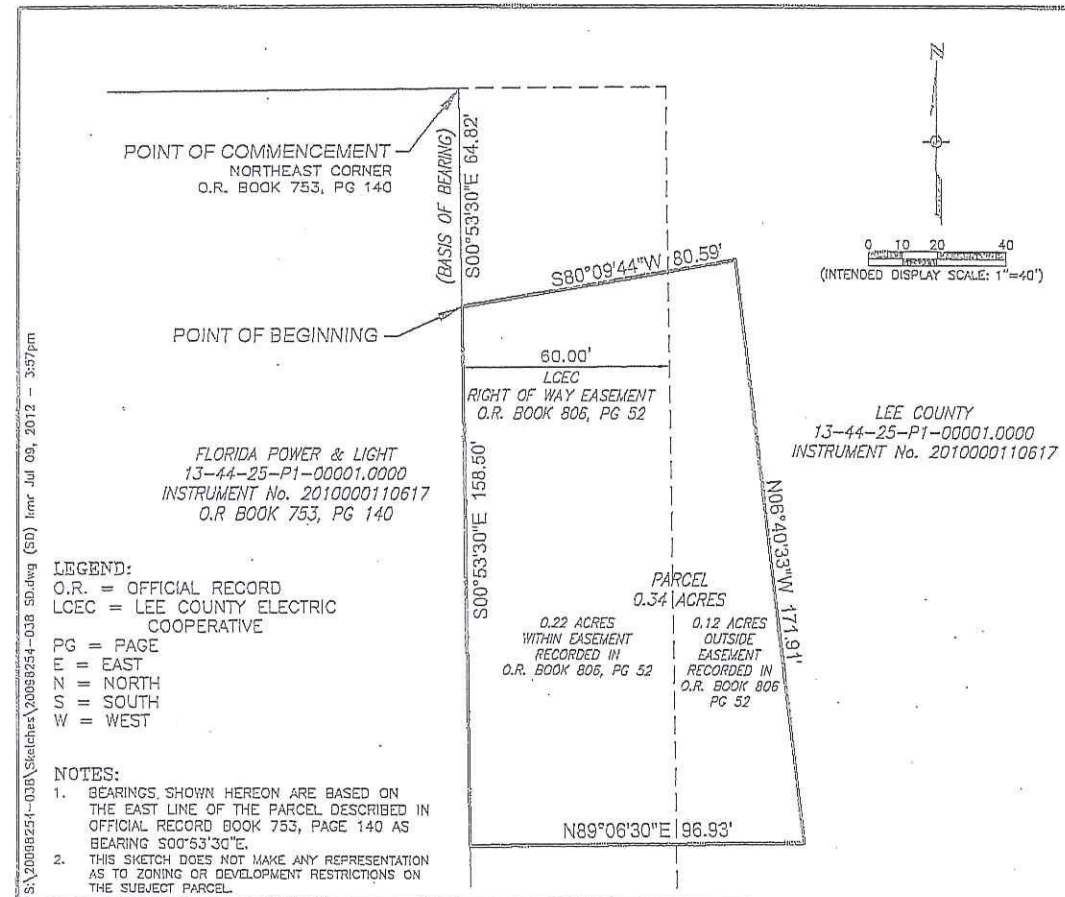
LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
CHAIR

APPROVED AS TO FORM

_____
COUNTY ATTORNEY (DATE)

Exhibit "A"



LEGEND:
O.R. = OFFICIAL RECORD
LCEC = LEE COUNTY ELECTRIC COOPERATIVE
PG = PAGE
E = EAST
N = NORTH
S = SOUTH
W = WEST

NOTES:
1. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 753, PAGE 140 AS BEARING S00°53'30"E.
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON THE SUBJECT PARCEL.

DESCRIPTION

A PARCEL OF LAND FOR FLORIDA POWER AND LIGHT TRANSMISSION PURPOSES LYING IN SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 44 SOUTH, RANGE 25 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 753 AT PAGE 140 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S00°53'30"E, A DISTANCE OF 64.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°53'30"E, A DISTANCE OF 158.50 FEET; THENCE N89°06'30"E, A DISTANCE OF 96.93 FEET; THENCE N06°40'33"W, A DISTANCE OF 171.91 FEET; THENCE S80°09'44"W, A DISTANCE OF 80.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,398 SQUARE FEET, OR 0.34 ACRES, MORE OR LESS.

BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 753 AT PAGE 140 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS BEARING

THIS IS NOT A SURVEY

KEVIN M. RISCASSI (FOR THE FIRM LB-642)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6433

DATE SIGNED: _____

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

S:\20098254-038\Sketches\20098254-038 SD.dwg (SD) kmr Jul 09, 2012 - 3:57pm

Florida Power & Light Easement Lying in
Section 13, Township 44 South, Range 25 East
Lee County, Florida

JOHNSON ENGINEERING

2122 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

Sketch of Description

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
JULY, 2012	20098254	13-44-25	AS SHOWN	1 OF 1

Exhibit "B"

THIS INSTRUMENT PREPARED BY:
Lee County
Division of County
PO Box 398
Fort Myers, Florida 33902

Portion of Strap No.:13-44-25-P1-00001.0000
Buckingham Substation Easement

UTILITY EASEMENT

Lee County, a political subdivision of the State of Florida, in consideration of the payment of other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company (FPL), a company organized under the laws of the State of Florida, whose address is P.O. Box 14000, Juno Beach, Florida 33408-0420, its licensees, agents, successors and assigns, an easement forever for right-of-way to be used for the construction, operation and maintenance of one or more overhead electric transmission lines including but not limited to, wires, poles, towers, guys, cables, anchors, roads, trails, and equipment associated therewith, attachments and appurtenant equipment for communication purposes within an easement, as depicted and described in attached Exhibit A.

Together with the right from time to time to reconstruct, inspect, alter, improve, enlarge add to, change the voltage, as well as the physical characteristics of, replace, remove or relocate such facilities or any part of them upon, across or over the above described right of way, including the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the easement area; and to trim and cut and keep trimmed and cut all dead, weak, leaning, or dangerous trees or limbs protruding into the easement area that might interfere with or fall upon the lines or systems of communications or electric transmission.

Grantor retains all rights to use of the land not in direct conflict with the terms of this Easement. This Easement may not be assigned to another party without specific written permission from Grantor.

This grant conveys only the interest of the County and its Board of County Commissioners in the property described herein, and does not warrant the title or represent any state of facts concerning the title.

.
Dated: _____

ATTEST
CHARLIE GREEN, CLERK

By: _____
Deputy Clerk

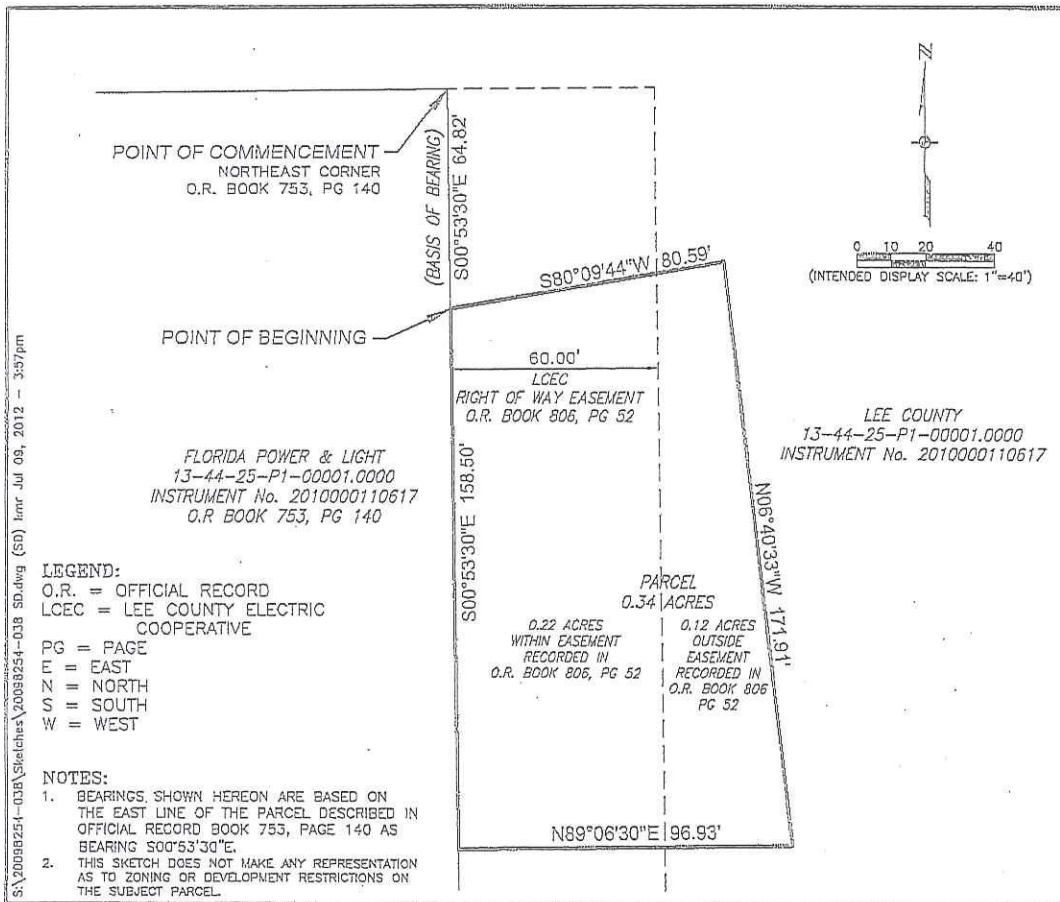
LEE COUNTY BOARD OF COUNTY
COMMISSIONERS OF LEE COUNTY, FLORIDA

By: _____
Chair

APPROVED AS TO FORM

By:_____
Office of County Attorney

Exhibit "A"



LEGEND:
O.R. = OFFICIAL RECORD
LCEC = LEE COUNTY ELECTRIC COOPERATIVE
PG = PAGE
E = EAST
N = NORTH
S = SOUTH
W = WEST

NOTES:
1. BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 753, PAGE 140 AS BEARING S00°53'30"E.
2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON THE SUBJECT PARCEL.

DESCRIPTION

A PARCEL OF LAND FOR FLORIDA POWER AND LIGHT TRANSMISSION PURPOSES LYING IN SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 44 SOUTH, RANGE 25 EAST BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 753 AT PAGE 140 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S00°53'30"E, A DISTANCE OF 64.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°53'30"E, A DISTANCE OF 158.50 FEET; THENCE N89°06'30"E, A DISTANCE OF 96.93 FEET; THENCE N06°40'33"W, A DISTANCE OF 171.91 FEET; THENCE S80°09'44"W, A DISTANCE OF 80.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,598 SQUARE FEET, OR 0.34 ACRES, MORE OR LESS.

BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF THE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 753 AT PAGE 140 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AS BEARING

THIS IS NOT A SURVEY

KEVIN M. RISCASSI (FOR THE FIRM LB-642)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6433

DATE SIGNED: _____

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

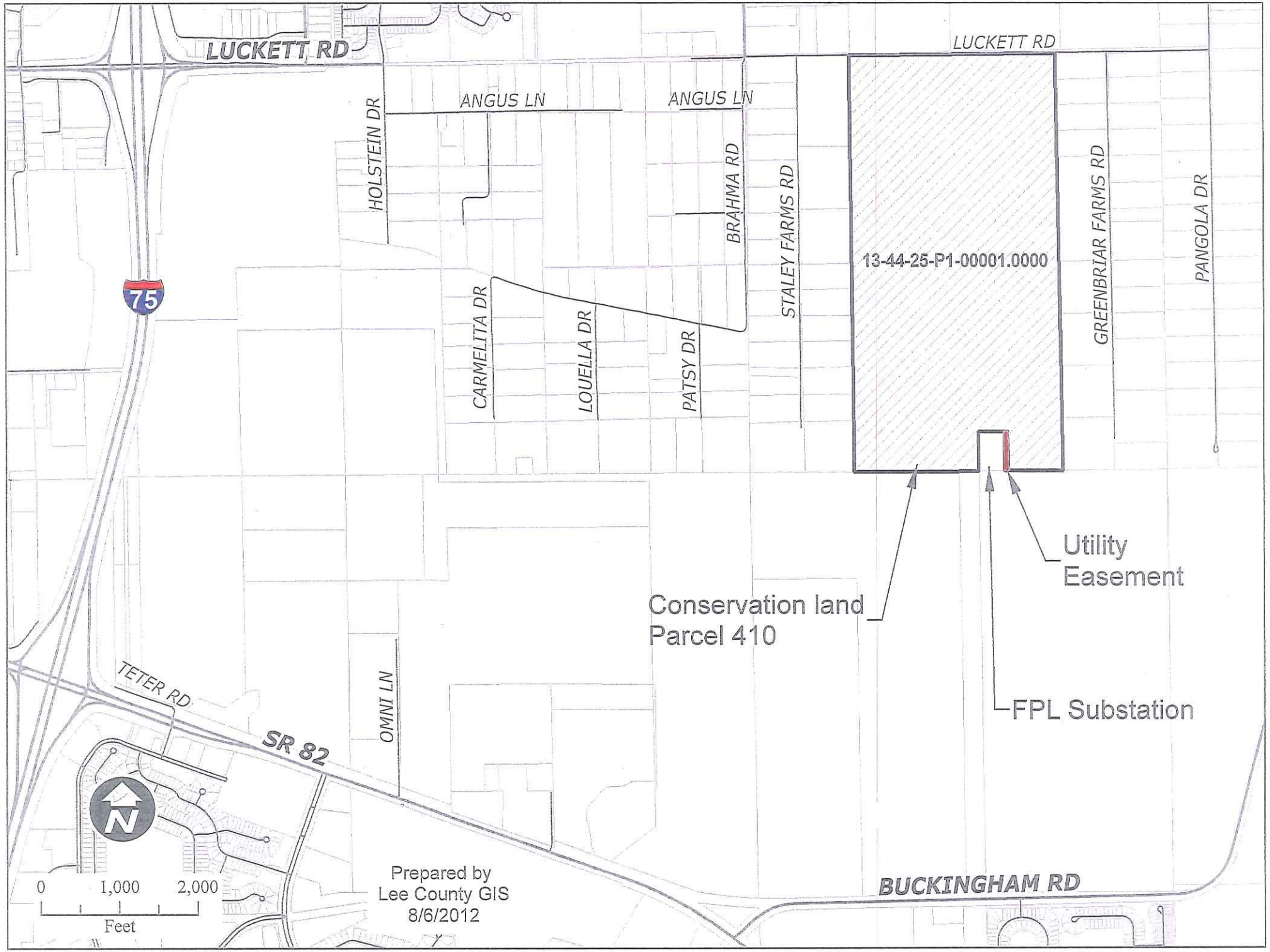
S:\20098254-038\Sketches\20098254-038 SD.dwg (SD) kmr Jul 09, 2012 - 3:57pm

Florida Power & Light Easement Lying in
Section 13, Township 44 South, Range 25 East
Lee County, Florida

JOHNSON ENGINEERING
2122 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

Sketch of Description

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
JULY, 2012	20098254	13-44-25	AS SHOWN	1 OF 1


LUCKETT RD
LUCKETT RD
ANGUS LN
ANGUS LN
HOLSTEIN DR
BRAHMA RD
STALEY FARMS RD
GREENBRIAR FARMS RD
PANGOLA DR
CARMELITA DR
LOUELLA DR
PATSY DR
13-44-25-P1-00001.0000
75
Utility
Easement
Conservation land
Parcel 410
FPL Substation
TETER RD
SR 82
OMNI LN
BUCKINGHAM RD
N
0
1,000
2,000
Feet
Prepared by
Lee County GIS
8/6/2012

Lee County Board Of County Commissioners
Agenda Item Summary **Blue Sheet No. 20120659**

1. ACTION REQUESTED/PURPOSE:
1.) Authorize the Lee County Department of Human Services to utilize Neighborhood Stabilization Program 1 (NSP1) program income to contract with Habitat for Humanity Lee and Hendry Counties, Inc. This funding will reimburse Habitat for Humanity Lee and Hendry Counties, Inc. for the acquisition of the foreclosed Red Hibiscus subdivision located on Red Blossom Court (land with infrastructure improvements only), and related closing and program costs. This property will be used to construct 26 single family affordable housing units. Once constructed, these affordable housing units will be sold to homebuyers with income at or below 80 percent of the area median income.

2.) Authorize Board Chair to sign the contract between Lee County and Habitat for Humanity Lee and Hendry Counties, Inc. once prepared.

Habitat for Humanity has been in contact with the bank that foreclosed on the property. The above actions are contingent on Habitat for Humanity of Lee and Hendry Counties, Inc. entering into a contract for sale with the bank.

2. FUNDING SOURCE:
Fund - Federal Grant through General Fund; Program - United States Housing and Urban Development (HUD); Project - Neighborhood Stabilization Program 1 (NSP1)

3. WHAT ACTION ACCOMPLISHES:
Provides funding to Habitat for Humanity Lee and Hendry Counties Inc. (Habitat for Humanity) to acquire land in order to build affordable housing.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C6A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other Neighborhood Stabilization Program/Section 2301 of the Housing and Economic Recovery Act	**9. Request Initiated** **Commissioner:** All **Department:** HUMAN SERVICES **Division:** No Divisions **By:** Ann Arnall

10. Background:
Habitat for Humanity has an opportunity to acquire a 26 lot subdivision in Bonita Springs. This subdivision was originally owned by Bonita Springs Housing Development Corporation (BSHDC). The City of Bonita Springs used Community Development Block Grant funds for the infrastructure improvements necessary to make the lots buildable. Before BSHDC could build affordable housing units on these lots, they went out of business. Habitat for Humanity is currently the only provider of low income home ownership opportunites in the Bonita Springs area and is finishing another subdivision that was previously being developed by BSHDC.

11. Required Review:

Ann Arnall	*Tricia Jackson*	*David Harris*	*John Fredyma*	*Holly Schwartz*	
HUMAN SERVICES	Budget Analyst	Budget Services	County Attorney	County Manager	

12. Commission Action:

The subdivision was foreclosed on by the bank recently and is an NSP1 target area. Lee County Human Services and staff from the City of Bonita Springs have been working together to identify an agency that could complete the development of this subdivision. Several agencies were contacted and made aware of this opportunity while the bank was in the process of foreclosing on the land. Habitat for Humanity Lee and Hendry Counties, Inc. is the only agency that has expressed interest.

Lee County Human Services has generated $6.8 million in program income from the sale of NSP1 homes. These funds are to be used for additional NSP eligible activities. The acquisiton of this subdivision meets the program guidelines. The amount that would be provided will be determined once a more recent appraisal is conducted. The most recent appraisal was for $260,000 as of May 2012. The HUD guidelines state that appraisals must be within 60 days of the sales contract. NSP will not pay more than 99 percent of the appraised value.

Habitat for Humanity will be responsible for the construction costs of the housing units.

Funds will be made available in:
11092600100 NSP1 Program Income

Attachments: Proposal from Habitat for Humanity
Map of subdivision

PROPOSAL TO USE LEE COUNTY NSP FUNDING
FOR THE ACQUISITION OF THE RED HIBISCUS SUBDIVISION
BY HABITAT FOR HUMANITY OF LEE AND HENDRY COUNTIES, Inc.

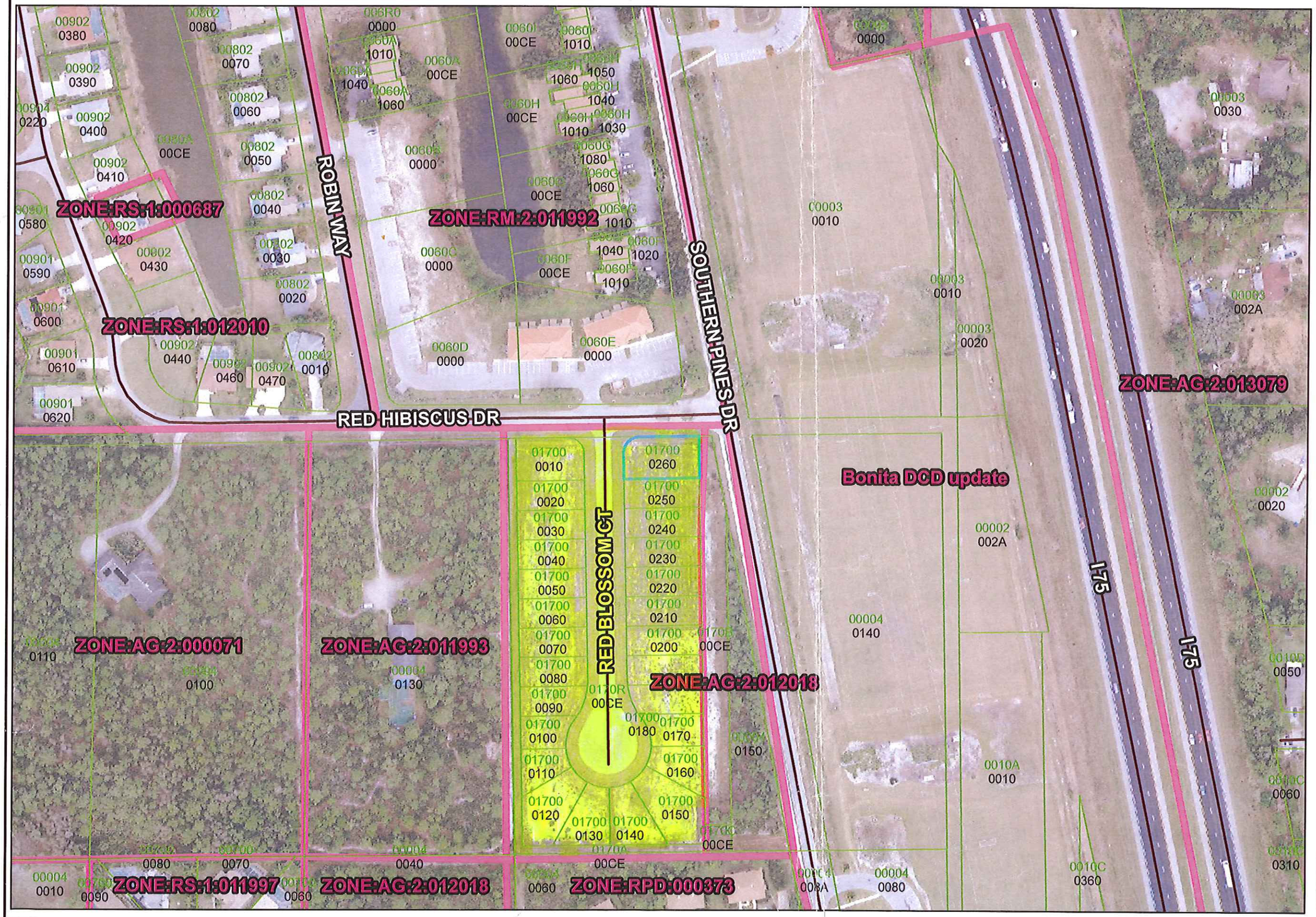
Property: The Red Hibiscus subdivision was originally developed by the Bonita Springs Housing Development Corporation for low income housing. The 4.79-acre parcel contains a single cul de sac (Red Blossom Court) with 26 fully developed single family lots averaging 45' wide by 103' deep or more. The BSHDC completed the infrastructure but did not commence building homes, and subsequently the organization was dissolved. BB&T foreclosed on the property and now desires to sell it for $10,000/lot, or $260,000.

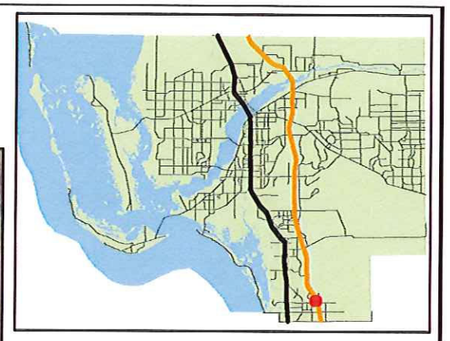
Habitat for Humanity of Lee and Hendry Counties: is currently the only provider of low income home ownership opportunities in Bonita Springs. The organization has turned the keys over to almost 50 families in Bonita Springs to date, and more than 1,200 throughout Lee and Hendry Counties. In late 2010, Habitat acquired the BSHDC's other unfinished development, Renaissance at Rosemary Park, from the lender. To date Habitat has sold the four completed homes to new homeowners and built and sold three new homes in the development. Nine lots remain and will be built on and sold over the next two years.

Plan for Red Hibiscus: Habitat has strong donor, volunteer, and governmental support in Bonita Springs, and based on our track record, should be able to fund, build and re-sell an average of half a dozen homes a year in the development. The organization would likely begin construction in the 2013-2014 fiscal year, and complete the project by 2019. While the non-profit has a strong financial position, it avoids debt and funding the purchase price for the Red Hibiscus land at this time would come at a cost of a reduction of funding available to build and sell homes to low income families currently. Utilizing NSP funds would allow the organization to acquire the property without debt, thus allowing it to serve the maximum number of families currently and in the future.

Contact: Kitty Green, President/CEO, Habitat for Humanity of Lee and Hendry Counties, Inc.
1288 N. Tamiami Trail, North Fort Myers, Fl 33903
(239) 652-1662
KittyG@Habitat4Humanity.org
www.Habitat4Humanity.org

26801 RED BLOSSOM CT
BONITA SPRINGS, FL 34135
25-47-25-B3-01700.0260





Legend

- Selected Parcel
- Road Center Line
- Parcels
- Zoning - County

Feet

0 45 90 180 270

Lee County Government
Southwest Florida
Department of Human Services

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120676

1. ACTION REQUESTED/PURPOSE:
Approve Change Order No. 1 under RFP-11-14 GROUP MEDICARE ADVANTAGE PLANS WITH PRESCRIPTION DRUG COVERAGE FOR RETIREES, with United Healthcare to allow for an increase in the billing rates and annual premium for the renewal period of January 1, 2013 to December 31, 2013.

2. FUNDING SOURCE:
Retiree contributions and OPEB Trust Fund withdrawals into the Group Medical Self-Ins Fund & Program.

3. WHAT ACTION ACCOMPLISHES:
Renews the existing annual contract with United Healthcare for an additional one year period with increased rates and annual premium.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C7A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☒ Admin Code AC-4-4 ☐ Other	**9. Request Initiated** **Commissioner:** **Department:** HUMAN RESOURCES **Division:** No Divisions **By:** Christine Brady

10. Background:
On October 18, 2011 the Board entered into a contract with United Healthcare RFP-11-14 Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees. Based on various fees specified in the firm's proposal, the contract term was one year (January 1, 2012 to December 31, 2012) with 4 – 1 year renewals (years 2013, 2014, 2015, and 2016).

At this time Human Resources is recommending the Board approve Change Order No. 1 with United Healthcare to allow for an 8% increase in monthly premium for the renewal period beginning January 1, 2013 through December 31, 2013. The premium split is 60/40 between employer and retiree. The 2013 rates will be $219.64 for employer and $146.43 for retiree.

Account String: 57602.218316

Attachments: 1. DRAFT Change Order No. 1

11. Required Review:					
Christine Brady	*Robert Franceschini*	*Reginald Kantor*	*David Harris*	*Christine Brady*	*Andrea Fraser*
HUMAN RESOURCES	Purchasing	Budget Analyst	Budget Services	Human Resources	County Attorney
Holly Schwartz					
County Manager					

12. Commission Action:

LEE COUNTY PROFESSIONAL SERVICE/SERVICE PROVIDER AGREEMENT
CHANGE ORDER/SUPPLEMENTAL TASK AUTHORIZATION

☒ Change Order NO.: 1
☐ Supplemental Task Authorization

(A Change Order or Supplemental Task Authorization Requires Approval by the Department Director for Expenditures Under $50,000 or Approval by the County Manager for Expenditures Between $50,000.01 and $100,000 or Approval by the Board of County Commissioners for Expenditures over $100,000)

CONTRACT/PROJECT NAME: Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees

CONSULTANT: United Healthcare PROJECT NO.: N/A

SOLICIT NO.: RFP-11-14 CONTRACT NO.: N/A ACCOUNT NO.

REQUESTED BY: Human Resources DATE OF REQUEST: 7/27/12

Upon the completion and execution of this Change Order or Supplemental Task Authorization by both parties the Consultant/Provider is authorized to and shall proceed with the following:

EXHIBIT "CO/STA-A"	SCOPE OF PROFESSIONAL SERVICE:	DATED: 7/27/12
EXHIBIT "CO/STA-B"	COMPENSATION & METHOD OF PAYMENT:	DATED: 7/27/12
EXHIBIT "CO/STA-C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: 7/27/12
EXHIBIT "CO/STA-D"	CONSULTANT'S/PROVIDERS ASSOCIATED SUB-CONSULTANT(S)/SUB-CONTRACTORS:	DATED: 7/27/12
EXHIBIT "CO/STA-E"	PROJECT GUIDELINES AND CRITERIA	DATED: 7/27/12

It is understood and agreed that the acceptance of this modification by the CONSULTANT/PROVIDER constitutes an accord and satisfaction.

RECOMMENDED:

By: _____
Department Director Date

By: _____
Procurement Management Date

APPROVED:

_____
*County Attorney's Office Date

* County Attorney signature needed for **over** Board level expenditures only

ACCEPTED

By: _____
Consultant/Provider

Date Accepted: _____

(CORPORATE SEAL)

COUNTY APPROVAL:

By: _____
Department Director (Under $50,000)

Date Approved: _____

By: _____
County Manager
(Between $50,000.01 and $100,000)

Date Approved: _____

By: _____
Chair
Board of County Commissioners
(Over $100,000)

Date Approved: _____

CMO:023
03/14/2006

x CHANGE ORDER AGREEMENT No. 1
or
☐ SUPPLEMENTAL TASK AUTHORIZATION No._____

EXHIBIT "CO/STA-A"

Date: 7/27/2012

SCOPE OF PROFESSIONAL SERVICES

for RFP-11-14 Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees

SECTION 1.00 CHANGE(S) TO PROFESSIONAL SERVICES

The "Scope of Professional Services" as set forth in Exhibit "A" of the Professional Services Agreement, or Service Provider Agreement, referred to hereinbefore is hereby supplemented, changed or authorized, so that the CONSULTANT or SERVICE PROVIDER, shall provide and perform the following professional services, tasks, or work as a supplement to, change to, or authorized to, the scope of services previously agreed to and authorized:

Rate Guarantees effective 1/1/2013 to 12/31/2013

Contract Renewal for 1/1/2013 to 12/31/2013

*Attach additional pages, if needed.

CMO:025
09/25/01

☒ CHANGE ORDER AGREEMENT No. 1
or
☐ SUPPLEMENTAL TASK AUTHORIZATION No. –

EXHIBIT "CO/STA-B"

Date: 7/27/2012

COMPENSATION AND METHOD OF PAYMENT

for RFP-11-14 Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees

SECTION 1.00 CHANGE(S) IN COMPENSATION

The compensation the CONSULTANT, or SERVICE PROVIDER, shall be entitled to receive for providing and performing the supplemented, changed or authorized services, tasks, or work as set forth and enumerated in the Scope of Services set forth in this CHANGE ORDER OR SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT, Exhibit "CO/STA-A", attached hereto shall be as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "S/COA-A". In accordance with Professional Services Agreement Article 5.03(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
	RATE GUARANTEES - EFFECTIVE 1/1/2013			
TOTAL				

(Unless list is continued on next page)

☒ CHANGE ORDER AGREEMENT No. 1
or
☐ SUPPLEMENTAL TASK AUTHORIZATION No. _____

SECTION 2.00 SUMMARY OF CHANGE(S) IN COMPENSATION

Pursuant to and in consideration of the change(s) in the Scope of Professional Services set forth in the CHANGE ORDER or AGREEMENT, Exhibit "CO/STA-A", the compensation the COUNTY has previously agreed to pay to the CONSULTANT, or SERVICE PROVIDER, as set forth in Exhibit "B" of the Professional Services Agreement, or Service Provider Agreement, shall be changed to be as follows:

Section/Task Number	Section/Task Name	Compensation In the Basic Agreement	Adjustment(s) by Previous CO or STA Nos. _____	Adjustment(s) Due to this CO or STA	Summary of Changed Compensation
CO 1	Rate Guarantees	Effective 1/1/2013			
TOTAL					

CMO:026
09/25/01

☒ CHANGE ORDER AGREEMENT No. 1
or
☐ SUPPLEMENTAL TASK AUTHORIZATION No. _____ EXHIBIT "CO/STA-C"

Date: 7/27/2012

TIME AND SCHEDULE OF PERFORMANCE

for RFP-11-14 Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees

SECTION 1.00 CHANGES FOR THIS CHANGE ORDER OR SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT

The time and schedule of completion for the various phases or tasks required to provide and perform the services, tasks, or work set forth in this CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT, Exhibit "CO/STA-A", entitled "Scope of Professional Services" attached hereto is as follows:

Phase and/or Task Reference as Enumerated in EXHIBIT "A"	Name or Title of Phase and/or Task	Number of Calendar Days For Completion of Each Phase and/or Task	Cumulative Number of Calendar Days For Completion from Date of Notice to Proceed For this CO or STA
	Contract Renewal & Extension 1/1/2013 – 12/31/2013		

CMO:027
09/25/01

☒ CHANGE ORDER AGREEMENT No. 1
or
☐ SUPPLEMENTAL TASK AUTHORIZATION No. _____

EXHIBIT "CO/STA-D"

Date: 7/27/2012

CONSULTANT'S, OR SERVICE PROVIDER'S, ASSOCIATED SUB-CONSULTANT(S) AND SUBCONTRACTOR(S)

for RFP-11-14 Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees

CONSULTANT, or SERVICE PROVIDER, intends to engage the following sub-consultant(s) and/or sub-contractor(s) to assist the CONSULTANT, or SERVICE PROVIDER, in providing and performing the services, tasks, or work required under this CHANGE ORDER, or SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT.

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Disadvantaged, Minority or Women Business Enterprise, (If Yes, Indicate Type)			Sub-Consultant Services are Exempted from Prime Consultant=s Insurance Coverage	
		Yes	No	Type	Yes	No
	NONE					

X CHANGE ORDER AGREEMENT No. 1
or
☐ SUPPLEMENTAL TASK AUTHORIZATION No. _____

EXHIBIT "CO/STA-E"

Date: 7/27/2012

PROJECT GUIDELINES AND CRITERIA

for RFP-11-14 Group Medicare Advantage Plans with Prescription Drug Coverage for Retirees

As a supplement, or change, to the Project Guidelines and Criteria set forth in the Professional Services Agreement, or Service Provider Agreement, Exhibit "E", the COUNTY has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget, and/or Requirements which shall serve as a guide to the CONSULTANT, or SERVICE PROVIDER, in performing the professional services, tasks, or work to be provided pursuant to the professional services set forth hereinbefore in CHANGE ORDER or SUPPLEMENTAL TASK AUTHORIZATION AGREEMENT, Exhibit "CO/STA-A", attached hereto:

(If none, enter the word "None" in the space below.)

ITEM No. 1
Rate Guarantees effective 1/1/2013 – attached and signed by the BoCC

UnitedHealthcare Group Retiree
Medicare Advantage - National PPO
Group name: LEE COUNTY BOCC
Final Rates for 1/1/2013 - 12/31/2013

UNITEDHEALTH GROUP®

Rates are Per Member Per Month (PMPM) **Option 1**

Quoted Service Area	Membership Quoted	Medical: Renew as is Pharmacy: Renew as is
National	206	$366.07

Stipulations National PPO

- This is a final quote effective 1/1/2013 - 12/31/2013. The situs state is Florida.
- These rates are quoted assuming our offering is alongside of another offering/another carrier.
- If competing plans are offered to the retirees alongside our plan, the following predications apply:
  - ~ All competing carriers must be offering a Rx benefit with coverage in gap as comprehensive as or better than United HealthCare.
  - ~ Out-of-pocket (premium) cost for each retiree must be equal to or lower for our plan than for any other plan.
  - ~ Our rates and/or plan design maybe subject to change pending our final review of all competing carrier offerings.
- This quote assumes that the employer pay 50% of the premium, on average.
- If members who have previously opted out are to be allowed back into the plan, then this fact must be disclosed at the time of quote.
- If the enrollment were to change by more than +/- 10% of what was assumed in the quote, we reserve the right to adjust the rates.
- Please note the following with regard to the drug coverage on these MA-PD products:
  - ~ We reserve the right to change our Part D formulary for calendar year 2013. We also reserve the right to change our pharmacy benefit manager and/or our pharmacy network for calendar year 2013.
  - ~ There is a specific, Part D drug formulary that applies to all of our MA-PD plan offerings.
  - ~ All Part D prescription drug coverage is considered to be creditable, therefore Creditable Coverage Notices are not required.
- Unless there are significant changes in regulation, a reduction in CMS reimbursement level, or a change in the methodology used to calculate CMS payments in the interim, UnitedHealthcare will hold the rate(s) and plan design(s) through 12/31/2013.
- Quote assumes $0.00 PMPM commission level.
- 3 Pre-65 Medicare eligible disabled are included.
- The premium rate quoted herein assumes that premiums are due in full on a monthly basis on or before the last business day of the month prior to the month for which the premium applies.

Prepared Exclusively For: LEE COUNTY BOCC

Product: LPPO

Effective: 1/1/2013 Through 12/31/2013

This is a highlight of benefits only and is Not all inclusive of the Plan's benefits, services, limitations or exclusions.

BENEFITS AND COVERAGE	In-Network Services	Out-of-Network Services
Annual Deductible		
Annual Deductible In-Network		
Annual Deductible Out-of-Network		
Annual Deductible Combined for In and Out-of-Network		
Out-of-Pocket Maximum		
Annual Out-of-Pocket Maximum In-Network	**$1,500**	
Annual Out-of-Pocket Max Out-of-Network		**$1,500**
Annual Out-of-Pocket Max Combined for In and Out-of-Network	**Y**	
Physician Services		
Primary Care Physician	**$10**	**$10**
Specialist	**$35**	**$35**
Emergency Department Services		
Includes Worldwide Coverage	**$65**	**$65**
Urgently Needed Care		
Urgently Needed Care (Contracted Providers) Cost Share (Waived if admitted to the hospital within 24 hours for the same condition).	**$50**	**$50**
Urgently Needed Care (with Non-Contracted Providers) Cost Share (includes Worldwide coverage - waived if admitted to the hospital within 24 hours for the same condition)	**$50**	**$50**
Ambulance Services	**$0**	**$0**
Inpatient Hospital Care		
Per Day or Per Admit	**Per Admit**	**Per Admit**
Cost Share Per Admit	**$500**	**$500**
Copayment per Day - Day through		
Copayment per Day - Day through		
Copayment per Day - Day through		
Skilled Nursing Facility Care		
Copayment per Day - Day 1 through 5	**$100**	**$100**
Copayment per Day - Day 6 through 100	**$0**	**$0**
Copayment per Day - Day through		
Inpatient Mental Health Care		
Per Day or Per Admit Cost Share	**Per Admit**	**Per Admit**
Cost Share Per Admit	**$500**	**$500**
Copayment per Day - Day through		
Copayment per Day - Day through		
Copayment per Day - Day through		
Transplant		
Transplants - Cost Share (For MA Plans - related to Travel and Lodging Only. For Sr. Supp. Plans - Professional services in addition to Inpatient Hospital Services)	**$0**	**$0**
Home Healthcare Agency		
Home Care Visits	**$0**	**$0**
Outpatient Services (including observation, medical and surgical care)		
Outpatient Hospital Services	**$200**	**$200**
Physical/Speech/Occupational Therapy	**$35**	**$35**
Outpatient X-ray Services	**$35**	**$35**
Clinical Laboratory Services	**$35**	**$35**
Chiropractic Visit (Medicare-covered)	**$10**	**$10**
Podiatry Visit (Medicare-covered)	**$35**	**$35**
Blood first 3 pints	**$0**	**$0**
Bone Mass Measurements	**$0**	**$0**
Colorectal Screening Exams	**$0**	**$0**
Annual Screening Mammograms	**$0**	**$0**
Pap Smears and Pelvic Exams	**$0**	**$0**
Annual Prostate Cancer Screening Exams	**$0**	**$0**
Cardiovascular Screenings (Medicare-Covered)	**$0**	**$0**
Physical Exams		
Annual Wellness Exam and One-time Welcome-to-Medicare Exam. (Medicare-covered)	**$0**	**$0**
Immunizations		
(Flu, Pneumococcal, Pneumonia, and Hepatitis B Vaccines)	**$0**	**$0**
Durable Medical Equipment		
Durable Medical Equipment	**$0**	**$0**
Medical Supplies, Including Diabetic	**$0**	**$0**
Vision Services		
Eye Exam (Medicare-covered)	**$35**	**$35**
Routine Eye Exam refraction every 12 months	**$35**	**$35**
Routine Eyewear Materials Copayment		
Routine Eyeglasses and Contacts Combined Allowance		

Routine Eyeglasses Allowance		
Routine Contact Lenses Allowance		
Routine Eyeware Period in Months		
Hearing Services		
Routine Hearing Exam - every 12 months	**$0**	**$0**
Hearing Aid Allowance - includes Digital hearing aids	**$500**	
Benefit per ear or combined	**Combined**	**Combined**
# of Hearing Aids	**999**	**999**
Hearing Aid period in months	**36**	**36**
Chiropractic Services		
Routine Chiro Cost Share		
Number of Visits per Year		
Dental Services		
Routine Dental Plan		
Part B Drugs		
Part B drugs - Immunosuppressives, oral chemotherapy, anti-nausea, inhalation solutions, outpatient injectables	**20%**	**20%**
Outpatient Prescription Drugs		
Part D Gap Coverage	**Full Coverage**	
Bonus Drug List		
Retail Day Supply (Blank if No Rx; 31 - Standard)	**31**	
Mail Order Day Supply (Blank if No Rx)	**90**	
Part D Retail		
Tier 1 Drugs	**$10**	
Tier 2 Drugs	**$20**	
Tier 3 Drugs	**$35**	
Tier 4 Drugs	**$35**	
Tier 5 Drugs		
Tier 6 Drugs		
Part D Mail Service		
Tier 1 Drugs	**$0**	
Tier 2 Drugs	**$40**	
Tier 3 Drugs	**$70**	
Tier 4 Drugs	**$70**	
Tier 5 Drugs		
Tier 6 Drugs		
Wellness Programs		
Fitness	**SilverSneakers**	
Caregiver	**Standard**	
NurseLine	**Included**	
Treatment Decision Support	**Included**	
Access Support	**Included**	
Disease Management - Chronic Heart Failure (CHF)	**Included**	
Disease Management - Coronary Artery Disease (CAD)/Diabetes	**Included**	
Disease Management - End Stage Renal Disease (ESRD)	**Included**	
Personal Health Management Program	**Included**	
Advanced Illness Care Management	**Included**	

* Inpatient Hospital copayments are charged on a per admission or daily basis. Original Medicare hospital benefit periods do Not apply. For Inpatient Hospital, you are covered for an unlimited number of days as long as the hospital stay is medically necessary and authorized by UnitedHealthcare or contracting providers. When you are admitted to an Inpatient Hospital and then subsequently transferred to another Inpatient Hospital, you pay the copayment charged for the first hospital admission. You do Not pay a copayment for the second hospital admission; the copayment is waived.

SecureHorizons® Medicare Advantage plans are offered by United HealthCare Insurance Company and its affiliated companies, Medicare Advantage Organizations with a Medicare contract. Limitations, copayments and coinsurance may apply. Benefits may vary by employer group.

Acknowledgement - Summary of Benefit Coverage

Current Date 7/27/12

This Acknowledgement - Summary of Benefit Coverage form confirms that UnitedHealthcare will offer the retirees of:

Employer Group Lee County BOCC Effective date for renewal: 01/01/2013

Please note that our ability to accommodate your requests with respect to the plan coverage being made available is subject to CMS regulations and any applicable changes to CMS regulations. Again, if this letter and the attachments do not accurately reflect your understanding of what we have discussed with respect to the coverage UnitedHealthcare is making available to your retirees, please contact me immediately.

☒ UAF ☐ Evidence of Coverage ☐ Summary of Benefits ☐ Schedule A ☐ Other

Benefits and Rates subject to: Evidence of Coverage, Summary of Benefits, and/or Schedule A -Billing dates provided to Employer Group by:

Client Manager Searles, Kerry Phone Number +1 (954) 752-0346 E-mail ksearle@uhc.com

Benefits Employer Group agrees to Benefits ☐ Yes, we agree ☐ No, we do not agree ☐ N/A

Rates Employer Group agrees to Rates ☐ Yes, we agree ☐ No, we do not agree ☐ N/A

Employer Group Representative: _____ Current Date 7/27/12

Employer Group Representative: _____

Return this completed form to the United Healthcare Client Manager.

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120667

1. ACTION REQUESTED/PURPOSE:
Approve and execute a corrective easement applicable to Galt Preserve in order to add Florida Communities Trust (FCT) as a Grantee to the Conservation Easement recorded in the Lee County Public Records at Instrument No. 2012000050106.

2. FUNDING SOURCE:
N/A

3. WHAT ACTION ACCOMPLISHES:
Includes Florida Communities Trust as a Grantee under the conservation easement required by South Florida Water Management District in conjunction with the improvements to Galt Preserve.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C9A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other	**9. Request Initiated** **Commissioner:** **Department:** PARKS AND RECREATION **Division:** No Divisions **By:** David Harner

10. Background:
At the December 13, 2011, Lee County Board of County Commissioners meeting, the Board approved a 2.76 acres conservation easement over a portion of Galt Preserve (Blue Sheet number 20111013) in order to satisfy the permitting requirements applicable to developing amenities on the preserve. The conservation easement as originally requested and recorded by South Florida Water Management District, did not include Florida Communities Trust as a Grantee pursuant to the FCT grant provisions; and, did not include the standard FCT grant text. Consequently, in order to satisfy the FCT grant requirements, the easement is being amended through the attached Corrective Easement and will be recorded upon execution and approval to satisfy Florida Communities Trust, our partner agency.

Attachments:
Draft Corrective Easement
Recorded Conservation Easement

11. Required Review:

David Harner	*Anne Henkel*	*Dawn Perry-Lehnert*	*David Harris*	*Holly Schwartz*	
PARKS AND RECREATION	Budget Analyst	County Attorney	Budget Services	County Manager	

12. Commission Action:

CORRECTIVE EASEMENT

THIS EASEMENT is made this _____ day of _____, 2012 by Lee County, a political subdivision of the State of Florida whose address is 3410 Palm Beach Blvd., Ft. Myers, Florida 33916, ("Grantor"), to South Florida Water Management District, whose address is 3301 Gun Club Road, West Palm Beach, Florida 33406, its successors and assigns, ("Grantee"):

WITNESSETH:

Grantor, for and in consideration of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants to Grantee, its successors and assigns, a conservation easement over the following described property located in Lee County, Florida:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

This corrective easement amends the language of the easement recorded in the Official Records at Instrument Number 2012000050106 of Lee County, Florida to incorporate the following language:

WHEREAS, Grantor has acquired the property with partial funding from the Florida Communities Trust (FCT), and the Property is subject to certain limitations provided in the FCT **Declaration of Restrictive Covenants** (the "Agreement,") and

WHEREAS, as part and condition of the FCT funding, the County provided and FCT approved a Management Plan for the project site, and together with the Agreement, the terms of which are hereby incorporated herein by reference; and

WHEREAS, FCT shall be notified of all leases, easements or other similar documents that affect property funded by FCT; and

WHEREAS, the Agreement's restrictions on the FCT funded property are superior to any other restrictions placed upon the property; and

WHEREAS, Grantor intends that the conservation and recreation values of the Property be preserved and enhanced in accordance with the Management Plan, as it may be amended from time to time only after review and approval by FCT; and

WHEREAS, all activities by the Grantor and Grantee shall be consistent with the Agreement and Management Plan.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered
in the presence of:

_____
Print Name: _____

LEE COUNTY, a political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

_____
Print Name: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 2012 by _____, the _____ of _____, who is personally known to me or who has produced as identification.

(Notary seal)

_____
Print Name: _____
Notary Public
My Commission Expires: _____

REVIEWED AND APPROVED FOR
FLORIDA COMMUNITIES TRUST BY:

_____
Clay Smallwood, Director
Division of State Lands

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120668

1. ACTION REQUESTED/PURPOSE:
Approve and execute a corrective easement applicable to Wild Turkey Strand Preserve in order to add Florida Communities Trust (FCT) as a Grantee to the Conservation Easement recorded in the Lee County Public Records at Instrument No. 2011000110952.

2. FUNDING SOURCE:
N/A

3. WHAT ACTION ACCOMPLISHES:
Includes Florida Communities Trust as a Grantee under the conservation easement required by South Florida Water Management District in conjunction with the improvements to Wild Turkey Strand Preserve.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C9B		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other	**9. Request Initiated** **Commissioner:** **Department:** PARKS AND RECREATION **Division:** No Divisions **By:** David Harner

10. Background:
At the November 30, 2010, Lee County Board of County Commissioners meeting, the Board approved a 5.07 acres conservation easement over a portion of Wild Turkey Strand Preserve (Blue Sheet number 20101123) in order to satisfy the permitting requirements applicable to developing amenities on the preserve. The conservation easement as originally requested and recorded by South Florida Water Management District, did not include Florida Communities Trust as a Grantee pursuant to the FCT grant provisions; and, did not include the standard FCT grant text. Consequently, in order to satisfy the FCT grant requirements, the easement is being amended through the attached Corrective Easement and will be recorded upon execution and approval to satisfy Florida Communities Trust, our partner agency.

Attachments:
Draft Corrective Easement
Recorded Conservation Easement

11. Required Review:

David Harner	*Anne Henkel*	*Dawn Perry-Lehnert*	*David Harris*	*Holly Schwartz*	
PARKS AND RECREATION	Budget Analyst	County Attorney	Budget Services	County Manager	

12. Commission Action:

CORRECTIVE EASEMENT

THIS EASEMENT is made this _____ day of _____, 2012 by Lee County, a political subdivision of the State of Florida whose address is 3410 Palm Beach Blvd., Ft. Myers, Florida 33916, ("Grantor"), to South Florida Water Management District, whose address is 3301 Gun Club Road, West Palm Beach, Florida 33406, its successors and assigns, ("Grantee"):

WITNESSETH:

Grantor, for and in consideration of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants to Grantee, its successors and assigns, a conservation easement over the following described property located in Lee County, Florida:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

This corrective easement amends the language of the easement recorded in the Official Records at Instrument Number 2011000110952 of Lee County, Florida to incorporate the following language:

WHEREAS, Grantor has acquired the property with partial funding from the Florida Communities Trust (FCT), and the Property is subject to certain limitations provided in the FCT **Declaration of Restrictive Covenants** (the "Agreement,") and

WHEREAS, as part and condition of the FCT funding, the County provided and FCT approved a Management Plan for the project site, and together with the Agreement, the terms of which are hereby incorporated herein by reference; and

WHEREAS, FCT shall be notified of all leases, easements or other similar documents that affect property funded by FCT; and

WHEREAS, the Agreement's restrictions on the FCT funded property are superior to any other restrictions placed upon the property; and

WHEREAS, Grantor intends that the conservation and recreation values of the Property be preserved and enhanced in accordance with the Management Plan, as it may be amended from time to time only after review and approval by FCT; and

WHEREAS, all activities by the Grantor and Grantee shall be consistent with the Agreement and Management Plan.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered
in the presence of:

_____
Print Name: _____

LEE COUNTY, a political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

_____
Print Name: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 2012 by _____, the _____ of _____, who is personally known to me or who has produced as identification.

(Notary seal)

_____
Print Name: _____
Notary Public
My Commission Expires: _____

REVIEWED AND APPROVED FOR
FLORIDA COMMUNITIES TRUST BY:

_____
Clay Smallwood, Director
Division of State Lands

Lee County Board Of County Commissioners
Agenda Item Summary **Blue Sheet No. 20120652**

1. ACTION REQUESTED/PURPOSE:
Developer Contributed Asset – Bella Terra, Phase 8D: (BS 20120652/23558, THO/SDG): Approve construction of water and gravity main extensions to provide potable water service, fire protection and sanitary sewer service to "BELLA TERRA, PHASE 8D", a phased residential development. This is a Developer contributed asset project located on the south side of Corkscrew Road approximately 2 miles east of Ben Hill Griffin Parkway.

2. FUNDING SOURCE:
N/A

3. WHAT ACTION ACCOMPLISHES:
Provides adequate utility infrastructure to support development of the subject property and complies with the Lee County Utilities Design Manual.

4. MANAGEMENT RECOMMENDATION: Approval.

5. Departmental Category: C13A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other Approval	**9. Request Initiated** **Commissioner:** All **Department:** UTILITIES **Division:** No Divisions **By:** Pam Keyes

10. Background:

The Letter of Intent has been received.
The review fee has been paid.
The plans have been reviewed for conformance to the Lee County Utilities Design Manual.
The project is to construct 1,129+/- of 8" diameter water main; 3 fire hydrants; 1,132'+/- of 8" diameter gravity main; and 6 manholes.
50% of the connection fees have been paid.
Project Location Map---copy attached.
No funds required.

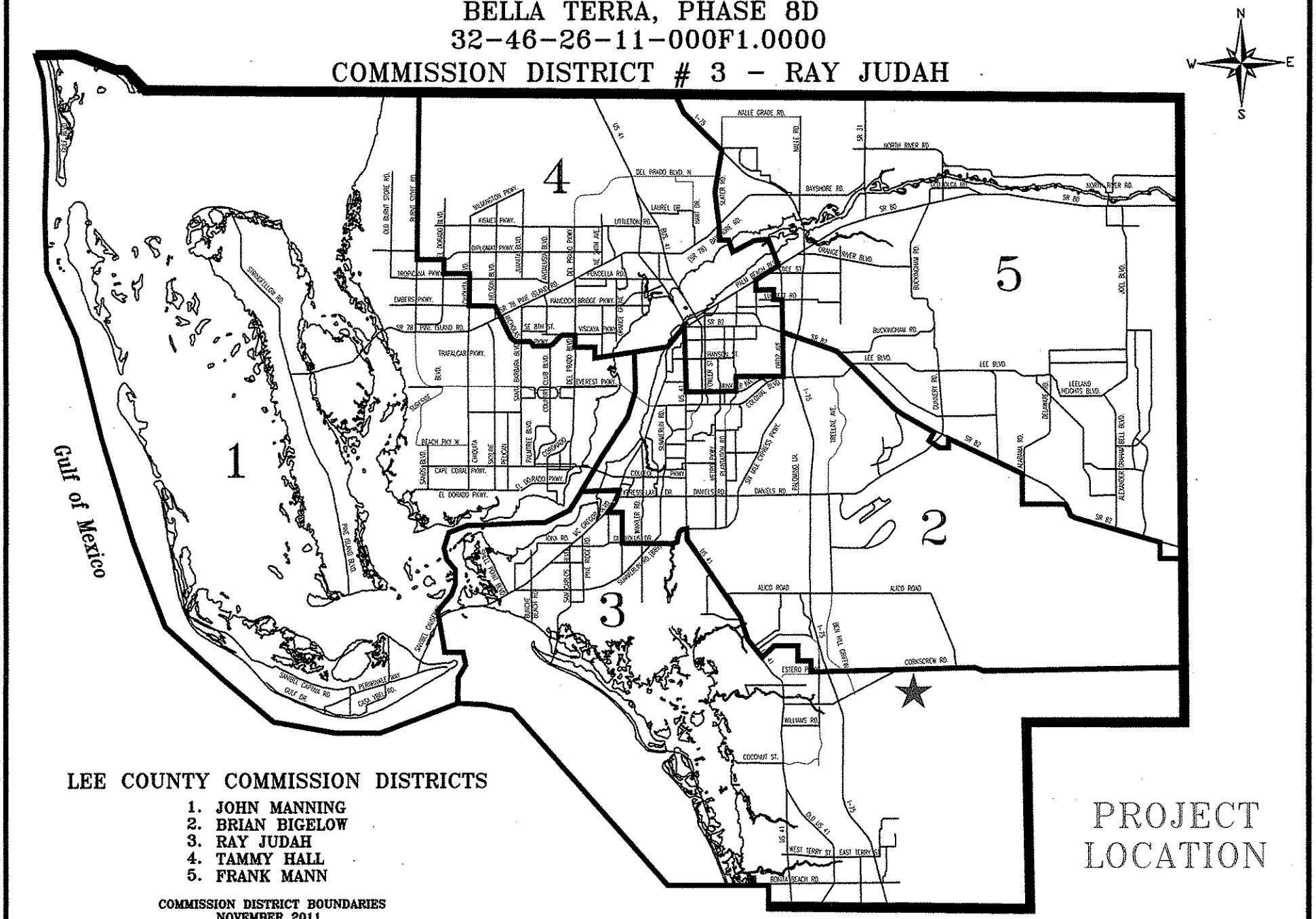
SECTION 32 TOWNSHIP 46S RANGE 26E DISTRICT #3 COMMISSIONER JUDAH
ORIGINAL DOCUMENTS TO FOLLOW (0)

11. Required Review:

Pam Keyes	*Susan M. Henderson*	*Reginald Kantor*	*David Harris*	*Doug Meurer*	
UTILITIES	County Attorney	Budget Analyst	Budget Services	Public Works Director	

12. Commission Action:

BELLA TERRA, PHASE 8D
32-46-26-11-000F1.0000
COMMISSION DISTRICT # 3 - RAY JUDAH



LEE COUNTY COMMISSION DISTRICTS

1. JOHN MANNING
2. BRIAN BIGELOW
3. RAY JUDAH
4. TAMMY HALL
5. FRANK MANN

COMMISSION DISTRICT BOUNDARIES
NOVEMBER 2011

BS 20120652-UTL

Lee County Board Of County Commissioners
Agenda Item Summary **Blue Sheet No. 20120657**

1. ACTION REQUESTED/PURPOSE:
With respect to CN-12-14 PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING:
A) Concur with the ranking by the Competitive Negotiations Committee in the following order: 1) Tetra Tech, Inc.; 2) Greeley and Hansen; and 3) AIM Engineering & Surveying, Inc. (all firms have local offices).
B) Authorize negotiations to commence with the number one ranked firm.

2. FUNDING SOURCE:
Fund: Utilities Capital Improvements; Program: Capital Projects; Project: Palm Beach Blvd Force Main at Orange River

3. WHAT ACTION ACCOMPLISHES:
Provides Lee County with a consultant to provide professional engineering services to replace an existing 24" force main pipe along Palm Beach Boulevard crossing the Orange River just east of I-75.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C13B		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☒ Admin Code AC-4-4 ☐ Other	**9. Request Initiated** **Commissioner:** **Department:** UTILITIES **Division:** No Divisions **By:** Pam Keyes

10. Background:
Letters of Interest were solicited on behalf of the Board of County Commissioners for professional engineering services for the project known as CN-12-14 PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING.

The deadline for receipt of Letters of Interest was May 8, 2012. A total of (14) Letters of Interest were received by the established deadline. The voting members of the Competitive Negotiations Committee consisted of the following staff members: Holly Schwartz, Assistant County Manager (as Chair); Pamela Keyes, Utilities Director; and Luis Soto, Utilities Project Manager. The following county staff also contributed to the selection discussions as non-voting participants: Dewayne Tagg, Utilities; and Tom Mamott, Utilities. Discussions were held by the committee members on May 22, 2012, with respect to each submittal. Three firms were deemed most qualified and short listed for telephone interviews.

During the evaluations the Competitive Negotiations Committee considered experience in designing large underground pressure pipes along DOT right-of-ways and within or adjacent to environmentally sensitive areas, project understanding and approach, due diligence, directness of response to interview questions, demonstrated permitting experience, expertise in directional drilling, and environmental expertise. Once technical qualifications were established, office location and commitment to DBE were taken into consideration.

On the basis of the information submitted by the firms in their Letters of Interest and after conducting interviews on June 14, 2012, it was the consensus of the Committee to recommend to the Board the ranking of the three firms: 1)

11. Required Review:

Pam Keyes	*Robert Franceschini*	*Emma Wolf*	*Mike Figueroa*	*David Harris*	*Dawn Perry-Lehnert*
UTILITIES	Purchasing	Budget Analyst	Risk	Budget Services	County Attorney
Doug Meurer					
Public Works Director					

12. Commission Action:

Tetra Tech, Inc.; 2) Greeley and Hansen; 3) AIM Engineering & Surveying, Inc.

The existing 24" metal pipe is corroded. Its replacement will significantly reduce the potential for future failure and subsequent spillage of sewage, thus creating environmental degradation and potential enforcement by regulatory agencies.

After the contract negotiations are complete, the contract will be presented to the Board for formal approval.

Attachments: 1) Short list meeting minutes dated May 22, 2012.
2) Telephone interview meeting minutes dated June 14, 2012.
3) CN-12-14 Solicitation

MEMORANDUM

To: PROJECT FILE, MINUTES OF MEETING

From: Procurement Management

Date: May 8, 2012

RE: **CN-12-14 PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING – SHORT-LIST MTG**

MEETING DATE: MAY 8, 2012 TIME: 2:00 PM

ATTENDEES:

COMMITTEE MEMBERS:

Holly Schwartz, Assistant County Manager, Chair

Pam Keyes, Utilities Director

Luis Soto, Utilities Project Manager

INVITED MEMBERS:

Dewayne Tagg, Utilities

Tom Mamott, Utilities

Dawn Lehnert, Legal

Robert Franceschini, Procurement Director

At 2:00 p.m. the Competitive Negotiations Committee meeting was called to order by Rachel Ott, Procurement Management Representative. Introductions were put on the record by everyone in attendance.

The selection criteria from the Florida Statute regarding competitive negotiations in procurement were read into record.

Brief Committee Discussion Decision:

The evaluation was based primarily upon experience in designing large underground pressure pipes along DOT right-of-ways and are around environmentally sensitive areas, project understanding and approach, location of the staff completing the work in regards to project site, and DBE subcontractor efforts.

Discussions were held by the committee members with respect to each submittal from all (14) firms.

Following the discussions, the consensus of the committee was to invite three firms for a telephone interview. The firms were as follows:

- AIM Engineering & Surveying, Inc.
- Greeley and Hansen
- Tetra Tech, Inc.

The chair entertained a motion to approve the three firms for an telephone interview. The motion was made by Pam Keyes and seconded by Luis Soto, and then called and carried with no further questions.

The meeting was adjourned by the chair at 2:18 p.m.

Attachment: Overall Selection Sheet

Rev: 03/21/2011

COMPETITIVE NEGOTIATIONS COMMITTEE – SHORT LIST
OVERALL SELECTION SHEET
FOR
CN-12-14
PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING
TUESDAY, MAY 22, 2012
2:30 PM

COMPANY NAME	SELECTED
Agnoli, Barber & Brundage, Inc.	2
AIM Engineering & Surveying, Inc.	1
Barraco and Associates, Inc.	2
Black & Veatch Corporation	2
Erdman Anthony	2
Greeley and Hansen	1
Johnson Engineering, Inc.	2
McKim & Creed	2
Pitman-Hartenstein & Associates, Inc.	2
Stantec Consulting Services, Inc.	2
Tetra Tech, Inc.	1
TKW Consulting Engineers	2
Weston & Sampson	2
Wilson & Company, Inc.	2

1 = Selected, 2 = Not Selected

COMMITTEE MEMBER SIGNATURE: _____ DATE: 5/22/12

Rev: 03/21/2011

MEMORANDUM

To: PROJECT FILE, MINUTES OF MEETING

From: Procurement Management

Date: June 14, 2012

RE: CN-12-14 PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING – Presentation/Telephone Interview Minutes of the Competitive Negotiations Committee Meeting

MEETING DATE: June 14, 2012 BEGINNING TIME: 2:30 pm

ATTENDEES:

COMMITTEE MEMBERS:

Holly Schwartz, Assistant County Manager, Chair

Pam Keyes, Utilities Director

Luis Soto, Utilities Project Manager

INVITED MEMBERS:

Dewayne Tagg, Utilities

Tom Mamott, Utilities

Dawn Lehnert, Legal

Robert Franceschini, Procurement Director

At 2:30 p.m. the Competitive Negotiations Committee meeting was called to order by Rachel Ott, Procurement Management Representative. Introductions were put on the record by everyone in attendance.

Meeting was then turned over to the Chair of the Committee, Holly Schwartz.

Telephone interviews were completed with the three firms.

Discussions were held by the committee members, as well as invited participants with respect to each presentation from the three firms.

Brief Committee Discussion Decision:

The committee considered due diligence, approach, team makeup, directness of response to interview questions, demonstrated permitting experience, expertise in directional drilling, environmental knowledge, and location of project team.

Following the discussions, the consensus of the committee was to recommend the following order of ranking:

1. Tetra Tech, Inc.

2. Greeley and Hansen

3. AIM Engineering & Surveying, Inc.

The chair entertained a motion to approve the ranking and to forward the committee's recommendation to the Board of County Commissioners. The motion was made by Luis Soto and seconded by Pam Keyes, and then called and carried with no further questions.

The meeting was adjourned by the chair at 3:36 p.m.

Attachment: Overall Ranking Sheet

COMPETITIVE NEGOTIATIONS COMMITTEE
OVERALL RANKING SHEET
INTERVIEWS/PRESENTATIONS or TELEPHONE INTERVIEWS
FOR
CN-12-14
PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING
Thursday, June 14, 2012
1:00 pm

COMPANY NAME	SELECTED
AIM Engineering & Surveying, Inc.	3
Greeley and Hansen	2
Tetra Tech, Inc.	1

COMMITTEE MEMBER SIGNATURE: _____ **DATE:** 6/14/12

Rev: 03/21/2011

INVITATION TO SUBMIT
LETTER OF INTEREST TO

LEE COUNTY BOARD OF COUNTY COMMISSIONERS for PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING
CN-12-14

Letters of Interest regarding Palm Beach Blvd. Force Main Replacement at Orange River Crossing, will be received until 2:00 pm on Tuesday, May 8, 2012, by the Lee County Procurement Division Office located at 1825 Hendry Street, 3rd Floor, Fort Myers, Florida 33901.

Description of Work

The selected firm or firms will be responsible for providing engineering services to replace an existing 24" force main pipe along Palm Beach Boulevard crossing the Orange River just east of I-75. The design includes a directional drill crossing under Orange River and a jack and bore crossing under Palm Beach Boulevard.

Solicitation Documents

Before submitting a Letter of Interest, the interested consultant must obtain a complete copy of the Competitive Negotiations package for CN-12-14, Palm Beach Blvd. Force Main Replacement at Orange River Crossing dated April 20, 2012 from Lee County Procurement Management. The Competitive Negotiations package may be downloaded from the Lee County website at www.lee-county.com/procurementmanagement (Projects, open) or by contacting Rachel Ott of the Lee County Procurement Management Division at 239-533-5876.

This Notice and the Solicitation documents may be made available upon request in alternative accessible formats to person with disabilities.

Affidavit Requested

NOTICE OF COMPETITIVE NEGOTIATION

CN-12-14
PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING

Dated: April 20, 2012

Notice To Interested Consultants: Before submitting Letters of Interest, Consultants **must** obtain a complete Competitive Negotiations Package for CN-12-14, dated April 20, 2012 from Lee County Procurement Management. Packages can be obtained at the Procurement Management Office, 1825 Hendry Street, 3rd FL, Fort Myers, FL 33901 via the internet as a download from www.lee-county.com/procurementmanagement (under Projects, Open); by calling (239) 533-5450 or through the mail.

All Letters of Interest must be submitted in compliance with the Response Procedure set forth below via email (to **ContractsInBox@leegov.com**) or in person to Lee County Procurement Management on the 3rd Floor of the County/City Annex Building at 1825 Hendry Street, 3rd FL, Fort Myers, Florida 33901, not later than **2:00 p.m., Tuesday, May 8, 2012.**

The Lee County Board of County Commissioners anticipates seeking professional consultant services on the project listed in this advertisement. Consideration will be given to only those firms that are qualified pursuant to law.

SELECTION PROCEDURE: The selection of the Consultant will be made in accordance with Lee County Procurement Policy and Chapter 287.055 Florida Statutes. Some or all of the responding firms may be requested to provide telephone interviews or written or oral technical proposals (or both), for the ranking process. After ranking of the consultants by the BOCC, the contract fee will be negotiated in accordance with Section 287.055, Florida Statues.

Note: Proposed short-list and final selection meeting dates are posted on the Procurement Management web page at ***www.lee-county.com/procurementmanagement***. For more information contact the Procurement Management Office at 239-533-5450.

RESPONSE PROCEDURE: Qualified consultants are encouraged to submit a Letter of Interest for the project by **2:00 PM** Eastern time on the specified date indicated above. **Letters of Interest must be submitted either by hand delivery to the Procurement Management office or as a single email attachment (in unzipped Adobe PDF format) sent to ContractsInBox@leegov.com. Letters of Interest: (a) may not exceed three (3) pages in length (unless otherwise specified) and (b) should not contain links to other Web pages and (c) must, at a minimum, include the following information:**

a. Project CN number and Name
b. Consultant's name and address
c. Proposed responsible office for consultant
d. Contact person, phone and fax number and Internet Email Address
e. Statement regarding qualifications of consultant and/or proposed sub-consultants for the advertised work
f. Proposed key personnel and their proposed roles (do not include resumes)
g. Sub-consultant(s) that may be used for the project
h. Indication as to whether the prime firm and/or sub-consultants are A Disadvantaged Business Enterprises (DBE)
i. The third page will consist of the Project Teams approach to the project

NOTE REQUIREMENT: IT IS THE SOLE RESPONSIBILITY OF THE CONSULTANT TO CHECK THE LEE COUNTY PROCUREMENT MANAGEMENT WEB SITE FOR ANY PROJECT ADDENDA ISSUED FOR THIS PROJECT. THE COUNTY WILL POST ADDENDA TO THIS WEB PAGE, BUT WILL NOT NOTIFY

The delivery of said Letter of Interest to Lee County prior to or on the time and date as stated in the Notice is solely and strictly the responsibility of the Consultant. Lee County shall not be responsible for delays caused by the E-mail System(s), United States Postal Service, Overnight Express Mail Services, or for delays caused by any other occurrence. The County expressly reserves the sole and exclusive right to accept or reject a late Letter of Interest when the lateness is due to matters beyond the control of any third party delivery service. Late Letters of Interest may be returned to the Consultant with the notation: "This Letter of Interest was received after the specified deadline time".

Lee County Proposed Scope of Services
For
CN-12-14
PALM BEACH BLVD. FORCE MAIN REPLACEMENT AT ORANGE RIVER CROSSING

Project Objective:
To design the replacement of existing 24" DIP force main with a new force main while maintaining the existing flows.

Project Description:
Provide engineering services to replace an existing 24" force main pipe along Palm Beach Boulevard crossing the Orange River just east of I-75. The design includes a directional drill crossing under Orange River and a jack and bore crossing under Palm Beach Boulevard.

Scope of Services:
Professional services will consist of, but not limited to, the following:

1. Develop a basis of design report
2. Perform land surveying along the proposed force main alignment. Use Florida State Plane coordinate system and NGVD 1929 as horizontal and vertical references respectively.
3. Perform parcel sketches and legal descriptions for anticipated utility easement acquisition.
4. Coordinate with all existing utilities and perform soft digs to locate all existing underground utilities in the vicinity of the proposed force main alignment.
5. Prepare plans and technical specifications of sufficient detail for construction. Plans to include plan view, profile and details.
6. Prepare applications and obtain all necessary permits from FDEP, Lee County Community Development and Florida Department of Transportation.
7. Prepare bid documents including plans, technical specifications, bid tabulation of quantities, quantity take-offs and engineers estimate for the construction.
8. Provide engineering services during bidding process, preconstruction process and minimal construction services.
9. Serve as the engineer of record and prepare record drawings.

Schedule:
The final completion date for the design of this project is anticipated to be December, 2012.

Project Dates:

Advertisement Date	April 20, 2012
Response Deadline	May 8, 2012
Respond to:	ContractsInBox@leegov.com
Phone	239-533-5450

Lee County Board Of County Commissioners
Agenda Item Summary **Blue Sheet No. 20120658**

1. ACTION REQUESTED/PURPOSE:
Developer Contributed Asset – Red's Fresh Seafood House and Tavern (BS 20120658/23564, THO/SDG): Approve final acceptance, by Resolution, as a donation of a force main extension serving 'RED'S FRESH SEAFOOD HOUSE AND TAVERN', to provide sanitary sewer service to this existing restaurant. This is a Developer contributed asset project located on the east side of Stringfellow Road, approximately 1/2 mile north of Pine Island Road.

2. FUNDING SOURCE:
N/A

3. WHAT ACTION ACCOMPLISHES:
Provides adequate sanitary sewer infrastructure to allow for the abatement of the existing failing septic system that now serves the subject property, and complies with the Lee County Utilities Design Manual.

4. MANAGEMENT RECOMMENDATION: Approval.

5. Departmental Category: C13C		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other Approval	**9. Request Initiated** **Commissioner:** All **Department:** UTILITIES **Division:** No Divisions **By:** Pam Keyes

10. Background:

The Board granted permission to construct on 02/14/12, Blue Sheet #201200089.
The installation has been inspected for conformance to the Lee County Utilities Design Manual.
Satisfactory pressure testing of the force main has been completed.
Record drawings have been received.
Engineer's Certification of Completion has been provided—copy attached.
Project Location Map—copy attached.
Warranty has been provided—copy attached.
Waiver of Lien has been provided—copy attached.
Certification of Contributed Assets has been provided—copy attached.
100% of the connection fees have been paid.
Potable water service is provided by Greater Pine Island Water Association.
No funds required.

SECTION 28 TOWNSHIP 44S RANGE 22E DISTRICT #1 COMMISSIONER MANNING
ORIGINAL (OUTSIDE SIGNATURE) DOCUMENTS TO FOLLOW (0)

11. Required Review:

Pam Keyes	*Susan M. Henderson*	*Reginald Kantor*	*David Harris*	*Doug Meurer*	
UTILITIES	County Attorney	Budget Analyst	Budget Services	Public Works Director	

12. Commission Action:

RESOLUTION NO.

RESOLUTION ESTABLISHING UTILITY ACCEPTANCE OF
DEVELOPER CONTRIBUTED ASSETS
IN LEE COUNTY, FLORIDA

WHEREAS, it is the desire of "**Red's Fresh Seafood House & Tavern, LLC**", owner(s) of record, to make a contribution to Lee County Utilities of sewer facilities **(a force main extension)**, serving the "**RED'S FRESH SEAFOOD HOUSE & TAVERN**" project; and,

WHEREAS, Lee County Utilities requires proof of a Release of Lien, a Warranty (one-year) on all labor and materials, an accurate value of contributed assets, and right-of-way and/or easement-indemnity granted for all systems being contributed to Lee County Utilities; and,

WHEREAS, all of the above information has been received and approved as complete by Lee County Utilities; and,

WHEREAS, Lee County Utilities has recommended to the Board of County Commissioners that the above-named system be accepted for ownership, operation, and maintenance.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that the above facilities, for a contributed value of **$40,634.20** is hereby ACCEPTED and acknowledged as an addition to Lee County Utilities.

THE FOREGOING RESOLUTION was offered by Commissioner _____ who moved for its adoption. The motion was seconded by Commissioner _____ and, upon being put to a vote, the vote was as follows:

Commissioner John Manning: _____ (1)

Commissioner Brian Bigelow: _____ (2)

Commissioner Ray Judah: _____ (3)

Commissioner Tammara Hall: _____ (4)

Commissioner Frank Mann: _____ (5)

DULY PASSED AND ADOPTED this _____ day of _____, 2012.

ATTEST:
CHARLIE GREEN, CLERK

By: _____
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
CHAIR

APPROVED AS TO FORM

_____
OFFICE OF COUNTY ATTORNEY

BS 20120658 - UTL

LEE COUNTY
SOUTHWEST FLORIDA

LEE COUNTY UTILITIES
DEVELOPER CONTRIBUTED ASSET PROJECT
LETTER OF COMPLETION

COPY

Date: 5-11-12

Lee County Utilities
1500 Monroe Street
Fort Myers, FL 33901

Gentlemen:

This is to certify that the force main connection located at
Reds Fresh Seafood House & Tavern, LLC
(Name of Development/Project)

was designed by me and has been constructed in conformance with:

the revised plans, attached and the revised specifications, attached

Upon completion of the work, we observed the following successful tests of the facilities:

Pressure Test(s) - Force Main and Lift Station Start-up and Final Inspection

Very truly yours,

Engineering & Design Consultants, Inc.
(Name of Engineering Firm)

5.11.12
(Engineer of Record's Signature)

James A. Schvinski
(Engineer of Record's Name and Title)

(Seal of Engineering of Record)

COPY

LEE COUNTY
SOUTHWEST FLORIDA

LEE COUNTY UTILITIES
DEVELOPER CONTRIBUTED ASSET PROJECT
CONTRACTOR'S WARRANTY

THE UNDERSIGNED parties do hereby warrant and/or guaranty all work executed by the contractor on the sewer system of Reds Fresh Seafood House & Tavern, LLC to be free from defects in material and workmanship for a period of one (1) year from the date of acceptance by the Lee County Board of County Commissioners. The undersigned parties further agree that they will, at their own expense, repair and replace all such defective work and all other work damaged by said defective work under this Warranty-Guaranty

It is furthermore understood that the consideration for the giving of this warranty and/or guaranty is the requirement by the General Conditions and Specifications under which the contract was let that such warranty and/or guaranty would be given.

Honc Industries, Inc.
(Contractor/Company Name)

Dan Honc
(Authorized Representative, Title)

BY: Dan Honc
(Signature)

STATE OF FL)
) SS:
COUNTY OF LEE)

The foregoing instrument was signed and acknowledged before me this 9 th day of May, 2012 by Dan Honc who is personally known to me - _____, and who did not take an oath.

Notary Public Signature

Jake Herring
Printed Name of Notary Public

JAKE HERRING
MY COMMISSION #DD997494
EXPIRES: JUN 02, 2014
Bonded through 1st State Insurance

(Notary Seal & Commission Number)

COPY

LEE COUNTY
SOUTHWEST FLORIDA

LEE COUNTY UTILITIES
DEVELOPER CONTRIBUTED ASSET PROJECT
CONTRACTOR'S WAIVER AND RELEASE OF LIEN
UPON FINAL PAYMENT

The undersigned lienor, in consideration of the final payment in the amount of Forty Thousand, Six Hundred Thirty Four Dollars and 20 cents ($40,634.20) hereby waivers and releases its lien and right to claim a lien for labor, services, or materials furnished to Reds Fresh Seafood House & Tavern, LLC on the job of Reds Fresh Seafood House & Tavern, LLC to the following described property:

Reds Fresh Seafood House & Tavern, LLC
(Name of Development/Project)

For facilities constructed per the Certification of Contributory Asset(s)

10880 Stringfellow Rd., Bokeelia, FL 33922
(Location)

28-44-22-05-000K0.0200
(Strap # or Section, Township & Range)

Dated on: July 19, 2012

By: Honc
(Signature of Authorized Representative)

Honc Industries, Inc.
(Name of Firm or Corporation)

By: Steve Honc
(Print Name of Authorized Representative)

1011 Mallory Pkwy E
(Address of Firm or Corporation)

Title: President

St. James City, FL 33956-
(City, State & Zip Of Firm Or Corporation)

Phone #: (239)283-5454 Ext.

Fax#: (239)283-7977

STATE OF FL)
) SS:
COUNTY OF LEE)

The foregoing instrument was signed and acknowledged before me this 19 th day of July, 2012 by Steve Honc who is personally known to me - _____, and who did not take an oath.

JAKE HERRING
MY COMMISSION #DD997494
EXPIRES: JUN 02, 2014
Bonded through 1st State Insurance

(Notary Seal & Commission Number)

(Notary Public Signature)

Jake Herring
(Printed Name of Notary Public)

COPY

LEE COUNTY
SOUTHWEST FLORIDA

LEE COUNTY UTILITIES
DEVELOPER CONTRIBUTED ASSET PROJECT
CONTRACTOR'S CERTIFICATION OF CONTRIBUTORY ASSETS

PROJECT NAME: REDS FRESH SEAFOOD HOUSE & TAVERN, LLC

STRAP NUMBER: 28-44-22-05-000K0-0200 , ,

LOCATION: 10880 Stringfellow Road, Bokeelia, FL 33922

OWNER'S NAME: (as shown on Deed) Reds Fresh Seafood House & Tavern, LLC

OWNER'S ADDRESS: PO Box 408

OWNER'S ADDRESS: Pineland, FL 33945-

OWNER'S TELEPHONE #: (239) 283-4412

TYPE UTILITY SYSTEM: **SANITARY SEWER**
(Please provide separate 'Certifications' for potable water, sanitary sewer, lift stations and reclaimed water facilities.)

DESCRIPTION AND COST OF MATERIAL, LABOR, AND SERVICES
Please list each element of the system from the drop-down list provided.
Unit cost **MUST** include actual cost of **CONSTRUCTED** facilities in their entirety.

ITEM	SIZE	QUANTITY	UNIT	UNIT COST	TOTAL
HDPE SDR-11 FORCE MAIN	4"	1,819.0	LF	$16.00	$29,104.00
TAPPING SLEEVE W/VALVE	8" x 4"	1.0	EA	$2,550.00	$2,550.00
ARV	2"	4.0	EA	$1,700.00	$6,800.00
PLUG VALVE	4"	3.0	EA	$485.00	$1,455.00
HDPE SDR-11 FORCE MAIN (GROUTED IN PLACE)	2"	370.0	LF	$1.96	$725.20
TOTAL					$40,634.20

(If more space is required, use additional forms(s).

REC'D JUL 20 2012

I do hereby certify that the quantities of material and services described above are a true and accurate representation of the as-installed cost of the system being contributed to Lee County and corresponds with the record drawings.

CERTIFYING:

x _____
(Signature of Certifying Agent)

Steve Honc, Vice-President
(Name & Title of Certifying Agent)

Honc Industries, Inc.
(Name of Firm or Corporation)

10101 Mallory Parkway E
(Address of Firm or Corporation)

St. James City, FL 33956 -

STATE OF FL)
) SS:
COUNTY OF LEE)

The foregoing instrument was signed and acknowledged before me this 19 th day of July, 2012 by Steve Honc who is personally known to me - _____ , and who did not take an oath.

_____
Notary Public Signature

JAKE HERRING
Printed Name of Notary Public

JAKE HERRING
MY COMMISSION #DD997494
EXPIRES: JUN 02, 2014
Bonded through 1st State Insurance

_____
Notary Commission Number

(NOTARY SEAL)

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120660

1. ACTION REQUESTED/PURPOSE:
FDOT Agreement (BS 20120660/23566, JM/SDG): Authorize Chair, on behalf of the BOCC, to execute "Subordination of Utility Interests for Temporary Easements" Agreement and Resolution documents requested by the Florida Department of Transportation (FDOT); and approve recording of document for Parcel No. 704.2.

2. FUNDING SOURCE:
N/A

3. WHAT ACTION ACCOMPLISHES:
Temporarily subordinates Lee County easement interests to FDOT at subject property. Lee County Utilities will continue to have utility rights at this property, except now it is subject to the control of FDOT.

4. MANAGEMENT RECOMMENDATION: Approval.

5. Departmental Category: C13D		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other Approval	**9. Request Initiated** **Commissioner:** All **Department:** UTILITIES **Division:** No Divisions **By:** Pam Keyes

10. Background:
The FDOT intends to complete driveway and curbing improvements along U.S. Business 41 from Littleton Road to N. Cleveland Avenue (FP ID 421116-1). As part of the improvements, FDOT is requesting subordination of utility interests for a temporary construction easement at the specified property, which contains an existing LCU water utility easement.

One set of documents for the single parcel (704.2) is attached for the Chair's signature. (A set includes a Subordination of Utility Interests Agreement and a Resolution. Signatures are needed on page 4 of the Agreement, and page 2 of the Resolution.)

After Chair's signature, return ALL documents to LCU for transmittal and subsequent execution by FDOT. FDOT will then record the document (and pay for the recording) and provide LCU with photocopies of same. LCU will provide Minutes with a copy of the recorded document after receipt from FDOT.

On the original Resolution, Minutes will keep the original but make a photocopy and CERTIFY it as an original, and the CERTIFIED Resolution needs to be returned to LCU to be sent to FDOT, along with the original Agreement.

ORIGINAL (OUTSIDE SIGNATURE) DOCUMENTS TO FOLLOW: (1 SET)

11. Required Review:					
Pam Keyes	***Donna-Marie Collins***	***Reginald Kantor***	***David Harris***	***Doug Meurer***	
UTILITIES	County Attorney	Budget Analyst	Budget Services	Public Works Director	

12. Commission Action:

23-UTL.01-06/93

Date: June 20, 2012
This instrument prepared
under the direction of:
Thomas L. Wright, Chief Counsel
Post Office Box 1249
City: Bartow, Florida 33831-1249
Department of Transportation

F.P. NO. 4211161
PARCEL 704.2
SECTION 12001-000
STATE ROAD 739(US BUS.41)
COUNTY Lee

SUBORDINATION OF UTILITY INTERESTS FOR TEMPORARY EASEMENTS

THIS AGREEMENT, entered into this ____ day of _____, 20___, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the FDOT, whose post office address is: Post Office Box 1249, Bartow, Florida 33831-1249 and LEE COUNTY BOARD OF COMMISSIONERS, hereinafter called Utility.

W I T N E S S E T H:

WHEREAS, the Utility presently has an interest in certain lands that have been determined necessary for highway purposes; and

WHERAS, FDOT seeks to obtain a subordination of the Utility's easement interests in an area that will be subject to construction activity to replace driveways and curbing affected by the construction of improvements to US 41.

WHEREAS, the FDOT is willing to pay to have the Utility's facilities relocated if necessary to prevent conflict between the facilities so that the benefits of each may be retained.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties hereto, Utility and FDOT agree as follows:

Utility hereby subordinates to the interest of FDOT, its successors, or assigns, any and all of its interest in the lands as follows, viz:

SEE EXHIBIT "A"

It is understood and agreed by the parties hereto that the rights granted herein shall terminate upon completion of this transportation project, but no later than the last day of June, 2018.

RECORDED

INSTRUMENT	DATE	FROM	TO	O.R. BOOK/PAGE
Easement	05-26-89	Mi-Lu Enterprises, Inc.	Lee County Board of Commissioners	OR 2108 Pg. 2554

PROVIDED that the Utility has the following rights:

1. The Utility shall have the right to construct, operate, maintain, improve, add to, upgrade, remove, and relocate facilities on, within, and upon the lands described herein in accordance with the FDOT's current minimum standards for such facilities as required by the FDOT Utility Accommodation Manual in effect at the time the agreement is executed. Any new construction or relocation of facilities within the lands will be subject to prior approval by the FDOT. Should the FDOT fail to approve any new construction or relocation of facilities by the Utility or require the Utility to alter, adjust, or relocate its facilities located within said lands, the FDOT hereby agrees to pay the cost of such alteration, adjustment, or relocation, including, but not limited to the cost of acquiring appropriate easements.

2. Notwithstanding any provisions set forth herein, the terms of the utility permits shall supersede any contrary provisions, with the exception of the provision herein with reimbursement rights.

3. The Utility shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the FDOT's facilities.

4. The Utility agrees to repair any damage to FDOT facilities and to indemnify the FDOT against any loss or damage resulting from the Utility exercising its rights outlined in Paragraphs 1 and 3 above.

IN WITNESS WHEREOF, the FDOT hereto has executed this agreement on the day and year first above written.

Executed in our presence as witnesses:

STATE OF FLORIDA
DEPARTMENT OF
TRANSPORTATION

_____
Signature

By: _____
District Secretary/Designee
for District One

_____
Print/Type Name

_____
Signature

Legal Review:

_____

_____
Print/Type Name

Department Attorney

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20___ by _____, District Secretary/Designee for District One. He is personally known to me or has produced _____ as identification.

(Affix Seal/Stamp here) Notary Signature: _____

Printed Name: _____

Notary Public in and for the County and State last aforesaid.
My Commission Expires:

_____
Serial No.: _____

IN WITNESS WHEREOF, the County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice-Chairperson of said Board, the day and year aforesaid.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Chair

Approved as to form by:

_____
County Attorney's Office

Grantor(s)' Mailing Address:

_____

_____

_____

F.P. NO. 4211161

SECTION 12001-000

PARCEL 704

TEMPORARY CONSTRUCTION EASEMENT

A) That portion of the southeast 1/4 of Section 27, Township 43 South, Range 24 East, Lee County, Florida.

Being described as follows:

Commence at the northeast corner of the southeast 1/4 of said Section 28; thence along the north line of said southeast 1/4, North 89°54'47" West a distance of 1,185.88 feet to the survey base line of State Road 739 (U.S. BUS. 41) thence along said survey base South 36°37'12" East a distance of 608.12 feet; thence South 53°22'48" West a distance of 100.00 feet to the westerly existing right of way line of said State Road 739 (per Section 1201-Proj. 589) for a POINT OF BEGINNING; thence along said westerly existing right of way line South 36°37'12" East a distance of 30.00 feet; thence South 53°22'48" West a distance of 18.00 feet; thence North 36°37'12" West a distance of 30.00 feet; thence North 53°22'48" East a distance of 18.00 feet to the POINT OF BEGINNING.

Containing 540 square feet.

ALSO

B) That portion of the southeast 1/4 of Section 27, Township 43 South, Range 24 East, Lee County, Florida.

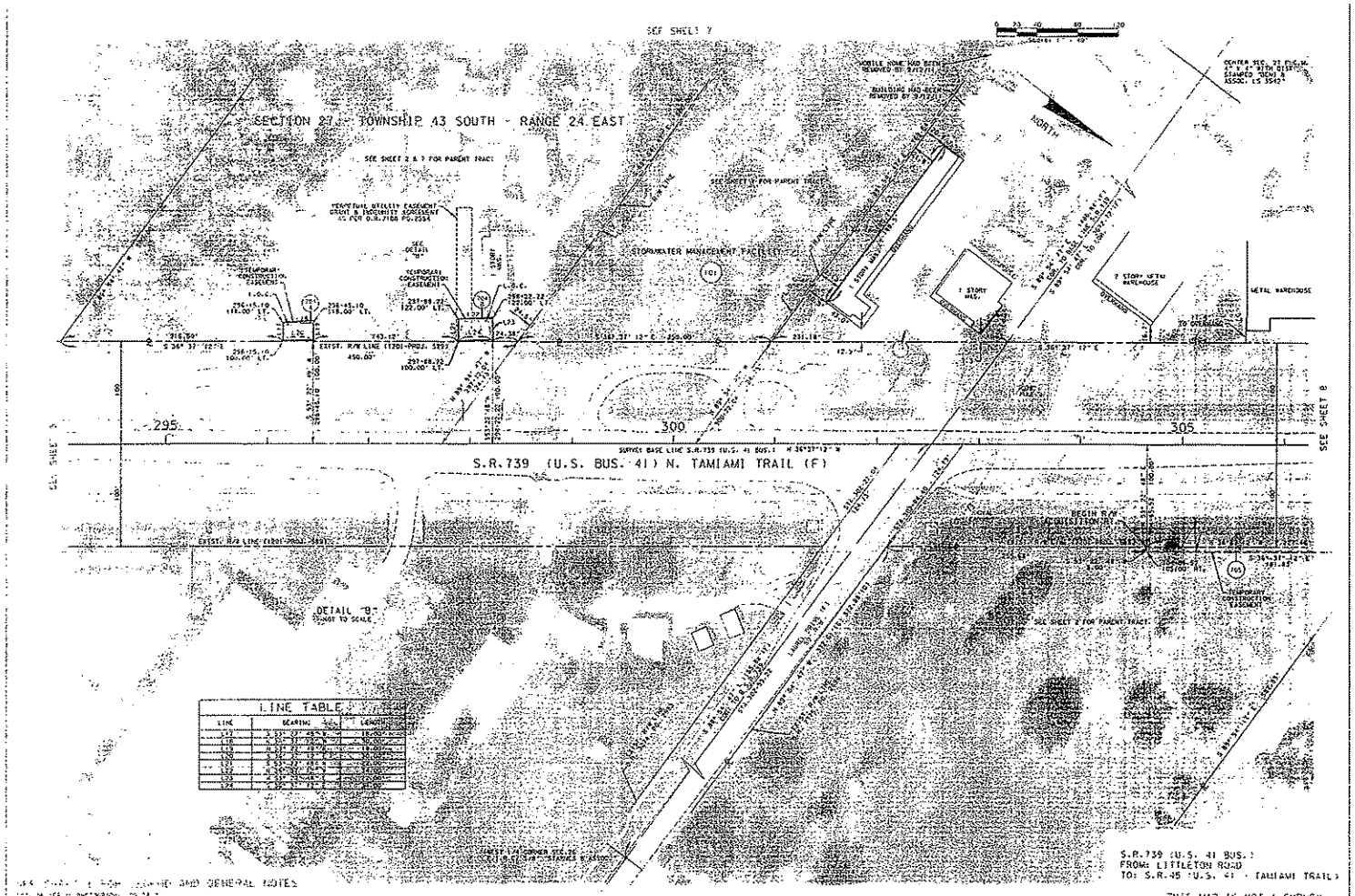
Being described as follows:

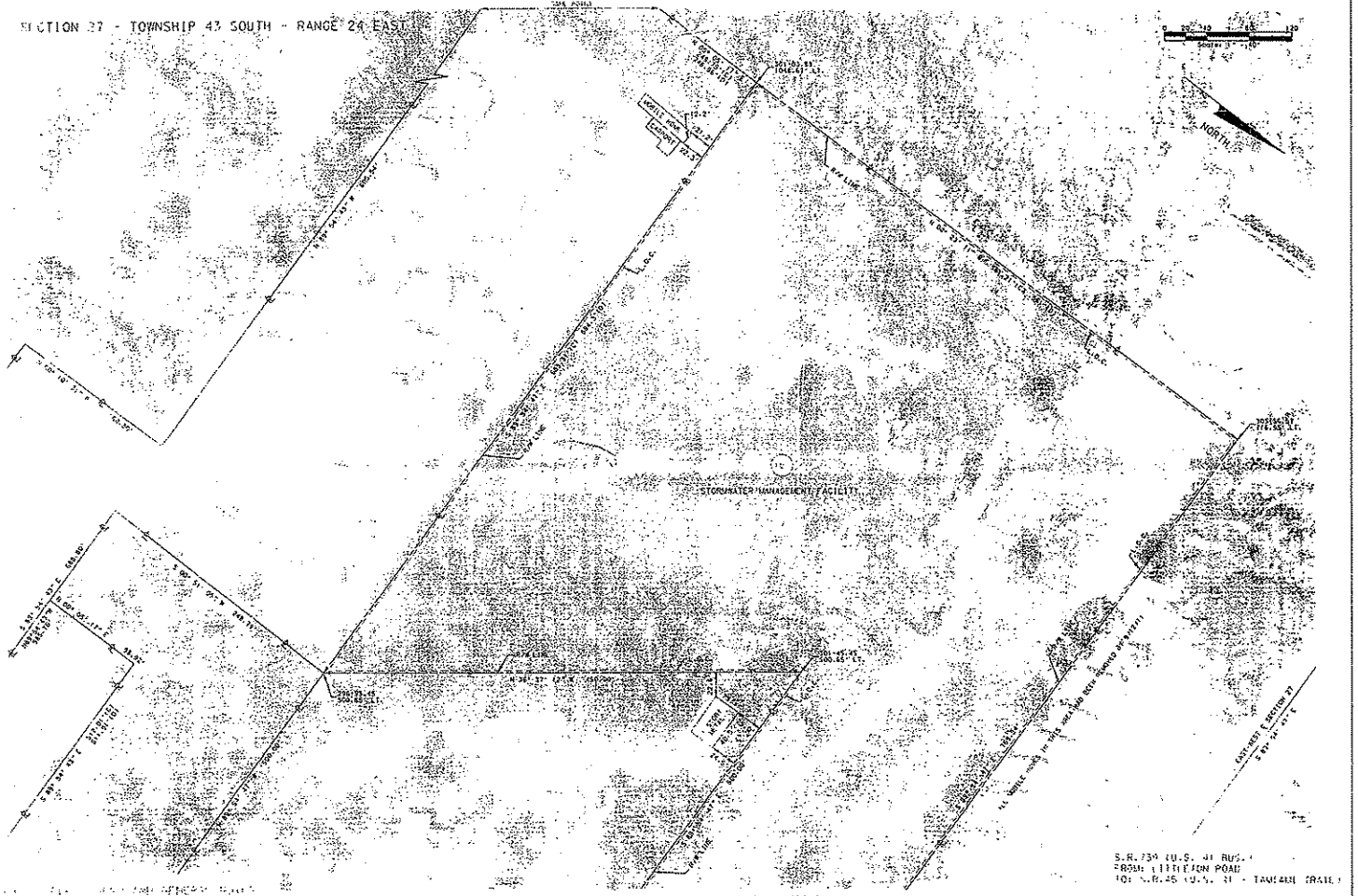
Commence at the northeast corner of the southeast 1/4 of said Section 27; thence along the north line of said southeast 1/4, North 89°54'47" West a distance of 1,185.88 feet to the survey base line of State Road 739 (U.S. BUS. 41) thence along said survey base South 36°37'12" East a distance of 431.00 feet; thence South 53°22'48" West a distance of 100.00 feet to the westerly existing right of way line of said State Road 739 (per Section 1201-Proj. 589) for a POINT OF BEGINNING; thence along said westerly existing right of way line South 36°37'12" East a distance of 34.00 feet; thence South 53°22'48" West a distance of 22.00 feet; thence North 36°37'12" West a distance of 34.00 feet; thence North 53°22'48" East a distance of 22.00 feet to the POINT OF BEGINNING.

Containing 748 square feet.

Legal Description Approved by:

James C. Myers P.S.M. #5922
Date: 06-20-2012
NOT VALID UNLESS EMBOSSED


SEE SHEET 7
SECTION 27 - TOWNSHIP 43 SOUTH - RANGE 24 EAST
SEE SHEET 2 & 3 FOR PARENT TRACT
STORMWATER MANAGEMENT FACILITY
NORTH
METAL WAREHOUSE
295
300
305
SEE SHEET 8
S.R.739 (U.S. BUS. 41) N. TAMIAMI TRAIL (F)
DETAIL "B"
LINE TABLE
LINE
BEARING
LENGTH
SEE SHEET 9 FOR PARENT TRACT
S.R.739 (U.S. 41 BUS.)
FROM: LITTLETON ROAD
TO: S.R.45 (U.S. 41 - TAMIAMI TRAIL)
THIS MAP IS NOT A SURVEY
RIGHT OF WAY MAP
FLORIDA DEPARTMENT OF TRANSPORTATION
SURVEYING AND MAPPING
F.A. PROJ. NO. 3012 109 P
SECTION 12001-000
STATE ROAD NO. 739 (U.S. BUS. 41)
LEE COUNTY
F.P. ID 4211161


SECTION 27 - TOWNSHIP 43 SOUTH - RANGE 24 EAST
NORTH
STORMWATER MANAGEMENT FACILITY
S.R. 739 (U.S. 41 BUS.)
FROM: LITTLETON ROAD
TO: S.R. 45 (U.S. 41 - TAMIAMI TRAIL)
SEE SHEET 6
THIS MAP IS NOT A SURVEY
F.A. PROJ. NO. 3012 109 P
SECTION 12001-000
F.P. ID 421116

UTL.03

Date: June 20, 2012
This instrument prepared under the direction of:
Thomas L. Wright, Chief Counsel
Post Office Box 1249
City: Bartow, Florida 33831-1249
Department of Transportation

F.P. NO. 4211161
PARCEL 704.2
SECTION 12001-000
STATE ROAD 739(US BUS.41)
COUNTY Lee

R E S O L U T I O N

ON MOTION of Commissioner _____, seconded by Commissioner _____, the following Resolution was adopted:

WHEREAS, the State of Florida Department of Transportation proposes to construct or improve State Road No. 739(US BUS.41), Section No. 12001-000, in Lee County, Florida: and

WHEREAS, it is necessary that certain easement rights now owned by Lee County be subordinated to the State of Florida Department of Transportation: and

WHEREAS, said subordination is in the best interest of the County: and

WHEREAS, the State of Florida Department of Transportation has made application to said County to execute and deliver to the State of Florida Department of Transportation a subordination of utility interest, or interests, in favor of the State of Florida, and said request having been duly considered.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, that the application of the State of Florida Department of Transportation for a subordination of utility interest, or interests, is for transportation purposes which are in the public or community interest and for public welfare; that a subordination of utility interest, or interests, in favor of the State of Florida Department of Transportation, in _____ County, should be drawn and executed by this Board of County Commissioners. Consideration shall be $_____.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded forthwith to the State of Florida Department of Transportation at Bartow, Florida.

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution adopted by the Board of County Commissioners Lee County, Florida at a meeting held on the _____ day of _____, 20____.

_____
Clerk: Lisa L. Pierce
Board of County Commissioners
Lee County, Florida

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

By: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: _____
Chairperson

APPROVED AS TO FORM:

_____
Office of the County Attorney
Lee County, Florida

Lee County Board Of County Commissioners
Agenda Item Summary **Blue Sheet No. 20120669**

1. ACTION REQUESTED/PURPOSE:
EDA Grant Acceptance (BS 20120669/23575, KAM/SDG): Approve the acceptance of a federal grant award from the Economic Development Administration (EDA) in the amount of $551,257 for the engineering design services for extending the wastewater force main along Alico Road. Also, approve a Budget Amendment Resolution in the amount of $551,257 for the grant, and a budget transfer in the amount of $551,257 from Gladiolus Water & Sewer Line Relocation project to Ben Hill Griffin Parallel Force Main project for the grant match. Amend the FY 11-12/15-16 CIP budget accordingly.

2. FUNDING SOURCE:
Fund: Utilities Capital Improvements (includes grant); Program: Capital Projects; Project: Ben Hill Griffin Parallel Force Main.

3. WHAT ACTION ACCOMPLISHES:
Formal acceptance of the grant award from the Economic Development Administration. The budget amendment provides a funding source to be reimbursed by the grant and the budget transfer provides matching funds for the wastewater force main extension along Ben Hill Griffin Parkway and Alico Road.

4. MANAGEMENT RECOMMENDATION: Approval.

5. Departmental Category: C13E		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other Grant Acceptance	**9. Request Initiated** **Commissioner:** All **Department:** UTILITIES **Division:** No Divisions **By:** Pam Keyes

10. Background:

On August 30, 2011, Bluesheet 20110694, the Board granted approval for the Lee County Utilities Director to submit, and sign on behalf of the Board, an Economic Development Adjustment (EDA) Grant application for a 50% reimbursement of engineering design services for the installation of a wastewater force main along Alico Road in coordination with the DOT's Alico Road Widening project. The estimated total cost of design services for these improvements is $1,102,514.

This wastewater force main runs from the Three Oaks WWTP east to Ben Hill Griffin Parkway, north to Alico Road, and east along Alico Road to approximately Airport Haul Road. It will provide wastewater capacity for certain areas not currently served within the "Research and Development Diamond".

Lee County Utilities has received the award notification from the Economic Development Administration in the amount of $551,257. We are requesting to accept the grant, provide grant and matching funds budget, and amend the FY 11-12/15-16 CIP Budget.

Funds will be available in 20730648713 and 21730648730
Attachments Budget Amendment Resolution; Budget Transfer; Grant Award Package
ORIGINAL (OUTSIDE SIGNATURE) DOCUMENTS TO FOLLOW: 0

11. Required Review:

Pam Keyes	*Emma Wolf*	*Tricia Jackson*	*David Harris*	*Donna-Marie Collins*	*Doug Meurer*
UTILITIES	Budget Analyst	Grants	Budget Services	County Attorney	Public Works Director

12. Commission Action:

REQUEST FOR TRANSFER OF FUNDS

FUND NAME: Utilities Sewer Connection Fees **DATE:** 08/01/12 **BATCH NO.**

FISCAL YEAR: 11/12 **FUND #:** 48713 **DOC TYPE:** YB **LEDGER TYPE** BA

TO: Capital Projects (DIVISION NAME) Capital Projects - Utilities (PROGRAM NAME)

ACCOUNT NUMBER	OBJECT NAME	DEBIT
20730648713.506540	Improvement Construction	$551,257
	TOTAL TO:	**$551,257**

FROM: Capital Projects (DIVISION NAME) Capital Projects - Utilities (PROGRAM NAME)

ACCOUNT NUMBER	OBJECT NAME	CREDIT
20743148713.506540	Improvement Construction	$551,257
	TOTAL FROM:	**$551,257**

EXPLANATION:

Transferring budget from the Gladiolus W/S Line Relocation/Upgrade to the Ben Hill Griffin Parallel Force Main project to match the 50% federal grant from the EDA for design costs. (BS 20120669-UTL)

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Chair

BA NO: **AUTH CODE:** **TRANS DATE:**

R E S O L U T I O N

Amending the Budget of Capital Improvements Construction-Fund 48730 to incorporate the unanticipated receipts into Estimated Revenues and Appropriations for the fiscal year 2011-2012.

WHEREAS, in compliance with the Florida Statutes 129.06(2), it is the desire of the Board of County Commissioners of Lee County, Florida, to amend the Capital Improvements Construction-Fund 48730 budget for $551,257 of the unanticipated revenue from U S Economic Development Administration and an appropriation of a like amount for construction improvements and;

WHEREAS, the Capital Improvements Construction-Fund 48730 budget shall be amended to include the following amounts which were previously not included.

ESTIMATED REVENUES

Prior Total:		$44,774,386
Additions		
21730648730.331350.9001	Economic Development Admin Grant	551,257
Amended Total Estimated Revenues		$45,325,643

APPROPRIATIONS

Prior Total:		$44,774,386
Additions		
21730648730.506540	Improvements Construction	551,257
Amended Total Appropriations		$45,325,643

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lee County, Florida, that the Capital Improvements Construction-Fund 48730 budget is hereby amended to show the above additions to its Estimated Revenue and Appropriation accounts.

Duly voted upon and adopted in Chambers at a regular Public Hearing by the Board of County Commissioners on this ____ day of _____, 2012.

ATTEST:
CHARLIE GREEN, EX-OFFICIO CLERK

BY: _____
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

_____
CHAIR

APPROVED AS TO FORM

_____
OFFICE OF COUNTY ATTORNEY

DOC TYPE YA
LEDGER TYPE BA

EDA GRANT AWARD PACKAGE

(LCU EDA GRANT)

BS 20120669-UTL

United States Senate
WASHINGTON, DC 20510-0905

BILL NELSON
FLORIDA

June 20, 2012

Ms. Pamela Keyes
Utilities Department Director
Lee County Utilities
7391 College Parkway
Fort Myers, Florida 33907

Dear Ms. Keyes:

Congratulations on the grant award for $551,257.00 from the Economic Development Administration. Your dedication to bringing jobs to Southwest Florida, as well as building new research and incubators facilities is appreciated and laudable.

Best wishes for continued success.

Sincerely,

Bill Nelson

UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Atlanta Regional Office
Suite 1820
401 West Peachtree St., N.W.
Atlanta, Georgia 30308-3510

JUN 11 2012

In reply refer to:
Investment No. 04-79-06661

Ms. Pam Keyes
Utilities Department Director
Lee County
1500 Monroe Street
Fort Myers, Florida 33901-5500

Dear Ms. Keyes:

I am pleased to inform you that the Department of Commerce's Economic Development Administration (EDA) has approved your application for a $551,251 EDA investment to design wastewater and other infrastructure improvements to serve the Renewable Energy and Research Diamond, an innovation center anchored by Florida Gulf Coast University and the Southwest Florida International Airport.

Enclosed are two signed copies of the Financial Assistance Award. Your agreement to the terms and conditions of the award should be indicated by the signature of your principal official on each of the signed copies of the Financial Assistance Award. One of the executed copies should be returned to H. Philip Paradice, Jr., Regional Director, Atlanta Regional Office, Economic Development Administration, 401 West Peachtree Street, N.W, Suite 1820, Atlanta, Georgia 30308-3510. If not signed and returned within 30 days of receipt, EDA may declare the Award null and void.

Please do not make any commitments in reliance on this award until you have carefully reviewed and accepted the terms and conditions. Any commitments entered into prior to obtaining the approval of EDA in accordance with its regulations and requirements will be at your own risk.

EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA implements this mission by making strategic investments in the nation's most economically distressed communities that encourage private sector collaboration and creation of higher-skill, higher wage jobs. EDA investments are results driven, embracing the principles of technological innovation, entrepreneurship and regional development.

I share your expectations regarding the impact of this investment and look forward to working with you to meet the economic development needs of your community.

Sincerely,

H. Philip Paradice, Jr.
Regional Director

Enclosures: Form CD-450 Financial Assistance Award (2)
Attachment A – Department of Commerce Financial Assistance Standard Terms and Conditions
Attachment B - Special Award Conditions
Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form

FORM CD-450 (REV 10-93) DAO 203-26	U.S. DEPARTMENT OF COMMERCE	☒ GRANT ☐ COOPERATIVE AGREEMENT
FINANCIAL ASSISTANCE AWARD		**AWARD PERIOD** 24 months after date of EDA approval
RECIPIENT NAME Lee County		**AWARD NUMBER** 04-79-06661
STREET ADDRESS 1500 Monroe Street		**FEDERAL SHARE OF COST** $ 551,257
CITY, STATE, ZIP CODE Fort Myers, Florida 33901-5500		**RECIPIENT SHARE OF COST** $ 551,257
AUTHORITY Public Works and Economic Development Act of 1965, as amended, (42 U.S.C. §3121, *et. seq.*)		**TOTAL ESTIMATED COST** $ 1,102,514

CDFA NO. AND PROJECT TITLE
11.307 Economic Adjustment Program /Design of Wastewater and Other Infrastructure Improvements

BUREAU	FUND	FCFY	PROJECT TASK	ORGANIZATION	OBJECT CLASS
20	40	12	0406661-000	04	4110

This Award approved by the Grants Officer is issued in duplicate and constitutes an obligation of Federal funding. By signing the two documents, the Recipient agrees to comply with the Award provisions checked below. Upon acceptance by the Recipient, one signed Award document shall be returned to the Grants Officer and the second document shall be retained by the Recipient. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may declare this Award null and void.

- ☒ Department of Commerce Financial Assistance Standard Terms and Conditions (See Attachment A)
- ☒ Special Award Conditions (see Attachment B)
- ☒ Line Item Budget (see Section 13 in Attachment B)
- ☐ 15 CFR Part 14, Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations
- ☒ 15 CFR Part 24, Uniform Administrative Requirements for Grans and Cooperative Agreements to State and Local Governments
- ☒ OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
- ☐ OMB Circular A-122, Cost Principles for Nonprofit Organizations
- ☒ OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
- ☐ OMB Circular A-21, Cost Principles for Educational Institutions
- ☒ 48 CFR Part 31, Contract Cost Principles and Procedures
- ☐ Other(s):_____

SIGNATURE OF DEPARTMENT OF COMMERCE GRANT OFFICER	TITLE	DATE
H. Philip Paradice, Jr.	Director, Atlanta Region	JUN 11 2012
TYPE NAME AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL	TITLE	DATE
Pam Keyes	Utilities Department Director, Lee County	6/18/12

ATTACHMENT A

FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS

(LCU EDA GRANT)

Attachment A

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE
STANDARD TERMS AND CONDITIONS

March 2008

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE
STANDARD TERMS AND CONDITIONS

PREFACE 1
A. FINANCIAL REQUIREMENTS 1
.01 Financial Reports 1
.02 Award Payments 1
.03 Federal and Non-Federal Sharing 2
.04 Budget Changes and Transfer of Funds Among Categories 3
.05 Indirect Costs 3
.06 Incurring Costs of Obligating Federal Funds Beyond the Expiration Date 5
.07 Tax Refunds 6
B. PROGRAMMATIC REQUIREMENTS 6
.01 Performance (Technical) Reports 6
.02 Unsatisfactory Performance 6
.03 Programmatic Changes 7
.04 Other Federal Awards with Similar Programmatic Activities 7
.05 Non-Compliance With Award Provisions 7
.06 Prohibition Against Assignment by the Recipient 7
.07 Disclaimer Provisions 7
C. NON-DISCRIMINATION REQUIRMENTS 8
.01 Statutory Provisions 8
.02 Other Provisions 8
.03 Title VII Exemption for Religious Organizations 9
D. AUDITS 9
.01 Organization-Wide, Program-Specific, and Project Audits 9
.02 Audit Resolution Process 10
E. DEBTS 11
.01 Payment of Debts Owed the Federal Government 11
.02 Late Payment Charges 12
.03 Barring Delinquent Federal Debtors From Obtaining Federal Loans or Loan Insurance Guarantees 12
.04 Effect of Judgment Lien On Eligibility For Federal Grants, Loans, or Programs 12
F. INDIVIDUAL BACKGROUND SCREENING 13
.01 Results of Individual Background Screening 13
.02 Action(s) Taken as a Result of Individual Background Screening 13
G. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) . 14
H. DRUG-FREE WORKPLACE 14
I. LOBBYING RESTRICTIONS 14
.01 Statutory Provisions 14
.02 Disclosure of Lobbying Activities 14
J .....CODES OF CONDUCT AND SUBAWARD, CONTRACT, AND SUBCONTRACT PROVISIONS 15
.01 Code of Conduct for Recipients 15
.02 Applicability of Award Provisions to Subrecipients 15

.03 Competition and Codes of Conduct for Subawards 16
.04 Applicability of Provisions to Subawards, Contracts, and Subcontracts 16
.05 Minority Owned Business Enterprise 17
.06 Subaward and/or Contract to a Federal Agency 18
K. PROPERTY 18
.01 Standards 18
.02 Real Property 18
L. ENVIRONMENTAL REQUIREMENTS 19
.01 The National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4327) 19
.02 Floodplain Management, EO 11988 and, Protection of Wetlands, EO 11990, May 24, 1977 19
.03 Clean Air Act, Clean Water Act, and EO 11738 20
.04 The Flood Disaster Protection Act of 1973 (42 U.S.C. § 4002 et seq.) 20
.05 The Endangered Species Act of 1973, as amended, (16 U.S.C. § 1531 et seq.) 20
.06 The Coastal Zone Management Act, as amended, (16 U.S.C. § 1451 et seq.) 20
.07 The Coastal Barriers Resources Act, (16 U.S.C. § 3501 et seq.) 20
.08 The Wild and Scenic Rivers Act, as amended (16 U.S.C. §§ 1271 et seq.) 20
.09 The Safe Drinking Water Act of 1974, as amended (42 U.S.C. §§ 300f-j) 21
.10 The Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§ 6901 et seq.) 21
.11 The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and the Superfund Amendments and Reauthorization Act of 1986, and the Community Environmental Response Facilitation Act of 1992, as amended, (42 U.S.C. §§ 9601 et seq.) 21
.12 Environmental Justice in Minority Populations and Low Income Populations, EO 12898, February 11, 1994. 21
M. MISCELLANEOUS REQUIREMENTS 21
.01 Criminal and Prohibited Activities 21
.02 Foreign Travel 22
.03 American-Made Equipment and Products 23
.04 Intellectual Property Rights 23
a. Inventions 23
1. Ownership 23
(a) Recipient 23
(b) Department 23
(c) Inventor/Employee 23
(d) Joint inventions 23
2. Responsibilities - iEdison 24
b. Patent Notification Procedures 24
c. Data, Databases, and Software 24
d. Copyright 24
.05 Increasing Seat Belt Use in the United States 25
.06 Research Involving Human Subjects 25
.07 Federal Employee Expenses 26
.08 Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects. 26

.09 Minority Serving Institutions (MSIs) Initiative 26
.10 Research Misconduct 27
.11 Publications, Videos and Acknowledgement of Sponsorship 27
.12 Care and Use of Live Vertebrate Animals 27
.13 Homeland Security Presidential Directive – 12 28
.14 Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations 28
.15 The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 CFR Part 175. 29
.16 The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). 29

PREFACE

The recipient and any subrecipients must, in addition to the assurances made as part of the application, comply and require each of its contractors and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (EOs), Office of Management and Budget (OMB) circulars, terms and conditions, and approved applications.

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: public laws, regulations, applicable notices published in the Federal Register, EOs, OMB circulars, Department of Commerce (DOC) Financial Assistance Standard Terms and Conditions, agency standard award conditions (if any), and special award conditions. Special award conditions may amend or take precedence over DOC standard terms and conditions, on a case-by-case basis, when allowed by the DOC standard term and condition.

Some of the DOC terms and conditions herein contain, by reference or substance, a summary of the pertinent statutes, or regulations published in the Federal Register or Code of Federal Regulations (CFR), EOs, OMB circulars or the assurances (Forms SF-424B, 424D). To the extent that it is a summary, such provision is not in derogation of, or an amendment to, any such statute, regulation, EO, or OMB circular.

A. FINANCIAL REQUIREMENTS

.01 Financial Reports

a. The recipient shall submit a "Financial Status Report" (SF-269) on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a special award condition. Reports are due no later than 30 days following the end of each reporting period. A final SF-269 shall be submitted within 90 days after the expiration date of the award.

b. The reports must be submitted to the Grants Officer in hard copy (no more than an original and two copies), or electronically when specified in the special award conditions.

.02 Award Payments

a. The advance method of payment shall be authorized unless otherwise specified in a special award condition. The Grants Officer determines the appropriate method of payment. Payments will be made through electronic funds transfers directly to the

recipient's bank account and in accordance with the requirements of the Debt Collection Improvement Act of 1996 and the Cash Management Improvement Act. The DOC Award Number must be included on all payment-related correspondence, information, and forms.

b. When the "Request for Advance or Reimbursement" (SF-270) is used to request payment, the recipient shall submit the request no more frequently than monthly, and advances shall be approved for periods to cover only expenses anticipated over the next 30 days. When the SF-270 is used, the recipient must complete the SF-3881, "ACH Vendor Miscellaneous Payment Enrollment Form," and return it to the Grants Officer.

c. Unless otherwise provided for in the award terms, payments under this award will be made using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through preauthorized electronic funds transfers, in accordance with the requirements of the Debt Collection Improvement Act of 1996. In order to receive payments under ASAP, recipients are required to enroll with the Department of Treasury, Financial Management Service, Regional Financial Centers, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP: (1) ASAP account number – the award number found on the cover sheet of the award; (2) Agency Location Code (ALC); and Region Code. Recipients enrolled in the ASAP system do not need to submit a "Request for Advance or Reimbursement" (SF-270), for payments relating to their award. Awards paid under the ASAP system will contain a special award condition, clause, or provision describing enrollment requirements and any controls or withdrawal limits set in the ASAP system.

d. Advances shall be limited to the minimum amounts necessary to meet immediate disbursement needs, but in no case should advances exceed the amount of cash required for a 30-day period. Advanced funds not disbursed in a timely manner and any applicable interest must be promptly returned to DOC. If a recipient demonstrates an unwillingness or inability to establish procedures which will minimize the time elapsing between the transfer of funds and disbursement or if the recipient otherwise fails to continue to qualify for the advance method of payment, the Grants Officer may change the method of payment to reimbursement only.

.03 Federal and Non-Federal Sharing

a. Awards which include Federal and non-Federal sharing incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares shall be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs are greater than the total approved budget, the Federal

share shall not exceed the total Federal dollar amount authorized by the award.

b. The non-Federal share, whether in cash or in-kind, is expected to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or in-kind contributions. In any case, the recipient must meet its cost share commitment over the life of the award.

.04 Budget Changes and Transfer of Funds Among Categories

a. Requests for budget changes to the approved estimated budget in accordance with the provision noted below must be submitted to the Grants Officer who shall make the final determination on such requests and notify the recipient in writing.

b. Transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is $100,000 or less. For awards in which the Federal share of the project exceeds $100,000, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct cost transfers exceed 10 percent of the total Federal and non-Federal funds authorized by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same criteria apply to the cumulative amount of transfer of funds among programs, functions, and activities. Transfers will not be permitted if such transfers would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended. This transfer authority does not authorize the recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior approval. In addition, this does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget.

c. The recipient is not authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item or vice versa, without written prior approval of the Grants Officer.

.05 Indirect Costs

a. Indirect costs will not be allowable charges against the award unless specifically included as a cost item in the approved budget incorporated into the award. (The term "indirect cost" has been replaced with the term "facilities and administrative costs" under OMB Circular A-21, "Cost Principles for Educational Institutions.")

b. Excess indirect costs may not be used to offset unallowable direct costs.

c. If the recipient has not previously established an indirect cost rate with a Federal agency, the negotiation and approval of a rate is subject to the procedures in the applicable cost principles and the following subparagraphs:

1. (a) State, Local, and Indian Tribal Governments; Educational Institutions; and Non-Profit Organizations (Non-Commercial Organizations)
For the above listed organizations, cognizant federal agency is generally defined as the agency that provides the largest dollar amount of direct federal funding. For those organizations for which DOC is cognizant or has oversight, DOC or its designee will either negotiate a fixed rate with carry forward provisions for the recipient or, in some instances, will limit its review to evaluating the procedures described in the recipient's cost allocation methodology plan. Indirect cost rates and cost allocation methodology reviews are subject to future audits to determine actual indirect costs.

(b) Commercial Organizations
For commercial organizations, cognizant federal agency is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. If the only federal funds received by a commercial organization are DOC award funds, then DOC becomes the cognizant federal agency for the purpose of indirect cost negotiations. For those organizations for which DOC is cognizant, DOC or its designee will negotiate a fixed rate with carryforward provisions for the recipient. Fixed rate means an indirect cost rate which has the same characteristics as a pre-determined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of the subsequent period.

DOC or its designee will negotiate indirect cost rates using the cost principles found in 48 CFR Part 31, "Contract Cost Principles and Procedures." For guidance on how to put an indirect cost plan together go to:

http://www.dol.gov/oasam/programs/boc/costdeterminationguide/main.htm

2. Within 90 days of the award start date, the recipient shall submit to the address listed below documentation (indirect cost proposal, cost allocation plan, etc.) necessary to perform the review. The recipient shall provide the Grants Officer with a copy of the transmittal letter.

Office of Acquisition Management
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W., Room 6412
Washington, DC 20230

3. The recipient can use the fixed rate proposed in the indirect cost plan until such time as the DOC provides a response to the submitted plan. Actual indirect costs must be calculated annually and adjustments made through the carryforward provision used in calculating next year's rate. This calculation of actual indirect costs and the carryforward provision is subject to audit. Indirect cost rate proposals must be submitted annually. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each of the recipients' fiscal years.

d. When DOC is not the oversight or cognizant Federal agency, the recipient shall provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement.

e. If the recipient fails to submit the required documentation to DOC within 90 days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

f. Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient shall be the lesser of:

1. The line item amount for the Federal share of indirect costs contained in the approved budget of the award; or

2. The Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by a cognizant or oversight Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date.

.06 Incurring Costs of Obligating Federal Funds Beyond the Expiration Date

a. The recipient shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the expiration date stipulated in the award. The only costs which are authorized for a period of up to 90 days following the award expiration date are those strictly associated with closeout activities. Closeout activities are normally limited to the preparation of final progress, financial, and required project audit reports unless otherwise approved in writing by the Grants Officer.

b. Unless otherwise authorized in 15 CFR § 14.25(e)(2) or a special award condition,

any extension of the award period can only be authorized by the Grants Officer in writing. Verbal or written assurances of funding from other than the Grants Officer shall not constitute authority to obligate funds for programmatic activities beyond the expiration date.

c. The DOC has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding and to extend the period of performance is at the sole discretion of DOC.

.07 Tax Refunds

Refunds of FICA/FUTA taxes received by the recipient during or after the award period must be refunded or credited to DOC where the benefits were financed with Federal funds under the award. The recipient agrees to contact the Grants Officer immediately upon receipt of these refunds. The recipient further agrees to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the award end date.

B. PROGRAMMATIC REQUIREMENTS

.01 Performance (Technical) Reports

a. The recipient shall submit performance (technical) reports in triplicate (one original and two copies) or electronically to the Federal Program Officer as specified in the special award conditions in the same frequency as the Financial Status Report (SF-269) unless otherwise authorized by the Grants Officer.

b. Unless otherwise specified in the award provisions, performance (technical) reports shall contain brief information as prescribed in the applicable uniform administrative requirements incorporated into the award.

.02 Unsatisfactory Performance

Failure to perform the work in accordance with the terms of the award and maintain at least a satisfactory performance rating or equivalent evaluation may result in designation of the recipient as high risk and assignment of special award conditions or other further action as specified in the standard term and condition entitled "Non-Compliance With Award Provisions."

.03 Programmatic Changes

The recipient shall report programmatic changes to the Grants Officer, and shall request prior approvals in accordance with 15 CFR § 14.25 or 15 CFR § 24.30.

.04 Other Federal Awards with Similar Programmatic Activities

The recipient shall immediately provide written notification to the Federal Program Officer and the Grants Officer in the event that, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. DOC will not pay for costs that are funded by other sources.

.05 Non-Compliance With Award Provisions

Failure to comply with any or all of the provisions of the award may have a negative impact on future funding by DOC and may be considered grounds for any or all of the following actions: establishment of an account receivable, withholding payments under any DOC awards to the recipient, changing the method of payment from advance to reimbursement only, or the imposition of other special award conditions, suspension of any DOC active awards, and termination of any DOC active awards.

.06 Prohibition Against Assignment by the Recipient

The recipient shall not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions without the express written approval of the Grants Officer.

.07 Disclaimer Provisions

a. The United States expressly disclaims any and all responsibility or liability to the recipient or third persons for the actions of the recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any subaward or subcontract under this award.

b. The acceptance of this award by the recipient does not in any way constitute an agency relationship between the United States and the recipient.

C. NON-DISCRIMINATION REQUIRMENTS

No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The recipient agrees to comply with the non-discrimination requirements below:

.01 Statutory Provisions

a. Title VI of the Civil Rights Act of 1964 (42 USC §§ 2000d *et seq.*) and DOC implementing regulations published at 15 CFR Part 8 which prohibit discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;

b. Title IX of the Education Amendments of 1972 (20 USC §§ 1681 *et seq.*) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;

c. Section 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794) and DOC implementing regulations published at 15 CFR Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance;

d. The Age Discrimination Act of 1975, as amended (42 USC §§ 6101 *et seq.*) and DOC implementing regulations published at 15 CFR Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

e. The Americans with Disabilities Act of 1990 (42 USC §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;

f. Any other applicable non-discrimination law(s).

.02 Other Provisions

a. Parts II and III of EO 11246 (30 FR 12319, 1965), as amended by EO 11375 (32 FR 14303, 1967) and 12086 (43 FR 46501, 1978), require Federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of that EO and Department of Labor regulations implementing EO 11246 (41 CFR § 60-1.4(b), 1991).

b. EO 13166 (August 11, 2000), "Improving Access to Services for Persons With Limited English Proficiency," and DOC policy guidance issued on March 24, 2003 (68 FR 14180) to Federal financial assistance recipients on the Title VI prohibition against national origin discrimination affecting Limited English Proficient (LEP) persons.

.03 Title VII Exemption for Religious Organizations

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, provides that it shall be an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination on the basis of religion, a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

D. AUDITS

Under the Inspector General Act of 1978, as amended, 5 USC App. 3, § 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the recipient, whether written, printed, recorded, produced or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts or other examinations as authorized by law. When the OIG requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, state or local audit entity.

.01 Organization-Wide, Program-Specific, and Project Audits

a. Organization-wide or program-specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Recipients that are subject to the provisions of OMB Circular A-133 and that expend $500,000 or more in a year in Federal awards shall have an audit conducted for that year in accordance with the requirements contained in OMB Circular A-133. A copy of the audit shall be submitted to the Bureau of the Census, which has been designated by

OMB as a central clearinghouse. The address is:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

b. Unless otherwise specified in the terms and conditions of the award, in accordance with 15 CFR § 14.26(c) and (d), for-profit hospitals, commercial entities, and other organizations not required to follow the audit provisions of OMB Circular A-133 shall have an audit performed when the federal share amount awarded is $500,000 or more over the duration of the project period. An audit is required at least once every two years using the following schedule for audit report submission.

   1. For awards less than 24 months, an audit is required within 90 days from the project expiration date, including the close-out period for the award.

   2. For 2-, or 3 -year awards, an audit is required within 90 days after the end of the first year and within 90 days from the project expiration date including the close-out period for the award.

   3. For 4-, or 5-year awards, an audit is required within 90 days after the end of the first year and third year, and within 90 days from the project expiration date including the close-out period for the award.

c. Some DOC programs have specific audit guidelines that will be incorporated into the award. When DOC does not have a program-specific audit guide available for the program, the auditor will follow the requirements for a program-specific audit as described in OMB Circular A-133, § .235. The Recipient may include a line item in the budget for the cost of the audit. A copy of the program-specific audit shall be submitted to the Grants Officer and to the OIG at the following address:

Office of Inspector General
U.S. Department of Commerce
Atlanta Regional Office of Audits
401 West Peachtree Street, N.W., Suite 2742
Atlanta, GA 30308

.02 Audit Resolution Process

a. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due DOC. For this reason, the recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence

whenever audit results are disputed.

b. In accordance with the *Federal Register* notice dated January 27, 1989 (54 FR 4053), a recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:

1. Unless the Inspector General determines otherwise, the recipient has 30 days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.

2. The recipient has 30 days from the date of the transmittal of the final audit report to submit written comments and documentary evidence. There will be no extension of this deadline.

3. The DOC shall review the documentary evidence submitted by the recipient and shall notify the recipient of the results in an Audit Resolution Determination Letter. The recipient has 30 days from the date of receipt of the Audit Resolution Determination Letter to submit a written appeal. There will be no extension of this deadline. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence that dispute the validity of the audit resolution determination.

4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of interest on the debt. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the auditee against funds due to the auditee.

5. The DOC shall review the recipient's appeal and notify the recipient of the results in an Appeal Determination Letter. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.

E. DEBTS

.01 Payment of Debts Owed the Federal Government

Any debts determined to be owed the Federal Government shall be paid promptly by the recipient. In accordance with 15 CFR § 21.4, a debt will be considered delinquent if it is not paid within 15 days of the due date, or if there is no due date, within 30 days of the billing date. Failure to pay a debt by the due date, or if there is no due date, within 30 days of the billing date, shall result in the imposition of late payment charges as noted

below. In addition, failure to pay the debt or establish a repayment agreement by the due date, or if there is no due date, within 30 days of the billing date, will also result in the referral of the debt for collection action, including referral to the Treasury Offset Program, 31 C.F.R. § 285.5, and may result in DOC taking further action as specified in the standard term and condition entitled "Non-Compliance With Award Provisions". Funds for payment of a debt must not come from other Federally sponsored programs. Verification that other Federal funds have not been used will be made, e.g., during on-site visits and audits.

.02 Late Payment Charges

a. An interest charge shall be assessed on the delinquent debt as established by the Debt Collection Act (31 U.S.C. 3701 *et seq.*), as amended. The minimum annual interest rate to be assessed is the Department of the Treasury's Current Value of Funds Rate. This rate is published in the *Federal Register* by the Department of the Treasury. The assessed rate shall remain fixed for the duration of the indebtedness.

b. A penalty charge shall be assessed on any portion of a debt that is delinquent for more than 90 days, although the charge will accrue and be assessed from the date the debt became delinquent.

c. An administrative charge shall be assessed to cover processing and handling the amount due.

.03 Barring Delinquent Federal Debtors From Obtaining Federal Loans or Loan Insurance Guarantees

Pursuant to 31 U.S.C. § 3720B, unless waived, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

.04 Effect of Judgment Lien On Eligibility For Federal Grants, Loans, or Programs

Pursuant to 28 U.S.C. § 3201(e), unless waived by the DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant, or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

F. INDIVIDUAL BACKGROUND SCREENING

An individual background screening will be performed by the OIG on key individuals of organizational units associated with the application at the beginning of the award and at three year intervals thereafter for the life of the award unless (1) the proposed award amount is $100,000 or less; (2) applicants are accredited colleges and universities; (3) applicants are units of a State or local government; (4) applicants are economic development districts designated by EDA, including those entities whose designations are pending, and councils of governments; or (5) the key individual(s) is/are elected officials of State and local governments who are serving in capacities other than their elected capacities when applying for assistance. In addition, if there is a change in the status of the organization and/or key individuals, or the program officer, OIG, or Grants Officer believes there is good reason to conduct a review sooner, a background screening may be required more frequently. Individual background screenings are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges (e.g., fraud, theft, perjury), or other matters which significantly reflect on the applicant's business integrity, responsibility, or financial integrity. Key individuals of non-exempt organizations associated with this award shall complete Form CD-346, "Applicant for Funding Assistance." An original signature is required. The form is to be submitted to the Grants Specialist named in the award document within 30 days of receipt of this award.

.01 Results of Individual Background Screening

DOC reserves the right to take any of the actions described in section F.02 if any of the following occurs as a result of the individual background screening:

a. A key individual fails to submit the required Form CD-346, "Applicant for Funding Assistance" within 30 days of receipt of this award;

b. A key individual makes a false statement or omits a material fact on the Form CD-346;

c. The individual background screening reveals significant adverse findings that reflect on the business integrity or responsibility of the recipient and/or key individual.

.02 Action(s) Taken as a Result of Individual Background Screening

If any situation noted in F.01 occurs, DOC, at its discretion, may take one or more of the following actions:

a. Consider suspension/termination of an award immediately for cause;

b. Require the removal of any key individual from association with management and/or implementation of the award and require Grants Officer approval of personnel

replacements;

c. Require the recipient to make other changes as appropriate; and/or

d. Designate the recipient as high risk and amend the award to assign special award conditions, as appropriate, including making changes with respect to the method of payment and/or financial reporting requirements.

G. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

The recipient shall comply with the provisions of Subpart C of 2 CFR Part 1326, "Governmentwide Debarment and Suspension (Nonprocurement)" (published in the *Federal Register* on December 21, 2006, 71 FR 76573), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions.

H. DRUG-FREE WORKPLACE

The recipient shall comply with the provisions of the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, Sec. 5153, as amended by Public Law 105-85, Div. A, Title VIII, Sec. 809, as codified at 41 U.S.C. § 702) and DOC implementing regulations published at 15 CFR Part 29, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (published in the *Federal Register* on November 26, 2003, 68 FR 66534), which require that the recipient take steps to provide a drug-free workplace.

I. LOBBYING RESTRICTIONS

.01 Statutory Provisions

The recipient shall comply with the provisions of 31 U.S.C. § 1352 and DOC implementing regulations published at 15 CFR Part 28, "New Restrictions on Lobbying." These provisions generally prohibit the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal government in connection with the award, and require the disclosure of the use of non-Federal funds for lobbying.

.02 Disclosure of Lobbying Activities

The recipient receiving in excess of $100,000 in Federal funding shall submit a

completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit the Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

J. CODES OF CONDUCT AND SUBAWARD, CONTRACT, AND SUBCONTRACT PROVISIONS

.01 Code of Conduct for Recipients

Pursuant to the certification in SF-424B, paragraph 3, the recipient must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of this award.

.02 Applicability of Award Provisions to Subrecipients

a. The recipient shall require all subrecipients, including lower tier subrecipients, under the award to comply with the provisions of the award, including applicable cost principles, administrative, and audit requirements.

b. A recipient is responsible for subrecipient monitoring, including the following:

1. Award Identification - At the time of the award, identifying to the subrecipient the Federal award information (e.g., CFDA title and number, award name, name of Federal agency) and applicable compliance requirements.

2. During-the-Award Monitoring - Monitoring the subrecipient's use of Federal awards through reporting, site visits, regular contact, or other means to provide reasonable assurance that the subrecipient administers Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

3. Subrecipient Audits - Ensuring that subrecipients expending $500,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of OMB Circular A-133, and that the required audits are completed within 9 months of the end of the subrecipient's audit period. In addition, the recipient is required to issue a management decision on audit findings within 6 months after receipt of the subrecipient's audit report, and ensuring that the subrecipient takes timely and appropriate corrective action on all audit findings.

In cases of continued inability or unwillingness of a subrecipient to have the required audits, the pass-through entity shall take appropriate action using sanctions.

.03 Competition and Codes of Conduct for Subawards

a. All subawards will be made in a manner to provide, to the maximum extent practicable, open and free competition. The recipient must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition. In order to ensure objective subrecipient performance and eliminate unfair competitive advantage, subrecipients that develop or draft work requirements, statements of work, or requests for proposals shall be excluded from competing for such subawards.

b. The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization in which he/she serves as an officer or which employs or is about to employ any of the parties mentioned in this section, has a financial interest or other interest in the organization selected or to be selected for a subaward. The officers, employees, and agents of the recipient shall neither solicit nor accept anything of monetary value from subrecipients. However, the recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

c. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice. It could also result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field.

.04 Applicability of Provisions to Subawards, Contracts, and Subcontracts

a. The recipient shall include the following notice in each request for applications or bids:

Applicants/bidders for a lower tier covered transaction (except procurement contracts for goods and services under $25,000 not requiring the consent of a

DOC official) are subject to 2 CFR Part 1326, Subpart C "Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants/bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than $100,000 of Federal funds at any tier are subject to 15 CFR Part 28, "New Restrictions on Lobbying." Applicants/bidders should familiarize themselves with these provisions, including the certification requirement. Therefore, applications for a lower tier covered transaction must include a Form CD-512, "Certification Regarding Lobbying--Lower Tier Covered Transactions," completed without modification.

b. The recipient shall include a term or condition in all lower tier covered transactions (subawards, contracts, and subcontracts), that the award is subject to Subpart C of 2 CFR Part 1326, "Governmentwide Debarment and Suspension (Nonprocurement)."

c. The recipient shall include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts) exceeding $100,000 in Federal funds, that the subaward, contract, or subcontract is subject to 31 U.S.C § 1352, as implemented at 15 CFR Part 28, "New Restrictions on Lobbying." The recipient shall further require the subrecipient, contractor, or subcontractor to submit a completed "Disclosure of Lobbying Activities" (Form SF-LLL) regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 15 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The Form SF-LLL shall be submitted from tier to tier until received by the recipient. The recipient must submit all disclosure forms received, including those that report lobbying activity on its own behalf, to the Grants Officer within 30 days following the end of the calendar quarter.

.05 Minority Owned Business Enterprise

DOC encourages recipients to utilize minority and women-owned firms and enterprises in contracts under financial assistance awards. The Minority Business Development Agency will assist recipients in matching qualified minority owned enterprises with contract opportunities. For further information contact:

U.S. Department of Commerce
Minority Business Development Agency
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

.06 Subaward and/or Contract to a Federal Agency

a. The recipient, subrecipient, contractor, and/or subcontractor shall not sub-grant or sub-contract any part of the approved project to any agency or employee of DOC and/or other Federal department, agency or instrumentality, without the prior written approval of the Grants Officer.

b. Requests for approval of such action must be submitted to the Federal Program Officer who shall review and make recommendation to the Grants Officer. The Grants Officer shall make the final determination and will notify the recipient in writing of the final determination.

K. PROPERTY

.01 Standards

The recipient shall comply with the property management standards as stipulated in the applicable uniform administrative requirements.

.02 Real Property

The recipient shall execute a security interest or other statement of the Federal Interest in real property acquired or improved with Federal funds, acceptable in form and substance to the DOC, which statement must be perfected and placed of record in accordance with local law, with continuances re-filed as appropriate. The recipient must provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located certifying that the Federal Interest has been protected, as required under the award and in accordance with local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, shall be returned to the Grants Officer. The recipient may not dispose of, modify the use of, or change the terms of the real property title, or other interest in the project site and facilities without permission and instructions from the Grants Officer. No funds under this award shall be released until the recipient has complied with this provision, unless other arrangements satisfactory to the DOC are made.

L. ENVIRONMENTAL REQUIREMENTS

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to (1) approve a proposal for Federal assistance; (2) approve the proposal with mitigation; or (3) approve a different proposal/grant having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate a planning process with an early consideration of potential environmental impacts that projects funded with Federal assistance may have on the environment. The recipient and subrecipients must comply with all environmental standards, to include those prescribed under the following statutes and Executive Orders, and shall identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

.01 The National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4327)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements. Recipients of Federal assistance are required to identify to the awarding agency any impact an award will have on the quality of the human environment, and assist the agency to comply with the National Environmental Policy Act. Recipients may also be requested to assist NOAA in drafting of an environmental assessment, if the Department determines an assessment is required, when the award activities remain subject to Federal authority and control. If additional information is required during the period of the award, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable the Department to make an assessment on any impacts that a project may have on the environment.

.02 Floodplain Management, EO 11988 and, Protection of Wetlands, EO 11990, May 24, 1977

Recipients must identify proposed actions in Federally defined floodplains and wetlands to enable the agency to make a determination whether there is an alternative to minimize any potential harm.

.03 Clean Air Act, Clean Water Act, and EO 11738

Recipients must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 et seq.), Clean Water Act (33 U.S.C. §§1251 et seq.), and EO 11738, and shall not use a facility on EPA's List of Violating Facilities in performing any award that is nonexempt under 40 CFR §15.5, and shall notify the Program Officer in writing if it intends to use a facility that is on the EPA List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

.04 The Flood Disaster Protection Act of 1973 (42 U.S.C. § 4002 et seq.)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas.

.05 The Endangered Species Act of 1973, as amended, (16 U.S.C. § 1531 et seq.)

Recipients must identify any impact or activities which may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the required reviews under the Endangered Species Act, as applicable.

.06 The Coastal Zone Management Act, as amended, (16 U.S.C. § 1451 et seq.)

Funded projects must be consistent with a coastal state's approved management program for the coastal zone.

.07 The Coastal Barriers Resources Act, (16 U.S.C. § 3501 et seq.)

Restrictions are placed on Federal Funding for actions within the Coastal Barrier System.

.08 The Wild and Scenic Rivers Act, as amended (16 U.S.C. §§ 1271 et seq.)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

.09 The Safe Drinking Water Act of 1974, as amended (42 U.S.C. §§ 300f-j)

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

.10 The Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§ 6901 et seq.)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and also provides that recipients of Federal funds give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

.11 The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and the Superfund Amendments and Reauthorization Act of 1986, and the Community Environmental Response Facilitation Act of 1992, as amended, (42 U.S.C. §§ 9601 et seq.)

These requirements address responsibilities of hazardous substance releases, threatened releases and environmental cleanup. There is also a requirement to impose reporting and community involvement requirements to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards.

.12 Environmental Justice in Minority Populations and Low Income Populations, EO 12898, February 11, 1994.

This order identified and addresses adverse human health or environmental effects of programs, policies and activities on low income and minority populations.

M. MISCELLANEOUS REQUIREMENTS

.01 Criminal and Prohibited Activities

a. The Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal government for money (including money representing grants, loans or other benefits).

b. False statements (18 U.S.C. §§ 287 and 1001), provides that whoever makes or

presents any false, fictitious, or fraudulent statements, representations, or claims against the United States shall be subject to imprisonment of not more than five years and shall be subject to a fine in the amount provided by 18 U.S.C. § 287.

c. False Claims Act (31 U.S.C. 3729 *et seq.*), provides that suits under this act can be brought by the government, or a person on behalf of the government, for false claims under Federal assistance programs.

d. Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276c), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract.

.02 Foreign Travel

a. The recipient shall comply with the provisions of the Fly America Act (49 USC § 40118). The implementing regulations of the Fly America Act are found at 41 CFR §§ 301-10.131 through 301-10.143.

b. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed foreign air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, or use of U.S. flag air carrier service will not accomplish the agency's mission.

c. Use of foreign air carriers may also be used only if bilateral agreements permit such travel pursuant to 49 USC § 40118(b). DOC is not aware of any bilateral agreements which meet these requirements. Therefore, it is the responsibility of the recipient to provide the Grants Officer with a copy of the applicable bilateral agreement if use of a foreign carrier under a bilateral agreement is anticipated.

d. If a foreign air carrier is anticipated to be used for any part of foreign travel, the recipient must receive prior approval from the Grants Officer. When requesting such approval, the recipient must provide a justification in accordance with guidance provided by 41 CFR § 301-10.142, which requires the recipient to provide the Grants Officer with the following: name; dates of travel; origin and destination of travel; detailed itinerary of travel, name of the air carrier and flight number for each leg of the trip; and a statement explaining why the recipient meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the recipient must provide the Grants Officer with a copy of the agreement. The Grants Officer shall make the final determination and notify the recipient in writing. Failure to adhere to the provisions of the Fly America Act will result in the recipient not being reimbursed for any transportation costs for which the recipient improperly used a foreign air carrier.

.03 American-Made Equipment and Products

Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this award.

.04 Intellectual Property Rights

a. Inventions. The rights to any invention made by a recipient under a DOC financial assistance award are determined by the Bayh-Dole Act, Pub. L. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq., except as otherwise required by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are described in more detail in 37 CFR Part 401 and in particular, in the standard patent rights clause in 37 CFR § 401.14, which is hereby incorporated by reference into this award.

1. Ownership.

(a) Recipient. The recipient has the right to own any invention it makes (conceived or first actually reduced to practice) or made by its employees. The recipient may not assign its rights to a third party without the permission of DOC unless it is to a patent management organization (i.e., a university's Research Foundation.) The recipient's ownership rights are subject to the Government's nonexclusive paid-up license and other rights.

(b) Department. If the recipient elects not to own or does not elect rights or file a patent application within the time limits set forth in the standard patent rights clause, DOC may request an assignment of all rights, which is normally subject to a limited royalty free nonexclusive revocable license for the recipient. DOC owns any invention made solely by its employees but may license the recipient in accordance with the procedures in 37 CFR Part 404.

(c) Inventor/Employee. If neither the recipient nor the Department is interested in owning an invention by a recipient employee, the recipient, with the written concurrence of DOC, may allow the inventor/employee to own the invention subject to certain restrictions as described in 37 CFR § 401.9.

(d) Joint inventions. Inventions made jointly by a recipient and a DOC employee will be owned jointly by the recipient and DOC. However, DOC may transfer its rights to the recipient as authorized by 35 U.S.C. § 202(e) and 37 CFR § 401.10 if the recipient is willing to patent and license the invention usually in exchange for a share of "net" royalties based on the number of inventors (e.g., 50-50 if there is one recipient and DOC employee). The agreement will be prepared by DOC and may include other provisions, such as a royalty free license to the Government and certain other entities. 35 U.S.C. § 202(e) also

authorizes the recipient to transfer its rights to the Government which can agree to share royalties similarly as described above.

2. Responsibilities - iEdison. The recipient has responsibilities and duties set forth in the standard patent rights clause, which are not described below. The recipient is expected to comply with all the requirements of the standard patent rights clause and 37 CFR Part 401. Recipients of DOC financial assistance awards are required to submit their disclosures and elections electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iEdison.gov. Recipients may obtain a waiver of this electronic submission requirement by providing to DOC compelling reasons for allowing the submission of paper copies of reports related to inventions.

b. Patent Notification Procedures.

Pursuant to E.O. 12889, DOC is required to notify the owner of any valid patent covering technology whenever the DOC or its financial assistance recipients, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the recipient uses or has used patented technology under this award without a license or permission from the owner, the recipient must notify the Grants Officer.

However, this notice does not necessarily mean that the Government authorizes and consents to any copyright or patent infringement occurring under the financial assistance.

c. Data, Databases, and Software.

The rights to any work produced or purchased under a DOC Federal financial assistance award are determined by 15 CFR § 24.34 and 15 CFR § 14.36. Such works may include data, databases or software. The recipient owns any work produced or purchased under a DOC Federal financial assistance award subject to DOC's right to obtain, reproduce, publish or otherwise use the work or authorize others to receive, reproduce, publish or otherwise use the data for Government purposes.

d. Copyright.

The recipient may copyright any work produced under a DOC Federal financial assistance award subject to DOC's royalty-free nonexclusive and irrevocable right to reproduce, publish or otherwise use the work or authorize others to do so for Government purposes. Works jointly authored by DOC and recipient employees may be copyrighted but only the part authored by the recipient is protected because, under 17 U.S.C. § 105, works produced by Government employees are not copyrightable in

the United States. On occasion, DOC may ask the recipient to transfer to DOC its copyright in a particular work when DOC is undertaking the primary dissemination of the work. Ownership of copyright by the Government through assignment is permitted by 17 U.S.C. § 105.

.05 Increasing Seat Belt Use in the United States

Pursuant to EO 13043, recipients should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented or personally-owned vehicles.

.06 Research Involving Human Subjects

a. All proposed research involving human subjects must be conducted in accordance with 15 CFR Part 27, "Protection of Human Subjects." No research involving human subjects is permitted under this award unless expressly authorized by Special Award Condition, or otherwise in writing by the Grants Officer.

b. Federal policy defines a human subject as a living individual about whom an investigator conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

c. DOC regulations, 15 CFR Part 27, require that recipients maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the recipient shall submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. This documentation may include:

   1. Documentation establishing approval of the project by an institutional review board (IRB) approved for Federal-wide use under Department of Health and Human Services guidelines, see 15 CFR § 27.103;

   2. Documentation to support an exemption for the project under 15 CFR § 27.101(b);

   3. Documentation to support deferral for an exemption or IRB review under 15 CFR § 27.118;

   4. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form.

d. No work involving human subjects may be undertaken, conducted, or costs incurred

and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

.07 Federal Employee Expenses

Federal agencies are generally barred from accepting funds from a recipient to pay transportation, travel, or other expenses for any Federal employee unless specifically approved in the terms of the award. Use of award funds (Federal or non-Federal) or the recipient's provision of in-kind goods or services, for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy prohibits the acceptance of gifts, including travel payments for Federal employees, from recipients or applicants regardless of the source.

.08 Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.

Pursuant to EO 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," unless the project is exempted under section 5(c) of the order, bid specifications, project agreements, or other controlling documents for construction contracts awarded by recipients of grants or cooperative agreements, or those of any construction manager acting on their behalf, shall not:

a. include any requirement or prohibition on bidders, offerors, contractors, or subcontractors about entering into or adhering to agreements with one or more labor organizations on the same or related construction project(s); or

b. otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

.09 Minority Serving Institutions (MSIs) Initiative

Pursuant to Eos13256, 13230, and 13270, DOC is strongly committed to broadening the participation of MSIs in its financial assistance programs. DOC's goals include achieving full participation of MSIs in order to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance

programs. DOC encourages all applicants and recipients to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

.10 Research Misconduct

Scientific or research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest errors or differences of opinion. The recipient organization has the primary responsibility to investigate allegations and provide reports to the Federal Government. Funds expended on an activity that is determined to be invalid or unreliable because of scientific misconduct may result in a disallowance of costs for which the institution may be liable for repayment to the awarding agency. The Office of Science and Technology Policy at the White House published in the *Federal Register* on December 6, 2000, a final policy that addressed research misconduct. The policy was developed by the National Science and Technology Council (65 FR 76260). The DOC requires that any allegation be submitted to the Grants Officer, who will also notify the OIG of such allegation. Generally, the recipient organization shall investigate the allegation and submit its findings to the Grants Officer. The DOC may accept the recipient's findings or proceed with its own investigation. The Grants Officer shall inform the recipient of the DOC's final determination.

.11 Publications, Videos and Acknowledgement of Sponsorship

Publication of the results or findings of a research project in appropriate professional journals and production of video or other media is encouraged as an important method of recording and reporting scientific information. It is also a constructive means to expand access to federally funded research. The recipient is required to submit a copy to the funding agency and when releasing information related to a funded project include a statement that the project or effort undertaken was or is sponsored by DOC. The recipient is also responsible for assuring that every publication of material (including Internet sites and videos) based on or developed under an award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer: "This [report/video] was prepared by [recipient name] under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce." This also applies to videos produced under DOC financial assistance awards.

.12 Care and Use of Live Vertebrate Animals

Recipients must comply with the Laboratory Animal Welfare Act of 1966 (Public Law

89-544), as amended, (7 U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations, 9 CFR Parts 1, 2, and 3; the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); The Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.

.13 Homeland Security Presidential Directive – 12

If the performance of a grant award requires recipient organization personnel to have unsupervised physical access to a Federally controlled facility for more than 180 days or access to a Federal information system, such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services' (USCIS) Verification Division, a component of the Department of Homeland Security (DUS), to ensure the individual is in a lawful immigration status and that they are eligible for employment within the US. Any items or services delivered under a financial assistance award shall comply with the Department of Commerce personal identity verification procedures that implement Homeland Security Presidential Directive -12, FIPS PUB 201, and OMB Memorandum M-05-24. The recipient shall insert this clause in all subawards or contracts when the subaward recipient or contractor is required to have physical access to a Federally controlled facility or access to a Federal information system.

.14 Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations

a. This clause applies to the extent that this financial assistance award involves access to export-controlled information or technology.

b. In performing this financial assistance award, the recipient may gain access to export-controlled information or technology. The recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled information and technology, including deemed exports. The recipient shall establish and maintain throughout performance of the financial assistance award effective export compliance procedures at non-DOC facilities. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual and electronic access to export-controlled information and technology.

c. Definitions

1. Deemed Export. The Export Administration Regulations (EAR) define a deemed export as any release of technology or source code subject to the EAR to a foreign national, both in the United States and abroad. Such release is "deemed" to be an export to the home country of the foreign national. 15 CFR § 734.2(b)(2)(ii).

2. Export-controlled information and technology. Export-controlled information and technology subject to the EAR (15 CFR §§ 730-774), implemented by the DOC Bureau of Industry and Security, or the International Traffic In Arms Regulations (ITAR) (22 CFR §§ 120-130), implemented by the Department of State, respectively. This includes, but is not limited to, dual-use items, defense articles and any related assistance, services, software or technical data as defined in the EAR and ITAR.

d. The recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that access is restricted, or licensed, as required by applicable Federal laws, Executive Orders, and/or regulations.

e. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, Executive Orders or regulations.

f. The recipient shall include this clause, including this paragraph (f), in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled information technology.

.15 The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 CFR Part 175.

This Act authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if the recipient or subrecipient engages in certain activities related to trafficking in persons.

.16 The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282).

This Act requires that the Federal government establish a single searchable awards website by January 1, 2008 to enable the public to see where Federal funds for grant and contract awards are being spent. Subaward and subcontract data will be required on the website by January 1, 2009. Funding data retroactive to October 1, 2006 must be reported by all Federal agencies and their recipient and subrecipient organizations.

Data elements will include:

Name of entity receiving award;

Award amount;

Transaction type, funding agency, Catalog of Federal Domestic Assistance Number, and descriptive award title;

Location of: entity, primary location of performance (City/State/Congressional District/Country; and

Unique identifier of entity.

The data will be required within 30 days of an award. The DOC will be implementing this Act, which will require recipients and subrecipients to report the required data.

ATTACHMENT B

FINANCIAL ASSISTANCE SPECIAL AWARD CONDITIONS

(LCU EDA GRANT)

Attachment B
U.S. DEPARTMENT OF COMMERCE
Economic Development Administration
SPECIAL AWARD CONDITIONS

Recipient: Lee County
1500 Monroe Street
Fort Myers, Florida 33901-5500

Award No.: 04-01-06661

1. **PROJECT:** This investment will design wastewater and other infrastructure improvements to serve the Renewable Energy and Research Diamond, an innovation center anchored by Florida Gulf Coast University (FGCU) and the Southwest Florida International Airport.

2. **PROJECT DEVELOPMENT TIME SCHEDULE:** The Recipient agrees to the following Project development time schedule:

   Time allowed in Financial Assistance Award after EDA Award date:

   Award Period ..... 24 months

   Project Closeout- All Project closeout documents including the final financial information and any required program reports shall be submitted to the Government not more than 90 days after the date the Recipient accepts the completed project form the contractor(s).

   The Recipient shall pursue diligently the development of the Project so as to ensure completion within this time schedule. Moreover, the Recipient shall notify the Government in writing of any event which could delay substantially the achievement of the Project within the prescribed time limits. The Recipient further acknowledges that failure to meet the development time schedule may result in the Government's taking action to terminate the Award in accordance with the regulations set forth at 15 CFR 24.43 (53 Fed Reg. 8048-9, 8102, March 11, 1988). OR 15 CFR 14.62 (nonprofits/universities).

3. **PROCUREMENT:** The Recipient agrees that all procurement transactions shall be in accordance with Department of Commerce Regulations at 15 CFR Part 24.36 (State and Local Governments) or 15 CFR Part 14.44 (Higher Education, Hospitals, other Non-Profits).

4. **GRANT ADMINISTRATOR:** The Grant Administrator for the Project is:

   H. Philip Paradice, Jr.
   Director, Atlanta Region
   Economic Development Administration

5. The **FEDERAL PROGRAM OFFICER** is responsible for the programmatic, technical, and/or scientific aspects of this Award:

   Lee H. Mertins
   Administrative Director
   Economic Development Administration
   Atlanta Regional Office

6. The **PROJECT OFFICER** is responsible for administrative coordination and liaison with the Recipient. This individual receives appropriate material from the Recipient for administrative processing. The Program Officer's name, address, telephone number, and email address are:

   Gloria Huang
   Program Analyst
   Economic Development Administration, Atlanta Regional Office
   401 West Peachtree Street, NW, Suite 1820
   Atlanta, Georgia 30308-3510
   404-730-2827
   Gloria.D.Huang@eda.gov

7. **PROJECT REPORTING AND FINANCIAL DISBURSEMENTS INSTRUCTIONS:** Attached to these Special Award Conditions (SAC) is an Addendum for Reporting and Reimbursement Instructions (Addendum). The Addendum is incorporated into the SAC as though fully set forth in the SAC. Recipient agrees to comply with the terms and provisions set forth in the Addendum in connection with reporting and requesting reimbursements for this Award. Recipient agrees and acknowledges that the terms and provisions of the Addendum may be amended from time to time by the Government. The Government agrees to provide the Recipient written notice of all amendments to the Addendum.

   A. **AWARD DISBURSEMENTS: Reimbursable basis only:** EDA will make Award payments using the Department of Treasury's Automated Standard Application for Payments (ASAP) system. The recipient is required to furnish documentation as required by ASAP including but not limited to Recipient and Requestor Identification Numbers. Complete information concerning the ASAP system may be obtained by visiting www.fms.treas.gov/asap.

      The "Request for Reimbursement" (SF-270) is used to request payment, which will be approved by the Project Officer. Please note that disbursements cannot be processed until the attached Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form is completed and returned. The form must be completed by the respective parties (EDA, Recipient Bank, and Recipient). A new form is required for each Award. Return the completed form with the executed Award documents to the Project Officer at Economic Development Administration, 401 West Peachtree Street, N.W., Suite 1820, Atlanta, Georgia 30308-3510.

B. **REPORTS:** The Recipient agrees to provide the Project Officer with semi-annual progress reports, which will communicate the important activities and accomplishments of the Project. The Recipient will also provide the Project Officer with semi-annual Federal Financial Status Reports (SF-425).

8. **REAFFIRMATION OF APPLICATION:** Recipient(s) acknowledges that Recipient's application for this Award may have been submitted to the Government and signed by Recipient(s), or by an authorized representative of Recipient, electronically. Regardless of the means by which Recipient(s) submitted its application to the Government or whether Recipient or an authorized representative of Recipient submitted its application to the Government, Recipient(s) hereby reaffirms and state that a.) all data in said application and documents submitted with the application are true and correct as of the date of this Award and were true and correct as of the date of said submission, b.) said application was as of the date of this Award and as of the date of said application duly authorized as required by local law by the governing body of the Recipient(s) and c.) Recipient(s) confirms that it will comply with the Assurances and Certifications submitted with, or attached to, said application. The term "application" includes all documentation and any information provided to the Government as part of, and in furtherance to, the request for funding, including submissions made in response to information requested by the Government after submission of the initial application.

9. **RECIPIENT'S DUTY TO REFRAIN FROM EMPLOYING CERTAIN GOVERNMENT EMPLOYEES:** For the two-year period beginning on the date the Government executes this Award, the Recipient(s) agrees that it will not employ, offer any office or employment to, or retain for professional services any person who, on the date the Government executes this Award or within the one-year period ending on that date:

   a. Served as an officer, attorney, agent, or employee of the Government; and
   b. Occupied a position or engaged in activities that the Assistant Secretary determines involved discretion with respect to the Award of Investment Assistance under PWEDA.

   The two-year period and associated restrictions referenced above also shall apply beginning on the date the Government executes any cost amendment to this Award that provides additional funds to the Recipient(s).

10. **INDIVIDUAL BACKGROUND SCREENINGS:** Notwithstanding the requirements pertaining to Individual Background Screenings set forth in Section F of the attached Standard Terms and Conditions, Individual Background Screenings will be conducted in accordance with the updated guidance contained in Chapter 21 (February 2010) of the DOC Grants and Cooperative Agreements Interim Manual. This guidance may be viewed online at http://oam.eas.commerce.gov/docs/RevisedChapter21020210.pdf. To the extent of conflict between said updated guidance and said Section H, the terms of said updated guidance shall control.

11. **FREEDOM OF INFORMATION ACT (FOIA):** EDA is responsible for meeting its Freedom of Information Act (FOIA) (5 U.S.C. § 522) responsibilities for its records. DOC regulations at 15 CFR Part 4 set forth the requirements and procedures that EDA must follow in order to make the requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications and other information submitted by applicants may be released in response to a FOIA request. Applicants should be aware that EDA may make certain

application information publically available. Accordingly, the applicant should notify EDA if it believes any application information to be confidential.

12. TRANSPARENCY ACT:

CCR Registration and DUNS Number Requirement
All recipients of Awards made on or after October 1, 2010 are required to maintain current registrations in the Central Contractor Registration (CCR) database throughout the project period until the final financial report is submitted or until the recipient receives final payment, whichever is later. In addition, recipients must obtain Dunn and Bradstreet Data Universal Numbering System (DUNS) numbers and may make subawards only to subrecipients that obtain a DUNS number. The following details the DUNS and CCR requirements. Please read the following carefully and contact the EDA Project Officer with any questions.

I. <u>Central Contractor Registration and Universal Identifier Requirements</u>

a. **Requirement for Central Contractor Registration (CCR)**
Unless you are exempted from this requirements under 2 CFR 25.110, you as the Recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this Award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Award term.

b. **Requirement for Data Universal Numbering System (DUNS) numbers.** If you are authorized to make subawards under this award, you:
   i. Must notify potential subrecipients that no entity (see definition in paragraph C of this Award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
   ii. May not make a subaward to an entity unless the entity has provided its DUNS to you.

c. **Definitions.** For purposes of this Award term:
   i. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR internet site (<u>www.ccr.gov</u>).
   ii. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the internet (currently at <u>http://fedgov/dnb/com/webform</u>).
   iii. *Entity*, as it is used in this Award term, means all of the following, as defined at 2 CFR Part 25, Subpart C:
      1. A Government organization, which is a State, local government, or Indian tribe;
      2. A foreign public entity;
      3. A domestic or foreign non-profit organization;

4. A domestic or foreign for-profit organization; and
5. A federal agency, but only as a subrecipient under an Award or subaward to a non-Federal entity.

iv. *Subaward*:
1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this Award and that you as the recipient award to an eligible subrecipient.
2. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ___.210 of the attachment to OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations).
3. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

v. *Subrecipient* means an entity that:
1. Receives a subaward from you under this Award; and
2. Is accountable to you for the use of the Federal funds provided by the subaward.

Transparence Act Reporting

All recipients of Awards made on or after October 1, 2010 are required to comply with reporting requirements under the Federal Funding Accountability and Transparency Act of 2006 (Transparency Act). The following details the requirements of both. In general, all recipients are responsible for reporting subawards of $25,000 or more. Please note that the Transparency Act reporting requirement applies to subawards only, and not to procurements you enter into under this Award. The required reporting subaward data elements may be found at www.fsrs.gov. In addition, recipients that meet certain criteria are responsible for reporting executive compensation. Please read the following carefully and contact the EDA Project Officer with any questions.

II. **Reporting Standards and Executive Compensation**

a. **Reporting of first-tier subawards**

i. Applicability. Unless you are exempt as provided in paragraph d. of this Award term, you must report each action that obligates $25,000 or more in Federal funds that does not include Recovery funs (as defined in section 1512(a)2 of the American Recovery and Reinvestment Act of 2009, Pub. L.111-5) for a subaward to an entity (see definitions in paragraph e. of this Award term).

ii. Where and when to report
1. You must report each obligating action described in paragraph a.1 of the Award term to www.fsrs.gov.
2. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligations must be reported by no later than December 31, 2010).

iii. What to report: You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

b. **Reporting Total Compensation of Recipient Executives**

i. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year if:
    1. The total Federal funding authorized to date under this Award is $25,000 or more;
    2. In the preceding fiscal year, you received:
        a. 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
        b. $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at www.sec.gov/answers/execomp.htm).

ii. Where and when to report: You must report executive total compensation described in paragraph b.1 of this Award term:
    1. As part of your registration profile at www.ccr.gov.
    2. By the end of the month following the month in which this Award is made, and annually thereafter.

c. **Reporting of Total Compensation of Subrecipient Executives**

i. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this Award term, for each first-tier subrecipient under this Award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:
    1. In the subrecipient's preceding fiscal year, the subrecipient received:
        a. 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
        b. $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation

information, see the U.S. Security and Exchange Commission total compensation filings at www.sec.gov/answers/execomp.htm).

ii. Where and when to report: You must report subrecipient executive total compensation described in paragraph c.1 of this Award term:
   1. To the recipient;
   2. By the end of the month following the month in which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e. between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. **Exemptions:** If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:
   i. Subawards, and
   ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. **Definitions:** For purposes of this Award term:
   i. *Entity* means all of the following, as defined in 2 CFR Part 25:
      1. A Government organization, which is a State, local government, or Indian tribe;
      2. A foreign public entity;
      3. A domestic or foreign non-profit organization;
      4. A domestic or foreign for-profit organization; and
      5. A federal agency, but only as a subrecipient under an Award or subaward to a non-Federal entity.
   ii. *Executive* means officers, managing partners, or any other employees in management positions.
   iii. *Subaward*:
      1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this Award and that you as the recipient award to an eligible subrecipient.
      2. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations).
      3. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
   iv. *Subrecipient* means an entity that:
      1. Receives a subaward from you under this Award; and
      2. Is accountable to you for the use of the Federal funds provided by the subaward.
   v. *Total Compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
      1. Salary and bonus
      2. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting

purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization, or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees
4. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
5. Above-market earnings on deferred compensation which is not tax-qualified.
6. Other compensation, if the aggregate value of all such compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites of property) for the executive exceeds $10,000.00

13. BUDGET: Under the terms of the Award the approved line item budget is listed below.

Contractual	$1,102,514
Total	$1,102,514

14. ENVIRONMENTAL: Prior to disbursement, Recipient shall provide evidence satisfactory to the Government that the project design have been approved by the US Fish and Wildlife Service and the Regulatory Division of the US Army Corps of Engineers. Recipient shall also provide satisfactory evidence that all mitigation requirements set forth in these approvals have been met.

15. SCOPE OF WORK: Recipient(s) agrees to undertake, prosecute and complete the Scope of Work (SOW) for this Project funded by this Award which SOW is approved and agreed to by the Government as subsequently amended in mutually agreed upon written change order(s) and/or SOW amendment(s), if any. The SOW shall be as set forth and described in a.) the application submitted by Recipient(s) and/or Recipient's authorized representative(s) to the Government for this Award together with b.) all enclosures, materials, documents and other submittals accompanying and supporting the application, c.) all additional materials, documents and/or correspondence requested by the Government and submitted by Recipient(s) and/or Recipient's authorized representative(s) in support and furtherance of the application and d.) such change(s) and/or SOW amendments, if any, requested in writing by the Recipient(s) and/or Recipient's authorized representative subsequent to the date of this Award and approved and agreed to in writing by the Government. To the extent such additional materials, documents and/or correspondence amends and/or clarifies the application, such amendment or clarification shall be controlling. It is agreed that the Recipient(s) and Government intend that the SOW describes a discrete, detailed and specific project that is funded and authorized by this Award and to that end the application and the above described additional information shall be fairly construed to and shall describe the SOW. The scope of work for this project is further described below:

Scope will include prelim design, hydraulic modeling, survey, geotech, scheduling, permits and preparing bid documents.

REPORTING AND REIMBURSEMENT ADDENDUM FOR EDA NON-CONSTRUCTION GRANTS

Financial Reimbursements:

Financial reimbursements are made via the Department of Treasury's ASAP system. The grantee must fax the following information to EDA's accounting office at 202-482-4020 to begin the ASAP enrollment process.

- Name of Organization
- Point of Contact name, email address, and telephone number
- Organization TIN and DUNS numbers (must be the same as on the approved grant application)
- EDA Project Officer's name and phone number (please see the Special Award Conditions)

*If you are a previous ASAP account user with EDA, the TIN and DUNS numbers for the new Award must match the TIN and DUNS for the previous Award and the ASAP account in order for the new Award to be automatically enrolled in ASAP.

The grantee may request reimbursement as often as monthly. To do so, the grantee must submit a Request for Reimbursement (SF-270) to the EDA Project Officer for approval, and then will receive notification from the Project Officer when the request has been approved, processed, and funds are available for retrieval in the ASAP system.

EDA will make reimbursements at the federal investment rate of the Award.

Requests for Reimbursement will not be approved if required progress and financial reports have not been submitted to EDA.

Required Reports:

- Semi-Annual Progress Reports: progress reports should detail the activities completed within the scope of work, any issues in completing the scope of work, and how any issues will be resolved.
  - Due every 6 months after the Award start date.
  - The final report is due within 90 days of the Award end date.
- Semi-Annual Financial Status Reports (Sf-425):
  - Due every 6 months after the Award start date.
  - The final report is due within 90 days of the Award end date.
  - EDA will close the Award on the basis of the final financial report.

Grant Extension Requests:

Grant extension requests must be made in writing and submitted to the Project Officer before the grant end date. The request should include the reason that the project cannot be completed within the approved time period. If approved, EDA will issue a CD-451, Amendment to Financial Assistance Award, to be executed by the grantee.

Budget Amendments:

The grantee is allowed to transfer funds among the approved budget line items (Special Terms and Conditions #10) in an amount up to 10% of the total project cost without EDA approval. The grantee must submit a written request for budget amendments to the Project Officer if the amount to be transferred is greater than 10% of the total project cost. If approved, EDA will issue a CD-451, Amendment to Financial Assistance Award, to be executed by the grantee.

OMB No. 1510-0056

ACH VENDOR/MISCELLANEOUS PAYMENT ENROLLMENT FORM

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion. See reverse for additional instructions.

PRIVACY ACT STATEMENT

The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data, by electronic means to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

AGENCY INFORMATION

FEDERAL PROGRAM AGENCY
Economic Development Administration

AGENCY IDENTIFIER: EDA

AGENCY LOCATION CODE (ALC): 13200001

ACH FORMAT: ☐ CCD+ ☐ CTX

ADDRESS:
401 W. Peachtree Street N.W., Suite 1820
Atlanta, Ga 30308-3510

CONTACT PERSON NAME: Lee Mertins

TELEPHONE NUMBER: (404) 730-3015

ADDITIONAL INFORMATION:

PAYEE/COMPANY INFORMATION

NAME

SSN NO. OR TAXPAYER ID NO.

ADDRESS

CONTACT PERSON NAME:

TELEPHONE NUMBER: ( )

FINANCIAL INSTITUTION INFORMATION

NAME:

ADDRESS:

ACH COORDINATOR NAME:

TELEPHONE NUMBER: ( )

NINE-DIGIT ROUTING TRANSIT NUMBER: — — — — — — — — —

DEPOSITOR ACCOUNT TITLE:

DEPOSITOR ACCOUNT NUMBER:

LOCKBOX NUMBER:

TYPE OF ACCOUNT: ☐ CHECKING ☐ SAVINGS ☐ LOCKBOX

SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL:
(Could be the same as ACH Coordinator)

TELEPHONE NUMBER: ( )

AUTHORIZED FOR LOCAL REPRODUCTION

SF 3881 (Rev. 2/2003)
Prescribed by Department of Treasury
31 U S C 3322; 31 CFR 210

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120679

1. ACTION REQUESTED/PURPOSE:
Approve the write-off of tax, interest, and penalties for fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances. The total amounts of these accounts are $6,659.72: Tax $4,176.27; Interest $462.14; Penalties $1,919.07; and Fees $102.24. All of the account balances are considered to be uncollectable. It is estimated that the departmental expense in continuing to see collection of these account balances would surpass the amount collected. The amount of the Write-off is minor considering our collection of nearly $24.3 million in FY 2011.

2. FUNDING SOURCE:
N/A.

3. WHAT ACTION ACCOMPLISHES:
Cost savings and Operational Efficiency; This Action eliminates the costs of managing and maintaining records and continued collection efforts for these accounts. In addition, it provides for additional available time and effort to manage accounts deemed collectable.

4. MANAGEMENT RECOMMENDATION: Approve the write-off of tax, interest, and penalties for fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances. The total amounts of these accounts are $6,659.72.

5. Departmental Category: C16A		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☒ Ordinance 07-28 ☐ Admin Code ☐ Other	**9. Request Initiated** **Commissioner:** All **Department:** CONSTITUTIONAL OFFICERS **Division:** Clerk of Courts **By:** Tim Parks

10. Background:
The attached list of fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances as of July 28, 2012. The total amounts of these accounts are $6,659.72: Tax $4,176.27; Interest $462.14; Penalties $1,919.07; and Fees $102.24.
All of the accounts are considered to be uncollectable. They are either closed or contain immaterial residual balances. It is estimated that the departmental expense in continuing to see collection of these account balances would surpass the amount collected. Reasons for these accounts to have outstanding balances include:

- Simple payment errors or rounding differences
- Unreported foreclosures and sales
- Previous attempts to contact the account holder have been unsuccessful, and the cost of further attempts outweighs the benefits.

The requested motion has the approval of:
Tamara Pigott, Executive Director, Lee County Visitor & Convention Bureau and
Donna G. Harn, Director, Finance and Records Department, Lee County Clerk of Courts

11. Required Review:					
Tim Parks					
INTERNAL AUDIT					

12. Commission Action:

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120679

1. **ACTION REQUESTED/PURPOSE:** Approve the write-off of tax, interest, and penalties for fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances. The total amounts of these accounts are $6,659.72: Tax $4,176.27; Interest $462.14; Penalties $1,919.07; and Fees $102.24. All of the account balances are considered to be uncollectable. It is estimated that the departmental expense in continuing to see collection of these account balances would surpass the amount collected. The amount of the Write-off is minor considering our collection of nearly $24.3 million in FY 2011.

2. **FUNDING SOURCE:** N/A

3. **WHAT ACTION ACCOMPLISHES:** Cost savings and Operational Efficiency; This Action eliminates the costs of managing and maintaining records and continued collection efforts for these accounts. In addition, it provides for additional available time and effort to manage accounts deemed collectable.

4. **MANAGEMENT RECOMMENDATION:** Approve the write-off of tax, interest, and penalties for fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances. The total amounts of these accounts are $6,659.72.

5. **Departmental Category:** Constitutional Officers C16A		6. **Meeting Date:** 8-21-2012
7. **Agenda:**	8. **Requirement/Purpose:** *(specify)*	9. **Request Initiated:**
X **Consent**	___ **Statute**	**Commissioner:**
___ **Administrative**	X **Ordinance** 07-28	**Department:** Clerk of Court- Internal Audit
___ **Appeals**	___ **Admin. Code**	**Division:** TDT Education, Auditing, Compliance, and Enforcement
___ **Public**	___ **Other**	**By:** Tim Parks-Deputy Director
___ **Walk-On**		

4. **BACKGROUND:** The attached list of fifty-nine (59) specific outstanding Tourist Development Tax (TDT) account balances as of July 28, 2012. The total amounts of these accounts are $6,659.72: Tax $4,176.27; Interest $462.14; Penalties $1,919.07; and Fees $102.24.
All of the accounts are considered to be uncollectable. They are either closed or contain immaterial residual balances. It is estimated that the departmental expense in continuing to see collection of these account balances would surpass the amount collected. Reasons for these accounts to have outstanding balances include:

- Simple payment errors or rounding differences
- Unreported foreclosures and sales
- Previous attempts to contact the account holder have been unsuccessful, and the cost of further attempts outweighs the benefits.

The requested motion has the approval of:
Tamara Pigott, Executive Director, Lee County Visitor & Convention Bureau and
Donna G. Harn, Director, Finance and Records Department, Lee County Clerk of Courts

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
TD									

12. Commission Action:

_____ **Approved**
_____ **Deferred**
_____ **Denied**
_____ **Other**

#	Account #	Period	Type	Tax Due	Int Due	Pen Due	Fee Due*	TotalDue	EMP	Note	
1	21426	200905	R	$0.00	$0.56	$0.00	$0.00	$0.56	Mike	write off	
2	42583	200903	R	$3.35	$0.67	$0.00	$0.00	$4.02	Mike	20120721- Added to Blue Sheet mj	
3	42583	200904	R	$0.01	$0.00	$0.00	$0.00	$0.01	Mike	20120721- Added to Blue Sheet mj	
4	46048	200212	UP	$2,723.57	$0.00	$0.00	$0.00	$2,723.57	Mike	sold - write off	
5	50487	201103	R		$6.42	$50.00	$30.00	$86.42		20120721- Added to Blue Sheet mj	
6	53016	201103	AU	$0.00	$5.50	$0.00	$0.00	$5.50		closed -write off	
7	53519	200903	R	$0.19	$0.04	$0.00	$0.00	$0.23	Tammy	write off	
8	53590	201003	R	$2.22	$0.00	$0.00	$0.00	$2.22	Frank	20120721- Added to Blue Sheet mj	
9	54927	200909	R	$0.00	$0.00	$50.00	$0.00	$50.00	Frank	Write off	
10	54927	201003	R	$19.36	$0.00	$0.00	$0.00	$19.36	Frank	Write off	
11	55245	200803	UP	$225.17	$0.00	$0.00	$0.00	$225.17	Frank	accumulated old balances	
12	55510	200803	UP	$67.51	$0.00	$0.00	$0.00	$67.51	Frank	20120721- Added to Blue Sheet mj	
13	55510	201003	R	$0.00	$4.73	$50.00	$30.00	$84.73		20120721- Added to Blue Sheet mj	
14	55541	200903	R	$0.25	$0.06	$0.00	$0.00	$0.31	Frank	20120721- Added to Blue Sheet mj	
15	56121	201003	R	$28.75	$3.52	$50.00	$0.00	$82.27	Mike	sold - write off	
16	56261	200903	R	$0.00	$0.00	$42.57	$0.00	$42.57	Frank	sold - write off	
17	56709	200803	UP	$49.47	$0.00	$0.00	$0.00	$49.47	Frank	accumulated old balances	
18	56947	201103	R	$0.00	$3.85	$50.00	$12.24	$66.09		20120721- Added to Blue Sheet mj	
19	57011	201003	AU	$0.00	$25.01	$0.00	$0.00	$25.01	Frank	sold - write off	
20	57126	200906	R	$0.00	$0.00	$346.80	$0.00	$346.80	Tammy	sold - write off	
21	57126	200907	R	$30.00	$47.44	$404.63	$0.00	$482.07	Tammy	sold - write off	
22	57126	200911	R	$30.00	$15.80	$326.25	$0.00	$372.05	Tammy	sold - write off	
23	57749	201103	AU	$0.00	$7.21	$0.00	$0.00	$7.21		closed -write off	
24	58216	201103	R	$0.00	$1.43	$0.00	$0.00	$1.43	Mike	Write off	
25	58592	201003	AU	$13.75	$32.80	$0.00	$0.00	$46.55		closed -write off	
26	58611	201006	R	$8.00	$0.96	$0.00	$0.00	$8.96	Joan	sold - write off	
27	58823	200909	R	$0.00	$0.00	$50.00	$0.00	$50.00	Joan	sold - write off	
28	58823	201003	R	$0.00	$0.00	$41.28	$0.00	$41.28	Joan	sold - write off	
29	58951	201003	R	$0.00	$8.97	$0.00	$0.00	$8.97	Frank	write off	
30	59083	200903	UP	$651.47	$0.00	$0.00	$0.00	$651.47	Joan	closed -write off	
31	59804	201103	AU	$0.00	$5.01	$0.00	$0.00	$5.01		20120721- Added to Blue Sheet mj	
32	59370	200903	R	$0.01	$0.00	$0.00	$0.00	$0.01	Mike	20120721- Added to Blue Sheet mj	
33	59699	201103	R2	$0.00	$14.63	$0.00	$0.00	$14.63		20120721- Added to Blue Sheet mj	
34	59804	201103	AU	$0.00	$5.01	$0.00	$0.00	$5.01	Mike	Write off	
35	60588	201003	R	$0.00	$0.27	$50.00	$0.00	$50.27		20120721- Added to Blue Sheet mj	
36	62220	201003	R	$30.00	$4.31	$50.00	$0.00	$84.31	Mike	Write Off	
37	64119	200903	R	$0.00	$0.00	$7.54	$0.00	$7.54	Joan	closed -write off	
38	64350	201103	R	$0.00	$2.63	$50.00	$30.00	$82.63		20120721- Added to Blue Sheet mj	
39	66589	200903	AU	$7.50	$16.22	$0.00	$0.00	$23.72	Frank	20120721- Added to Blue Sheet mj	
40	66866	201106	R	$30.00	$1.71	$0.00	$0.00	$31.71	Frank	Active	
41	67264	201003	R	$0.00	$0.00	$50.00	$0.00	$50.00	Mike	Write off	
42	67369	200903	R	$0.00	$6.73	$0.00	$0.00	$6.73	Frank	closed -write off	
43	67369	201003	R	$30.00	$4.22	$0.00	$0.00	$34.22	Frank	closed -write off	
44	68233	201103	R	$22.50	$0.00	$0.00	$0.00	$22.50		closed -write off	

45	68418	201003	AU	$0.00	$9.21	$0.00	$0.00	$9.21	Mike	Write off	
46	68677	200903	R		$41.71			$41.71	Frank	Write off	
47	68971	201003	R	$0.00	$6.28	$0.00	$0.00	$6.28		20120721- Added to Blue Sheet mj	
48	70341	201003	R	$0.00	$7.19	$0.00	$0.00	$7.19	Mike	Write off	
49	70974	201003	R	$20.00	$2.88	$50.00	$0.00	$72.88	Mike	Write off	
50	71205	201003	R	$25.62	$3.59	$0.00	$0.00	$29.21		write off	
51	72082	200803	R	$0.00	$56.05	$0.00	$0.00	$56.05	Frank	write off	
52	72252	201203	AU	$0.00	$7.70	$0.00	$0.00	$7.70		20120721- Added to Blue Sheet mj	
53	73325	200903	R	$0.12	$0.00	$0.00	$0.00	$0.12	Frank	20120721- Added to Blue Sheet mj	
54	73351	200903	R	$0.93	$0.00	$0.00	$0.00	$0.93	Mike	sold - write off	
55	73472	200903	R	$0.06	$0.01	$0.00	$0.00	$0.07	Mike	write off	
56	73682	201003	R2	$0.00	$0.26	$50.00	$0.00	$50.26	Frank	Write off	
57	74021	201003	R	$0.00	$5.89	$50.00	$0.00	$55.89	Frank	closed -write off	
58	74176	201003	R	$8.75	$5.97	$50.00	$0.00	$64.72	Frank	Write off	
59	74639	201003	R	$0.01	$0.06	$0.00	$0.00	$0.07	Frank	20120721- Added to Blue Sheet mj	
60	76012	201003	R	$143.70	$22.84	$0.00	$0.00	$166.54		sold - write off	
61	76313	201003	AU	$0.00	$20.83	$0.00	$0.00	$20.83	Frank	sold - write off	
62	77052	201003	AU	$0.00	$21.96	$0.00	$0.00	$21.96	Frank	sold - write off	
63	77694	201103	R2	$4.00	$0.75	$50.00	$0.00	$54.75	Joan	closed -write off	
64	77856	201003	AU	$0.00	$17.76	$0.00	$0.00	$17.76	Frank	write off	
65	78034	201103	AU	$0.00	$5.34	$0.00	$0.00	$5.34			
66	78391	201203	R	$0.00	$0.15	$0.00	$0.00	$0.15	Frank		
				$4,176.27	$462.14	$1,919.07	$102.24	$6,659.72			
	* NOTE:										

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120680

1. ACTION REQUESTED/PURPOSE:
Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's Website at WWW.LEECLERK.ORG by accessing the BOCC Minutes and Documents link.

2. FUNDING SOURCE:
N/A.

3. WHAT ACTION ACCOMPLISHES:
Florida Statute Chapter 136.06 (1) requires that all County disbursements be recorded in the Minutes of the Board.

4. MANAGEMENT RECOMMENDATION: Compliance with the requirements of FS 136.06 (1).

5. Departmental Category: C16B		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☒ Statute 136.06(1) ☐ Ordinance ☐ Admin Code ☐ Other	**9. Request Initiated** **Commissioner:** All **Department:** CONSTITUTIONAL OFFICERS **Division:** Clerk of Courts **By:** Donna Harn

10. Background:

11. Required Review:					
Donna Harn					
FINANCE					

12. Commission Action:

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120880

1. ACTION REQUESTED/PURPOSE:

Request Board approves disbursements. The check and wire registers can now be viewed on the Clerk's website www.LeeClerk.org by accessing the BoCC Minutes and Documents link.

2. FUNDING SOURCE:

3. WHAT ACTION ACCOMPLISHES:

Florida Statute Chapter 136.06 (1) requires that all County disbursements be recorded in the Minutes of the Board

4. MANAGEMENT RECOMMENDATION:

Compliance with the requirements of FS 136.06 (1)

5. Departmental Category: C16B		**6. Meeting Date: August 21, 2012**
7. Agenda:	**8. Requirement/Purpose:** *(specify)*	**9. Request Initiated:**
X **Consent**	X **Statute** 136.06(1)	**Commissioner**
Administrative	**Ordinance**	**Department** Constitutional Officers
Appeals	**Admin. Code**	**Division**
Public	**Other**	**By: Donna G. Harn**
Walk-On		

10. Background:

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P. W. Director
					Analyst	Risk	Grants	Mgr.	

12. Commission Action:

_____ **Approved**
_____ **Deferred**
_____ **Denied**
_____ **Other**

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120681

1. ACTION REQUESTED/PURPOSE:
Request Board approval for the extension of the 2012 tax roll by the Property Appraiser to the Tax Collector prior to the completion of value adjustment board hearings, pursuant to Florida Statute 197.323.

2. FUNDING SOURCE:
N/A.

3. WHAT ACTION ACCOMPLISHES:
Allows the Tax Collector to mail 2012 tax notices on or before November 1, 2012; to collect and distribute tax revenue to taxing authorities before completion of value adjustment board hearings.

4. MANAGEMENT RECOMMENDATION: Approve.

5. Departmental Category: C16C		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☒ Statute 197.323 ☐ Ordinance ☐ Admin Code ☐ Other	**9. Request Initiated** **Commissioner:** All **Department:** CONSTITUTIONAL OFFICERS **Division:** Tax Collector **By:** Larry Hart

10. Background:
To allow sufficient time to prepare and mail tax notices on or before November 1, the Tax Collector annually requests the extension of the tax roll prior to the completion of value adjustment board hearings.

11. Required Review:					
Larry Hart	*Andrea Fraser*	*Tricia Jackson*	*Mike Figueroa*	*Tricia Jackson*	*Dave Harris*
TAX COLLECTOR	County Attorney	Budget Analyst	Risk	Grants	Budget Services
Pete Winton					
County Manager					

12. Commission Action:

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120681

1. ACTION REQUESTED/PURPOSE:

Request Board approval for the extension of the 2012 tax roll by the Property Appraiser to the Tax Collector prior to the completion of value adjustment board hearings, pursuant to Florida Statute 197.323.

2. FUNDING SOURCE:

3. WHAT ACTION ACCOMPLISHES:

Allows the Tax Collector to mail 2012 tax notices on or before November 1, 2012; to collect and distribute tax revenue to taxing authorities before completion of value adjustment board hearings.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: C16C		**6. Meeting Date:** 8/21/12
7. Agenda:	**8. Requirement/Purpose:** *(specify)*	**9. Request Initiated:**
X Consent	X Statute 197.323	Commissioner
Administrative	Ordinance	Department Lee County Tax Collector
Appeals	Admin. Code	Division
Public	Other	By: Larry Hart
Walk-On		

10. Background:

To allow sufficient time to prepare and mail tax notices on or before November 1, the Tax Collector annually requests the extension of the tax roll prior to the completion of value adjustment board hearings.

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
					7/26/12	7/26/12	7/26/12	DH 7/26/12	7-26-12

12. Commission Action:

_____Approved
_____Deferred
_____Denied
_____Other

RECEIVED BY COUNTY ADMIN: 7-26-12 1:45PM

COUNTY ADMIN FORWARDED TO: Public Res. 7-26-12 3:15PM

Lee County
Tax Collector
State of Florida

July 25, 2012

Lee County Board of
County Commissioners
Attn: Honorable John E. Manning, Chairman
P O Box 398
Fort Myers FL 33902-0398

2012 JUL 26 PM 12:31
RECEIVED BY
LEE CO. ATTORNEY

SUBJECT: Extension of the 2012 Tax Roll

Dear Chairman Manning and Commissioners:

Pursuant to F.S. 197.323, I am hereby requesting that the Lee County Board of County Commissioners, by majority vote, order the 2012 tax roll to be extended prior to completion of the Value Adjustment Board hearings. By your action, the tax notices for 2012 can be mailed to property owners in a timely manner.

Subsequent to the Value Adjustment Board hearings, the Tax Collector has the authority to make adjustments and corrections authorized by the Value Adjustment Board.

Sincerely,

Larry Hart
Lee County Tax Collector

C: The Honorable Kenneth M. Wilkinson
Lee County Property Appraiser

Michael D. Hunt
Lee County Attorney

The Honorable Charlie Green
Lee County Clerk of Court

Karen B. Hawes
Lee County Manager

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120683

1. ACTION REQUESTED/PURPOSE:
Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of August 6 thru August 10, 2012: August 6, 2012 (Zoning), August 6, 2012 (Management & Planning), August 7, 2012 (Regular Meeting).

2. FUNDING SOURCE:
N/A.

3. WHAT ACTION ACCOMPLISHES:
Approval of the Board Minutes, pursuant to Florida Statute 286.011.

4. MANAGEMENT RECOMMENDATION: Approve.

5. Departmental Category: C16D		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☒ Statute 286.011 ☐ Ordinance ☐ Admin Code ☐ Other	**9. Request Initiated** **Commissioner:** All **Department:** CONSTITUTIONAL OFFICERS **Division:** Clerk of Courts **By:** Lisa Pierce

10. Background:
The summary of each of the above Minutes were provided to the Board members sitting at those meetings within one week of the meeting. Any comments from the Commissioners were taken into consideration in the development of the final minutes now presented for approval.

Attached is a listing of all documents that have not been received as of the date the Blue Sheet approval request was submitted for the Agenda.

11. Required Review:					
Lisa Pierce					
MINUTES					

12. Commission Action:

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120683

1. ACTION REQUESTED/PURPOSE:

Approve the Minutes for the following meetings of the Board of County Commissioners held during the week of August 6 thru August 10, 2012.

August 6, 2012 (Zoning)
August 7, 2012 (Regular Meeting)
August 6, 2012 (Management & Planning)

2. FUNDING SOURCE:

Not Applicable.

3. WHAT ACTION ACCOMPLISHES:

Approval of the Board Minutes, pursuant to Florida Statute 286.011

4. MANAGEMENT RECOMMENDATION:

Approve.

5. Departmental Category: C1 6 D		**6. Meeting Date:** 8-21-12
7. Agenda:	**8. Requirement/Purpose:** *(specify)*	**9. Request Initiated:**
____ **Consent**	____ **Statute** ____	**Commissioner** ____
____ **Administrative**	____ **Ordinance** ____	**Department** Minutes Office
____ **Appeals**	____ **Admin. Code** ____	**Division** ____
____ **Public**	____ **Other** ____	**By: Lisa L. Pierce,**
____ **Walk-On**		Minutes Office Manager

10. Background:

The summary of each of the above Minutes were provided to the Board members sitting at those meetings within one week of the meeting. Any comments from the Commissioners were taken into consideration in the development of the final minutes now presented for approval.

Attached is a listing of all documents that have not been received as of the date the Blue Sheet approval request was submitted for the Agenda.

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
Lisa L Pierce									

12. Commission Action:

_____ **Approved**
_____ **Deferred**
_____ **Denied**
_____ **Other**

ZONING MEETING NEEDS LIST - AUGUST 6, 2012

CASE NO.	CASE NAME	RESO NO.	RECEIVED	SCAN
DCI2011-00020	Mann/Hall, called and carried. CENTER FOR HOPE	**Z-12-012**		

REGULAR MEETING NEEDS LIST - AUGUST 7, 2012

ITEM NO.	BLUE SHEET	DESCRIPTION	COPY	ORIGINAL	SCAN
C12(a)	20120605	Transfer of Funds - Fund#30700 - $170,000.00 Agr – C. W. Roberts Contracting, Inc.		08/08/12 jt	jt
C12(b)	20120625	Purchase Agr - ITS equipment – Express Supply, Inc.			

Lee County Board Of County Commissioners
Agenda Item Summary **Blue Sheet No. 20120684**

1. ACTION REQUESTED/PURPOSE:
Approve disbursement of excess funds resulting from the sale of tax deed certificates to a claimant verified and certified under Florida Statutes 197.582.

2. FUNDING SOURCE:
Proceeds from a tax deed sale in excess of the taxes and/or liens owed are being held by the Board for disbursements in accord with Florida Statutes, Chapter 197.

3. WHAT ACTION ACCOMPLISHES:
Provides for disbursement of excess tax deed proceeds to an appropriate claimant in compliance with statutory rules and requirements.

4. MANAGEMENT RECOMMENDATION: Approve disbursement to identified claimant.

5. Departmental Category: C16E		**6. Meeting Date:** 8/21/2012
7. Agenda: Consent	**8. Requirement/Purpose:** ***(specify)*** ☒ Statute 197 ☐ Ordinance ☒ Admin Code 12D-13 ☐ Other	**9. Request Initiated** **Commissioner:** All **Department:** CONSTITUTIONAL OFFICERS **Division:** Clerk of Courts **By:** Christine Lardieri

10. Background:
F.S. Chapter 197 establishes the process for the sale of delinquent tax deed certificates and disbursement of the sale proceeds. Subsequent to the sale, the Clerk disbursed funds to pay the outstanding property taxes, costs of the sale and recorded governmental liens. A balance in excess of these liabilities remains and is being held by the County in compliance with F.S. 197.582.

In accord with F.S. 197.582, a verified claim has been filed by an appropriate beneficiary for the excess tax deed sale proceeds.

The claimant's entitlement to the identified funds has been verified by the Lee County Clerk and Lee County Attorney's Office and approval of the disbursement is recommended for the following claimant:

11. Required Review:					
Donna Harn	*Michael Jacob*				
FINANCE	County Attorney				

12. Commission Action:

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120084

1. ACTION REQUESTED/PURPOSE: Approve disbursement of excess funds resulting from the sale of tax deeds, to a claimant verified and certified under Florida Statutes §197.582.

2. FUNDING SOURCE: Proceeds from a tax deed sale in excess of the taxes and/or liens owed are being held by the Board for disbursement in accord with Florida Statutes, Chapter 197.

3. WHAT ACTION ACCOMPLISHES: Provides for disbursement of excess tax deed proceeds to an appropriate claimant in compliance with statutory rules and requirements.

4. MANAGEMENT RECOMMENDATION: Approve disbursement to identified claimant.

5. Departmental Category: 06 C16E		6. Meeting Date: 8-21-12
7. Agenda:	8. Requirement/Purpose: *(specify)*	9. Request Initiated:
X Consent	X Statute 197.582	Commissioner Clerk of Courts
Administrative	Ordinance	Department Finance/Records Dept.
Appeals	X FL Admin. Code 12D-13	Division Tax Deed Sales Office
Public	Other	By: Christine Lardieri, Mgr.
Walk-On		

10. Background:

F.S. Chapter 197 establishes the process for the sale of delinquent tax deed certificates and disbursement of the sale proceeds. Subsequent to the sale, the Clerk disbursed funds to pay the outstanding property taxes, costs of the sale and recorded governmental liens. A balance in excess of these liabilities remains and is being held by the County in compliance with F.S. §197.582.

In accord with F.S. §197.582, a verified claim has been filed by an appropriate beneficiary for the excess tax deed sale proceeds.

The claimant's entitlement to the identified funds has been verified by the Lee County Clerk and Lee County Attorney's Office and approval of the disbursement is recommended for the following claimant:

11. Review for Scheduling:

Dept. Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr	

12. Commission Action:

_____Approved
_____Deferred
_____Denied
_____Other

10. Background: Pursuant to Florida Statute Chapter 197; the Board is holding overbid funds from Delinquent Tax Sales. The Clerk has received a verified claim for these funds, within the two year period, and request that you release them for the following tax deed.

Strap #:
05-45-23-C3-04933.0050

Tax Deed #:
2010001408

Claimant:
Bank of America
C/O Drew, Eckl & Farnham LLP
PO Box 7600
Atlanta, GA 30357-0500

Amount:
$26,827.90

Dept. Director				County Attorney						

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120665

1. ACTION REQUESTED/PURPOSE:
Approve negotiated settlement in the case of Lee County v. East County Water Control District, et al., Lee County Circuit Court Case No. 11-CA-3987.

2. FUNDING SOURCE:
N/A

3. WHAT ACTION ACCOMPLISHES:
Settles the case on terms negotiated by the Parties.

4. MANAGEMENT RECOMMENDATION: Approve negotiated settlement.

5. Departmental Category: A14A		**6. Meeting Date:** 8/21/2012
7. Agenda: Administrative	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other Fla.R.Civ.P. 1.0420(a)(1)	**9. Request Initiated** **Commissioner:** **Department:** COUNTY ATTORNEY **Division:** No Divisions **By:** Jack Peterson

10. Background:
Lee County owns and maintains the 750 acre Hickey Creek Mitigation Park in eastern Lee County. The Park is subject to an ad valorem tax assessed by the East County Water Control District. This tax averages $94,000.00 per year. Lee County contested the amount of this tax alleging that the Park receives little or no benefit from District works and facilities. In the settlement, a studied engineering report details percentages of benefit the Park receives from District facilities. Based on the engineering report, the parties agree that Lee County's annual assessment will be set at 66.66% of full assessment, or a continuing savings of $31,394.00 per year.

11. Required Review:					
Michael D. Hunt	*Anne Henkel*	*David Harris*	*Peter Winton*		
COUNTY ATTORNEY	Budget Analyst	Budget Services	County Manager		

12. Commission Action:

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA.

LEE COUNTY, a political subdivision of The State of Florida

Plaintiff,

v.

LEE COUNTY TAX COLLECTOR, EAST COUNTY WATER CONTROL DISTRICT,

Defendants.

_____ /

CASE NO.: 07 CA-16513
08-CA-26235
09-CA-5394
10-CA-4858
11-CA-3987

SETTLEMENT AGREEMENT BETWEEN
EAST COUNTY WATER CONTROL DISTRICT AND LEE COUNTY

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into by and between Plaintiff, LEE COUNTY, a political subdivision of the State of Florida ("the COUNTY"), and Defendant, EAST COUNTY WATER CONTROL DISTRICT, an independent special district created and operating pursuant to Chapter 298, Florida Statutes, and Chapter 2000-423, Laws of Florida, amended, (the "DISTRICT") as a complete and final settlement of all claims raised and which could have been raised in the above-styled proceedings.

RECITALS

WHEREAS, the COUNTY is a political subdivision of the State of Florida; and

WHEREAS, the DISTRICT is an independent special district created pursuant to Chapter 298, Florida Statutes and Chapter 2000-423, Laws of Florida, amended, a large portion of which is located in Lee County, Florida; and

WHEREAS, the COUNTY is the fee simple owner of the Hickey Creek Mitigation Park, located in Sections 30 and 31, Township 43 South, Range 27 East, Lee County, Florida,

containing approximately 750 acres ("the Property"), the legal description of which is attached hereto as Exhibit A; and

WHEREAS, the Property is located entirely within the boundaries of the District; and

WHEREAS, the COUNTY has owned the Property and has maintained it in its natural state as a mitigation park since approximately 1995; and

WHEREAS, the DISTRICT annually levies non-ad valorem improvement and maintenance assessments on the assessable acres within the DISTRICT to cover its construction, operation and maintenance costs, including assessments on the Property; and

WHEREAS, the COUNTY has challenged the DISTRICT's non-ad valorem assessments on the Property and has filed complaints in the Circuit Court of the Twentieth Judicial Circuit, in and for Lee County, Florida, at Case Nos. 07-CA-16513, 08-CA-26235, 09-CA-5394, 10-CA-4858 and 11-CA-3987 (the "Lawsuits") seeking to have the DISTRICT's non-ad valorem assessments on the Property for the years 2007 through 2011 declared unlawful and refunded to the COUNTY and precluding the District from imposing any non-ad valorem assessments on the Property in the future; and

WHEREAS, the DISTRICT has taken the position that the Property has benefitted by the DISTRICT's works, maintenance and operations to the same extent that other properties in the DISTRICT have benefitted and that the non-ad valorem assessments charged to the Property had been properly imposed and collected in accordance with the District's Amended Water Control Plan and, Engineers' Report, ECWCD Unit of Development No. 5, as amended, as subsequently revised December 15, 2008; and

WHEREAS, the COUNTY and the DISTRICT, by entering into this Agreement seek to settle the litigation between the two governmental entities and to establish their respective rights and obligations with respect to non-ad valorem assessments on the Property going forward.

NOW THEREFORE, in consideration of the above premises, in the absence of which this Agreement would not be executed and delivered by the COUNTY or the DISTRICT and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the COUNTY and the DISTRICT agreed to settle all claims that were or could have been asserted in the present litigation between them as follows:

SETTLEMENT PROVISIONS

1. The Recitals set forth above are an integral part of the Agreement, and are incorporated and adopted within these Settlement Provisions as if specifically included herein.

2. The parties hereby agree that as of the date of this Agreement, and at all times prior hereto, portions of the Property, when viewed as a whole, have benefitted from the works, maintenance and operations of the DISTRICT.

3. For the purposes of this Agreement, it is agreed that from an engineering standpoint, the Property, as a whole, receives less benefit from the DISTRICT's works, maintenance and operations than the remaining properties within the boundaries of the DISTRICT. As such, it is hereby agreed that going forward from the date of this Agreement, the DISTRICT's per acre non-ad valorem assessment imposed on the Property shall not exceed two-thirds of the DISTRICT's annual per acre non-ad valorem maintenance and operations assessments imposed upon the remaining assessable properties within the DISTRICT as determined by the uniform maintenance assessment methodology submitted by the District Engineer and adopted by the DISTRICT's Board.

4. The reduced assessment of benefits set forth herein for the Property is to be continued so long as the COUNTY does not change the nature or increase the intensity of use of the lands within the boundaries of the Property nor takes any other action which increases its need of, or benefits from, the works, maintenance or operations of the DISTRICT.

5. The parties agree that notwithstanding the provisions set forth in paragraphs ____ through ____ above, the DISTRICT shall not be required to refund to the COUNTY any taxes or assessments paid by the COUNTY to the DISTRICT with respect to the Property. In addition, it is understood and agreed that nothing contained herein precludes the DISTRICT, through the DISTRICT engineer and the Board of Supervisors, from increasing or decreasing the annual per acre non-ad valorem assessment on the Property through the DISTRICT's normal budgetary and amendment processes so long as the same assessment of benefit and assessment methodologies applied to other properties within the DISTRICT are applied to the COUNTY's Property. Further, so long as the land use of the Property does not change, and no additional capital improvements are constructed which provide benefit to the portions of the Property not benefitted under the water control plan existing at the time of the effective date of this Agreement, COUNTY maintenance assessments will not exceed two-thirds (2/3) of the annual per acre assessment rate of the other assessable property in the DISTRICT in accordance with the Amended Water Control Plan and Engineers' Report. To the extent that any future land use changes or new capital improvements are deemed by the DISTRICT to result in added benefits to the Property challenges to any such determination shall be in accordance with Chapter 298.301(a), F.S.

6. It is further understood and agreed that this Agreement is subject to and conditioned upon the DISTRICT's approval of a Water Control Plan amendment and revision to the respective Engineers' Report as set forth in Section 298.225(8), F.S., specifically implementing the terms of this Agreement.

DISMISSAL OF LITIGATION

7. Within thirty (30) days of the final execution of this Agreement, the COUNTY shall dismiss the Lawsuits by the filing of a joint notice of voluntary dismissal with prejudice to

the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida.

MISCELLANEOUS

8. This Agreement has been approved by the governing political bodies of the COUNTY and the DISTRICT and the signatories hereto represent their authority to execute the Agreement on behalf of the COUNTY and the DISTRICT.

9. This Agreement, including all benefits and obligations herein expressed, shall be binding upon all successors and assigns of the COUNTY and the DISTICT. [THIS SETTLEMENT AGREEMENT SHALL BE RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA?]

10. Nothing in this Agreement shall be deemed to affect the rights of any person not a party to this Agreement. This Agreement is not intended to benefit any third party who is not a signatory to this Agreement with the exception of the general intent of the Agreement to benefit the public interests of the COUNTY and of the DISTRICT.

11. Each party to this Agreement shall bear its own costs, including attorney's fees, incurred in connection with the legal proceedings resolved by this Agreement.

12. All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.

13. This is the entire Agreement between the parties and no verbal or written assurance or promises is effective or binding unless included in this document.

14. The parties agree that the respective covenenats and promises agreed to herein are unique and, in the event of a breach thereof, are not likely to be compensable by reasonably calculable monetary damages. Accordingly, in addition to any and all other relief either party may be entitled to by virtue of the other party's breach of any of the covenants and agreements

contained herein, this Agreement may be enforced through the remedies of specific performance and injunctive relief.

15. This Agreement shall become effective immediately upon execution by the COUNTY and the DISTRICT pursuant to the approval and authority of their respective boards and the DISTRICT's adoption of a Water Control Plan Amendment and revision of the respective Engineers' Report in accordance with Section 298.225(8), F.S., as set forth above.

16. This Agreement may be executed in any number of originals, all of which evidence one Agreement, and only one of which need be produced for any purpose.

17. In the event proceedings are brought to enforce the terms of this Agreement or to resolve any dispute between the parties arising from this Agreement, the prevailing party shall be entitled to receive its reasonable attorney's fees, court costs, and litigation expenses, trial and appellate, including all fees and costs of all experts, consultants, and other related out of court costs. [?]

18. This Agreement shall be construed in its entirety and no portion hereof is severable. Each clause is dependent on the remaining clauses and common to the entire contract and the parties agree that should any one or more of the paragraphs or provisions contained in this Agreement be, for any reason, held to be invalid, illegal or unenforceable in any respect, the entire Agreement shall be void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

FOR LEE COUNTY, FLORIDA

By:_____ Date:_____

Its:_____

STATE OF FLORIDA
COUNTY OF LEE

Before me, the undersigned authority, duly authorized to take oaths, appeared _____ on behalf of Lee County, Florida, who is personally known to me or who has produced _____ as identification and has signed the foregoing instrument.

Witnessed by hand and official seal in the County and State last aforesaid this ___ day of _____, 2012.

_____
NOTARY PUBLIC, State of Florida

_____
NOTARY (print name)

My Commission Expires:

EAST COUNTY WATER CONTROL DISTRICT

By:_____ Date:_____

Its:_____

STATE OF FLORIDA
COUNTY OF LEE

Before me, the undersigned authority, duly authorized to take oaths, appeared _____ on behalf of East County Water Control District, who is personally known to me or who has produced _____ as identification and has signed the foregoing instrument.

Witnessed by hand and official seal in the County and State last aforesaid this ___ day of _____, 2012.

_____
NOTARY PUBLIC, State of Florida

_____
NOTARY (print name)

My Commission Expires:

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20120716

1. ACTION REQUESTED/PURPOSE:
Approve Modification to County Emergency Operations Center (EOC) subgrant agreement #07-EC-33-09-46-01-490 with the State of Florida, Division of Emergency Management to extend the period of performance for Phase II, Construction to December 31, 2012.

2. FUNDING SOURCE:
N/A.

3. WHAT ACTION ACCOMPLISHES:
Provides an extension of the period of performance for the Phase II, Construction of the new EOC.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: WO1		**6. Meeting Date:** 8/21/2012
7. Agenda: Walk-On	**8. Requirement/Purpose:** ***(specify)*** ☐ Statute ☐ Ordinance ☐ Admin Code ☒ Other	**9. Request Initiated** **Commissioner:** **Department:** PUBLIC SAFETY **Division:** Emergency Management **By:** Kim Dickerson

10. Background:
On May 22, 2012 blue sheet #20120433, the Board of County Commissioners approved a modification to the County Emergency Operations Center subgrant agreement #07-EC-33-09-46-01-490 to accept additional federal funds for Phase II, Construction in the amount of $3,080,332 to be expended on or before August 30, 2012. The proposed Modification extends the agreement to December 31, 2012.

Total grant funds thus far are as follows:
Current state $1,480,839
Current federal $70,274
Current Federal $3,080,332
Total $4,631,445

Attachments:
Four (4) Copies of Modification

11. Required Review:					
Kim Dickerson	*Andrea Fraser*	*Robert Franceschini*	*Tricia Jackson*	*David Harris*	*Holly Schwartz*
PUBLIC SAFETY	County Attorney	Purchasing	Budget Analyst	Budget Services	County Manager

12. Commission Action:

MEMORANDUM
FROM THE
DIVISION OF PUBLIC SAFETY

To: Lee County Board of County Commissioners
From: John Wilson, Public Safety Director
Subject: Walk-on for August 21, 2012
Date: August 17, 2012

I would like to request Blue Sheet #20120716 to be scheduled for the August 21, 2012 Board Meeting. The blue sheet provides an extension for the construction costs of a new EOC from August 30 to December 31, 2012. Therefore, the request must be acted upon immediately.

Please contact David Saniter at 533-3601, if you have any questions concerning this request.

Attachment

Contract Number: **07-EC-33-09-46-01-490**

MODIFICATION # 6 TO SUBGRANT AGREEMENT

This Modification is made and entered into by and between the State of Florida, Division of Emergency Management, ("the Division"), and **Lee County** ("the Recipient") to modify the Division's Contract Number **07-EC-33-09-46-01-490**, dated June 1, 2007 ("the Agreement").

WHEREAS, the Division and the Recipient have entered into the Agreement, pursuant to which the Division provided a sub-grant of $4,631,445 ($1,480,839 in state funds and $70,274 in federal funds for Phase I) and $3,080,332 for Phase II; and

WHEREAS, the state funds of $1,480,839 must be expended on or before April 20, 2012, and the federal funds Phase II, Construction of $3,080,332 must be expended on or before August 30, 2012; and

WHEREAS, the Agreement expired on August 30, 2012, and the Division and the Recipient desire to reinstate, extend and amend the Budget and Scope of Work, Revised Attachment A – Federal to the agreement.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

1. Paragraph 3 of the Agreement is hereby amended is to read as follows:
   This agreement shall begin January 24, 2007, and shall end **December 31, 2012**, unless terminated earlier in accordance with the provisions of Paragraph (12) of this agreement.

2. The Budget and Scope of Work, Revised Attachment A- Federal, to this Agreement, is hereby deleted in its entirety, and the Budget and Scope of Work, Revised Attachment A-Federal, to this Modification, which is attached hereto and incorporated herein by reference, are substituted in its place and stead. The Budget and Scope of Work, Revised Attachment A-Federal, contains the additional provisions that apply to the added federal funding and period of performance extension.

3. All provisions not in conflict with this Modification remain in full force and effect, and are to be performed at the level specified in the Agreement.

4. All provisions of the Agreement being modified and any attachments thereto in conflict with this Modification shall be and are hereby changed to conform with this Modification, effective as of the date of the last execution of this Modification by both parties.

5. The federal quarterly reports are due to the Division no later than 15 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close out report. The ending dates for each quarter of the program year are March 31, June 30, September 30, and December 31.

IN WITNESS WHEREOF, the parties hereto have executed this document on the dates set out below.

RECIPIENT: **LEE COUNTY**

BY: _____

NAME & TITLE: _____

DATE:_____

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

BY: _____
Bryan Koon, Director

DATE:_____

Attachment A – Federal (Revised)

Budget and Scope of Work

As a Hazard Mitigation Grant Program project, the Recipient, Lee County, will provide protection needed for the above code hardening for the new construction of the Lee County Emergency Operations Center (EOC) located at 2665 Ortiz Avenue, Fort Myers, Florida 33905. The entire shell and roof will be hardened beyond code against 200 mph winds and impact resistant windows will be installed. If deemed necessary, wind protection will be provided on any other openings such as skylights, vents, louvers, and exhaust fans. All construction components and installations will be done and met in strict compliance with Florida Building Codes Specifications. All materials will be certified to meet the wind and impact standards of 200 mph wind loads. The local municipal or county building department will inspect and certify construction and installation according to the manufacturer specifications.

FEMA granted approval to commence early sitework activities on **January 6, 2011**. The following environmental conditions must be adhered to throughout the duration of the project.

Environmental conditions and documentation:

1. Sub-grantee must obtain and comply with all necessary state and local permits, codes, and standards, and conditions set forth in each, including employment of standard best management practices (BMP);
2. Actions must not affect historic properties, and potential effects to historic properties (if any) have been addressed in consultation with the State Historic Preservation Officer (SHPO) and conducted in accordance with Section 106 of the National Historic Preservation Act. If during project implementation it appears that previously-unidentified historically or archaeologically significant materials (or evidence thereof) are discovered, the sub-grantee shall stop work immediately, notify FEMA and take all reasonable measures to avoid or minimize harm to the property. The sub-grantee would not proceed with work until FEMA, in consultation with the SHPO, determines that appropriate measures have been taken to ensure that the project is in compliance with the National Historic Preservation Act.
3. Actions must not have extraordinary circumstances as described in 44 CFR Part 10.8 (d)(3).
4. Actions must comply with the requirements of Executive orders (EO) 11988 (Floodplains), EO 11990 (Wetlands), and EO 12898 (Environmental Justice).
5. Actions affecting resources regulated by the Clean Water Act must qualify under the US Army Corps of Engineer's Nationwide Permit Program and Florida Department of Environmental Protection (DEP) General Permit.
6. The project will have no effect on any federally listed threatened or endangered species, or their habitat and is in compliance with the Endangered Species Act (ESA).

   As a reminder, any property being mitigated with Federal hazard mitigation assistance funding in a Special Flood Area (SFHA) must comply with SFHA Guidance. The Recipient must include a statement of assurance during project closeout, verifying that SFHA requirements were met, if the structure is on SFHA.

   The above environmental documents must be provided by the Recipient at project closeout.

This is FEMA project **1609-151-R**, funded under 1609-DR-FL.

The Period of Performance for this project ends on **December 31, 2012**.

Schedule of Work

Construction Phase:	20 Months
Total Period of Performance:	**20 Months**

Line Item Budget*

	Project Cost	Federal Share	Non-Federal Share
Additional Phase I Design Costs	$ 0.00	$ 61,366.00	$ 0.00
Sub-total:	**$ 0.00**	**$ 61,366.00**	**$ 0.00**
Administrative Cost:	$ 0.00	$ 0.00	$ 0.00
Total:	**$ 0.00**	**$ 61,366.00**	**$ 0.00**

	Project Cost	Federal Share	Non-Federal Share
Above Code Phase II Construction Materials and Supplies:	$3,961,397.00	$ 2,971,048.00	$ 990,349.00
Sub-total:	**$3,961,397.00**	**$ 2,971,048.00**	**$ 990,349.00**
Administrative Cost:	$ 0.00	$ 47,918.00	$ 0.00
Total:	**$3,961,397.00**	**$ 3,032,414.00**	**$ 990,349.00**

* *Any line item amount in this Budget may be increased or decreased 10% or less without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

Funding Summary

Federal Share:	$ 2,971,048.00 (75%)
Local Share:	$ 990,349.00 (25%)
Total Project Cost:	$ 3,961,397.00 (100%)

Recipient Phase II Administrative Allowance up to $47,918.00

Phase I Federal Share Supplemental $61,366.00

The materials and work funded pursuant to this Subgrant Agreement are intended to decrease the vulnerability of the building to property losses and are specifically not intended to provide for the safety of inhabitants before, during or after a natural man-made disaster.

The funding provided by the Division of Emergency Management under this subgrant shall compensate for the materials and labor for the installation of storm shutters and/or other hardening activities as a retrofit measure for the Recipient's building to reduce and/or mitigate the damage that might otherwise occur from severe weather or other hazards. The funding of this project by the Department does not confer or imply any warranty of use or suitability for the work performed pursuant to this agreement. The State of Florida disclaims all warranties with regard to this mitigation project, express or implied, including but not limited to, any implied warranties and/or conditions of satisfactory quality and fitness for a particular purpose, merchantability, or merchantable quality.

This project has not been evaluated by the criteria contained in the standards of the Department of Homeland Security, Federal Emergency Management Agency (FEMA) guidance manual FEMA 361-Design and Construction for Community Shelter, and thus does not provide "near absolute protection." It is understood and agreed by the Department and the Recipient that the building may have vulnerabilities due to age, design and location which may result in damage to the building from wind events even after the installation of the mitigation measures funded under this Subgrant Agreement. It is further understood and agreed by the Department and the Recipient that the level of wind protection provided by the mitigation action, although meeting State standards and codes and enhancing the structural integrity of the building, does not ensure the safety of survival of building occupants.