



AGENDA ITEM MEMORADUM

Town Manager

Connie Hoffmann

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> May 22, 2012	May 11
<input type="checkbox"/> June 12, 2012	June 1
<input type="checkbox"/> June 26, 2012	June 15
<input type="checkbox"/> July 10, 2012	June 29
<input type="checkbox"/> July 24, 2012	July 13

*Subject to Change

- Presentation Reports Consent Ordinance
 Resolution Quasi-Judicial Old Business New Business

FY2012 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC

SUBJECT TITLE: A Resolution authorizing and directing appropriate Town officials to execute an agreement for funds available through Broward County's 37th Year Community Development Block Program for FY 2011-2012.

EXPLANATION: The CDBG grant provides funding in the amount of \$26,640 for the Town's senior activities program. The Town is required to provide a match of \$33,360. The match is covered by the funds we have budgeted for Armilio Bien-Aime's contract, equipment purchases we make for the community center, maintenance, utility and insurance costs associated with the center, and other administrative and capital overhead costs.

RECOMMENDATION: Adopt Resolution 2012-25

FISCAL IMPACT AND APPROPRIATION OF FUNDS:

\$33,360 – Account # 001-572-000-500.342 and other miscellaneous accounts

EXHIBITS: Resolution 2012-25

Reviewed by Town Attorney

- Yes – Resolution No

Town Manager Initials

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RESOLUTION 2012-25

A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE A GRANT AGREEMENT FOR FUNDING \$26,640.00 THROUGH THE BROWARD COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR FISCAL YEAR 2011/2012 FOR SENIOR CENTER ACTIVITIES; AUTHORIZING THE EXPENDITURE OF MATCHING FUNDS IN THE AMOUNT OF \$33,360.00; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lauderdale-By-The-Sea finds it desirable to apply for grant funding through the Broward County Community Development Block Grant Program for Fiscal Year 2011/2012; and

WHEREAS, the grant will enable the Town to continue its effort to improve the senior center activities for the residents of the Town of Lauderdale-By-The-Sea, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:

Section 1. Recitals. Each “WHEREAS” clause set forth is true and correct and incorporated herein by this reference.

Section 2. Authorization of Agreement. The Town Manager is hereby authorized to execute the agreement between Broward County and the Town in the form attached hereto as Exhibit “A” for grant funding in the amount of \$26,640.00 for senior center activities for fiscal year 2011/2012 under the 37th Year Community Development Block Grant Program.

Section 3. Authorization of Funds. The Town is hereby authorized to expend matching funds for the grant in the amount of \$33,360.00 for the provision of senior activities and programs.

Section 4. Conflict. All resolutions or parts of resolution in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Severability. If any clause, section or other part of this resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such

37 unconstitutional or invalid part shall be considered as eliminated and in no way affecting the
38 validity of the other provisions of this resolution.

39 **Section 6. Effective Date.** This resolution shall become effective immediately upon
40 its passage.

41 **PASSED AND ADOPTED** this _____ day of _____, 2012.

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43 _____
44 Mayor Roseann Minnet

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48 Attest: APPROVED AS TO FORM:

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50 _____
51 Town Clerk, June White CMC

Susan L. Trevarthen, Town Attorney

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54 (CORPORATE SEAL)

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Environmental Protection and Growth Management Department
HOUSING FINANCE AND COMMUNITY DEVELOPMENT DIVISION
110 NE 3rd Street, Suite 300 • Fort Lauderdale, Florida 33301 • 954-357-4900 • FAX 954-357-8228

May 2, 2012

Constance Hoffmann, Town Manager
Town of Lauderdale-By-the-Sea
4501 Ocean Drive
Lauderdale-By-the-Sea, FL 33308

**RE: 37th CDBG Year Funding Agreement
Town of Lauderdale-By-the-Sea
Senior Center Activities & Operation- \$26,640**

Dear Ms. Hoffmann:

Enclosed are four (4) original funding agreements between Broward County and the **Town of Lauderdale-By-the-Sea.**

Please execute all four (4) original funding agreements, affix corporate seal and return the original documents to my attention as soon as possible for processing and execution by the County Administrator.

Please do not incur costs or expenses until you have received written authorization in the form of a letter of Notice to Proceed from this office.

If there are any further questions, please contact Bram Persaud, CD Specialist of my staff (954) 357-4937.

Sincerely,

A handwritten signature in black ink, appearing to read "R Stone".

Ralph Stone, Director
Housing Finance and Community Development Division

Attachments (4)

05-11-12 P02:32 IN

AGREEMENT

Between

BROWARD COUNTY

and

TOWN OF LAUDERDALE-BY-THE-SEA

**PROVIDING FOR FUNDING AND ADMINISTRATION OF
37th YEAR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS**

for

SENIOR CENTER ACTIVITIES & OPERATION

IN THE AMOUNT OF \$26,640

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EXHIBITS

EXHIBIT "A"	PROJECT DESCRIPTION
EXHIBIT "B"	BUDGET TABLE/COSTS FOR PROJECT
EXHIBIT "C"	PROJECT SCHEDULE/TIMELINE TABLE
EXHIBIT "D"	MONTHLY PROGRESS REPORT
EXHIBIT "E"	REQUEST FOR PAYMENT

AGREEMENT

Between

BROWARD COUNTY

and

TOWN OF LAUDERDALE-BY-THE-SEA

PROVIDING FOR FUNDING AND ADMINISTRATION OF
37th YEAR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS

for

SENIOR CENTER ACTIVITIES & OPERATION

IN THE AMOUNT OF \$26,640

This is an Agreement between: BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY," through its Board of County Commissioners,

AND

TOWN OF LAUDERDALE-BY-THE-SEA, a municipal corporation of the State of Florida, its successors in interest, hereinafter referred to as "TOWN."

WITNESSETH

WHEREAS, COUNTY is a recipient of Community Development Block Grant ("CDBG") funds from the United States Department of Housing and Urban Development ("H.U.D.") pursuant to 24 CFR 85; and

WHEREAS, on June 14, 2011, the Board adopted Resolution #2011-358 approving funding to TOWN under COUNTY's CDBG Program for TOWN's SENIOR CENTER ACTIVITIES & OPERATION, under the terms and conditions more specifically described herein; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, COUNTY and TOWN agree as follows:

ARTICLE 1 - DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1 **Assurances:** means the assurances made by TOWN to COUNTY as specifically set forth in this Agreement.
- 1.2 **Board:** means the Board of County Commissioners of Broward County, Florida, which is the governing body of the Broward County government created by the Broward County Charter.
- 1.3 **Broward County CDBG Program or Program:** means the Community Development Program applied for by Broward County and awarded by H.U.D. as authorized pursuant to Title I, Housing and Community Development Act of 1974, Public Law 93-383, as amended.
- 1.4 **CDBG Funds:** means the Community Development Block Grant Funds; the monies provided by COUNTY to TOWN pursuant to the terms of this Agreement.
- 1.5 **County Administrator:** means the administrative head of COUNTY pursuant to Sections 3.02 and 3.03 of the Broward County Charter.
- 1.6 **County Attorney:** means the chief legal counsel for COUNTY who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter.
- 1.7 **Division:** means the Housing Finance and Community Development Division of Broward County and the Community Development Specialist and/or Division Manager designated by the Division Director to administer this Agreement. Unless provided for otherwise in this Agreement, in the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Community Development Specialist and/or Division Manager designated by the Division Director.
- 1.8 **H.U.D.:** means the United States Department of Housing and Urban Development.
- 1.9 **Project:** means the Project(s) set forth in Article 3 herein and Exhibit "A," Project Description.
- 1.10 **Rules and Regulations of H.U.D.:** means 24 C.F.R. 570, "Community Development Block Grant Regulations"; 24 C.F.R. 85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments"; OMB Circular A-87 (now 2 C.F.R. 225), "Cost Principles for State, Local and Indian Tribal Governments"; OMB Circular A-133, "Audits of States, Local Governments and Non-Profit

Organizations"; as may be amended from time to time, and copies of which are incorporated herein by reference.

ARTICLE 2 - PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1 Title I of the Housing and Community Development Act of 1974, P.L. 93-383, consolidated several existing categorical programs for community development into a single program of CDBGs for the purpose of allowing local discretion as to the determination of needs and priorities for a community development program. The needs and priorities of community development in Broward County were determined through consultation with representatives of the community participating in the Broward County CDBG Program.
- 2.2 Pursuant to 24 C.F.R. 570.200(a) and 570.301 of the Rules and Regulations of H.U.D., the Project was included in the Broward County CDBG Program submission to H.U.D. It was determined that the proposal funded under this Project is eligible and will address one (1) or more of the following three (3) national objectives:
 - 2.2.1 Activities benefiting a majority (at least 51%) of low and moderate-income persons in primarily residential areas, including:
 - a) Area benefit activities (uniform emergency telephone numbers system, payment of special assessments, qualifying activities in areas that are either a Federally-designated Empowerment Zone or Enterprise Community);
 - b) Limited clientele activities (at least 51%) of whom are low and moderate income, abused children, battered spouses, elderly persons, those "severely disabled," homeless, illiterate, persons living with AIDS, and migrant and farm workers; activities that serve to remove material or architectural barriers to the mobility or accessibility of elderly persons or those "severely disabled"; a micro enterprise related assistance activity; a qualified activity designed to provide job training and placement and/or other employment and support services);
 - c) Housing activities carried out for providing or improving permanent residential structures; and
 - d) Job creation or retention activities designed to create or retain permanent jobs.

- 2.2.2 Activities which aid in the prevention or elimination of slums or blight based on varied criteria including, but not limited to, meeting the definition of a slum, blighted, or deteriorated area under State or local law; the documented presence of a number of deteriorated buildings or public improvements and addressing the conditions which contributed to the deterioration; rehabilitation to eliminate specific conditions detrimental to public health and safety; and activities which address prevention or elimination of slums or blight in an urban renewal areas.
- 2.2.3 Activities designed to meet community development needs having a particular urgency if the recipient of CDBG Funds certifies that the activity is designed to alleviate existing conditions which pose a serious threat to the health or welfare of the community, are of recent origin, the recipient is unable to finance the activity on its own, and that other sources of funding are not available.
- 2.3 Under the Rules and Regulations of H.U.D., COUNTY is the administrator for the Program and is mandated to comply with various Federal statutes, rules and regulations of the United States and the Rules and Regulations of H.U.D., as to the allocation and expenditure of CDBG Funds as well as protecting the interests of certain classes of individuals who reside in Broward County, Florida.
- 2.4 COUNTY shall conduct all programs and activities relating to housing and community development in a manner which will affirmatively further fair housing. COUNTY shall fund only subrecipients who have taken steps to promote fair housing.
- 2.5 COUNTY desires to disburse CDBG Funds to TOWN and has obtained assurances from TOWN that it will comply with all applicable federal statutes, rules and regulations, the Rules and Regulations of H.U.D., the State of Florida, and all applicable codes and regulations of COUNTY relating to the Project and the Program, as a condition precedent to the release of such CDBG Funds to TOWN.
- 2.6 If TOWN is found to be taking actions designed to discourage affordable housing for sale or rent within the boundaries of Broward County, it shall not be eligible to receive CDBG Funds under this Agreement.
- 2.7 This Agreement is subject to the availability of funds as more specifically described in Articles 4 and 10 herein.

ARTICLE 3 – PROJECT

- 3.1 TOWN shall provide the following eligible Project:

SENIOR CENTER ACTIVITIES & OPERATION

The Project is more specifically described and set forth in Exhibit "A," Project Description, attached hereto.

- 3.2 TOWN shall implement the Project and comply with the Project Schedule/Timeline Table set forth in Exhibit "C," attached hereto. Failure to maintain the implementation schedule within sixty (60) days of the deadlines identified in Exhibit "C" may warrant a full review by the Division to meet H.U.D.'s required expenditure rates for the Program year. Such referral may be the first step toward possible reprogramming of funds. Failure to maintain the implementation schedule within ninety (90) days of the deadlines may be cause for a recommendation from the Division that all uncommitted and unexpended funds be transferred to the contingency account or be reprogrammed consistent with the Housing and Community Development Act of 1974, as amended.
- 3.3 The Division may issue a Stop Order to TOWN which shall halt all work on the Project in the event that the work is not being done according to the terms of this Agreement or when, in the Division Director's judgment, TOWN, or its contractor(s), have violated federal guidelines and regulations, or the terms of this Agreement.
- 3.4 The Division will carry out periodic monitoring and evaluation activities as determined necessary by the Division. The continuation of this Agreement is dependent upon satisfactory evaluations. Such evaluations will be based on the terms of this Agreement, comparisons of planned versus actual progress relating to the Project's scheduling, budgets, in-kind contributions and output measures. Upon request, TOWN shall furnish to the Division Director, COUNTY, or their designees, such records and information related to the Project as is determined necessary by the Division Director or COUNTY. TOWN shall submit on a monthly and quarterly basis, and at other times upon the request of the Division Director, information and status reports required by Division, COUNTY or H.U.D. on forms approved by the Division Director.
- 3.5 TOWN shall meet with COUNTY at reasonable times and with reasonable notice to discuss the Project.
- 3.6 TOWN shall provide COUNTY with Monthly Progress Reports as provided in Exhibit "D," attached hereto, which shall indicate the status of all outstanding work that has been authorized by COUNTY including the planned versus actual progress of each individual project based on the project schedule and project budget. Such reports shall be submitted to the Division on the first business day following the end of the preceding month.
- 3.7 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last ten (10) years of weather data recorded in the Fort Lauderdale/Hollywood International Airport Weather Station.

**ARTICLE 4 - FUNDING AND METHOD OF PAYMENT AND
PROVISIONS RELATING TO THE USE OF THE FUNDS**

- 4.1 The maximum amount payable by COUNTY under this Agreement shall be Twenty-six Thousand Six Hundred Forty Dollars 00/100 (\$26,640.00).
- 4.2 COUNTY shall reimburse TOWN for the Project expenses incurred as provided for in Exhibit "B," Costs/Budget for Project, attached hereto, provided a suspension of payment as provided for within this Agreement has not occurred, and provided further that TOWN complies with the procedures for invoices and payments as set forth in this Article.
- 4.3 TOWN shall invoice COUNTY no more than monthly using Exhibit "E," Request for Payment, on the following basis:
- 4.3.1 TOWN shall provide COUNTY with an executed original of any contracts or subcontracts authorizing the work to be done on the Project.
- 4.3.2 TOWN shall provide COUNTY with documentation of leveraging which has occurred during each month.
- 4.3.3 TOWN shall submit a certified copy of the purchase order authorizing the services for which it is invoicing.
- 4.3.4 If TOWN has awarded a contract to an independent contractor to perform Project services, TOWN shall submit to COUNTY a certified copy of the contractor's invoice stating the services rendered and the date the services were rendered.
- 4.3.5 TOWN shall designate in writing an individual authorized to certify for TOWN that the work that is being invoiced has been completed.
- 4.4 TOWN shall disclose to COUNTY any and all third party funding, whether public or private, for the Project. No COUNTY funding shall be used to supplant existing third party funding.
- 4.5 Upon receipt of invoices, reports and other materials as described by Section 4.3, the Division shall audit such bid awards, contracts, reports and invoices to determine whether the items invoiced have been completed and that the invoiced items are proper for payment.
- 4.6 Upon determination by the Division that the services or material invoiced have been received or completed, the Division shall make payment to TOWN the amount it determines, pursuant to the audit, to be payable.

- 4.7 For purposes of this section, invoices, reports and other materials as described in Section 4.3, shall not be honored by COUNTY if received later than sixty (60) days after expiration or termination of this Agreement.
- 4.8 COUNTY shall pay TOWN within thirty (30) calendar days from receipt of TOWN's Request for Payment, as provided for herein, for reimbursement of eligible Project expenses in accordance with COUNTY's Prompt Payment Ordinance, Section 1-51.6, as may be amended from time to time.
- 4.9 TOWN shall expend the CDBG Funds provided by COUNTY under this Agreement by the end of the term of this Agreement. All CDBG Funds not expended within the term of this Agreement shall remain in the custody and control of COUNTY.
- 4.10 The following events shall be sufficient cause for suspension of payments by COUNTY. Such events include but are not limited to:
- 4.10.1 Ineligible use of CDBG Funds;
 - 4.10.2 Failure to comply with the terms of this Agreement;
 - 4.10.3 Failure to submit reports as required including a favorable audit report; and
 - 4.10.4 Submittal of incorrect or incomplete reports in any material respect.
- 4.11 Reversion of assets. In accordance with the requirements of 24 CFR 570.503(b)(7) and 570.505, upon expiration of this Agreement, TOWN shall transfer to COUNTY any CDBG Funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG Funds. Any property under TOWN's control that was acquired or improved in whole or in part with CDBG Funds (including CDBG Funds provided to TOWN in the form of a loan) in excess of Twenty-five Thousand Dollars (\$25,000.00) shall either be;
- 4.11.1 (i) Used to meet one of the national objectives in 24 CFR 570.208 (formerly 24 CFR 570.901) until five (5) years after expiration of this Agreement, or for such longer period of time as determined to be appropriate by COUNTY; or (ii) not used in accordance with subsection (i) above, in which event TOWN shall pay to COUNTY an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. Payment by TOWN under this section is Program Income to COUNTY as such term is defined by the Rules and Regulations of H.U.D. (No payment is required after the period of time specified in subsection (i) above.)
- 4.12 Payments to TOWN shall be sent to:

5.2.2 In order to ensure the indemnification obligation noted above, Provider shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverage as required by Article 6 herein.

ARTICLE 6 – INSURANCE

6.1 TOWN and COUNTY are self-insured governmental entities subject to the limitations set forth in Section 768.28, Florida Statutes, as may be amended from time to time. TOWN and COUNTY shall have instituted and maintain a fiscally sound and prudent risk management program with regard to its obligations under this Agreement in accordance with the provisions of Section 768.28 Florida Statutes, as amended from time to time. Nothing herein is intended to serve as a waiver of each party's sovereign immunity. Each party shall provide the other with written verification of liability protection in accordance with state law prior to final execution of this Agreement, upon request.

6.1.1 In the event TOWN elects to purchase excess liability coverage, Broward County, Florida, shall be named as an additional insured and certificate holder under said policy and COUNTY shall be notified of said coverage and provided a copy of same.

6.1.2 At a minimum, TOWN shall maintain Workers Compensation and Employers Liability coverage. Workers' Compensation insurance shall apply for all employees in compliance with Chapter 440, Florida Statutes, as amended from time to time, "Workers' Compensation Law" of the State of Florida, and all applicable federal laws. In addition, the policy(ies) must include Employers' Liability with a minimum limit of Five Hundred Thousand Dollars (\$500,000.00) each accident, Five Hundred Thousand Dollars (\$500,000.00) each employee and Five Hundred Thousand Dollars (\$500,000.00) each disease. If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.

6.2 Insurance Requirements for TOWN's Provider(s).

6.2.1 In the event TOWN elects to enter in an agreement with a third party provider(s) ("Provider") to perform any work/activities for the Project referenced herein, TOWN shall include in its contract with the successful Provider the requirements set forth below in favor of COUNTY in addition to any TOWN requirements and TOWN shall provide COUNTY, prior to commencement of any activities, Certificates of Insurance evidencing compliance with the following requirements:

6.2.1.1 Provider shall maintain, on a primary basis and at its sole expense, at all times during the life of this Contract the following insurance coverage, limits, including endorsements described herein. The

requirements contained herein, as well as TOWN's or COUNTY's review or acceptance of insurance maintained by Provider is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Provider under this Agreement.

- a. Commercial General Liability: Provider shall maintain Commercial General Liability coverage at a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) Each Occurrence. Provider's coverage shall not contain any restrictive endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, Contractual Liability or Cross Liability. Coverage must also include Premises and/or Operations Coverages.
- b. Business Automobile Liability: Provider shall maintain Business Automobile Liability coverage at a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) Each Occurrence. Coverage shall include liability for Owned, Non-Owned, Hired and Any Auto if applicable.
- c. Worker's Compensation Insurance and Employers Liability: Provider shall maintain Worker's Compensation Insurance for all employees in compliance with Chapter 440, Florida Statutes, as amended from time to time, and Employers Liability Insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) each accident. Note: Elective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement.
- d. Additional Insured: Provider shall endorse TOWN and COUNTY as additional insured with either a CG 2020 Additional Insured -- Owners, Lessees, or Contractors or CG 2026 Additional Insured -- Owners, Lessees, or Contractors --Scheduled Person Organization endorsement, or similar endorsements, to the Commercial General Liability. The additional insured shall read "Town of Lauderdale-By-The-Sea, Florida" and "Broward County, Florida."
- e. Waiver of Subrogation: Provider agrees by entering into this Contract to a Waiver of Subrogation in favor of TOWN and COUNTY for each required policy herein. When required by the insurer, or should a policy condition not permit Provider to enter into a pre-loss agreement to waive subrogation without an endorsement, then Provider shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others or its equivalent.
- f. Certificates of Insurance: Provider shall provide TOWN a Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect.

- g. Such policy or policies shall be without any deductible amount and shall be issued by approved companies authorized to do business in the state of Florida, and having agents upon whom service of process may be made in Broward County, Florida.
- 6.3 In the event of loss, TOWN shall give prompt notice to the insurance carrier and COUNTY. COUNTY may make proof of loss if not made promptly by TOWN.
- 6.4 TOWN shall furnish to COUNTY Certificates of Insurance or endorsements evidencing the insurance coverage specified in this Article prior to beginning performance of work under this Agreement.
- 6.5 All policies shall be endorsed to provide COUNTY with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverage will expire prior to the required term, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

ARTICLE 7 - ASSURANCES

- 7.1 The Assurances provided by TOWN in this Article shall survive the expiration or earlier termination of this Agreement.
- 7.2 TOWN shall comply with the provisions outlined in 24 C.F.R., Part 135 which implements Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U. S. C. 1701u).
- 7.3 TOWN shall comply with all applicable federal, state and county laws, ordinances, and codes and regulations. Any conflict or inconsistency between the any federal, state or county guidelines and regulations and this Agreement shall be resolved in favor of the more restrictive guidelines or regulations.
- 7.4 TOWN shall establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other associates.
- 7.5 TOWN shall comply with the requirements set forth in the Division's "Procedures Manual for Subrecipients," incorporated herein by reference.
- 7.6 TOWN shall not use CDBG Funds for religious activities or provide same to primarily religious entities for any activities, including secular activities.
- 7.7 TOWN shall administer, in good faith, a policy designed to assure a workplace free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.
- 7.8 TOWN agrees that:

- 7.8.1 No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
- 7.8.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, TOWN shall complete and submit COUNTY's Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 7.8.3 TOWN shall assure that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients of CDBG Funds under this Agreement shall certify and disclose accordingly.
- 7.9 In accordance with Section 519 of Public Law 101-144 and Section 104 (l) of the Federal Act (the H.U.D. Appropriations Act), TOWN certifies that it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations.

ARTICLE 8 - FINANCIAL RESPONSIBILITY

- 8.1 TOWN shall give COUNTY, H.U.D., and the U. S. Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents relating to the Project.
- 8.2 TOWN shall comply with the requirements and standards of OMB Circular A-87 (now 2 C.F.R. 225), "Cost Principles for State, Local and Indian Tribal Governments," as may be amended from time to time and copies of which are incorporated herein by reference.
- 8.3 TOWN shall comply with the audit requirements of OMB Circular A-133, entitled "Audits of States, Local Governments and Non-Profit Organizations," as may be amended from time to time and incorporated herein by reference. The audit shall cover the entire operations of TOWN or, at the option of TOWN, may cover only the department or agency that received, expended, or otherwise administered the CDBG Funds. Such audit shall be filed with COUNTY within one hundred eighty (180) days after the close of the fiscal year of TOWN. All CDBG Funds

from COUNTY should be shown via explicit disclosure in the annual financial statements or the accompanying notes to the financial statements.

- 8.4 TOWN shall use all CDBG Funds provided by COUNTY under this Agreement for eligible Project activities specifically outlined in this Agreement. In the event any of CDBG Funds are used for ineligible activities, such inappropriately used CDBG Funds shall be repaid to COUNTY by TOWN, and COUNTY, in its sole discretion, may reallocate the funds to other eligible CDBG projects.
- 8.5 TOWN shall budget and expend all CDBG Funds provided by COUNTY under this Agreement in accordance with the Division's "Procedures Manual for Subrecipients."
- 8.6 TOWN acknowledges that this is a federally assisted Project. If TOWN has caused any CDBG Funds provided by COUNTY under this Agreement to be expended in violation of this Agreement, it shall be responsible to refund such monies in full to COUNTY from nonfederal resources, or, if this Agreement is still in force, any subsequent request for payment shall be withheld by COUNTY. Failure to complete the Project in accordance with this Agreement, whether voluntarily or otherwise, constitutes a material breach of this Agreement, and any CDBG Funds provided by COUNTY pursuant to this Agreement for the Project shall be repaid in full to COUNTY from nonfederal resources. This provision shall survive the expiration or earlier termination of this Agreement.

ARTICLE 9 - TERM OF AGREEMENT

This Agreement shall commence retroactively on **October 1, 2011**, and shall end on **September 30, 2012**, unless terminated earlier or extended pursuant to the terms of this Agreement.

ARTICLE 10 - TERMINATION

- 10.1 This Agreement is subject to the availability of CDBG Funds. Should CDBG Funds no longer be available, this Agreement shall terminate upon no less than twenty-four (24) hours notice in writing to TOWN. Said notice shall be delivered by certified mail, return receipt requested, or in person, with proof of delivery. COUNTY shall be the final authority as to the availability of CDBG Funds.
- 10.2 If, through any cause, TOWN fails to commence work on the Project, as set forth in Exhibit "C," Timetable/Project Schedule, within ninety (90) days from the date of COUNTY's issuance of the Notice to Incur Costs, or fails to fulfill in timely and proper manner its obligations under this Agreement, or if TOWN shall violate any terms of this Agreement, COUNTY, at the discretion of and through the County Administrator, shall have the right to terminate this Agreement or suspend payment in whole or part by providing written notice to TOWN of such termination or suspension of payment and specifying the effective date thereof, at least five (5) days before the effective date of termination or suspension. If payments are withheld, the Division shall specify in writing the actions that must be taken by

TOWN as a condition precedent to resumption of payments and should specify a reasonable date for compliance.

- 10.3 Notwithstanding the above, TOWN shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by TOWN, and COUNTY may withhold any payments to TOWN, for the purposes of set off until such time as the exact amount of damages is determined.
- 10.4 In the best interests of the Program and in order to better serve the people in the target areas and fulfill the purposes of this Agreement, either party may terminate this Agreement upon giving thirty (30) days' notice in writing of its intent to terminate, stating its reasons for doing so. In the event COUNTY terminates this Agreement, COUNTY shall pay TOWN for documented committed eligible Project expenses in accordance with Exhibit "B," Costs/Budget for Project; however, after being provided notice of termination by COUNTY, COUNTY shall not be required to reimburse TOWN for any of its eligible Project expenses under this Agreement up to the date of termination, if COUNTY is not able to obtain such funding from H.U.D. for the payment of these costs. The County Administrator is authorized to terminate this Agreement on behalf of COUNTY pursuant to this Section upon the Administrator's determination that termination is in the best interests of COUNTY and the Program.
- 10.5 All requests for amendments to this Agreement must be submitted in writing to the Division Director no less than ninety (90) days prior to the termination date of this Agreement.
- 10.6 If, in the opinion of the Division Director, TOWN has violated the terms of this Agreement, the Division Director may bring the matter before the County Administrator for consideration.

ARTICLE 11 – NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

Ralph Stone, Director
Broward County Housing Finance and Community Development Division
110 NE 3rd Street, Suite 300
Fort Lauderdale, Florida 33301

FOR TOWN:

Constance Hoffmann, Town Manager
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, Florida 33308

ARTICLE 12 – MISCELLANEOUS

12.1 EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

TOWN shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, familial status, disability, or sexual orientation, (including but not limited to Broward County Code, Chapter 16½), pregnancy or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement. TOWN shall include the foregoing or similar language in its contracts with any subcontractors or subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as may be amended. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as COUNTY deems appropriate.

TOWN shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. TOWN shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, TOWN shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

By execution of this Agreement, TOWN represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes). TOWN hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from TOWN all monies paid by COUNTY pursuant to this Agreement, and may result in debarment of TOWN from COUNTY's competitive procurement activities.

12.2 AUDIT RIGHT AND RETENTION OF RECORDS

COUNTY shall have the right to audit the books, records, and accounts of TOWN and its subcontractors that are related to this Project. TOWN and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

All books, records, and accounts of TOWN and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, TOWN or its subcontractor, as applicable, shall make same available at no cost to COUNTY in written form.

TOWN and its subcontractors shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of five (5) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or five (5) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to TOWN's and its subcontractors' records, TOWN and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by TOWN or its subcontractors. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry.

TOWN shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 12.2.

12.3 INDEPENDENT CONTRACTOR

TOWN is an independent contractor under this Agreement. Services provided by TOWN shall be performed by employees of TOWN and subject to supervision by TOWN, and shall not be deemed officers, employees, or agents of COUNTY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of TOWN, which policies of TOWN shall not conflict with COUNTY, or State of Florida policies, rules or regulations relating to the use of CDBG Funds provided under this Agreement.

12.4 PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

12.5 AMENDMENTS

COUNTY may, in its discretion, amend this Agreement to conform to changes in federal, state, local, and/or COUNTY directives and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Board, except the County Administrator shall be authorized to execute amendments that change the term of the Agreement or that change the Project, so long as the Project consists of eligible activities under 24 C.F.R. Part 570. Except for the provisions as set forth herein, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. It is understood that COUNTY is responsible to H.U.D. for the administration of CDBG Funds and may consider and act upon reprogramming recommendations as proposed by TOWN or the Division after appropriate referral to the County Administrator. In the event that COUNTY approves any modification, amendment, or alteration to the funding allocation, TOWN shall be notified pursuant to Article 11, Notices, and such notification shall constitute an official amendment. The Division Director shall be authorized to approve line item changes to the budget information set out in Exhibit "B," Costs/Budget for Project, attached hereto, in the form of an amendment to this Agreement, provided such changes do not result in an increase in the funding amount set forth in Section 4.1 of this Agreement, and Exhibit "B."

12.6 SUBCONTRACT AND ASSIGNMENT

Except as provided for in this Agreement, TOWN shall not subcontract, transfer or assign the performance of services called for in this Agreement. However, this Agreement shall run to COUNTY or its successors.

12.7 REPORTS

All reports information, documents, developed, prepared, assembled or completed by TOWN for the purposes of this Agreement shall become the property of COUNTY without restriction, reservation or limitation of their use and shall be made available by TOWN at any time upon request by COUNTY or the Division. Upon completion of all work contemplated under this Agreement, copies of all of the above data shall be delivered to the Division Director upon the Director's written request.

12.8 CONFLICT OF INTEREST

TOWN shall comply with the requirements of 24 C.F.R. 570.489 relative to the Conflict of Interest provisions. TOWN, its officers, employees, agents, or consultants who exercise or have exercised any functions or responsibilities with respect to the Project or who are in a position to participate in a decision making process or gain inside information with regard to the Project, shall not obtain a financial interest or benefit from the Project, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. Any possible conflicting interest

on the part of TOWN, its employees, or agents, shall be disclosed in writing to the Division.

12.9 CONFLICTS

Neither TOWN nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with TOWN's loyal and conscientious exercise of judgment related to its performance under this Agreement. None of TOWN's employees shall, during the term of this Agreement, serve as an adverse or hostile witness against COUNTY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her opinion, which is adverse or prejudicial to the interests of COUNTY in any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding regarding this Agreement. If TOWN utilizes subcontractors to perform any services required by this Agreement, TOWN shall prohibit such subcontractors, by written contract, from having any conflicts as within the meaning of this section.

12.10 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, TOWN AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

12.11 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or TOWN elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

12.12 LEGAL PROVISIONS DEEMED INCLUDED

Each and every provision of any law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and this Agreement shall be read and enforced as though it were included herein and if, through mistake

or otherwise, any such provision is not inserted or is not correctly inserted, then upon application of either party this Agreement shall forthwith be amended to make such insertion.

12.13 COMPLIANCE WITH APPLICABLE LAWS

TOWN shall keep fully informed of all Federal and State laws, all local laws, ordinances and regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which, in any manner, affect work authorized under the terms of this Agreement. TOWN shall at all times observe and comply with all such laws, ordinances, regulations, and orders.

12.14 THIRD PARTY BENEFICIARIES

Neither TOWN nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

12.15 WAIVER OF BREACH AND MATERIALITY

Failure by COUNTY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. No waiver shall be effective unless it is in writing and signed by the party against whom it is asserted. A waiver of any provision of this Agreement or failure to perform any of the terms, covenants, and conditions of this Agreement shall not be deemed a waiver of any prior or subsequent failure to perform any term, covenant or condition of this Agreement and shall not be construed to be a modification of the terms of this Agreement. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

12.16 JOINT PREPARATION

COUNTY and TOWN have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations under this Agreement, and the preparation of this Agreement has been a joint effort of COUNTY and TOWN and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

12.17 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term,

statement, requirement, or provision contained in Articles 1 through 12 of this Agreement shall prevail and be given effect. In the event there is a conflict between any provisions set forth in this Agreement and a more stringent State or Federal provision which is applicable to any services performed under this Agreement, the more stringent State or Federal provision shall prevail.

12.18 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits "A" – "E" are incorporated into and made a part of this Agreement. The Rules and Regulations of H.U.D. and any other H.U.D. regulations addressed in this Agreement which are not specifically identified in the definition contained in Section 1.10 herein shall be deemed incorporated herein by reference.

12.19 USE OF TERMS

All terms and words used in this Agreement, despite the number and gender in which used, shall be deemed to include any other gender or number as the context or the use thereof may require. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section of this Agreement, such reference is to the section as a whole, including all of the subsections and subparagraphs of such section unless the reference is made to a particular subsection or subparagraph of such section.

12.20 SURVIVAL

Either party's right to monitor, evaluate, enforce, indemnify and insure, audit and review, and any assurances and items of financial responsibility shall survive the expiration or earlier termination of this Agreement. Any provision of this Agreement which contains a restriction or requirement which extends beyond the date of termination or expiration set forth herein shall survive termination or expiration of this Agreement and be enforceable.

12.21 FURTHER ASSURANCE

TOWN and COUNTY shall execute, acknowledge, deliver, and cause to be done, executed, acknowledged and delivered all such further documents and perform such acts as shall reasonably be requested of it to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

12.22 TIME IS OF THE ESSENCE

Time shall be of the essence of this Agreement and the representations and warranties solely made herein are all material and of the essence of this Agreement.

12.23 WAIVER OF CLAIMS

TOWN waives any claim against COUNTY, and its agents, servants and employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment of award in any suit or proceeding declaring this Agreement null, void or voidable, delaying the same or any part thereof, from being carried out.

12.24 CUMULATIVE RIGHTS

All rights and remedies of COUNTY hereunder or at law or in equity are cumulative and shall be in addition to any other rights and remedies available. The exercise of any right or remedy shall not be taken to exclude or waive the right to the exercise of any other. Failure by COUNTY to promptly exercise any of its rights shall not operate to forfeit or be treated as a waiver of any such rights.

12.25 SPECIFIC PERFORMANCE

In addition to all other remedies, TOWN's obligations contained herein shall be subject to the remedy of specific performance by appropriate action commenced in a court of competent jurisdiction.

12.26 FORCE MAJEURE

If the performance of this Agreement, or any obligation hereunder is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such non-performance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

12.27 COUNTY BUSINESS ENTERPRISE PROGRAM

COUNTY has established a policy relating to County Business Enterprise ("CBE") program participation in all County contracts. Although this Agreement

does NOT have assigned CBE goals, pursuant to 24 CFR 85.36(e) or 84.44(b), TOWN shall take affirmative steps to use small firms, minority-owned firms, or labor surplus area firms when possible as the sources of supplies, equipment and services.

12.28 EXECUTION AUTHORITY

The individual executing this Agreement on behalf of TOWN personally warrants that he or she has full authority to execute this Agreement on behalf of TOWN.

12.29 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

(Reminder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY, through the COUNTY ADMINISTRATOR, authorized to execute same by action of the Board on June 14, 2011, and TOWN OF LAUDERDALE-BY-THE-SEA, signing by and through its _____, duly authorized to execute same.

COUNTY

WITNESSES:

Signature

Print Name

Signature

Print Name

Approved as to insurance requirements:

By _____
Risk Management Division

BROWARD COUNTY, through the COUNTY ADMINISTRATOR

By _____

____ day of _____, 2012

Approved as to form by
Office of the County Attorney
for Broward County, Florida
JONI ARMSTRONG COFFEY, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By _____
PATRICE M. EICHEN (Date)
Assistant County Attorney

AGREEMENT BETWEEN BROWARD COUNTY AND TOWN OF LAUDERDALE-BY-THE-SEA PROVIDING FOR FUNDING AND ADMINISTRATION OF 37th YEAR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS FOR SENIOR CENTER ACTIVITIES & OPERATION IN THE AMOUNT OF \$26,640

TOWN

ATTEST:

TOWN OF LAUDERDALE-BY-THE-SEA,
FLORIDA

By: _____
Town Clerk

By:  _____
Signature

Print Name and Title
____ day of _____, 2012

APPROVED AS TO LEGAL SUFFICIENCY:

By: _____
Town Attorney

EXHIBIT "A"

PROJECT DESCRIPTION

Project Name: Senior Activities Program

Project Description: The Senior Activities Program shall provide activities for a minimum of 414 seniors. Activities shall including classes in computers, art, beginning and intermediate bridge, exercise, dance, and yoga.

The CDBG Funds provided to TOWN under the Agreement shall be used by TOWN to contract with a third party provider for the administration and day to day operations of the services and activities. TOWN, or its third party service provider, shall measure the participation of seniors and volunteers in the Program, schedule classes and activities, record registration information, record participation in activities, and create volunteer opportunities, and request and identify participants.

One of the methods that shall be used by TOWN's service provider to measure participation is to count the number of seniors who participate in activities. The goal each month shall be to serve 80 clients. TOWN shall be responsible for registering the seniors and determining eligibility for the Program.

The Project shall provide supportive services for senior residents in TOWN's Community Center located at 4501 Ocean Drive, Lauderdale-By-The-Sea, Florida, 33308.

TOWN's Program Design is attached hereto as Attachment 1 to Exhibit "A," solely for the purpose of providing a more comprehensive description of the overall program; however, TOWN's responsibilities and obligations for the Project shall be those described specifically herein this Exhibit "A." In the event of any conflict between the terms of Attachment 1 to Exhibit "A" and Exhibit "A," the terms of Exhibit "A" shall control.

CDBG HUD National Objective: 570.208(a) (2) Limited Clientele

Attachment 1 to Exhibit "A"

Town of Lauderdale-By-The-Sea 37th year CDGB Program Design SENIOR CENTER ACTIVITIES & OPERATION Purpose of the Program

The Lauderdale-By-The-Sea Community Center provides an environmentally safe, structured, and educationally stimulating and activity filled environment for the Town's seniors. The program is designed to empower the Town's seniors and ultimately to improve their quality of life.

Designated Authority to Administer Program

The Town of Lauderdale-By-The-Sea has sub-contracted the administration of day to day operation to Bien-Aime, Inc. Bien-Aime, Inc. designs the activities and curriculum with input from Town staff.

Types of Financial Assistance offered

No financial assistance is offered. However, there are no fees for participating in the Community Center activities, anyone meeting the eligibility requirements may participate free of charge.

Participant eligibility

Residents of Lauderdale-By-The-Sea that are 60 years of age or older. Proof of age and residence is required.

Program Marketing

Community Center activities are marketed via the following local media outlets: By-The-Sea Future newspaper, Lauderdale-By-The-Sea Town Newsletter, Local Cable Channel 78, and the Town website <http://www.lauderdalebythesea-fl.gov>.

Method of Application

In order to participate in the Community Center activities, applicants must submit a written application once each fiscal year at the Lauderdale-By-The-Sea Town Hall.

Applicants Requirements

The only requirements to participate in the Community Center activities are that the applicant be a resident of Lauderdale-By-The-Sea and 60 years of age or older. Proof of age and residence is required.

Applicants Responsibilities

Applicants are required to sign-in for each activity attended. Applicants are also asked to follow general safety rules and the instructor's course outline.

Files and Records

Records of Applicant registration forms, sign-in records, and Program Activities Schedules are maintained by Bien-Aime, Inc. and copies are periodically provided to Town staff and the Housing Finance and Community Development Division of the Broward County Department of Environmental Protection and Growth Management.

Grievance Procedures

Applicant grievances can be submitted to Bien-Aime In. or the Lauderdale-By-The-Sea Town Managers Office over the phone, in writing, or in person.

EXHIBIT "B"

BUDGET TABLE/COSTS FOR PROJECT

Each cost category below reflects the proposed amount necessary to complete the Project by funding source(s).

Funding Sources					
Cost Category		(1) CDBG	(2)	(3)	Total
A.	Personnel	\$			\$
B.	Fringe Benefits	\$			\$
C.	Travel	\$			\$
D.	Equipment	\$			\$
E.	Supplies	\$			\$
F.	Contractual Services	\$26,640	\$33,360		\$60,000
G.	Construction	\$			\$
H.	Other	\$		\$	\$
I.	Total	\$26,640	\$33,360	\$	\$60,000

EXHIBIT "B"
Continued

BUDGET NARRATIVE

The budget narrative statements below provide a detailed justification for each cost category shown in the budget table for both CDBG and Non-CDBG funding sources utilized in financing the project.

CDBG Funding Source

The CDBG Funds under the Agreement shall be used to assist TOWN in contracting with a third party service provider to administer the day-to-day operations and activities of the Senior Activities Program.

CDBG \$26,640

Non-CDBG Funding Source(s)

TOWN shall contract with a third party service provider to administer the day-to-day operations and activities of the Senior Activities Program.

General Fund \$33,360

TOWN shall provide suitable space and use of existing resources to provide classes and activities. The classes and activities shall be held approximately six (6) hours per day, five (5) days per week throughout the year. TOWN shall provide for the utilities, maintenance and insurance costs for the Program.

EXHIBIT "B"
(Cont.)

Allowable Cost for U.S. HUD Share of Budget

Federal cost principles for grants and contracts with state and local governments are stated in OMB Circular A-87, Cost Principles for State and Local Governments. This document is an extensive and somewhat complicated series of principles governing the allowability of various types of costs under federal grants and contracts. General information concerning the cost principles is summarized below:

The following types of costs are specifically unallowable:

- (A) Advertising costs other than those associated with recruitment of personnel and the solicitation of bids for goods and services.
- (B) Bad debts.
- (C) Contingencies.
- (D) Contribution and donations.
- (E) Entertainment.
- (F) Fines and penalties.
- (G) Interest.
- (H) Losses on other grants or contracts.

Most other categories of cost are generally allowable under the cost principles provided the costs are allowable and reasonable. General comments on individual cost elements are listed below:

Salary costs are generally allowable provided they are based on actual current salaries adjusted for any anticipated cost-of-living or merit increases during the grant period. Salary costs for unidentified new employees must be consistent with the organization's overall employee compensation structure. The organizational compensation policy should not change as a result of obtaining a federal grant.

Fringe Benefit costs such as pay for vacations, holidays, sick leave, employee insurance, and unemployment benefits are allowable to the extent required by law or established organizational policy.

EXHIBIT "B"
(Cont.)

Travel costs consistent with established organizational policy are generally allowable. The difference between first class and coach air fare is specifically unallowable. In the absence of established organizational travel policy, it is a good practice to adopt policies consistent with the federal travel regulations.

Equipment costs should be based on the least cost method of acquisition (rent, purchase, lease with option to buy) over the grant period as demonstrated by competitive bidding. Equipment costs are only allowable to the extent the equipment is directly necessary to accomplish the grant. The cost of equipment not fully utilized under the grant must be allocated to other organization costs to assure a fair share distribution. Whenever practical, used equipment should be considered in meeting equipment needs.

Material cost directly associated with the project is allowable. Prices must generally be justified through competitive bids except for nominal purchases.

Subcontracts must be awarded on a competitive basis except in extraordinary circumstances. The same principles applicable to individual cost principles for grantees are generally applicable cost-reimbursement type subcontracts under grants.

Consultant agreements should include a certification by the consultant that the consultant rate is equal to or less than the lowest rate the consultant accepts for comparable work. Additionally the Congress has prohibited the salary component of consultant fees under H.U.D. Grants not to exceed the applicable approved rate schedule.

Construction costs include construction of new buildings, structures, or other real property as well as alteration or repair of existing structures. Construction costs should be supported by detailed cost estimates and competitive bidding. Consult with the Housing and Community Development Compliance Officer on applicability of the Davis-Bacon Wage determination to this project.

Other costs include all types of direct costs not specified above. Normally, such costs include space, telephone, utilities, printing, and other basic operating expenses.

Leverage is that which the municipality or non-profit organization brings to the project. It may be in the form of services or contributed operating expenses (in-kind contributions) or cash support from the organization itself or from other sources.

EXHIBIT "C"

PROJECT SCHEDULE/TIMELINE TABLE

The table below lists the main work tasks required to complete Project objectives before the term of the Agreement expires.

Work Task	Start-Up Date	Date of Completion
Schedule classes and activities	October 1, 2011	September 30, 2012
Record registration information	October 1, 2011	September 30, 2012
Record participation in activities	October 1, 2011	September 30, 2012
Create volunteer opportunities, request & identify participants	October 1, 2011	September 30, 2012

EXHIBIT "D"

MONTHLY PROGRESS REPORT

Reporting Period: _____

Date Report Prepared: _____

A. Project Information:

Agency Name	Town of Lauderdale-By-The-Sea
Person Preparing the Report	
Job Title	
Signature	
Project Name	SENIOR CENTER ACTIVITIES & OPERATION
Project Start-Up Date	October 1, 2011
Project Completion Date	
Amended Completion Date (if applicable)	

B.1 Project Cost

		Funds Expended to Date	Percentage
Total Project	\$60,000		
CDBG Funding	\$26,640		
Other Funding (specify source below) General Fund	\$33,360		

B.2 Declaration of Agency Budget Changes

Program Income: _____ N/A _____

Source of Program Income: _____ N/A _____

EXHIBIT "D"
(Cont.)

- C.3. Describe success or problems encountered with the Project:**
- C.4. Anticipated problems or concerns with Project. Please identify technical assistance needed and/or requested from Housing and Community Development staff.**
- C.5. Anticipated advertisements and/or other contractual services. If so, has the Housing and Community Development staff been advised and appropriate steps taken to assure compliance?**
- C.6. If applicable, please complete the following Direct Benefit Report Form provided by COUNTY on all program participants.**

EXHIBIT "D"
(C.6 – Cont.)

Indicate persons or households. Only unduplicated counts should be given

Total number
served
This Month

Total number
served
year to date

Ethnicity

Hispanic
Non-Hispanic

1. Total

Racial Data

- 11. White
- 12. Black/African American
- 13. Asian
- 14. American Indian/Alaskan Native
- 15. Native Hawaiian or other Pacific Islander

- 16. American Indian/Alaskan Native & White
- 17. Asian & White
- 18. Black/African American & White
- 19. American Indian/Alaskan Native & Black/African American
- 20. Other Multi-Racial

2. Total

Income Data

Very Low Income <30% of area median
Low Income <50% of area median
Moderate Income <80% of area median
Non-Low Moderate Income

**income levels must equal persons benefiting*

3. Total

Other Demographic Data

Households
Persons
Homeless
Female Head of Household
Disabled Persons Assisted
Elderly Persons Assisted
Census Tract served

EXHIBIT "D"
(C.6 – Cont.)

Applicable if implementing one of the following activities

Public Services / Public Facilities and Improvements

Total number
this quarter

Total number
year to date

Public Services / Of the persons assisted

Number that have new access to this service or benefit
Number that have improved access to this service or benefit
Number that receive a service or benefit that is no longer
substandard

1. Total

Public Facilities or Infrastructure Improvements

Number that have new access to this type of public facility or
infrastructure improvement
Number that have improved access to this type of public facility or
infrastructure improvement
Number served by public facility or infrastructure that is no
longer substandard

2. Total

Overnight Shelter / Emergency Housing

Number of bed created in overnight shelter or other emergency
Housing

3. Total

EXHIBIT "D"
(Cont.)

D. Program Objectives

* Work Tasks	Projected Yearly Total / Performance	Monthly Progress	Progress Yr-To-Date	Supporting Documentation
Record class activities	1200			Class Activity Calendar
Record registration Information	414			Registration Forms
Record participation in activities	2,000			Participation Form
Record volunteer participation hours	100			Volunteer Form

*** Please list Work Tasks as listed in the Agreement's Exhibit "C" (Project Schedule/Timeline Table).**

EXHIBIT "E"
REQUEST FOR PAYMENT

Community Development Block Grant Program
37th Year Funding

Contract Period October 01, 2011, to September 30, 2012

1. Project Name: SENIOR CENTER ACTIVITIES & OPERATION			
2. Organization: Town of Lauderdale-By-The-Sea		Telephone Number: 954-776-0576	
3. Billing Number: #			
4. Billing Period Covered:			
5. % of Total Contract, Expended thru this Billing: %			
6. Cost Categories	Total Expenditures Up to Last Billing	Expenditures This Billing	Total Expenditures To Date
A. Project Costs			
Salary & Fringes			
Contractual			
Construction			
Other Project Costs			
Total Expenditures			
Funds Obligated: (By Funding Agreement)			
Balance			
B. In-kind			

