

RESOLUTION NO. 02-03-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AWARD AGREEMENT BETWEEN THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS, WITH HEADQUARTERS IN TALLAHASSEE, FLORIDA, AND THE CITY OF MARATHON TO ALLOW FOR THE ADVANCEMENT OF FUNDS VERSUS STRICTLY REIMBURSEMENTS; AUTHORIZING THE MAYOR TO EXECUTE SAID PROPOSED AMENDMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council entered into a Community Development Block Grant (CDBG) Award Agreement #02DB-89-11-54-02-H08, and dated January 15, 2002, between the State of Florida, Department of Community Affairs, with headquarters in Tallahassee, Florida, and the City of Marathon for grant funds to provide certain services; and

WHEREAS, the Department of Community Affairs has proposed Amendment Number 1, which revises Section (17) Funding/Consideration, subsections (a) and (b) of said Agreement (a copy said Amendment is attached as Exhibit "A"); and

WHEREAS, the City Council desires to accept said proposed Amendment revising Section (17) Funding/Consideration, subsections (a) and (b), to allow for the advancement of funds versus strictly reimbursements, as stated in the previously approved Agreement (a copy of the Federally Funded Subgrant (CDBG) Agreement is attached as Exhibit "B").


NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA:

Section 1: The proposed Amendment to the Agreement between the State of Florida, Department of Community Affairs, and the City of Marathon attached as Exhibit "A" is approved.

Section 2: The appropriate City officials are authorized to execute all necessary documents to effectuate the intent of this Resolution.

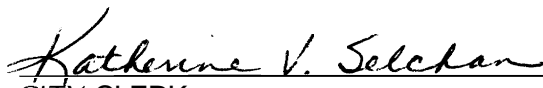
Section 3: This Resolution shall take effect upon its adoption.

ADOPTED by the City Council of the City of Marathon, Florida, this 12th day of March, 2002.



JOHN BARTUS, MAYOR

ATTEST:



Katherine V. Selchan
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



CITY ATTORNEY

#5127v1.kc

DEPARTMENT INITIATED AMENDMENT
COMMUNITY DEVELOPMENT BLOCK GRANT
CONTRACT NUMBER 02DB-89-11-54-02-H08

Amendment Number 1

In consideration of the mutual promises herein contained, the City of Marathon (the Recipient) and the Department of Community Affairs (the Department) hereby agree to amend Section 17 Funding Consideration of the above described Agreement as follows:

- (a) The funding for this Agreement shall not exceed \$ 750,000 subject to the availability of funds.
- (b) Any advanced payment under this Agreement is subject to **s.216.181(16), Florida Statutes**. The amount which may be advanced is subject to Rule Chapter 9B-43, ~~Florida Administrative Code~~, 24 C.F.R. Part **85, 24 C.F.R. Part 570**, Federal OMB Circular A-87, A110, A-122 and the Cash Management Improvement Act of 1990.

Except as modified herein, all other terms and conditions of the contract shall remain in full force and effect.

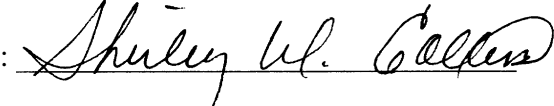
IN WITNESS WHEREOF, the parties have executed this Amendment Number 1 on the dates set forth below.

FOR THE RECIPIENT:
BY: 

NAME AND TITLE: John Bartus, Mayor

DATE: March 13, 2002

FOR THE STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS:

BY: 

NAME AND TITLE: Shirley W. Collins, Director
Division of Housing and Community Development

DATE: 6/24/02

1000
1911
1101
9

Exhibit "B"

Contract Number: **02DB-89-11-54-02-H08**
CFDA Number: 14.228

FEDERALLY FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by and between the State of Florida, Department of Community Affairs, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Department"), and, City of Marathon (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

A. WHEREAS, the Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and

B. WHEREAS, the Department has received these grant funds from the federal government, and has the authority to subgrant these funds to the Recipient upon the terms and conditions hereinafter set forth; and

C. WHEREAS, the Department has authority pursuant to Florida law to disburse the funds under this Agreement.

NOW, THEREFORE, the Department and the Recipient do mutually agree as follows:

(1) SCOPE OF WORK.

The Recipient shall fully perform the obligations in accordance with the Budget, Attachment A, and the Scope of Work, Attachment B, of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES.

Both the Recipient and the Department shall be governed by applicable State and Federal laws, rules and regulations, including but not limited to those identified in Attachments C and D.

(3) PERIOD OF AGREEMENT.

This Agreement shall begin upon execution by both parties or JANUARY 15, 2002, whichever is later, and shall end JANUARY 14, 2004, unless terminated earlier in accordance with the provisions of paragraph (9) of this Agreement.

(4) MODIFICATION OF CONTRACT; REPAYMENTS

(a) Either party may request modification of the provisions of this Agreement.

Changes which are mutually agreed upon shall be valid only when reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement.

(b) Recipient requests for contract modification may be submitted at any time during the contract period. In order to avoid delays which may affect timely close-out of this contract, the Department recommends that modifications be sent at least 45 days prior to the contract end date in order to provide sufficient time for Department approval prior to that date.

(c) Pursuant to Florida Administrative Code, Rule 9B-43.03(25), the minimum score

within the **fundable** range for the application cycle and category in which this Agreement is funded shall be established by the publication and distribution of the Final Ranking after Appeals. Any modification which would reduce the score below the **fundable** range shall not be approved by the Department

(d) All refunds or repayments to be made to the Department under this Agreement are to be made payable to the order of "Department of Community Affairs", and mailed directly to the Department at the following address:

Department of Community Affairs
Cashier
Finance and Accounting
2555 Shumard Oak Boulevard
Tallahassee FL 32399-2100

(e) Notification of the refund or repayment made by the Recipient to the Department should be sent to the CDBG Program Office at the following address:

Department of Community Affairs
CDBG Program Office
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

In accordance with **§ 215.34(2), Fla. Stat.**, if a check or other draft is returned to the Department for collection, the Department must add to the amount of the check or draft a service fee of Fifteen Dollars (\$15 00) or Five Percent (5%) of the face amount of the check or draft, whichever is greater.

(5) **RECORDKEEPING**

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal "Common Rule: Uniform Administrative Requirements for State and Local Governments" (53 Federal Register 8034) and OM8 Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21.

(b) All original records pertinent to this Agreement shall be retained by the Recipient for three **years** following the **date** of termination of this Agreement or of **submission** of the final close-out **report**, whichever is later, with the following exceptions:

1. If any litigation, claim or audit is started before the expiration of the three year period and extends beyond the three year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at \$10,000 or more at the time of acquisition shall be retained for three years after final disposition.
3. Records relating to real property **acquisition** shall be retained for three years after closing of title
4. Records relating to displaced persons or **businesses** shall be retained for three years following final closeout or resolution of all claims and litigation, whichever comes last.

(c) All records, including supporting documentation of all program costs, shall be sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachments A and B - and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Department, its employees, and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Department.

(6) REPORTS

(a) Once the Department has issued a monitoring report containing finding(s) and/or concern(s), the Recipient must issue a written response addressing the finding(s) and/ or concern(s) and indicating corrective action that has been taken or provide information required by the Department necessary to resolve the issue(s) within the time frame specified by the Department in the monitoring report.

(b) At a minimum, the Recipient shall provide the Department with a Closeout Package due within forty-five 45 days of termination of this Agreement, and upon reasonable notice provide additional program updates

(c) If all required reports and copies, prescribed above, are not sent to the Department or are not completed in a manner acceptable to the Department, the Department may withhold further payment until they are completed or may take such action as set forth in paragraph (9). "Acceptable to the Department" means that the work product was completed in accordance with generally accepted principles and is consistent with the Budget and Scope of Work (Activity Work Plans) in Attachments A and B.

(7) MONITORING: TRAINING: TECHNICAL ASSISTANCE

(a) The Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met, the Budget and Scope of Work is being accomplished within specified time periods, and other performance goals are being achieved. Such review shall be made for each function or activity set forth in Attachment A of this Agreement.

(b) The Department shall review the Recipient's performance periodically to determine whether the Recipient has substantially completed its program as described in the approved application and this Agreement in accordance with the requirements of Section 290.041 - 290.049, Fla. Stat., as amended, Florida Administrative Code, Rule Chapter 9B-43, as amended, and other applicable state and federal laws and regulations.

(c) Training and technical assistance shall be provided by the Department, within limits of staff time and budget, upon written request by the Recipient and/or upon a determination by the Department of Recipient need.

(d) The Recipient shall allow the Department to carry out monitoring, evaluation and technical assistance and shall assure the cooperation of its employees, subrecipients and subcontractors during such activities.

(8) LIABILITY.

(a) Unless Recipient is a State agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor.

(b) Any Recipient who is a state agency or subdivision, as defined in Section 768.28, Fla. Stat., agrees to be fully responsible to the extent provided by Section 768.28 Fla. Stat. for its negligent acts or omissions or tortious acts which result in claims or suits against the Department, and agrees to be liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(9) DEFAULT: REMEDIES: TERMINATION.

(a) If the necessary funds are not available to fund this agreement as a result of action by Congress, the state Legislature, the Office of the Comptroller or the Office of Management and Budgeting, or if any of the following events occur ("Events of Default"), all obligations on the part of the Department to make any further payment of funds hereunder shall, if the Department so elects, terminate and the Department may, at its option, exercise any of its remedies set forth herein, but the Department may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment:

1. If any warranty or representation made by the Recipient in this Agreement or any previous Agreement with the Department shall at any time be false or misleading in any respect, or if the Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with the Department and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

2. If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement from the financial condition revealed in any reports filed or to be filed with the Department, and the Recipient fails to cure said material adverse change within thirty (30) days from the time the date written notice is sent by the Department.

3. If any reports required by this Agreement have not been submitted to the Department or have been submitted with incorrect, incomplete or insufficient information;

4. If the Recipient has failed to perform and complete in timely fashion any of the services required under the Budget and Scope of Work attached hereto as Attachment A and Attachment B.

(b) Upon the happening of an Event of Default, then the Department may, at its option, upon thirty (30) calendar days prior written notice to the Recipient and upon the Recipient's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the Department from pursuing any other remedies contained herein or otherwise provided at law or in equity:

1. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in paragraph (10) herein;

2. Commence an appropriate legal or equitable action to enforce performance of this Agreement;

3. Withhold or suspend payment of all or any part of a request for payment;

4. Exercise any corrective or remedial actions, to include but not be limited to, requesting additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or requiring the Recipient to reimburse the Department for the amount of costs incurred for any items determined to be ineligible;

5. Exercise any other rights or remedies which may be otherwise available under law;

(c) The Department may terminate this Agreement for cause upon such written notice as is reasonable under the circumstances. Cause shall include, but not be limited to, misuse of funds; fraud; lack of compliance with applicable rules, laws and regulations; failure to perform in a timely manner; and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Fla. Stat., as amended.

(d) Suspension or termination constitutes final agency action under Chapter 120, Fla. Stat., as amended. Notification of suspension or termination shall include notice of administrative hearing rights and time frames.

(e) In addition to any other remedies, the Recipient shall return to the Department any funds which were used for Ineligible purposes under the program laws, rules, and regulations governing the use of the funds under the program

(f) This Agreement may be terminated by the written mutual consent of the parties.

(g) Notwithstanding the above, the Recipient shall not be relieved of liability to the Department by virtue of any breach of Agreement by the Recipient. The Department may, to the extent authorized

by law, withhold any payments to the Recipient for purpose of set-off until such time as the exact amount of damages **due** the Department from the Recipient is determined.

(10) NOTICE AND CONTACT.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative identified below at the address set forth below and said notification attached to the original of this Agreement.

(b) The name and address of the Department contract manager for this Agreement is:

Mr. Rick Stauts
Small Cities CDBG Program
Department of Community Affairs
Telephone: 8501922-1892
Fax: 8501922-5609
Email:rick.stauts@dca.state.fl.us

(c) The name and address of the Representative of the Recipient responsible for the administration of this Agreement is:

Name: RICHARD CASEY, JR.
Telephone: 757 292-1221
Fax: _____
Email: _____

(d) In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be rendered as provided in (10)(a) above.

(11) OTHER PROVISIONS.

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Department from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

(c) No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the

Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

(d) The Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

(f) A person or **affiliate** who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor or discriminatory vendor list.

(g) With respect to any Recipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, by signing this Agreement, the Recipient certifies, to the best of its knowledge and belief, that it and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency:

2. have not, within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph 11(g)2. of this certification; and

4. have not within a three-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Recipient is unable to certify to any of the statements in this certification, such Recipient shall attach an explanation to this Agreement.

(h) Should the Recipient fail to enforce the provisions of any promissory note, mortgage, security agreement, or other obligation in any written contract with a beneficiary, contractor, agent, or subrecipient who received payment or benefit from funds disbursed under this Agreement, the Department may, with thirty (30) days written notice to the Recipient, automatically substitute itself for the Recipient in said written contract for the purpose of enforcing said written contract and may, at its discretion, continue to administer said Participating Party Agreement or written consent.

(i) The Recipient agrees that future changes in applicable laws, rules and regulations governing the Federal and local CDBG Program are applicable to this Agreement on their effective dates, or in the case of Florida Administrative Code, Rule Chapter 9B-43, upon dissemination by the Department of a Technical Memorandum so advising Recipients. Failure of the Recipient to acknowledge receipt shall not invalidate this provision.

(j) The Recipient agrees that no member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. No member, **officer**, or employee of the Recipient, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. The Recipient shall incorporate or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes stated above.

(k) The Recipient will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violation Facilities and that it will notify the Department of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(12) AUDIT REQUIREMENTS.

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Department. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall also provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) In the event that the Recipient expends \$300,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal funds received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part. In connection with the above audit requirements, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised, including:

1. The annual financial audit report shall include all management letters and the Recipient's response to all findings, including corrective actions to be taken.
2. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.
3. Copies of audit reports for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Recipient directly to each of the following:

a. The State of Florida at each of the following addresses:

Department of Community Affairs
CDBG Program Office
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

State of Florida Auditor General
Attn: Ted J Sauerbeck
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

b. The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320(d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

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

c. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

(e) If the Recipient expends less than \$300,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required.

In the event that the Recipient expends less than \$300,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds (i.e., the cost of such an audit must be paid from Recipient funds obtained from other than Federal entities).

In the event that a copy of the audit report for an audit required by subparagraph (d) above and conducted in accordance with OMB Circular A-133, as revised, is not required to be submitted to the Department for the reasons pursuant to Section .320(e)(2), OMB Circular A-133, as revised, the Recipient shall submit the required written notification pursuant to Section .320(e)(2), including a copy of the Recipient's audited schedule of expenditures of Federal awards, directly to the Department at the following address,

Department of Community Affairs
Office of the Inspector General
2555 Shurnard Oak Boulevard
Tallahassee, Florida 32399-2100

(f) In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Department has notified the Recipient of such non-compliance.

(g) The Recipient shall have all audits completed by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above.

(h) The audit is due seven (7) months after the end of the fiscal year of Recipient or by the date the audit report is issued by the state Auditor General, whichever is later.

(i) An audit performed by the State Auditor General shall be deemed to satisfy the above audit requirements,

(13) PROPERTY MANAGEMENT AND PROCUREMENT

(a) The Recipient shall comply with procurement standards prescribed in 24 C.F.R. Section 85.36, Rule 9B-43.014(1), Florida Administrative Code, as amended from time-to-time; and relevant state and local laws applicable to procurement of supplies, equipment, construction and services.

(b) The Recipient shall comply with uniform standards governing the utilization of property prescribed in 24 C.F.R. Part 85 and in C.F.R. Part 570.

(14) SUBCONTRACTS

(a) If the Recipient subcontracts any or all of the work required under this Agreement, a copy of the executed subcontract must be **forwarded** to the Department within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the **subcontractor's** performance of work under this Agreement, to the extent allowed and required by law.

(b) The Recipient will monitor the activities of any subrecipient pursuant to the requirements in **24 C.F.R. Part 570** and HUD Handbook "Managing CDBG, A Guidebook for Subrecipients Oversight" dated August 1993.

(c) All Recipients or Subrecipient contracts for which CDBG is in any part a funding source, shall contain language to provide for termination with reasonable costs to be paid by the Recipient for eligible contract work completed prior to the date the notice of suspension of funding was received by the Recipient. Any costs incurred after a notice of suspension or termination is received by the Recipient may not be funded with CDBG funds unless previously approved in writing by the Department consistent with **24 C.F.R. Part 85**. All subrecipient contracts shall contain provisions for termination for cause or convenience and shall provide for the method of payment in such event.

(15) TERMS AND CONDITIONS.

The Agreement contains all the terms and conditions agreed upon by the parties.

(16) ATTACHMENTS.

(a) All attachments to this Agreement are incorporated as if set out fully herein.

(b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.

(c) This Agreement has the following attachments: Attachment A - Budget, Attachment B - Scope of Work (Work Plans), Attachment C - State and Federal Program Statutes and Regulations, and Attachment D - Special Conditions.

(17) FUNDING/CONSIDERATION

(a) This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder in an amount not to exceed **\$750,000** subject to the availability of funds.

(b) No advance payment is allowed under this agreement.

(c) The Recipient agrees to expend funds in accordance with the Budget and Scope of Work, Attachments A and B of this Agreement.

(d) All funds shall be requested on forms provided by the Department for that purpose.

(e) Pursuant to **24 C.F.R. Section 570.489(b)**, pre-agreement costs reflected in the grant application as originally submitted that relate to preparation of the grant application are considered

eligible costs and may be reimbursed to the Recipient, if they are otherwise in compliance with all other requirements of this contract.

(f) Funds expended for otherwise eligible activities prior to the effective date of this Agreement, except for those provided for in this contract or prior to the effective date of the enabling amendment wherein the Department agrees to their eligibility, fundability, or addition to this Agreement, are ineligible for funding with CDBG funds.

(g) In the event that the Department suspends funding pursuant to the provisions of this Agreement, said suspension shall take effect as of the receipt of the notice of said suspension by the Recipient. Any requests for payment for which the Department has not yet disbursed payment shall be subject to said suspension

(18) STANDARD CONDITIONS.

The Recipient agrees to be bound by the following standard conditions:

(a) The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Fla. Stat. or the Florida Constitution

(b) If otherwise allowed under this Agreement, this Agreement may be extended for a period of at least six (6) months and shall be subject to the same terms and conditions set forth in the initial Agreement. There shall be only one extension of the Agreement unless the failure to meet the criteria set forth in the Agreement for completion of the Agreement is due to events beyond the control of the Recipient

(c) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(d) If otherwise allowed under this Agreement, all bills for any travel expenses shall be submitted in accordance with Section 112.061, Fla. Stat.

(e) The Department of Community Affairs reserves the right to unilaterally cancel this Agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Fla. Stat., and made or received by the Recipient in conjunction with this Agreement.

(f) If the Recipient receives any interest income, it shall be returned to the Department.

(g) The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Department.

(19) LOBBYING PROHIBITION.

(a) No funds or other resources received from the Department in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

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.

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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require 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 shall certify and disclose accordingly.

This certification is a material representative of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure,

(20) COPYRIGHT, PATENT AND TRADEMARK

(a) If the Recipient brings to the performance of this Agreement a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(b) If any discovery or invention arises or is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected herewith, the Recipient shall refer the discovery or invention to the Department for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this agreement are hereby reserved to the State of Florida. In the event that any books, manuals, films, or other copyrightable materials are produced, the Recipient shall notify the Department.

Any and all copyrights accruing under or in connection with the performance under this Agreement are hereby reserved to the State of Florida.

(c) Within thirty (30) days of execution of this Agreement, the Recipient shall disclose all intellectual properties relevant to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Department shall then, under Paragraph (b), have the right to all patents and copyrights which occur during performance of the Agreement.

(21) PROGRAM INCOME

(a) Program Income is defined in Ch. 9B-43.003(47).

(b) Program income generated prior to closeout of this grant shall be returned to the Department unless:

1. The program income is used to fund additional units of CDBG activities referenced in the grant agreement under which the program income was generated; and
2. The recipient amends the grant agreement to encompass expenditure of that program income prior to administrative closeout; and
3. The funds are to be expended pursuant to the provisions of 24 C.F.R. Part 570, Sections 290.046-049, Florida Statutes, and Chapter 98-43, F.A.C.

(c) Pursuant to 24 C.F.R. Section 570.489(e)(2)(ii)(c), program income retained by a Recipient during the term of this grant must be substantially disbursed before requesting additional funds from the Department.

(d) All program income generated after closeout shall be returned to the Department.

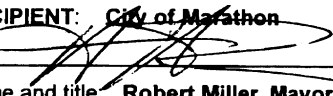
(e) The Recipient must report program income on hand from this or any other CDBG grant on the semiannual program income report.

(22) LEGAL AUTHORIZATION.

The Recipient certifies with respect to this Agreement that it possesses the legal authority to receive the funds to be provided under this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed by their undersigned officials as duly authorized.

RECIPIENT: City of Marathon

BY:  Date: 12/13/01

Name and title: **Robert Miller, Mayor**

FEID#: 65-0984873

STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS

BY:  &  Date: 12/13/01

Name and Title: **Shirley W. Collins, Director**
Division of Housing and Community Development

Attachment B
Scope of Work (Work Plan)

**DEPARTMENT OF COMMUNITY AFFAIRS SMALL CITIES CDBG PROGRAM
PROJECT WORK PLAN**

RECIPIENT City of Marathon DATE December 10, 2001 PAGE 1 of 2
 CONTRACT NO. 02DB-89-11-54-02-H08 PROJECT BUDGET \$750,000

Date Start (month & year)	Date End (month & year)	Describe Proposed Action to be Undertaken or Contract Special Condition Clearance Documentation to be Submitted by "Date End"	# Units to be Completed by "Date End"	Proposed \$\$ to be Requested by "Date End"	Proposed Administration \$\$ to be Requested by "Date End"
1/02	2/02	Submit Request for Release of Funds & Environmental Conditions	0		
1/02	2/02	Submit documentation to clear Special Condition Numbers	0		
1/02	2/02	Submit documentation to clear Special Condition Numbers	0		
2/02	5/02	ACTIVITY: Housing Rehabilitation (25%)	7	\$65,875	
6/02	9/02	Housing Rehabilitation (50%)	15	\$65,875	
10/02	1/03	Housing Rehabilitation (75%)	22	\$65,875	
2/03	5/03	Housing Rehabilitation (100%)	30	\$65,875	
1/03	2/03	ACTIVITY: Sewer Connections (33%)	10	\$124,666	
3/03	4/03	Sewer Connections (66%)	20	\$124,666	
5/03	6/03	Sewer Connections (100%)	30	\$124,666	
1/02	1/02	ACTIVITY: Administration, Reimburse Application Costs			\$5,000
1/02	03/02	Administration, Quarterly Reimbursement		\$12,813	
04/02	06/02	Administration, Quarterly Reimbursement		\$12,813	
07/02	09/02	Administration, Quarterly Reimbursement		\$12,813	
10/02	12/02	Administration, Quarterly Reimbursement		\$12,813	
1/03	03/03	Administration, Quarterly Reimbursement		\$14,062	

Attachment C

State and Federal Program Statutes and Regulations

By signature of this Agreement, the local government hereby certifies that it will comply with the following applicable federal and state requirements:

1. Community Development Block Grant, Final Rule, 24 C.F.R., Part 570;
2. Florida Small and Minority Business Act, s. 288.702-288.714, F.S.;
3. Florida Coastal Zone Protection Act, s. 161.52-161.58, F.S.;
4. Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, F.S.;
5. Title I of the Housing and Community Development Act of 1974, as amended
6. Treasury Circular 1075 regarding drawdown of CDBG funds
7. Sections 290.0401-290.049, F.S.;
8. Rule Chapter 9B-43, Fla. Admin. Code.;
9. Department of Community Affairs Technical Memorandums;
10. HUD Circular Memorandums applicable to the Small Cities CDBG Program;
11. Single Audit Act of 1984;
12. National Environmental Policy Act of 1969 and other provisions of law which further the purpose of this Act;
13. National Historic Preservation Act of 1966 (Public Law 89-665) as amended and Protection of Historic Properties (24 C.F.R. Part 800);
14. Preservation of Archaeological and Historical Data Act of 1966;
15. Executive Order 11593 - Protection and Enhancement of Cultural Environment;
16. Reservoir Salvage Act;
17. Safe Drinking Water Act of 1974, as amended;
18. Endangered Species Act of 1958, as amended;
19. Executive Order 12898 - Environmental Justice
20. Executive Order 11988 and 24 C.F.R. Part 55 - Floodplain Management;
21. The Federal Water Pollution Control Act of 1972, as amended (33 U.S.C., s. 1251 et. seq.);
22. Executive Order 11990 - Protection of Wetlands;
23. Coastal Zone Management Act of 1968, as amended;
24. Wild and Scenic Rivers Act of 1968, as amended;
25. Clean Air Act of 1977;
26. HUD Environmental Standards (24 C.F.R. Part 58);
27. Farmland Protection Policy Act of 1981;
28. Clean Water Act of 1977;
29. Davis - Bacon Act;
30. Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. s. 327 et. seq.;
31. The Wildlife Coordination Act of 1958, as amended;
32. The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1975 (42 U.S.C., s. 6901 et. seq.);
33. Noise Abatement and Control: Departmental Policy Implementation, Responsibilities, and Standards, 24 C.F.R. Part 51, Subpart B;
34. Flood Disaster Protection Act of 1973, P.L. 92-234;
35. Protection of Historic and Cultural Properties under HUD Programs, 24 C.F.R. Part 59;
36. Coastal Zone Management Act of 1972, P.L. 92-583;
37. Architectural and Construction Standards;
38. Architectural Barriers Act of 1968, 42 U.S.C. 4151;
39. Executive Order 11296, relating to evaluation of flood hazards;
40. Executive Order 11288, relating to prevention, control and abatement of water pollution;
41. Cost-Effective Energy Conservation Standards, 24 C.F.R. Part 39;
42. Section 8 Existing Housing Quality Standards, 24 C.F.R. Part 882;
43. Coastal Barrier Resource Act of 1982;
44. Federal Fair Labor Standards Act, 29 U.S.C., s. 201 et. seq.;
45. Title VI of the Civil Rights Act of 1964 - Non-discrimination;
46. Title VII of the Civil Rights Act of 1968 - Non-discrimination in housing;
47. Age Discrimination Act of 1975;
48. Executive Order 12892- Fair Housing
49. Section 109 of the Housing and Community Development Act of 1974, Non-discrimination;
50. Section 504 of the Rehabilitation Act of 1973 and 24 C.F.R. Part 8;
51. Executive Order 11063 - Equal Opportunity in Housing;
52. Executive Order 11246 - Non-discrimination;
53. Section 3 of the Housing and Urban Development Act of 1968, as amended - Employment/Training of Lower Income Residents and Local Business Contracting;
54. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L., 100-17, and 49 C.F.R. Part 24;
55. Copeland Anti-Kickback Act of 1934;
56. Hatch Act;
57. Title IV Lead-Based Paint Poisoning Prevention Act (42 U.S.C., s. 1251 et. seq.);
58. OMB Circulars A-87, A-122, and A-133, as revised;
59. Administrative Requirements for Grants, 24 C.F.R. Part 85;
60. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 and 24 C.F.R. Part 12.

ATTACHMENT D
SPECIAL CONDITIONS AND ADMINISTRATIVE REMINDERS
Housing Category

1. Prior to the obligation or disbursement of any funds, except for administrative expenses not to exceed Five Thousand Dollars (\$5,000), but in any case, no later than ninety (90) days from the effective date of this Agreement, the Recipient shall undertake the following:
 - A. Comply with procedures set forth in 24 C.F.R. Part 58, Environmental Review Procedures for Title I Community Development Block Grant Programs and 40 C.F.R. Section 1500-1508, National Environmental Policy Act Regulations. When this condition has been fulfilled to the satisfaction of the Department, the Department will issue a Notice of Removal of Environmental Conditions;
 - B. Should the Recipient be undertaking any activity subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, the Recipient shall document completion of the notice requirements provided in HUD Handbook 1378, Change 4. A non-exhaustive list of activities that would trigger this requirement would be proposed temporary relocation of tenants, acquisition of property, acquisition of easements or rights-of-way, proposed demolition of housing units, or displacement; and
 - C. The Recipient's current adopted procurement policy must be approved in writing by the Department.
2. The local government shall not expend any CDBG funds for architectural or engineering services until the Department has received the information required in paragraph four (4) below relating to architectural and engineering services..
3. The Recipient shall not enter into a contract to be paid with CDBG funds based on a sole source or single proposer procurement action without prior written approval from the Department. Failure to secure the prior written approval shall relieve the Department of any obligation to fund the said procurement contract. Any previous payments to the Recipient to fund said contract shall be ineligible and shall be repaid to the Department by the Recipient.
4. For each procured and executed professional services contract for which CDBG funding will be requested, or within five (5) days of the execution of any yet to be procured professional services for which CDBG funding will be requested, submit a copy of the following procurement documents:
 - A. Public notice of the terms of the request for proposals in a newspaper of regional circulation, including affidavit of publication;
 - B. List of entities to whom a notification of the request for proposals was provided by mail or by fax;
 - C. List of firms which submitted a proposal;
 - D. Completed short-listing evaluation / ranking forms, including any ranking summary document, and document transmitting the short-listed firms to the commission (only if short-listing procedure used);
 - E. Completed final evaluation / ranking forms;
 - F. Portion of commission minutes dealing with contract award;
 - G. Cost breakout from selected firm used for completion of the cost analysis (if pricing information was not submitted with proposals);

- H. Contract (signed or proposed);
 - I. Truth-in-Negotiation certification (if not in the contract) for engineering contracts over \$60,000;
 - J. If a protest was filed, a copy of the protest and documentation of resolution;
 - K. A request for the Department's approval of a single source procurement if only one firm was considered and the contract exceeds \$25,000;
 - L. If a regional planning council or local government is performing the services, submit only a copy of the contract and cost analysis information; and
 - M. If a professional services procurement will not be undertaken, so advise the Department.
5. The Recipient shall, prior to the disbursement of any CDBG administrative funds exceeding \$15,000 undertake the following:
- A. Provide to the Department a copy of all engineering specifications and construction plans for the activities described in the Agreement. The Recipient shall also furnish the Department, prior to soliciting bids or proposals, a copy of all bid documents for all services and/or materials to provide those services and/or materials for all construction activities when the bids are expected to exceed \$25,000. These submissions are for the limited purpose of identifying the extent of the activities to be accomplished with CDBG funds under this Agreement, and in no way does it indicate that the Department has reviewed or approved the plans or bids; and
 - B. The Recipient shall not publicize any request for bids for construction purposes or distribute bid packages until the Department has provided to the Recipient written acceptance of the engineering specifications, construction plans, and bid documents.

ADMINISTRATIVE REMINDERS:

1. The Recipient shall provide assistance for the rehabilitation of housing in a floodplain only after documenting in the rehabilitation case file for that structure that the Recipient and the beneficiary are in compliance with the Flood Disaster Protection Act of 1973. This documentation must address such things as elevation requirements, erosion, and water, sewage, or septic tank requirements. Each structure located within a floodplain that is rehabilitated to any extent with CDBG funds shall be insured under the National Flood Insurance Program until at least submission of the closeout package.
2. The Recipient shall annually undertake an activity to affirmatively further fair housing pursuant to 24 C.F.R. Section 570.487(b)(4). Annually shall be defined as an activity for each year or one-third thereof from the effective date of the contract to the date of submission of the closeout.
3. The Recipient shall expend and document the expenditure of the amount of local government general revenue contribution that is claimed for points on Form CDBG-H-4 in the Application, as it may have been amended through the completeness process, and reflected on Attachment A to this Agreement. Except for the CDBG portion of the cost of post-closeout audits and for unreimbursed application preparation cost, these local government general revenue funds shall be expended after the date of the site visit and prior to submission of the closeout. The local government general revenue contribution shall be expended concurrently with expending CDBG funds for the same purpose. The expenditure of local government general revenue funds shall be documented in the same manner as if they were CDBG funds. The documentation of the expenditures shall be reviewed by the Department prior to the approval of the closeout.
4. The Recipient shall expend and document the expenditure of the amount of other grant or loan leverage funds that is claimed for points on Form CDBG-H-3(B3) in the Application, as it may have been amended through the completeness process, and as reflected on Attachment A to this Agreement. These grant or

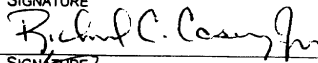
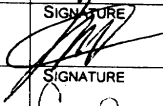
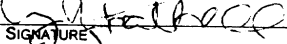


loan leverage funds shall be expended as described on Form CDBG-H-4 after the date of the site visit and prior to submission of the closeout. The expenditure of other grant or loan leverage funds shall be documented as if they were CDBG funds. The documentation of the expenditures shall be reviewed by the Department prior to the approval of the closeout.

5. Conflicts of interest relating to procurement shall be addressed pursuant to 24 C.F.R. Section 570.489(g). Conflicts of interest relating to acquisition or disposition of real property; CDBG financial assistance to beneficiaries, businesses, or other third parties; or any other financial interest, whether real or perceived, shall be addressed pursuant to 24 C.F.R. Section 570.489(h).
6. The Recipient shall comply with the historic preservation requirements of 24 C.F.R. Section 58.17 and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
7. A deed restriction shall be recorded on any real property or facility acquired or constructed with CDBG funds. This restriction shall limit the use of that real property or facility to the use stated in the Application and that title shall remain in the name of the Recipient. Such deed shall be made a part of the public records in the Clerk of Court of the County in which the Recipient is located. Any future disposition of that real property shall be in accordance with 24 C.F.R. Section 85.31. Any future change of use shall be in accordance with 24 C.F.R. Section 570.489(j).
8. The Recipient shall conduct all public hearings relating to this Agreement and performance thereunder in a location that is accessible to physically handicapped persons or make such accommodations as necessary to provide for active participation of handicapped persons desirous of attending such public hearings.
9. The Recipient shall update and submit Form HUD 2880 to the Department within 30 days of the Recipient's knowledge of changes in situations which would require that such updates be prepared. A final Form HUD 2880 shall be provided to the Department with the request for closeout, and its absence or incompleteness shall be cause for rejection of such closeout and assessment of penalties.
10. The Recipient must comply with the Housing Assistance Plan that was provided to the Department as part of the application process. The Recipient agrees that this Housing Assistance Plan must be followed when selecting beneficiaries and housing units, and shall only be modified after application deadline with prior DCA approval.
11. For properties constructed prior to 1978, any homeowner, resident, or tenant remaining in, being relocated from, or locating to any housing unit that is to be rehabilitated or that has been rehabilitated, in whole or in part, with CDBG funds provide under the terms of this Agreement, shall be advised:
 - A. The property may contain lead-based paint;
 - B. The hazards of lead-based paint;
 - C. The symptoms and treatment of lead poisoning;
 - D. The precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards);
 - E. The need for and availability of blood lead level screening for children under seven years of age; and
 - F. Appropriate abatement procedures may be undertaken if lead-based paint is found on the property.
12. Bids for rehabilitation or reconstruction of housing units shall only be accepted from contractors licensed by the State of Florida, Department of Business and Professional Regulation.

13. Change orders for rehabilitation or reconstruction of housing units which cumulatively exceed one thousand dollars (\$1,000) above the original contract amount, shall only be paid with CDBG funds if those change orders are to correct documented code violations based on a bonafide code violation report or to meet Section 8 Housing Quality Standards.
14. All change orders for housing rehabilitation or reconstruction shall be approved by the housing unit owner or his or her representative and the contractor and a representative of the local government prior to any initiation of additional work based on that change order.
15. To document completion of construction, each housing unit case file shall contain the following information:
 - A. A statement signed by contractor that all items on the initial work write-up and those modified through change orders have been completed;
 - B. An acknowledgment that the housing unit meets the applicable local code and Section 8 Housing Quality Standards, signed and dated by the local building inspector or the local government's housing rehabilitation specialist;
 - C. A signed statement by the housing unit owner or his or her representative that the work has been completed based on the work write-up and change orders. Should all requirements be fulfilled and the homeowner or their representative refuse to acknowledge completion of the work, the housing unit case file shall be documented with a statement detailing the stated reason for said refusal; and
 - D. This documentation shall be completed prior to the submission of the closeout package and shall accompany the closeout package when submitted to the Department.
16. The following data will be provided by housing unit as part of the closeout for each activity providing direct benefit (ie., housing rehabilitation, temporary relocation, hookups, etc.):
 - A. Name of each recipient and address of each housing unit rehabilitated with CDBG funds, the date the construction was completed on the housing unit, and the amount of CDBG funds spent on that housing unit;
 - B. Whether the household is headed by a female, the number of handicapped persons in the household, the number of elderly persons in the household, and the LMI or VLI status of the household;
 - C. The number of occupants in the household, categorized by sex; and
 - D. The racial demographics of the household by number (white, black, Hispanic, Asian/Pacific islander, Hassidic Jew or American Indian/Alaskan native);
17. The statistics provided in Number 16 above shall be summarized by activity and submitted with the closeout package.
18. Any payment exceeding fair market value as established through the appraisal process established in HUD Handbook 1378 for acquisition of any property, right-of-way, or easement, shall be approved in writing by the Department prior to distribution of the funds. Should the Recipient fail to obtain Department approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid with CDBG funds.

SIGNATURE AUTHORITY FORM
INDIVIDUALS AUTHORIZED TO SUBMIT REQUESTS FOR PAYMENTS

SUBMIT THREE ORIGINAL COPIES FOR EACH CONTRACT

RECIPIENT CITY OF MARATHON		CONTRACT # 02DB-89-11-54-02-H08
MAILING ADDRESS (STREET OR POST OFFICE BOX) 10045-10055 Overseas Highway		
CITY, STATE AND ZIP CODE Marathon, Florida 33050		
CONTACT PERSON Richard Casey, Jr. Programs Administrator, Monroe County Housing Authority		TELEPHONE # (305) 292-1221 E-MAIL ADDRESS: caseyr@kwaha.org
FINANCIAL CONTACT PERSON Karen Ellis Assistant Director of Financial Services, Moyer & Associates		TELEPHONE # (954) 753-5841 E-MAIL ADDRESS: ellisk@GLmoyer.com
REQUESTS FOR FUNDS FROM THE FLORIDA SMALL CITIES CDBG PROGRAM (DEPARTMENT OF COMMUNITY AFFAIRS) REQUIRE (CHECK ONE) <input type="checkbox"/> ONE SIGNATURE <input checked="" type="checkbox"/> TWO SIGNATURES OF INDIVIDUALS AUTHORIZED BELOW.		
TYPED NAME Richard C. Casey, Jr.	DATE 12/12/01	SIGNATURE 
TYPED NAME J. Manuel Castillo	DATE	SIGNATURE 
TYPED NAME Craig Wrathell	DATE	SIGNATURE 
TYPED NAME Emmet P. Wainwright	DATE	SIGNATURE 
I CERTIFY, AS THE RECIPIENT'S CHIEF ELECTED OFFICIAL, THAT THE ABOVE SIGNATURES ARE OF THE INDIVIDUALS AUTHORIZED TO SIGN REQUESTS FOR FUNDS FROM THE SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT.		
TYPED NAME Robert Miller	DATE 12/13/01	SIGNATURE 
<input checked="" type="checkbox"/> Check here if your local government receives Electronic Funds Transfer (EFT) from the State of Florida. Note: CDBG payments made via EFT are automatically deposited to the local governments general account. If this account is interest bearing it must be transferred to a non-interest bearing account. You can check on your deposit through the State Comptroller's website at http://flair.dbf.state.fl.us/ If you are not sure if your local government uses EFT, or have any questions about the process, please call the CDBG section at (850) 922-1894.		DCA USE ONLY:
<input type="checkbox"/> Check here if your local government will be working on a reimbursement basis.		
For local governments not receiving EFT and not working on a reimbursement basis, a non-interest bearing account must be established. Please list the account information for the financial institution (insured by the FDIC) below. All signatures on this account must be bonded.		
NAME OF FINANCIAL INSTITUTION Marine Bank of the Florida Keys		ACCOUNT NUMBER # 0001009001
STREET ADDRESS OR POST OFFICE BOX 11290 Overseas Highway		TELEPHONE NUMBER (305) 743-3030
CITY, STATE AND ZIP CODE MARATHON, FLORIDA 33050		

Department of Community Affairs
 Florida Small Cities Community Development Block Grant Program
 RETURN OF FUNDS FORM

Local Government Name _____ Contract Number _____

This form should be used **each time funds are returned to the Department for any reason**. Below, indicate which of the four categories in which returned funds are to be placed. Please note that if this form is not received with returned funds, **subsequent grant funds will be denied** until this information is received and line-item balances are adjusted.

1. REIMBURSEMENT OF GRANT FUNDS

If returned monies are reimbursement to grant, indicate the line items to be credited:

(1) Activity Code	(2) Line Item Description	(3) Reimbursement Amount
Total Returned		

II. PROGRAM INCOME (Indicate the manner in which program income was generated, and the appropriate line item, if applicable.)

(1) Amount	(2) Line Item	(3) Manner Generated

III INTEREST (From Housing Rehab. escrow account or interest earned in error.)

(1) Amount	(2) Line Item	(3) Manner Generated

IV DEOBLIGATION (Funds returned that the grantee does not intend to utilize. List the reason that funds will not be used i.e. grant closeout, termination etc.)

(1) Amount	(2) Line Item	(3) Reason for Deobligation



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

2740 CENTERVIEW DRIVE • TALLAHASSEE, FLORIDA 32399

BOB MARTINEZ
Governor

THOMAS G. PELHAM
Secretary

February 27, 1990

Memo No: HCD:CDBG6-90-1

MEMORANDUM

TO: All Small Cities Community Development Block Grant
Eligible Communities, Regional Planning Councils
and Other Interested Parties

FROM: Lewis O. Burnside, Jr., ^{LB} Director
Division of Housing and Community Development

SUBJECT: LOCAL PROCUREMENT OF PROFESSIONAL SERVICES IN THE
ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK
GRANT (CDBG) PROGRAMS

=====

I. Introduction and Purpose

Many questions have been raised recently concerning CDBG procurement procedures. There appears to be a lack of adequate local procurement practices, and in some instances, use of questionable procedures in selecting professional services for grant preparation and the administration of CDBG programs. This memorandum is an attempt to address this situation and assure that maximum open and free competition is achieved through sound procurement practices.

This memorandum does not supercede or replace any applicable federal and state laws and regulations. However, this memorandum will provide general guidance regarding the implementation of these laws and regulations. All local government officials, grant administrators, planning councils, consultants and others with designated responsibility for the administration of CDBG award contracts remain responsible for ensuring compliance with all applicable federal and state laws and regulations. Such laws and regulations include but are not limited to the following: OMB Circular A-102, Attachment O; 24 CFR Part 85 Section 85.36;

EMERGENCY MANAGEMENT • HOUSING AND COMMUNITY DEVELOPMENT • RESOURCE PLANNING AND MANAGEMENT

B. Selection Procedures

To avoid violations of federal regulations contained in 24 CFR Section 85.36 and OMB Circular A-102, Attachment O, and policy memoranda issued by HUD, recipients should follow these guidelines:

- place advertisements for proposals in more than just a single local newspaper;
- do not use familiarity with a particular Target Area or a particular local jurisdiction as a selection factor;
- assure that more than one potential bidder can meet all of the selection factors;
- be sure of a clear connection between the selection factors and the work to be accomplished;
- do not use "past CDBG performance as determined by DCA" as a selection factor;
- consider the ability of potential bidders to become familiar with the locality in a short time and familiarity with the CDBG program;
- assure that contracts are only awarded to contractors with sufficient capacity to complete the award contract.

Sufficient records must be maintained to support the basis for:

- the selected method of procurement;
- the selection of contract type;
- the contractor selection or rejection;
- the selected contractor price.

C. Determining Pricing

Fair and reasonable profits should be permitted for professional services under 24 CFR s. 85.36; however, a cost or price analysis must be included in all proposals which supports

- (b) a separate professional services contract must be executed between the local government and the consultant for each particular CDBG program.
- (c) those types of services having a relatively undefined scope, such as program management or administration, and those services of a more defined scope, such as engineering or architectural design, must be separated from each other into individual contracts; and
- (d) each services contract must identify by program number and individual project the grant to which it is applicable.

E. Program Administration

In addition, OMB Circular A-102, Attachment O establishes that a general conflict exists where a local government awards a multi-service contract to a firm to administer its CDBG program, while at the same time the same firm is to provide a service, such as engineering, where the administrator must oversee and approve its own work. In such cases, the services of an independent third party should be obtained to provide the necessary oversight and approvals.

The local government's recordkeeping and financial management system should be maintained locally so that the local government has control and accountability of all CDBG funds.

III. Conclusion

The possible lack of competition in the procurement of professional services for the administration of CDBG programs appears to be inconsistent with the procurement standards required by state and federal regulations. The policies set forth in this memorandum should be implemented immediately to ensure conformance upon receipt of CDBG funds beginning with FFY 1989.

Thank you for your attention and cooperation in this matter. If you have any questions or require additional information, you may write to Ms. Wanda A. Jones, Planning Manager, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399-2100 or you may contact Ms. Jones at (904) 487-3644.

LOB/wjf

DEPARTMENT OF COMMUNITY AFFAIRS
SMALL CITIES CDBG PROGRAM

CONTRACTUAL OBLIGATIONS AND MBE REPORT

(1) REQUEST FOR FUNDS # _____
(2) PAGE _____ OF _____

(3) Recipient _____ (4) Contract Number _____
(5) Report Period From _____ To _____ (6) Form Prepared By _____ (Name) _____ (Phone Number) _____

(7) Contractor/Subcontractor Name & Address <i>(Fill in for each contractor or subcontractor)</i>	(8) Prime Contractor Identification (ID) Number	(9) Subcontractor Identification (ID) Number <i>(see below)</i>	(10) Contract Period		(11) Amount of Contract or Subcontract	(12) Type of Trade 1 thru 3 <i>(see below)</i>	(13) Contractor or Subcontractor Racial Ethnic 1 thru 6 <i>(see below)</i>	Procurement Compliance Checklist					
			(a) Start Date	(b) End Date				(14) Section 3 Y/N	(15) WBE# Y/N	(16) Small Business Y/N	(17) Davis Bacon Y/N	(18) Type of Procurement <i>(see below)</i>	
<i>Include all professional services such as consultants, engineers, architects, etc. Both prime contractor and subcontractors (with contracts over \$10,000) paid with CDBG dollars must be included. Do not list previously reported information.</i>													
Name Street City State & Zip Code													
Name Street City State & Zip Code													
Name Street City State & Zip Code													
Name Street City State & Zip Code													
Name Street City State & Zip Code													

(9) When subcontractor ID is used, information in columns 10 through 17 must reflect the subcontractor information, not the prime contractor's information; also include prime contractor's ID number.

(12) Type of Trade Codes: CDP
1 = New Construction (includes housing rehab, water and sewer)
2 = Education Training
3 = Other (includes supply, professional services and other activities except construction and education/training)

(13) Racial Ethnic Codes
1 = White American
2 = Black American
3 = Native American
4 = Hispanic American
5 = Asian/Pacific American
6 = Hasidic Jews
7 = Other

(18)
CB=Competitive Bid
E=Emergency Purchase
CN=Competitive Negotiation
NC=Non-Competitive Negotiation
SP=Small Purchase

**FLORIDA SMALL CITIES CDBG
CONTRACTUAL OBLIGATION & MBE INSTRUCTIONS**

Follow the instructions below when completing the Contractual Obligations and MBE (CO/MBE) report. The CO/MBE form must be typed, checked for accuracy and submitted to DCA in duplicate. Submit it with the Request For Funds (RFF) if there has been new contractual activity since the last RFF was submitted. The form should report new contractual activity and should not be "cumulative". (The CO/MBE report does not need to be submitted with the RFF if there has been no new contractual activity since the last RFF was submitted. Remember: the RFF must have original signatures.)

(1) **Request for Funds Number:** Enter the RFF number for which this report is pertinent.

(2) **Page __ of __:** Number pages as needed; use additional forms if necessary.

(3) **Recipient:** Enter complete name of recipient (include city or county with name).

(4) **Contract Number:** Enter complete contract number.

(5) **Report Period (From/To):** Enter beginning and ending dates for the contractual obligations being reported. These dates should coincide with the reporting dates on the Request For Funds form.

(6) **Form Prepared By:** Enter name and phone number of the person responsible for the report.

(7) **Contractor/Subcontractor Name and Address:** Enter this information for each firm receiving a contract or subcontract. Be sure to include a zip code. Only activities of \$10,000 or more need to be reported unless contracts of \$10,000 or less represent a significant portion of the total contracting activity.

(8) **Prime Contractor Identification Number:** Enter Employer Identification Number (IRS) or Social Security number of the Prime Contractor as the identifier for each contract awarded from CDBG funds.

(9) **Subcontractor Identification Number:** Enter Employer Identification Number (IRS) for the Subcontractor as the identifier for each contract awarded from CDBG funds. When a subcontractor ID or Social Security number is provided (where there is no IRS number), the Prime Contractor ID number must also be provided. If a subcontractor ID is placed in column 9, information in columns 10-18 must reflect subcontractor information rather than prime contractor information. Use the HUD Labor Standards Handbook # 1344 (7-3) to determine whether or not a subcontractor is an employee.

(10) **Contract Period: (a) Start Date:** Enter beginning date of contractual period. **(b) End Date:** Enter ending date of contractual period.

(11) **Amount of Contract/Subcontract:** Enter dollar amount of contract.

(12) **Type of Trade:** Enter the code (1,2 or 3) which best indicates the contractor/subcontractor service. If a subcontractor ID is provided in 9, the trade code would be for the subcontractor instead of the prime contractor. The "new construction" category (1) includes housing rehabilitation, water and sewer. The "other" category (3) includes supply, professional services and other activities except construction and education/training.

(13) **Contractor or Subcontractor Business Racial/Ethnic Code:** Enter the code (1-6) for the racial/ethnic character of the owner(s) or controller(s) of 51% or more of the business. If 51% is not owned and controlled by a single racial/ethnic category, enter the most appropriate code. If a subcontractor ID is provided in 9, the trade code would apply to the subcontractor instead of the prime contractor.

(14) **Section 3:** Enter "Yes" or "No" in column 15. "Yes" if Section 3 applies and "No" if Section 3 does not apply (see HUD Handbook 8023.1).

(15) **Women Business Enterprise (WBE):** Enter "Yes" or "No" in column 16. "Yes" if it is a Women Business Enterprise and "No" if it is not.

(16) **Small Business:** Enter "Yes" or "No" in column 17. "Yes" if it is a Small Business and "No" if it is not a Small Business.

(17) **Davis Bacon:** Enter "Yes" or "No" in column 1. "Yes" if Davis Bacon applies and "No" if Davis Bacon does not apply.

(18) **Type Procurement:** Enter applicable acronym:

CB = Competitive Bid
SP = Small Purchase
E = Emergency Purchase
O = Other
CN = Competitive negotiation
NC = Non competitive negotiation (approved by DCA)