

MARTIN COUNTY
COMMUNITY REDEVELOPMENT AGENCY
INVESTMENT PROGRAM AGREEMENT

THIS MARTIN COUNTY COMMUNITY REDEVELOPMENT AGENCY INVESTMENT PROGRAM AGREEMENT (the "Agreement") is made and entered into this ____ day of _____ 20____, by and between the MARTIN COUNTY COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic, under Part III, Chapter 163, Florida Statutes, with an address of 2401 SE Monterey Road, Stuart, FL 34996 (the "CRA"), and _____, with an address of _____ (the "GRANTEE"). The CRA and GRANTEE may be referred to herein, collectively, as the "Parties".

WITNESSETH:

WHEREAS, the CRA undertakes activities for community investment and redevelopment and to remedy blight in the Community Redevelopment Areas of Martin County, Florida; and

WHEREAS, the GRANTEE has an ownership interest in real property located in a Martin County redevelopment area and desires to undertake certain property improvements; and

WHEREAS, in furtherance of its goals, the CRA adopted certain Investment Programs to provide grants to eligible recipients for property improvement; and

WHEREAS, the CRA wishes to enter into this Agreement with the GRANTEE to provide a grant for property improvement and to define the relationship between the Parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the value of which is hereby acknowledged by both Parties, the Parties agree as follows.

SECTION 1. RECITALS.

The recitals set forth above are incorporated herein and made a part of this Agreement.

SECTION 2. THE PROPERTY.

The below-described property is owned by the GRANTEE [***OR*** *Grantee is the lessee of the Property, and the Property is owned by* _____] ("Owner"). The property is located at _____, legally described as:

[INSERT LEGAL DESCRIPTION] (the "Property").

GRANTEE shall provide proof of ownership of the Property or a valid Lease and the status of the business, satisfactory to the CRA, prior to disbursal of any funds by the CRA.

SECTION 3. THE GRANT.

- 3.1 The CRA hereby awards GRANTEE a sum not to exceed _____ and 00/100 Dollars (\$ _____) (the "Grant"). The full amount of the Grant shall be used solely for reimbursement of _____ renovations to the Property. The use of all funds shall be governed by the CRA Investment Program Application and Application Process attached and incorporated herein as Exhibit "A", the Renovation Proposal and Plans attached and incorporated herein as Exhibit "B", and the Application Checklist attached and incorporated herein as Exhibit "C" (collectively, the "Scope of Work."). Any deviation from the Scope of Work shall be a default under this Agreement and grounds for immediate termination and cancellation of the Grant.
- 3.2 The CRA's obligation is limited to awarding the Grant. The CRA is not liable and does not assume any liability for GRANTEE'S activities associated with the use of the Grant funds, nor GRANTEE'S personnel decisions, business decisions or policies, including but not limited to the hiring of staff, paying of staff salaries or the expenditure of overhead costs.
- 3.3 Changes in use of the Grant proceeds must be approved, in writing, by the CRA Board during the Term of this Agreement. Requests for change must be in writing by the GRANTEE to the Manager of the Office of Community Development.
- 3.4 As security for GRANTEE's performance, GRANTEE shall, at the sole discretion of the CRA Board, execute a Promissory Note and/or a Guaranty in favor of CRA. These documents, along with this Agreement, constitute the "Grant Documents". The Grant Documents shall be cancelled upon full compliance with the terms of said documents by GRANTEE.
- 3.5 All disbursements of the Grant proceeds shall be made on a lump sum, reimbursement basis for the completed work as outlined in the Scope of Work. The CRA will reimburse eighty percent (80%) of the total cost of improvements to the Property up to a maximum of \$ _____. Grant funds must be used solely for improvements to the Property and shall not be distributed to GRANTEE unless and until the CRA receives documentation establishing full payment by the GRANTEE of the total cost of all improvements. Documentation includes, but is not limited to, receipts, invoices, canceled checks, and such other documents as the CRA may require, including releases of claims or liens. Requests for reimbursements must be submitted to the Manager of the Office of Community Development and shall include a letter summarizing the funding request along with all necessary support documentation. THE CRA SHALL HAVE NO OBLIGATION TO REIMBURSE GRANTEE FOR ANY PORTION OF THE COST OF IMPROVEMENTS UNTIL THE WORK HAS BEEN COMPLETED AND THE CRA HAS BEEN PROVIDED THE REQUIRED DOCUMENTATION DESCRIBED HEREIN.

- 3.6 Upon written request of the GRANTEE, the CRA may, in its sole discretion, make payments directly to GRANTEE's Contractor. In addition to the documentation required above, direct payments will require partial releases from all subcontractors and material providers. The final payment will not be made until the GRANTEE delivers to the CRA a complete release of all claims or liens arising out of performance of the work, receipts for payment in full and an affidavit that so far as GRANTEE has knowledge or information the release and receipts cover all the labor and materials for which a lien or claim could be filed. GRANTEE understands and agrees that the CRA assumes no responsibility or liability for the performance or the quality of the work and that in the event of a dispute as to the performance of the Contractor, GRANTEE's remedy is against the Contractor and GRANTEE hereby expressly releases CRA from responsibility for the same.
- 3.7 GRANTEE shall commence the renovations to the Property within _____ (_____) of the Effective Date. In the event GRANTEE has not commenced renovations within such time period, this Agreement shall automatically terminate, and CRA shall be relieved of any and all obligations to GRANTEE.
- 3.8 If the improvements outlined in the Scope of Work are not completed, have not passed final inspection, or have not received its certificate of occupancy or certificate of completion (as applicable) within one (1) year from the effective date of this Agreement, this Agreement shall automatically terminate, and GRANTEE shall not be provided entitled to receive the Grant.

SECTION 4. INSURANCE.

- 4.1 GRANTEE shall carry Comprehensive Commercial General Liability insurance, listing the Martin County Board of County Commissioners and the CRA as additional insured, written on an "occurrence" basis against claims for personal injury (including but not limited to slander, defamation, bodily injury and wrongful death) and property damages with a combined single limit for bodily injury and property damage of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate.

GRANTEE shall provide CRA with a certificate of insurance specifically stating that CRA, Martin County, its officers, officials, agents, employees and representatives are named as additional insured. The policy required hereunder must be specifically endorsed to grant the CRA thirty (30) days advance notice of any material change or cancellation of coverage. Coverage shall be written on an occurrence form basis and respond as primary.

GRANTEE shall be responsible for ensuring that all contractors employed for the installation and maintenance of improvements pursuant to this Agreement shall be properly licensed, certified and insured, as provided in this Section 4.1, and shall provide a certificate of insurance specifically stating that CRA and Martin County, its officers, officials, agents, employees and representatives are named as additional

insured.

The provisions of this section shall survive beyond the expiration or termination of this Agreement.

SECTION 5. SCOPE OF WORK.

- 5.1 GRANTEE shall use funds solely as provided in accordance with the Scope of Work.
- 5.2 Any amendments to Exhibits “A” and “B” desired by GRANTEE shall be submitted in writing to the Manager of the Office of Community Development. Amendment must be accompanied by written justification and must be approved by the Manager of the Office of Community Development in writing prior to commencing any work.

SECTION 6. EFFECTIVE DATE, TERM, COMMENCEMENT AND COMPLETION DATES.

- 6.1 The “Effective Date” of this Agreement shall be the date of execution by the CRA. Once executed by GRANTEE, this Agreement will be discussed at a duly noticed meeting of the CRA Board, and the CRA Board shall have the sole authority to either accept or reject this Agreement.
- 6.2 The Term of this Agreement shall be for _____ (____) months from the Effective Date. This Agreement may be renewed, extended or amended upon mutual agreement by the Parties provided the combined Terms of all renewals, extensions or amendments shall not exceed three (3) years.
- 6.3 Work provided in the Scope of Work shall commence within _____ days of the Effective Date and shall be fully completed not later than 60 days prior to the end of the Term of this Agreement.

SECTION 7. RECORDS.

- 7.1 INSPECTION. All of GRANTEE’S books and records and documents related to the grant must be made available for inspection and/or audits by the CRA and any other organization conducting reviews for the CRA upon 24 hours’ notice throughout the Term of this Agreement. In addition, GRANTEE must retain all records related to the grant in proper order for at least three (3) years following the expiration of the Agreement. The CRA shall have access to such records, for the purpose of inspection or audit during the three (3) year period. This Section shall survive the expiration of this Agreement.
- 7.2 AUDITED FINANCIAL STATEMENT. Upon request by the CRA the GRANTEE shall submit an annual Audited Financial Statement to the CRA for any

fiscal year for which grant funds are received or expended, within ninety (90) days following the close of the fiscal year. This Section 7 shall survive the expiration of this Agreement.

SECTION 8. SPECIAL CONDITIONS.

- 8.1 **CESSATION OF OCCUPANCY OR OWNERSHIP.** In the event the GRANTEE sells, ceases to own, or occupy the Property within the following time periods, calculated from the date of completion of improvements (the “Restrictive Period”), GRANTEE shall repay the corresponding enumerated amount of grant funds advanced by the CRA pursuant to this Agreement.

<u>Restrictive Period</u>	<u>Amount of Repayment</u>
Within 0 and 12 months	75%
Within 13 and 24 months	50%
Within 25 and 36 months	25%

The determination that GRANTEE has sold, ceased to own, or occupy the Property shall be made solely by the CRA. Additionally, sale, cessation of ownership, or occupancy constitutes an event of default for which all other default provisions of this Agreement shall apply, including but not limited to, those provided in Section 9 below. This provision shall survive termination or expiration of this Agreement.

Notwithstanding the foregoing, in the event GRANTEE sells, ceases to own or occupy the Property during the Restrictive Period, GRANTEE hereby agrees that all improvements made to the Property pursuant to this Agreement shall remain on the Property and shall not be removed by GRANTEE.

- 8.2 **MATERIAL CHANGE OF CIRCUMSTANCES.** For the purpose of this Agreement, material change of circumstances include, but is not limited to, the failure of the GRANTEE to diligently and actively pursue commencement or completion the Scope of Work, failure to fulfill the terms of this Agreement or the other Grant Documents, cessation of occupancy, sale or transfer of ownership of the business or the property, voluntary or involuntary bankruptcy or an assignment for the benefit of creditors. GRANTEE shall immediately notify the CRA of any material change of circumstances of the project. The determination as to whether a material change of circumstances has occurred shall be made solely by the CRA. A material change of circumstances shall constitute a default under this Agreement for which the CRA has the right to pursue any remedy provided in this Agreement or the other Grant Documents, by law or in equity.
- 8.3 **ASSIGNMENT.** GRANTEE shall not assign, transfer, or otherwise dispose of any of its rights or obligations under this Agreement without prior written consent of the CRA, which may be withheld in the CRA’s sole and absolute discretion.

- 8.4 RULES, REGULATIONS AND LICENSING REQUIREMENTS. GRANTEE and its staff, volunteers, contractors and agents must possess all licenses and permits required to conduct its business affairs, including federal, state, city and county. In addition, GRANTEE shall comply with all, laws, ordinances and regulations applicable to carrying out the Scope of Work including, but not limited to, conflicts of interest, building, zoning, land and property use regulations.
- 8.5 PERSONNEL. All personnel of the GRANTEE are solely employees of the GRANTEE and not employees or agents of the CRA. GRANTEE shall notify the CRA of all material changes in personnel within five (5) business days of the change. A material change in personnel is a change which reasonable minds would agree will impair the ability of GRANTEE to conduct its business affairs.
- 8.6 INDEMNIFICATION. GRANTEE shall indemnify and hold harmless the CRA and Martin County, and their Board or Commission members, employees or agents from any claims, liability, losses and causes of action that may arise out any activity related to this Agreement or GRANTEE's use of the Grant funds. GRANTEE will pay all claims and losses of any nature related to this Agreement or GRANTEE's use of the funds, and will defend all suits, in the name of the CRA when applicable, and will pay all costs and judgments that may issue from it, except those caused by the sole negligence of CRA employees or officers. The GRANTEE recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the CRA in support of the obligation in accordance with the laws of the State of Florida. Nothing in this Agreement shall be deemed a waiver or extension of the CRA's sovereign immunity rights pursuant to Section 768.28, Florida Statutes.
- 8.7 NOTICES. All notices required in this Agreement if sent to the CRA shall be mailed to:

Martin County Office of Community Development
Attn: Susan Kores, Manager
2401 SE Monterey Road
Stuart, FL 34996
Email: skores@martin.fl.us

with copy to:

Martin County Attorney's Office
Attn: Sebastian Poprawski, Senior Assistant County Attorney
2401 SE Monterey Road
Stuart, FL 34996
Email: spoprawski@martin.fl.us

All written notices if sent to the GRANTEE shall be mailed to Grantee at the

address in paragraph one of page 1 above.

- 8.8 NONDISCRIMINATION. GRANTEE represents and warrants to the CRA that GRANTEE does not and will not engage in discriminatory practices and that there will be no discrimination in connection with GRANTEE's performance under this Agreement on account of race, gender, religion, color, age, disability, national origin, marital status, familial status, or sexual orientation. GRANTEE further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status, sexual orientation or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.
- 8.9 ADA REQUIREMENTS. GRANTEE must meet all the requirements of the Americans with Disabilities Act ("ADA"), which includes posting a notice informing GRANTEE'S employees that they can file complaints of ADA violations directly with the Equal Opportunity Commission ("EEOC"), One Biscayne Tower, 2 south Biscayne Blvd, Ste. 2700, Miami, Florida 33131.
- 8.10 INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, the GRANTEE shall be and act as an independent contractor contracting for the services and acting toward the mutual benefits expected to be derived from the mutually agreed upon Agreement. At no time shall GRANTEE be considered an employee, agent or partner of the CRA or the County.
- 8.11 COSTS. GRANTEE shall obtain and pay for all permits, licenses, federal, state and local taxes and other fees chargeable to its operation or related to work performed under this Agreement.
- 8.12 ENTIRE AGREEMENT. This Agreement, together with the Grant Documents, expresses the entire agreement of the Parties and no party shall be bound by any promises or representations, verbal or written, made prior to the date hereof which are not incorporated herein.
- 8.13 MODIFICATION. This Agreement may not be modified, except in a writing signed by all Parties hereto.
- 8.14 PLEDGES OF CREDIT. GRANTEE shall not pledge the CRA's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness.
- 8.15 SUCCESSORS AND ASSIGNS. The GRANTEE binds itself and its partners, successors, executors, administrators and assigns to the CRA, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CRA which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CRA and the GRANTEE.

- 8.16 WAIVER OF BREACH. It is hereby agreed by the Parties that no waiver of breach of any of the covenants or provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant.
- 8.17 PUBLIC RECORDS LAW. The GRANTEE shall allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the GRANTEE in conjunction with the Agreement. Failure by the GRANTEE to grant such public access shall be grounds for immediate unilateral cancellation of this Contract by the CRA.
- 8.18 SEVERABILITY. If any term or provision of this Agreement, or the application thereof to any person or circumstances be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
- 8.19 GOVERNING LAW AND VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida in all respects without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction), and venue for any civil action brought hereunder shall lie in the state and federal courts serving Martin County, Florida.
- 8.20 ATTORNEYS' FEES; COSTS; WAIVER OF JURY TRIAL. In connection with any litigation (including all appeals therefrom) arising out of this Agreement, the parties expressly agree that each party shall bear its own attorney's fees and court costs incurred in connection with this Agreement. Further, THE PARTIES EXPRESSLY AND SPECIFICALLY HEREBY WAIVE THE RIGHT TO A JURY TRIAL AS TO ANY ISSUE CONNECTED WITH THIS AGREEMENT.

SECTION 9. DEFAULT AND REMEDIES.

- 9.1 GRANTEE'S DEFAULT. GRANTEE'S failure to comply with any of the provisions of this Agreement shall constitute a default upon the occurrence of which the CRA may, in its sole discretion, (i) withhold, temporarily or permanently, all, or any unpaid portion of the grant upon giving written notice to GRANTEE, and/or (ii) terminate this Agreement and demand a full refund of all funds advanced. Upon default the CRA shall have no further obligations to GRANTEE under this Agreement.
- 9.2 REPAYMENT OF FUNDS. GRANTEE shall repay the CRA (i) for all unauthorized, illegal or unlawful expenditure of funds, including unlawful and/or illegal expenditures discovered after the expiration of this Agreement; (ii) in the event of default under this Agreement; (iii) in the event any funds are lost or stolen; or (iv) in the event the work was not completed as provided in the Scope of Work

attached hereto. Any portion of the grant which is to be repaid to the CRA shall be paid by delivering a cashier's check for the total amount due, payable to the Martin County Community Redevelopment Agency, within thirty (30) days of the CRA'S demand.

- 9.3 TERMINATION OF THIS AGREEMENT. The CRA may terminate this Agreement with or without cause or for its convenience. Termination of this Agreement by the CRA shall relieve the CRA of any further obligations hereunder. Such termination shall not release GRANTEE from its obligations under this Agreement including, but not limited to, obligations relating to the completion of activities funded while the Agreement was in effect but not completed prior to the date of termination, or repayment of any funds GRANTEE is obligated to repay.
- 9.4 LIMITATION ON RIGHTS AND REMEDIES. Nothing contained herein shall be construed as limiting or waiving any rights of the parties to pursue any remedy which may be available. The rights and remedies with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies available to either party in law or equity.
- 9.5 CRA'S DEFAULT. In the event the CRA fails to comply with the terms of this Agreement, GRANTEE shall provide the CRA with notice detailing the nature of the default, whereupon the CRA shall have thirty (30) days within which to initiate corrective actions and ninety (90) days within which to cure the default. Should the CRA fail to cure the default, GRANTEE sole remedy is to terminate this Agreement. The effective date of any such termination shall be the date of the notice of termination given by GRANTEE to the CRA.

SECTION 10. MISCELLANEOUS.

- 10.1 The paragraph headings in this Agreement are for reference only and will be ignored in construing this Agreement.
- 10.2 By its execution hereof, GRANTEE represents and warrants to and covenant with CRA that the execution hereof by GRANTEE has been properly authorized and that the individuals executing same on behalf of GRANTEE have been duly authorized to do so.
- 10.3 Facsimile and/or e-mailed copies of originally signed documents shall be acceptable and shall be binding upon the signatory and the Parties. This Agreement may be executed in counterparts and a complete set of such counterparts shall be considered a single document.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned parties have signed this Agreement effective on the date of execution by the CRA.

Signed, sealed and delivered in the presence of

Attest: _____
Secretary

**MARTIN COUNTY COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
_____, Chair
Date: _____

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

By: _____

WITNESSES

Print Name: _____

Print Name: _____

GRANTEE

By: _____
Print Name: _____
Title: _____
Date: _____

WITNESSES

Print Name: _____

Print Name: _____

OWNER (If different from Grantee)

By: _____
Print Name: _____
Title: _____
Date: _____

Exhibit “A”

CRA Investment Program Application and Application Process

[See attached]

Exhibit “B”

Renovation Proposal and Plans

[See attached]

Exhibit “C”

Application Checklist

[See attached]