

Board of County Commissioners

Agenda Request

Date of Meeting: May 5, 2009

Date Submitted: April 30, 2009

To: Honorable Chairman and Members

From: Benjamin H. Pingree, County Administrator
Timothy Barden, Assistant County Administrator
Eva Thorpe, Grants Coordinator

Subject: Request Board Approval and Authorization to Execute The Florida
Department of Community Affairs, Community Development Block Grant
– Buckhorn Plaza Contract Modification #4 Documents

Statement of Issue:

This agenda item requests Board approval and authorization for the Chairman to sign Modification #4 documents (Attachment #1) and justification cover letter (Attachment #2) to the Florida Department of Community Affairs, Community Development Block Grant Program (CDBG) for the Buckhorn Plaza Development.

Background:

A proposal to submit a CDBG-Economic Development category application was presented to the Board at its regular meeting of June 21, 2004. At that meeting, the Board directed staff to hold the two public hearings required for submittal of the Economic Development (ED) application to the CDBG Program. The second public hearing was held at the regular Board meeting of January 18, 2005 and staff was directed to submit the application to the Florida Department of Community Affairs (DCA), seeking \$750,000 to assist in the development of Buckhorn Plaza. The plaza will create 38 new jobs for the community.

The application was submitted to DCA on May 11, 2005. DCA returned the original Agreement to the County on October 28, 2005. DCA signed the contract on January 30, 2006. The execution of the CDBG Agreement between the County and DCA for \$750,000 was authorized at the following regular Board meeting. In addition, the Board directed staff to issue a Request For Proposals (RFP) for CDBG-ED Administrative Consulting Services. Concurrent with this process, the County entered into Participating Party Agreements with: (1) Miracle Years Childcare Center, (2) Scratch Cakes and Eatery, and (3) Buckhorn Laundromat (seeking a new agreement as this will now become Buckhorn Pharmacy), on December 5, 2005, requiring the creation of 38 new jobs. These new jobs are the direct requirement of the Grant Agreement.

The RFP for administrative and engineering services was advertised on November 22, 2005 (due date of December 1, 2005) with a correction published on November 30, 2005 (due date of December 16, 2005). The bids were received on December 16, 2005 and ranked. The

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Administrative proposals were ranked and a recommendation made to the Board at the February 6, 2006 meeting. The firm selected was Jordan and Associates. In the engineering ranking, there was a tie for second place, therefore, all bids were rejected and RFP services were re-advertised. This advertisement was published March 13, 2006, with bids coming in April 6, 2006. Berryman & Henigar was the engineering firm selected and approved for the design work at the May 15, 2006 Board Meeting. Since the awarding of this contract, Berryman and Henigar has been acquired by Greenman-Pederson Inc. (GPI).

At the October 15, 2007 Board Meeting, staff presented Modification #2 for review and approval by the Board that contained all forms requested at the time by DCA. The Board approved the Modification #2, as was submitted by staff. Staff expediently transmitted Modification #2 to DCA on October 17, 2007.

After submission of the Modification #2 documents to DCA, DCA advised the County through its contract consultant, Jordan and Associates that some additional forms and minor modifications to the previously submitted documents needed to be completed in order for Modification #2 to be accepted. The DCA advised that Form 07.02, Request for Modification, Attachment A – Program Budget, revised project work plans for the three original participating party businesses (Scratch Cakes and Eatery, Miracle Years Childcare Center and Buckhorn Laundromat) and the developer, Buckhorn First, LLC, were needed to complete the Modification #2, specifically, Form 07.02.

The budget was revised to provide for a new line item titled ‘Relocation’ with the \$6,510 that was moved from line items other utility hookups and water lines, the \$44,940 that was originally erroneously budgeted (by the original consulting company that prepared the CDBG – ED application to DCA) in the ‘hookups’ line item was moved to sewer lines and components. The \$2,750 in fire hydrants and \$2,875 in water hookups line items were moved to sewer lines and components, at the suggestion of the DCA contract manager, to lessen any delays change orders could bring during infrastructure construction, in the event that more than one fire hydrant was needed.

Additionally, DCA requested revised project work plans for the County, the three original participating party businesses and the developer, Buckhorn First, LLC were required to show actual beginning and ending dates for all activities required to be submitted.

The Board approved Modification #2, on January 7, 2008, which was critical to the extension of this grant and completion of this project. The termination date was July 29, 2008.

Subsequently, an RFP for the County’s infrastructure portion of this development was advertised on December 2, 2007. A number of bids were received and opened on December 19, 2007. The bids were tabulated by the engineering firm of GPI to ensure that all CDBG requirements were included in the bid packages received from the bidders. The engineer tabulated the information and formulated a recommendation to award the contract to the lowest most responsible bidder, which

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was Stege Construction. The Board approved awarding the construction bid to Stege at the February 2008 Board Meeting.

In late July 2008, construction of the Buckhorn Plaza was completed and all the final inspections and payments to Stege were finalized. One of the three participating parties, Scratch Cakes and Eatery, Inc. opened for business in early August 2008 and has since been fully staffed, hiring well over the 9 employees proposed and required under the CDBG contract. However, because of stringent permitting requirements and delays, the opening of Miracle Years Child Care Center and Med Ready Systems, LLC Pharmacy businesses were delayed. Miracle Years Child Care Center opened its door on September 2008 and has since worked diligently towards hiring 10 of the 24 staff personnel required under the CDBG contract and has steadily increased the enrollment of children. They anticipate being fully staffed after August 2009 once the new school year resumes. The Pharmacy, Med Ready Systems LLC, its owner, board and staff, under went a highly stringent and lengthy background review by the Drug Enforcement Agency (DEA) which is a licensing requirement and for the purchase and sale of narcotics and other prescription medication. This process resulted in the opening being delayed to November 2008. However, the Pharmacy has opened its doors and is currently fully staffed with 4 full time employees.

Analysis:

This contract needs to be amended to provide for: (1) a 6-month extension to January 29, 2010, and 2) to enable the participating party businesses, to hire 37 Low and Moderate Income Employee Beneficiaries and to fully document their eligibility, which is a contractual requirement for funding under the CDBG Program. During this proposed 6 months extension period, CDBG will periodically perform a payroll review of the businesses to ensure that all 37 beneficiaries are fully and gainfully employed as required. Once DCA performs a review of the payroll and satisfactorily documents compliance, the County can administratively closeout this grant, which might provide opportunity for the County to make application under the 2010-2011 funding cycle.

Staff recommends approval of this 6 month modification, to January 29, 2010 in order to ensure that the County meets both, the Federal Department of Housing and Urban Development (HUD) funding criteria and Department of Community Affairs' contractual job creation criteria. The funding formula used by HUD for awarding grant funds is that for every \$35,000 in CDBG grant funds awarded 1 job must be created. Therefore, the County must ensure that a minimum of 22 overall jobs are created in order for the developer not to have to repay funds back to DCA. However, if less than this number of jobs is created, for every 1 job not created, \$35,000 will have to be repaid by the developer to DCA. Additionally, if less than the 37 jobs that are contractually required to be developed are not met, for every one of these contractually required jobs not created, 5 penalty points, up to a maximum of 50 points, will be assessed against the County in future applications.

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Options:

1. Approve and Authorize the Chairman to execute Modification #4 documents and letter of Justification to the Florida Department of Community Affairs.
2. Do not approve and do not authorize the Chairman to execute Modification #4 documents and letter of Justification to Florida Department of Community Affairs.
3. Board Direction.

Recommendation:

Option #1

Attachments(s):

1. Amendment 4 Modification Documents for Chairman's Signature
2. Letter of Justification for Chairman's Signature