



Gail Holston
 City of Eustis
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 Eustis, FL 32727

CFN 2003083712
 Bk 02354 Pgs 0534 - 538; (5pgs)
 DATE: 07/08/2003 08:27:01 AM
 JAMES C. WATKINS, CLERK OF COURT
 LAKE COUNTY
 RECORDING FEES 21.00
 TRUST FUND 3.00

**CDBG PARTICIPATING PARTIES AGREEMENT BETWEEN
 THE CITY OF EUSTIS, FLORIDA AND**

GARY AND JO HENSON

THIS CONTRACT AND AGREEMENT, by and between THE CITY OF EUSTIS, a political subdivision of the State of Florida, (hereinafter called the "City"), and Gary and Jo Henson on this 11 day of June, A.D. 2003

WITNESSETH:

WHEREAS, the City has received approval from the state of Florida Department of Community Affairs, (hereinafter called "DCA") for Small Cities Community Development Block Grant (hereinafter the "CDBG Grant"); and

WHEREAS, the City will expend funds from the CDBG Grant # 02DB-89-06-45-02-C04, as amended for Commercial Building Rehabilitation to assist Eustis merchants with facade restorations and renovations; removal of architectural barriers to handicap access in private buildings; or correction of code violations to comply with the 2001 FL Building Code related to the health, safety and/or welfare of residents; and

WHEREAS, in order for the City to receive the grant funds, the CDBG Grant Contract requires that CDBG funds be only expended on eligible activities and meet a National Objective pursuant to 24C.F.R. Part 570.202(a)(3) and for the removal of architectural barriers to handicapped persons; and

WHEREAS, the "owner(s)" of the building located at 432 North Eustis Street (the "business facility(ies)", intend(s) to complete the renovation of the building facility within six (6) months from the date of this signed agreement and make additional improvements that are necessary for the re-initiation or continuation of commerce at the business facility; and

WHEREAS, Gary and Jo Henson the "owner(s)" of the business facility intend(s) to re-initiate or continue commerce at the business facility after the rehabilitation; and

WHEREAS, because of the foregoing conditions and circumstances respecting the City's receipt of said CDBG grant funds, it is necessary that there be made certain agreements and understandings between the City and the owner(s) respecting the owner's renovations and improvements and the owner's or tenant's re-institution of commerce at the business facility;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, undertakings and representations, the City and the owner(s) and the tenant(s) do hereby agree as follows:

I.

Conditioned upon the City receiving the CDBG Commercial Revitalization Funds budgeted from 02DB-89-06-45-02-C04 Grant, for this portion of the CDBG Grant, the City agrees to the following:

A) City shall provide funding from the CDBG Grant to the owner(s) to make eligible renovations and repairs located at the qualifying structure. This amount may not exceed \$44,000.00;

B) City shall not be obligated by reason of this agreement to expend any funds in excess of the CDBG funds actually received by City from CDBG Grant # 02DB-89-06-45-02-C04, for Commercial Rehabilitation for this purpose.

C) City shall provide the funding under the condition that the business location which qualifies for the grant is occupied by an owner business or there is a bona fide business lease tenancy to commence on or before completion of the work for which the grant is being awarded.

D) The CDBG funds will not be disbursed by the City to reimburse the owner(s) or tenant(s) for renovations completed, begun, in progress, or contracted for prior to the effective date of this agreement.

II.

A) The owner(s) and tenant(s), if any, agree to be bound by the reasonable policies and procedures of the program. See copy attached.

B) The owner(s) may expend on eligible activities during the term of this agreement an amount not to exceed \$44,000.00 for which they will seek grant funding from the City. The documentation of the expenditures shall be provided in a form and content satisfactory to the City that allows accurate ready comparison between expenditures and related activities as defined in the CDBG Agreement. The documentation requirements shall survive the term of this agreement;

All remittances shall be by check made payable to both the contractor and the owner(s). The owner(s) and tenant(s) agree that CDBG funds will not be disbursed by the City to reimburse the owner(s) or tenant(s) for renovations completed, begun, in progress, or contracted for prior to the effective date of this agreement, nor shall said owner(s) or tenant(s) submit such invoices to the City.

C) Notwithstanding any other provision herein to the contrary, the owner(s) shall comply with all applicable laws, rules, regulations or other requirements of the City, its agencies and instrumentalities and the State of Florida, its agencies and instrumentalities, and the United States of America, and its agencies and instrumentalities, including the Florida Department of State and the U.S. Secretary of the Interior if the building is historic or historically contributing;

D) The owner(s) and tenant(s) comply with the provisions of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) as it relates to employment discrimination, and facility accessibility;

E) The owner(s) agrees and understands that the owner(s) and any contractor or contractors to be ultimately paid with CDBG funds must attend a pre-construction conference prior to the initiation of any construction. The contract for rehabilitation construction must contain, and the contractor(s) must comply with, all special clauses required by the City's grant agreement with the state, such as equal employment labor and wage provisions. Further, the City shall have the right to restrict the participation of any contractor in the Commercial Rehabilitation Program;

F) The owner(s) and tenant(s) understand that funding under this program is a privilege and not a right. Should there be any misrepresentation on the eligibility of an expenditure for funding, the City reserves the right to declare this agreement void, ab initio, and reject any claims made for funding by the owner or tenant. The Commercial Rehabilitation Application completed by the owner as well as the policies and procedures which were attached thereto are made a part of this agreement by reference;

G) That all Federal, State and local governmental approvals and reviews required by law to be obtained by the owner(s) or the tenant(s) for the renovations have been or will be obtained as required;

H) That any duly authorized representative of the City or the DCA shall, at all reasonable times, have access to any portion of the renovation, and that the period of such right of access shall continue until all close-out procedures respecting the aforesaid CDBG Grant Agreement have been completed;

I) That the owner(s) and tenant(s) have available to them sufficient funds or present borrowing capacity to complete the renovation and re-initiate or continue business operations at the business facility upon completion of said renovations;

J) That neither the owner(s), tenant(s), nor any other employees, or immediate relatives shall serve as a contractor or sub-contractor to be paid with CDBG funds, nor shall such owner, tenant, employee, or immediate relative of the same be paid for their own labor by a contractor or sub-contractor who will ultimately be paid with CDBG funds; and

K) That the owner(s) will acquire and/or maintain flood insurance on the building facility pursuant to the Flood Disaster Protection Act, Section 102(a)., if applicable.

L) That the owner(s) understands that the City's current CDBG award from DCA expires 01/2004 unless extended by the DCA and that the City will not be liable for payment to the owner(s) or tenant(s) after CDBG funds are no longer available under the present grant(s). In the event the grant is extended, this agreement may be extended at the City's discretion.

M) City funds may be utilized only to finance eligible building facade improvements, changes to bring the facility into compliance with applicable handicap access requirements, and corrections of applicable code violations.

III.

The parties hereto expressly acknowledge that nothing contained in this Agreement, or in the Grant award between the City and DCA, or any act of DCA or of the City, or of the owner(s) or tenant(s), shall be deemed or construed by the parties or by third persons to create any relationship of third-party beneficiary, or of principal and agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving said DCA and the owner(s) or tenant(s).

IV.

This agreement shall be construed under the laws of the State of Florida, and performance is agreed to be in the City of Eustis, Florida. The term of this agreement shall be from the effective date hereof and shall continue until all performances and obligations have been completed and fully complied with as required hereunder.

V.

The provisions of this Agreement are severable. If any part of this Agreement is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

The parties hereto acknowledge that the City is a conduit for funds being supplied for the purposes and pursuant to the rules and policies hereof. It is further acknowledged that the Grant provider could require City to reimburse the funds or be penalized in future grant applications or awards if the funds awarded in this Grant are not used in accordance with the rules and procedures attached hereto. Therefore in the event the undersigned, by failure to follow the terms of this agreement and attachments hereto causes City to be liable for same or to be penalized in a future grant application or award, then in such instance and upon demand, the undersigned recipient shall reimburse City the full amount awarded to the owner(s) herein.

VI.

All notices to be given hereunder shall be given by certified mail, return receipt requested, addressed to the respective parties at the following address, or to such other address or addresses as may from time to time be designated and notice given for that purpose:

Owner(s): Gary and Jo Henson
FL 32726

Address: 432 North Eustis Street, Eustis

VII.

Subject to the limitations hereinafter set forth, the owner and tenant hereby agree to indemnify and hold harmless the State and City, it's officers, members, employees and agents harmless from the grant against all loss, cost and expense in connection with proceedings, judicial or otherwise, and claims, demands and judgments, together with costs and expenses including attorney's fees relating to thereto, arising out of damage or injury to person or property occurring in or about the business facility resulting directly from any actions of the owner, tenant, contractor, employee or agent of the business facility.

VIII.

Except as otherwise herein expressly provided, if either party shall be delayed or hindered in, prevented from, the performance of a covenant or obligation hereunder as a result of acts of God, fire or other casualty, earthquake, flood, epidemic, landslide, enemy act, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, general unavailability of certain materials, strikes, boycotts, lockouts or labor disputes beyond the complete control of either party hereto, then the performance of such covenant or obligation, shall be excused for the period of such delay, hindrance or prevention and the period of the performance of such covenant or obligation shall be extended by the number of days equivalent to the number of days of such delay, hindrance of prevention, subject to the City's grant award deadline imposed by the DCA.

IX.

This Agreement is executed in multiple counterparts, each of which shall have the effect and dignity of an original, but all of which shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, each duly authorized so to do, effective the day and year first above stated.

Owner(s): Gary and Jo Henson

Building: Raintree Books - 432 North Eustis Street

Signature of Owner(s) [Signature] Date: 6/10/03

Witness: [Signature]

City of Eustis

[Signature] Date 6-11-03
Michael G. Stearman
City Manager

Witness: [Signature]

Attest: [Signature]

