

RESOLUTION NO. 2020 - 358

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE AN AGREEMENT FOR DEVELOPMENT PARTNER FOR CDBG-DR MULTI-FAMILY AFFORDABLE HOUSING FACILITIES.

RECITALS

WHEREAS, the County conducted an RFP No: 20-17; Development Partner(s) for CDBG-DR Multi-Family Affordable Housing Facilities, in compliance and as supported by U.S. Department of Housing and Urban Development (HUD) programs such as Community Development Block Grant – Disaster Recovery (CDBG-DR); and

WHEREAS, the County's Evaluation Committee determined SHAG Development, LLC to be the top ranked firm to enter into negotiations, and upon successful negotiations, enter into a contract. This action was approved by the Board of County Commissioners on March 17, 2020. However, the draft contract included in the agenda item that was approved by the Board has substantially changed since the approval, and must come back for final approval by the Board before execution; and

WHEREAS, the finalized development partner agreement will be in substantial conformance with the attached draft development partner agreement.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to execute the finalized agreement with SHAG Development, LLC, to provide the services set forth therein in accordance with RFP No: 20-17.

Section 3. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 16th day of September, 2020.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: [Signature]
Jeb S. Smith, Chair

**ATTEST: ST. JOHNS COUNTY, FL
CLERK OF THE CIRCUIT COURT
& COMPTROLLER: Brandon J. Patty**

By: [Signature]
Deputy Clerk

RENDITION DATE SEP 17 2020



CDBG-DR AWARD AND DEVELOPMENT AGREEMENT
(San Marcos Heights)

This CDBG-DR AWARD AND DEVELOPMENT AGREEMENT (this "Agreement") is made on or as of the _____ day of _____, 2020 (the "Effective Date"), by and among the **ST. JOHNS COUNTY** ("County"), **SHAG DEVELOPMENT, LLC**, a Florida limited liability company (along with parent and subsidiary companies, "Developer"), and [**PROJECT OWNER ENTITY**], a _____ ("Owner").

RECITALS

A. County secured Community Development Block Grant – Disaster Recovery ("CDBG-DR") funding from the State of Florida, Department of Economic Opportunity ("DEO") (agreement # H2338) to help with recovery efforts from storm-related damage due to Hurricane Matthew. Pursuant to RFP No. 20-17, County sought through a public procurement process development partners to construct multifamily affordable housing facilities in accordance with the CDBG-DR program.

B. Developer responded to County's RFP for a proposed 132-unit affordable multifamily rental project to be known as "San Marcos Heights" (the "Project"), which is to be constructed on the real property described on Exhibit "A" attached to this Agreement and commonly known as 127 Adair Road, St. Augustine, Florida (the "Property").

C. County selected Developer and the Project as the best suited to accomplish the goals outlined in its RFP.

D. Developer has created Owner for purposes of ownership of the Project and Property. Given certain provisions of the CDBG-DR Program, Developer desires that Owner accept the CDBG-DR funds from County through a conduit loan made through a to-be-identified nonprofit entity (herein referred to as "Nonprofit").

E. The primary purposes of this Agreement are to establish the terms under which the CDBG-DR funds will be made available to Owner and under which Developer and Owner are obligated to develop, construct and operate the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contemplated and for other good and valuable consideration, the parties agree as follows:

ARTICLE 1
CDBG LOAN

1.1 **Loans Generally.** In consideration for Developer's agreement to perform the obligations described in this Agreement, CDBG-DR funds in the amount of \$15,500,000 will be made available to Owner by way of a loan (the "CDBG Loan") from County to Nonprofit, which will in turn make a loan either directly or indirectly through a lending vehicle to Owner (the "Re-Loan" and, collectively with the CDBG Loan, the "Loans"). The CDBG Loan will be more fully

detailed by a separate loan agreement executed in conjunction with this Agreement (“CDBG Loan Agreement”). The Re-Loan will be secured by a mortgage on the Property in favor of Nonprofit or other lending vehicle (the “Mortgage”) and evidenced by a single promissory note from Owner payable to the order of Nonprofit [or lending vehicle (the “Re-Loan Note”). The CDBG Loan will also be evidenced by a single promissory note from the Nonprofit payable to the order of County (“CDBG Note”) and secured by a collateral assignment to County of the Re-Loan Note and the Mortgage. The Declaration (as below defined) will also be recorded of record against the Property and Project. Developer will guaranty or provide a guaranty from a viable entity that is reasonably satisfactory to County (the “Guarantor”) of (i) payment of the Re-Loan in the event construction of the Project is not completed, and (ii) construction of the Project is complete and all buildings receive certificates of occupancy (the “Guaranty”). If upon completion of the Project the Project complies with all applicable requirements, the Guarantor will be released, and the Re-Loan shall be non-recourse to the Owner and any Guarantor except in except for losses due to fraud, theft by Owner, failure to pay taxes, failure to maintain insurance and similar acts or omissions (bad acts exceptions). All CDBG Loan documentation will require specific County approval. The CDBG Loan Agreement, the CDBG Note, the Loan Agreement, the Mortgage, the Re-Loan Note, the Declaration, the Guaranty, the Collateral Assignment of Note, Mortgage and Liens, collectively, “CDBG Loan Documents.”

1.2 **Loan Terms.** The CDBG Loan shall be interest-free, absent default. The CDBG Loan shall be repaid at the end of the Affordability Period, provided, however, that if, at the end of the Affordability Period, Owner is then in compliance with all of the terms and provisions hereof, the CDBG Loan shall be forgiven, and Nonprofit shall not be obligated to repay the principal thereof. The CDBG Loan is subject to recapture and repayment for non-compliance with the terms and provisions hereof or with the CDBG Loan Documents.

1.3 **National Objective.** Proceeds of the Loans must result in housing that meets the CDBG-DR program objective of benefitting low- and moderate-income persons, as defined in CDBG regulations; specifically, through housing activities for individuals or families whose household income at initial occupancy is at or below 80% of the area median income (“AMI”) adjusted by household size, as annually published by the United States Department of Housing and Urban Development (“HUD”). Proceeds of the Loans shall be used exclusively for costs and expenses enumerated at 24 CFR §570.201 and those allowed under federal rules and regulations applicable to the CDBG-DR funds (the “Applicable CDBG-DR Rules”), including applicable waivers and alternative requirements set forth in 81 Federal Register 83,254 et. seq. (November 21, 2016) and 82 Federal Register 5,591 et. seq. (January 18, 2017). No portion of the proceeds of the Loans shall be used for activities which are ineligible under the Applicable CDBG-DR Rules.

1.4 **Affordability Requirements.** At least fifty-one percent (51%), rounded up to the nearest whole number, of the total number of units in the Project will be affordable for families making 80% or less of the median family income for the area, as calculated and adjusted by family size by HUD, for a period of forty (40) years, as measured from the date of the issuance of a temporary certificate of occupancy for the last residential building in the Project (“Affordability Period”). The remaining units may be offered at market rates. A Declaration of Affordability Requirements (“Declaration”) will be recorded against the Property concurrently with Closing, making affordability requirements a covenant running with the land. It shall be the Owner’s

responsibility to file any notice required under Chapter 712, Florida Statutes, to ensure that the Declaration remains in effect for the entire Affordability Period. At the end of the Affordability Period, provided that there is no Default (which Default remains uncured after the applicable notice and cure period) under this Agreement or any of the other CDBG Loan Documents, County will immediately release the Declaration by written instrument in recordable form executed and acknowledged by County. The Declaration shall be superior to all financing liens and encumbrances filed of record against the Property.

1.5 **Drawdown of Funds.** The CDBG Loan will be disbursed in one or more draws after Owner has incurred expenditures toward the construction of the Project in accordance with the terms of the Loan Agreement. Except as set forth herein, or unless otherwise authorized in writing by County, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG-DR funds.

(a) County will retain ten percent (10%) of the CDBG Loan until (a) a certificate of occupancy has been issued for the Project, (b) all conditions to payment of the retainage under the construction contract have been satisfied, and (c) County has received a certified public accountant's certification of the aggregate amount of actual construction costs incurred by Owner for the Project, such certification performed at Owner's expense by an accountant mutually agreeable by County and Owner.

(b) Prior to funding any portion of the CDBG Loan, and at least 20 days prior to each draw request, Nonprofit or other lending vehicle will cause Owner to submit to County's Disaster Recovery Department for review and approval a draw request and certification of costs, in a form and substance as may be reasonably required by County, signed by Owner, together with an itemized list of construction costs incurred and paid to such date, and such supporting documentation as County may require. Such costs will not include costs not eligible to be paid with funds from the CDBG-DR program, including any costs incurred before the signing of this Agreement, accounting costs, tax credit fees, corporate or other organizational fees, development fees (other than developer fees payable pursuant to that certain Development Services Agreement dated as of _____, in an amount not to exceed \$4,729,437 (including \$1,182,359 of such fee which shall be payable from the CDBG Loan proceeds at the closing of the Construction Loan), payments to investors, or construction interest.

(c) Payment to Owner shall be made based on actual budgeted expenses detailed in Owner's draw request. Owner shall be reimbursed in 10% increments based upon the level of the Project's completion. As evidence of percent completed, Owner shall provide AIA forms G701/G703 or similar DEO-approved industry-standard forms, signed by the contractor and certified by the engineer performing inspection services for the project, documenting the costs for which reimbursement is being requested, and noting overall percent completion of the project. To be eligible for reimbursement, expenses must be necessary and reasonable for the effective and efficient completion of the Project and must be eligible to be paid with funds from the CDBG-DR Program.

(d) The County may return a draw request and request additional information regarding the contents of the draw request. Under such circumstances, the timeframe for payment shall be extended by the time necessary to receive the requested information. Upon receipt and

verification of the draw request, the County shall process the request and forward payment to the Owner within 30 days of verification.

(e) Denied requests shall be returned to Owner in writing with the specific reason for denial clearly stated (the "Denial Notice"), including any specific line item or section of such draw request. County will be obligated to fund such portion of the draw request that is not included and detailed with a specific reason for denial in such Denial Notice. For the purposes of this section, electronic communication shall be deemed to satisfy "in writing."

(f) Funds will not be available to Owner until funds have been set up and reserved for this Project by County.

1.6 **Overpayment.** Developer and Owner are jointly and severally liable to County for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Agreement. Developer and Owner shall reimburse such disallowed costs from funds other than those Developer received under this Agreement.

1.7 **Compliance with Applicable Rules.** As a material inducement to County's entering into this Agreement, Owner and Developer shall comply with all applicable federal, state and municipal laws, rules, regulations, the Action Plan applicable to the use of CDBG funds, including specifically, but without limitation, those described on Exhibit "B" attached to and incorporated in this Agreement for all purposes (such laws, rules, etc., the "Governing Authority"). Owner and Developer hereby certify that, as of the Effective Date, each is in compliance with all Governing Authority. Upon execution of this Agreement, Owner and Developer shall each execute and deliver to County a certification of assurances on Standard Form 424D (construction projects) and Certification Regarding Lobbying, both of which are attached on Exhibit "C" attached to this Agreement.

ARTICLE 2

DEVELOPMENT AND CONSTRUCTION

2.1 **Development of the Project.** In strict conformance with the terms and conditions of this Agreement, Developer shall perform, and/or cause to Owner to perform, multi-family residential construction services for disaster recovery to assist County in fulfilling State and Federal responsibilities related to recovery from Hurricane Matthew. Developer and Owner shall perform services in compliance with (i) applicable HUD requirements, (ii) this Agreement and all exhibits, addenda or attachments; (iii) any amendments to this Agreement; and (iv) any Technical Guidance Letters or Revisions that may be issued by County and/or the State of Florida, Department of Economic Opportunity.

2.2 **Minimum Project Requirements.** The Project shall, at a minimum, meet the following criteria:

(a) The Project must contain a minimum of 80 residential units with associated common areas, including but not limited to, parking, sidewalks, park and open space areas and storm water ponds.

(b) The Project shall include flexible community space of no less than 5,000 square feet, in the aggregate (the "Community Space") for use in serving residents and other community members. The Community Space may include a clubhouse, leasing office, laundry facilities, "well-care" center, business center, etc. The Community Space shall be built to American Red Cross 4496 Standards and the Hurricane Evacuation Shelter Selection Standard.

(c) The Project (other than the Community Space) shall be for residential use only. Mixed-use projects (that is, projects that include uses other than residential rental and 2 support buildings) are prohibited.

(d) Units may be available for resident occupancy in a phased manner as buildings are completed and receive certificates of occupancy.

(e) The Project shall comply with the Green Building Standard for all construction of residential buildings under at least one of the following programs: (i) ENERGY STAR; (ii) Enterprise Green Communities; (iii) LEED, (iv) ICC-700 National Green Building Standard; (v) EPA Indoor AirPlus (ENERGY STAR a prerequisite); or (vi) any other equivalent comprehensive green building program acceptable to HUD. Construction must follow the Green Building Retrofit Checklist to the extent applicable, including the use of mold resistant products, ENERGY STAR-labeled, WaterSense-labeled, or Federal Energy Management Program (FEMP)-designated products and appliances, or other equivalent. All construction shall follow the Resilient Home Construction Standards as applicable to multifamily development.

(f) The Project shall meet the following accessibility requirements:

(i) All common facilities and areas must be accessible (*Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 394 (Sept. 26, 1973), codified at 29 U.S.C. § 701 et seq.*)

(ii) The development must incorporate universal design features (*Section 504*).

(iii) Five Percent (5%) of all units must be mobility accessible (*The Americans with Disabilities Act of 1990 (42 U.S.C. § 12101)*).

(iv) Two percent (2%) of all units must be sensory accessible. Units that are sensory accessible may not be the same units as those mobility accessible (*ADA*).

(v) Accessible units must be spread throughout the Project and may not be concentrated on one floor or in one building (*Section 504*).

(g) Broadband infrastructure in common areas and units shall be installed to meet the requirements of Federal Register Notice FR 5890-F-02.

2.3 **Scope of Work**. Developer, as an independent, for-profit developer, must: Development:

(a) Timely develop and cause Owner to operate the Project, as contemplated and provided for in this Agreement, which will be completed and operated in conformance with all applicable local, state, and federal code requirements, and County specifications and requirements, including but not limited to duly adopted Property Standards, with the intent to increase supply of quality, affordable housing in St. Johns County, Florida.

(b) Complete all required environmental assessments in compliance with the requirements of 24 CFR Parts 50 and 58.

(c) Identify, acquire, and appropriately zone the Property for the Project with necessary approvals.

(d) Develop and implement an acceptable schedule to accomplish the required development for the Project

(e) Identify and quantify any and all costs associated with developing the proposed facility(ies), based on relevant data.

(f) Implement a process to execute the development of the Project. Provide a development plan and a development implementation schedule. Oversee the design, construction, and quality control for the development of the Project.

(g) Develop a financing plan including any and all funding sources, development site plan and construction schedule and identify and justify the amount of County resources that may be needed for the Project.

(h) Provide documentation/reports that include the basis, source and methodology for arriving at estimates, projections and assumptions.

(i) Expand and update budgets throughout the development process and respond in detail to County inquiries.

(j) Coordinate all development activities, including reporting and budgeting requirements, with County and assist County as necessary with all aspects of the Project.

(k) Provide regular reports to County on the progress of the development efforts, including work already completed, the associated costs, schedule and budgetary requirements.

Design:

(l) Develop a site plan for the Project to include a conceptual drawing/design of each property along with a facility layout.

(m) Refine and develop site plans; prepare a final site plan supported by a market study analysis; and obtain required zoning and development approvals from County and other required jurisdictional entities.

(n) Prepare and implement a schedule for all design activities including County reviews/approvals as necessary to get to final design for purposes of construction.

(o) Identify any and all costs associated with design activities for budgeting and reporting throughout the duration of the initial development and construction of the Project.

(p) Cause final construction plans to be prepared including architectural, engineering, civil, geotechnical, landscaping and all other components of design necessary for construction.

(q) Based upon the approved development site plan, prepare schematic designs and drawings, preliminary designs and drawings, and construction drawings and specifications.

(r) Submit schematic drawings, preliminary drawings and construction documents for the entire project or the phase, including public improvements, to County for review and approval; obtain and hold any and all necessary licenses, permits, certifications required to perform the work described herein throughout the duration of Agreement. Payment of any fees or fines resulting in the lack of permits, licenses or certifications shall be the sole responsibility of Owner.

(s) Obtain approvals of all required design elements from County and all other applicable agencies.

Construction:

(t) Be adequately insured and require the general contractor to be bonded for activities necessary to complete the Project.

(u) Assist Owner with bidding and awarding construction contracts; manage development construction in accordance with all applicable Governing Authority; supervise construction work to ensure quality of workmanship, timely completion of work, and consistency with budget; and ensure that all required occupancy permits and any other approvals are obtained after construction completion to permit lease-up, safe and habitable occupancy.

(v) Identify and quantify all development costs based on information provided by County and other relevant data. All cost estimates will be the sole and exclusive responsibility of the selected Developer. County will hire an independent third party cost reasonableness expert to review the construction budget, plans and specifications and perform periodic inspections of construction progress to ensure Owner and its contractors meet accepted cost reasonableness standards for the area and adhere to applicable HUD statutes, regulations, and requirements, Florida Statutes as well as all other applicable local, state, or Federal Governing Authority.

(w) Provide adequate and competent supervision at all times during the performance of the general construction contract. A qualified Project Manager shall be designated

in writing to County prior to executing the contract. The Project Manager or his/her designee must be available to meet with County personnel upon prior reasonable written notice. County shall be provided with the telephone number(s) where the Project Manager can be reached.

(x) Complete written documentation and materials in a manner suitable for use by County, the St. Johns County Board of Commissioners, HUD and other agencies,

(y) Obtain all required building permits and zoning approvals.

(z) Submit periodic (but not more than once each month during construction) draw requests to County for payment.

(aa) Submit an affirmative marketing plan at least 30 days prior to pre-lease or marketing of units, whichever occurs first. The Affirmative Marketing Plan must reflect the requirements established by County's Affirmative Fair Housing ordinance and/or policy subsequently adopted by County.

Project Oversight:

(bb) Remain in conformance with applicable provisions of the Housing and Community Development Act of 1974 as amended (42 U.S.C. §§ 5301, et seq.); CDBG regulations pertaining thereto as set forth under 24 CFR Part 570, including any amendments to said rules, cross-cutting regulations, or any subsequent amendments, notices or guidance to CDBG requirements as published by HUD and the Action Plan (herein defined) under which this award is made.

(cc) Undertake all marketing and lease up efforts.

(dd) Supervise all consultants and/or service providers in all tasks necessary to successfully implement the development plan, and construct the project.

(ee) Ensure compliance with all applicable Governing Authority.

(ff) Deliver units consistent with County and HUD guidelines.

(gg) Coordinate all work and documentation with the County Disaster Recovery Department.

(hh) Meet with County, HUD, the community and other state and local officials as may be necessary.

Scope of work may be adjusted, altered, added to, or deleted from based on Project needs and/or negotiations in order to best serve the interest of the Project. All work shall be performed in compliance with all applicable federal, state, and local procurement requirements. The work contemplated herein shall be conducted in a manner as to comply with Governing Authority, CDBG-DR required HUD CPD Green Building Retrofit Checklist, CDBG-DR program intent, compliance with the Florida Building Code (<https://www.floridabuilding.org/c/default.aspx>), any applicable City and County Building Codes and/or standards, as well as the St. Johns County Land

Development Code (<http://www.sjcfcl.us/LongRangePlanning/LandDevCode.aspx>). All services shall be performed in accordance with the agreement between St. Johns County and the Florida Department of Economic Opportunity (agreement #H2338) and in strict accordance with all Governing Authority.

2.4 **Project Timelines.** Provided that all conditions precedent to Owner's and Developer's obligations to perform under this Agreement are satisfied, development of the Project will proceed according to the following schedule:

| <u>Event / Action</u> | <u>To Occur On or Before</u> |
|--|--|
| Construction Commencement (evidenced by a Notice to Proceed) | 10 days after Notice to Proceed |
| Substantial Completion of Construction | 730 calendar days following Notice of Proceeds |
| Final Completion of Construction | Within 60 calendar days following Substantial completion |
| Stabilized Occupancy | in accordance with Owner's Operating Agreement |
| 100% Occupancy | in accordance with Owner's Operating Agreement |

2.5 **Surety Bond.** Owner shall cause the general contractor to obtain and submit a recorded contractor's payment bond and performance bond, each in an amount no less than 100% of the construction contract price (the "Bonds"), covering faithful performance of and the payment of all obligations arising thereunder, with such sureties reasonably acceptable to County ("Surety"). Such Bonds shall comply with the following:

(a) **Acceptable Surety Companies.** To be responsible to County as surety on the Bonds, Surety shall comply with the following provisions:

- (i) Surety must be licensed to do business in the State of Florida;
- (ii) Surety must have been in business and have a record of successful continuous operations for at least three (3) years;
- (iii) Surety shall not have exposed itself to any loss on any one risk in an amount exceeding twenty percent (20%) of its surplus to policyholders;
- (iv) Surety must have fulfilled all of its obligations on all other bonds with respect to which the County was named as an obligee; and

(v) Surety must have good underwriting, economic management, adequate reserves for undisclosed liabilities and net resources for unusual stock and sound investment.

(b) Time of Delivery and Form of Bonds. The Bonds shall be recorded at the St. Johns County Clerk of Courts office, in St. Augustine, Florida, prior to the commencement of construction, which may be satisfied by attaching said Bonds to the notice of commencement to be recorded prior to commencement of the Project. After the book and page number have been assigned to the Bonds by the recording person, the Developer is to obtain from the recording person a certified copy of the recorded bond, and deliver the certified copy to the County's Contract Administrator. No work can commence until the required bond and Insurance Certificates have been delivered to County. Upon receipt of the certified copy of the recorded Bonds, County may issue a notice to proceed to the general contractor.

2.6 Insurance.

(a) Owner. Owner shall carry and maintain insurance as required by County commencing upon closing of the Loans (as evidenced by execution and delivery of the CDBG Note and the Re-Loan Note) and for the remainder of the term of this Agreement, including the following insurances and in the following amounts:

| | |
|--|--|
| Comprehensive General Liability Insurance | \$1,000,000 Each Occurrence \$2,000,000 General Aggregate |
| Comprehensive Automobile Liability | \$1,000,000 Combined Single Limit Each Occurrence Coverage must extend to all owned, non-owned, leased, hired or borrowed vehicles, whether such operations be by Owner or by anyone directly or indirectly employed by Owner |
| Umbrella/Excess Liability | \$1,000,000 Minimum Limit Coverage must include worker's compensation, commercial general liability and business auto liability |
| Worker's Compensation | Statutory limits applicable under Florida Statute 440.02 to the extent required by Florida law |

Additionally, Owner or the general contractor shall maintain Builders Risk policy insuring against all risks of physical loss of damage to the Property intended to comprise the Project and all personal property used to maintain or service the Project's construction, whether located at the Property or elsewhere. Owner shall maintain property insurance written on an "all risk" policy form including coverage for earthquake, flood, windstorm, debris removal, hot and cold testing in the amount no

less than the CDBG Loan, plus the value of subsequent contract modification and cost of material supplied or installed by others, comprising total value for the entire Project at the site on replacement cost basis. The named insured should include Owner, its general contractor and subcontractors. The policy should waive any co-insurance penalties. Covered property shall include permanent works: materials, supplies, equipment, machinery and property of others, if the insured is contractually responsible and the value is included in the total project, temporary work: scaffolding, form work, fences, shoring, falsework, temporary buildings, offsite storage and transit. County reserves the right to purchase a Builder's risk policy and remove the cost from the CDBG Loan proceeds if it serves the best interest of County to do so.

(b) Contractors. Owner's contractor(s) shall carry insurances in the following amounts, all to be in place prior to commencing construction:

| | |
|---|--|
| Commercial Liability | \$1,000,000 Each Occurrence \$1,000,000 General Aggregate Must include coverage for blanket contractual liability for the obligations assumed under contract |
| Comprehensive Automobile Liability | \$1,000,000 Combined Single Limit Each Occurrence Coverage must extend to all owned, non-owned, leased, hired or borrowed vehicles and must include coverage for blanket contractual liability for the obligations assumed under contract |
| Worker's Compensation | Statutory Limits applicable under Florida Statute 440.02 Must include coverage for Longshoremen's and Harbor Workers' Compensation, if applicable, and coverage for Federal Employers' Liability Act, if applicable |
| Employer's Liability | \$1,000,000 Each Occurrence \$1,000,000 Disease per Employee An Umbrella liability policy, which follows form, may be used to obtain the aforementioned limits |
| Professional Liability / E&O | \$1,000,000 Each Claim \$2,000,000 General Aggregate |
| Umbrella/Excess Liability | \$5,000,000 Aggregate To be included with the Commercial, Automobile, and Employer's Liability policies as underlying policies. |

(c) County shall be furnished with certificates of insurance, which shall provide that such insurance shall not be changed or canceled, without ten days prior written notice to County. The Certificate(s) shall clearly indicate Owner has obtained insurance of the type, amount, and classification. THE POLICY SHALL LIST COUNTY (i.e., St. Johns County, a political subdivision of the State of Florida, 500 San Sebastian View, St. Augustine, Florida 32084) AS CO-INSURED OR ADDITIONAL INSURED for all lines of coverage except worker's compensation and professional liability coverage. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve Owner of its liability and obligations under this Agreement. Certificates of Insurance will provide that all policies above are primary and any insurance carried by County is secondary and non-contributing with such policies. Owner shall be responsible for all deductibles for the required insurance coverage. Owner, contractors and subcontractors shall waive their rights of subrogation against one another.

2.7 **Progress Inspections.** Owner shall provide County with an anticipated inspection schedule prior to the set up and approval of funds. Inspections shall conform to the inspection schedule, which should plan for progress inspections at completion of approximately 40% and 70% of the scheduled work exclusive of any change orders. A final inspection shall be made when nearing completion of 100% of the scheduled work. Owner shall contact County for a scheduled inspection at least seven (7) business days in advance of the inspection date. Owner shall permit representatives of County, DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government with reasonable access to the Property in order to inspect the Project.

2.8 **Davis-Bacon and Related Acts.**

(a) The Davis-Bacon and related acts ("DBRAs") generally apply to Owner and its contractors and subcontractors performing on federal and federally assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating). Laborers and mechanics performing on the Project are entitled to receive prevailing wage rates for such work. DRBAs require that Owner, its contractors and subcontractors performing on DRBA-covered contracts pay any and all laborers and mechanics no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area, as provided by the U.S. Department of Labor, and as shown on Davis-Bacon Act, General Decision Number FL 20200086 "Residential", attached hereto. Contracts or subcontracts subject to DBRAs must incorporate form HUD-4010 or the explicit language contained in form HUD-4010 within each contract or subcontract. Every employer performing work covered by the labor standards of the DBRA must post the WH-1321 "Employee Rights Under the Davis-Bacon Act" poster at the site of the work in a prominent and accessible place where it may be easily seen by employees. The wage determination must be similarly posted.

(b) Contractors and subcontractors on contracts in excess of one hundred thousand dollars (\$100,000) are required, pursuant to the Contract Work Hours and Safety Standards Act, to pay employees one and one-half times their basic rates of pay for all hours over forty (40) worked on covered contract work in a workweek. Covered contractors and

subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.

(c) Contractors must maintain payroll and basic records for all laborers and mechanics during the course of the work and for a period of three years thereafter. Records to be maintained include:

- (i) Name, address, and Social Security number of each employee;
- (ii) Each employee's work classifications;
- (iii) Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents;
- (iv) Daily and weekly numbers of hours worked;
- (v) Deductions made;
- (vi) Actual wages paid;
- (vii) If applicable, detailed information regarding various fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected; and
- (viii) If applicable, detailed information regarding approved apprenticeship or trainee programs.

Each covered party shall, on a weekly basis, provide County (or such other party designated by County) a copy of all payrolls providing the information listed in this Section 2.8(c) for the preceding weekly payroll period, except that that full social security numbers and home addresses shall not be included on weekly transmittals, and instead the payrolls only need to include an individually identifying number for each worker (e.g., the last four digits of the worker's social security number). Each payroll submitted must be accompanied by a "Statement of Compliance" using page 2 of Form WH-347 Payroll (For Contractors Optional Use), or any form with identical wording, certifying compliance with applicable requirements. The statement is to be signed by Owner, its contractor or a subcontractor, or by an authorized officer or employee of Owner, its contractor or a subcontractor who supervises the payment of wages, and delivered to a representative of the federal or state agency in charge. This must be submitted within seven days after the regular pay date for the pay period.

(d) Owner shall ensure that all contractors and subcontractors pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics.

(e) There may be withheld from any contractor or subcontractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or subcontractor on the work the difference between the rates of wages required by the appropriate services contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

2.9 **Indemnification.** To the fullest extent permitted by law, Owner and Developer shall indemnify and hold harmless County and employees from and against liability, claims, damages, losses and expenses, including reasonable attorneys' fees, arising out of or resulting from performance of the work herein contemplated, provided that such liability, claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction to tangible property (other than the work itself) including loss of use resulting there from, but only to the extent caused in whole or in part by negligent acts or omissions of the Owner, Developer, the general contractor, a sub-contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such liability, claim, damage, loss or expense is caused in part by a party indemnified hereunder; provided, however, the foregoing indemnity shall not apply to the extent any such liability, claim, damage, loss or expense results from the gross negligence or willful misconduct of the indemnified party. **In claims against any person or entity indemnified under this Section by an employee of Owner, Developer, the general contractor, a sub-contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for such party under workers' compensation acts, disability benefits acts or other employee benefit acts.**

2.10 **Lead-Based Paint:** The use of lead-based paint in the federally assisted construction of residential structures is prohibited by Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and regulations in 24 CFR 35B. Owner, its general contractor and all subcontractors must follow the regulations issued under sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X ("ten") of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971, which is the basic law covering lead-based paint in federally associated housing. The new regulation appears within title 24 of the Code of Federal Regulations as part 35 (24 CFR §35). Additionally, Developer, its general contractor and all subcontractors must follow regulations regarding employee exposure to lead found in 29 CFR 1926.62. No lead-based paint shall be used in residential structures. Owner, its general contractor and all subcontractors must comply with the Lead Hazard Reduction Methods in 24 CFR §35.1330 and §1325 and 29 CFR §1926.62. All workers involved in the disturbance of lead-based paint bearing surfaces should be trained in lead safe work practices in accordance with 29 CFR §1926.62.

ARTICLE 3
OPERATIONS; LEASING; AFFORDABILITY RESTRICTIONS

3.1 **Program Income.**

(a) Definitions; Context. Program Income is defined, for the purposes herein, as revenue received by a state, unit of general local government, or subrecipient (as defined at 24 CFR § 570.500(c)) that is generated directly from the use of CDBG funds. For purposes of the supporting regulations, Owner and Developer are "procured contractors" for purposes of the CDBG regulations (i.e., an end user), and therefore are not subrecipients. Revenues derived from multifamily rents or net operating income of the Project received by Owner is not considered Program Income for purposes of this Agreement. Other revenue received by Owner during the Affordability Period, such as net proceeds, i.e., revenue, from the sale or disposition of the Property, or refinancing of the Property, which are then recaptured or otherwise repaid to County will be considered Program Income (less any amount classified as "return of funds") if the requirements of this Agreement are not met, and such funds are received by County.

(b) Return of Program Income. Owner and Developer shall comply with the rules for receipt and disposition by Owner of Program Income, as set forth in 24 CFR § 570.500(a) and 24 CFR § 570.504. ~~Owner shall return to County all Program Income in accordance with the following procedure:~~ 570.504 and Applicable CDBG-DR Rules.

~~(i) — Owner will return Program Income to County in any instance where the total amount received or due is in excess of one thousand dollars (\$1,000.00); and~~

~~(ii) — Program Income received or due by Owner in amounts less than one thousand dollars (\$1,000.00) may be accumulated by Owner until the total reaches or exceeds one thousand dollars (\$1,000.00).~~

~~(c) — Program Income from Refinancing.~~

~~(i) — Program Income resulting from the net proceeds from a refinancing of the indebtedness due on the Property will not be required to be repaid to County if Owner refinances the indebtedness due on Property using a HUD loan made under Section 223(f) of the HUD regulations or comparable regulations then in effect, and such net proceeds are used for loan transaction fees, the costs of refinancing, points, legal fees and expenses, costs of HUD required studies, closing costs and expenses, HUD lender required improvements to the Property, reserves or capital expenditures and provided that the total indebtedness against the Property does not exceed \$25,000,000 outstanding at any point in time, i.e., the subordination amount.~~

~~(ii) — In the event of a refinancing contemplated in paragraph (i) above, Owner shall provide County with: (i) sixty (60) days' written notice of Owner's intent to refinance the indebtedness due on the Property; (ii) a copy of all proposed documents and instruments in connection with said refinancing; (iii) a legal opinion in form and substance satisfactory to County opining that all requirements of this Agreement are satisfied with respect to said refinancing are required to be repaid to County as Program Income, that the Mortgage is a valid second lien on the Property in the aggregate amount of the CDBG Loan, free and clear of all defects and encumbrances except the liens in favor of the lender providing the refinancing, that~~

~~each of the covenants under the Declaration remains a legal, valid, and binding obligation on Owner, enforceable in accordance with its terms, and such other matters as County may reasonably require; and (iv) any other documentation, certification, and information with respect to said refinancing that County might reasonably request.~~

~~(c) (iii) Under no circumstances prior to the end of the Affordability Period shall Owner be entitled to receive any funds, i.e., no cash out to Owner resulting from a sale, refinancing, or distribution of capital or operating reserves unless the CDBG Loan is paid in full. Owner is prohibited from selling or disposing of the Property during the Affordability Period except under certain conditions and with prior County approval. Intentionally Deleted.~~

3.2 Property Management.

(a) Right of Review. County retains the right to review the qualifications and record of the property management company and approve the property management company selected by Owner to manage the Project. Owner shall notify County of any replacement of the property management firm at least ten (10) business days prior to the effective date of the change for County's review and approval consistent with this Section 3.2.

(b) Right for Required Replacement for Non-Compliant Performance: County retains the right, during the Affordability Period, to require the property management company be replaced by a new management company selected by Developer if a Default has occurred and is continuing that is attributable to the duties of the property management company, or if material good cause for removal of the property management company exists under the operating agreement of Owner. Failure of Owner to replace the property management company within sixty (60) days of County's written request shall constitute a Default. Owner shall submit any evidence reasonably requested by County that illustrates the replacement property management company as having met the minimum qualifications set forth in Section 3.2(c) hereafter. As long as the replacement property management company meets the minimum qualifications set forth in Section 3.2(c) hereafter, then the property management company is approved without further action by County. If such replacement property management company does not meet such minimum qualifications, then County may require Owner to select one that meets such minimum requirements. In the event Owner fails or refuses to select a replacement property management company that meets the minimum qualifications set forth in Section 2.3(c) hereafter, County may procure a qualified replacement property management company on Owner's behalf, using County's established procurement policies and procedures.

(c) Minimum Qualifications. The minimum qualifications of the property management company are:

- (i) At least five (5) years' experience managing affordable housing developments financed in whole or in part through federal funding programs;
- (ii) A staffing plan for the Project;
- (iii) The property management firm is not currently debarred or suspended by the federal government or any state government;

(iv) The lead on-site staff or equivalent must have completed the following certifications and must maintain the certifications during their employment at the CDBG-DR funded site: (A) *Tax Credit Specialist* and (B) *Certified Manager of Housing*;

(v) The on-site maintenance manager or equivalent must have completed the following certifications and must maintain the certifications during their employment at the CDBG-DR funded site: *Certified Manager of Maintenance*.

(d) **Quality Standards.** Owner shall ensure that the Project is maintained in compliance with HUD's Housing Quality Standards as set forth in 24 CFR Part 982m Subpart I. The County shall conduct annual inspections to at least 25% of the affordable housing units to confirm adherence to the Housing Quality Standards.

3.3 **Affordability Requirements.**

(a) **Affordability Requirements.** At least fifty-one percent (51%), rounded up to the nearest whole number, of the units in the Project will benefit Low- and Moderate-Income persons in order to satisfy the CDBG national objective, as required by the Declaration (the "**Affordability Requirements**"). To the extent there is a conflict between the Affordability Requirements on the one hand and the applicable LIHTC rules, regulations and/or restrictions on the other, the more restrictive of the Affordability Requirements versus the LIHTC rules, regulations and/or conditions shall control.

(b) **Tenant Selection Procedures.** The property manager is required to have fair, equitable and written tenant selection procedures that will be used for all tenant selection and be followed for each applicant in the same manner without exception. The property manager will use a standard application which meets the criteria of federal and state law and the subsidy financing, which properly reflects all local, state and federal requirements. Tenant selection procedures will include a grievance procedure. Applicants who are rejected must receive a written notification of rejection. The property manager shall maintain a waiting list in accordance with the requirements of 24 CFR 982.204 for applicants for whom an affordable unit is unavailable at the time of application.

(c) **Lease.** The property manager will use a standard lease which meets the criteria of the subsidy financing and does not contain any "prohibited clauses," as defined by local, state, or federal laws and regulations. The minimum standard is the most restrictive law or regulation. County requires all leases have a minimum lease period will be one year and a clause prohibiting the tenant from sub-letting or renting the unit either short term or long term.

(d) **Tenant Income Verification.** Since LIHTC are to be utilized on the Project, income testing of tenants will inure, defer to, or be subject to the LIHTC income testing and determination method for purposes of compliance with CDBG affordability requirements. County will conduct regular monitoring to ensure ongoing compliance with the tenant income and unit occupancy requirements.

3.4 **Reports.** Owner and Developer must maintain and provide the following reports on forms and in a format reasonably acceptable to County:

(a) All reports required by HUD and such other reports as necessary for both County and Nonprofit/Owner to comply with applicable Governing Authority or agreements regarding the CDBG-DR funding, including reporting required by County under the audit requirements of 2 CFR Part 200.

(b) During construction, a monthly progress report on a form acceptable to County;

(c) During the lease up period, Owner shall submit a monthly report of occupancy to the County's Disaster Recovery Department within fifteen business days after the end of each month.

(d) Once stabilized occupancy has been achieved, Owner shall submit a quarterly report of occupancy to County's within fifteen (15) business days after the end of the quarter.

(e) Within fifteen (15) days after the close of each quarter (or such date and interval that aligns with similar reporting requirements for Florida Housing Finance Corporation and/or other financial providers), Owner shall provide to County an unaudited balance sheet of Owner and the related statements of income and investors' equity for such month, together with a certification by Owner's responsible financial officer that such financial statements are complete and correct, present the financial conditions at the end of such period and the results of its operation during such period in accordance with GAAP, consistently applied, and certifying, in a form reasonably satisfactory to County, that Owner has not been and is not then in default of any of the terms, provisions and/or covenants contained in this Agreement and/or any of the CDBG Loan Documents and there was no known Default (or specifying those Defaults of which he or she is aware).

(f) Annual Compliance Reports: Within thirty (30) days after the close of each calendar year (or such date that aligns with similar reporting requirements for Florida Housing Finance Corporation and/or other financial providers) that include the Project name, activity, location, national objective, number of total housing units, number and designation of CDBG units (designation means unit number, size, type, and household income designation), rents charged on CDBG units, beginning and ending dates of leases on the CDBG units, and numbers of Low- and Moderate-income persons or households benefiting. Owner will provide to County all necessary and appropriate financial and compliance audits and ensure that all related party transactions are disclosed to the auditor.

(g) Minority Business Enterprise and Women Business Enterprise reports shall be submitted at each draw of CDBG-DR funds.

(h) Section 3 compliance reports will be submitted at each draw of CDBG-DR funds.

(i) Such other reports and documentation as County may from time to time reasonably request.

3.5 **Conditions Precedent To Closing.** Before County shall be obligated to perform under this Agreement, County shall be provided with the following documents in form and substance satisfactory to County, in its sole discretion:

(a) Assurances that the Declaration will be senior to all other liens to be imposed on the Property by Owner.

(b) A copy of the Certificates of Insurance as contemplated herein.

(c) Plans and specifications for the Project.

(d) Evidence, reasonably satisfactory to County, that Owner has the tax credit, equity capital, and any other financial commitments necessary for the completion of the Project and compliance with the provisions of this Agreement. Owner and Developer will be solely responsible for any Project costs or overruns based on the specific Project sources and uses submitted in conjunction with the evidence submitted pursuant to this section.

3.6 **Transfer Restrictions.**

(a) Owner represents and agrees for itself and for its successors and assigns that except as permitted in the CDBG Loan Documents, this Section 3.6 and/or by way of security for, and only for the purpose of obtaining financing necessary to enable Owner or any successor in interest to the Project, or any part thereof, to perform its obligations with respect to the construction or operation of the Project under this Agreement, Owner is prohibited from transferring the Property or any part thereof or interest therein, to another entity which would give such entity "control" of the Property or Project (excluding ordinary course leasing, development easements, or other routine operational grants) without obtaining the prior written approval of County, which consent shall not be unreasonably withheld, conditioned or delayed. Any future disposition of the Property or Project shall be in accordance with 24 CFR § 570.505. Any future change of use of real property shall be in accordance with 24 CFR § 570.4896(j). Any transfer of the Property or Project will require Owner to assign and the transferee to assume all relevant Project documents, including but not limited to the CDBG Loan Documents. Notwithstanding the foregoing or anything to the contrary in the CDBG Loan Documents, County approval shall not be required for, and any transfer restrictions described herein shall not apply to, (i) transfers within or among the ownership of the tax credit investor or investor-affiliated special member of Owner, (ii) foreclosure or deed-in-lieu of foreclosure of the mortgage securing the Construction Loan or Permanent Loan, (iii) removal of the manager or member of the Owner responsible for the day-to-day management of the Owner by the tax credit investor in accordance with the terms of the Owner's operating agreement, or (iv) any transfer by Owner of the Project or any interest therein to an entity controlled by or under common control with Owner or Developer, provided written notice of such transfer made in accordance with this clause (iv) is delivered to the County promptly following such transfer.

(b) County will be entitled to require, except as otherwise provided in this Agreement, as conditions to any such approval that: (i) Owner will provide adequate assurances

that the transferee has the capacity to comply with the Affordability Requirements; (ii) the transfer will provide for the continued imposition of the Affordability Requirements for the remainder of Affordability Period; and (iii) any proposed transferee, by instrument in writing satisfactory to County and in form recordable among the St. Johns County land records, will, for itself and its successors and assigns, and expressly for the benefit of County, have expressly assumed all of the obligations on Owner under this Agreement and agreed to be subject to all of the conditions and restrictions to which Owner is subject.

(c) Notwithstanding anything to the contrary contained herein, Owner will be free to transfer the Property or Project or any part thereof and interests in Owner, without the prior written consent of County, after the conclusion of the Affordability Period.

(d) Until the Guaranty (as it relates to repayment and/or completion of construction) is released or terminated, no interest in Developer shall be transferred without the prior written consent of County.

ARTICLE 4 **GENERAL REQUIREMENTS**

4.1 Environmental Requirements.

(a) **Clean Air.** Owner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. Owner and Developer each hereby agree to report each violation to County's Disaster Recovery Department and understands and agrees that Owner will, in turn, report each violation as required to assure notification and the appropriate EPA Regional Office. Owner further agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by HUD.

(b) **Clean Water.** Owner and Developer hereby agree to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq. Owner and Developer hereby agree to report each violation to the County's Disaster Recovery Department and understands and agrees that County will, in turn, report each violation as required to assure notifications the appropriate regional office of the U.S. Environmental Protection Agency. Owner further agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by HUD.

(c) **Recycled Products.** Owner and Developer hereby agree to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

(d) **Energy Conservation.** Owner agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

4.2 **Rights of Mortgagees.**

(a) **Permitted Encumbrances.** Neither Owner nor any successor in interest will engage in any financing or create any mortgage or other encumbrance on the Property, nor permit any lien to be made on or attached to the Property, except for those expressly consented to by County and/or for purposes of obtaining funds necessary for acquiring the Property, constructing the Project and any related costs as detailed in the financing approved by County, and the Permanent Loan.

(b) **Notification of Mortgages and Liens.** Owner must notify County in advance of any financing, secured by mortgage or other similar lien instrument, it proposes to enter into with respect to the Property, and will promptly notify County in event any encumbrance or lien has been created on or attached to the Property, regardless of whether by voluntary act of Owner or otherwise.

(c) **Mortgagees Not Obligated to Construct.** Mortgagees will not be obligated to construct the Project in the event the Mortgagee acquires the Property through foreclosure proceedings (or actions in lieu thereof); however, the Property must remain devoted to the uses and Affordability Requirements described and referenced in this Agreement.

4.3 **Patent Rights.**

(a) Owner and Developer hereby agree to execute or to have executed and promptly deliver to County all instruments necessary to (i) establish or confirm the rights the United States has throughout the world in those subject inventions to which Owner and/or Developer elects to retain title, and (ii) convey title to County when requested and to enable the United States to obtain patent protection throughout the world in that subject invention.

(b) Owner and Developer agree to require, by written agreement, their employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph (a), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the United States' rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (a), above. Owner and Developer shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(c) Owner and Developer will notify County of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(d) Owner and Developer agree to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the contract) awarded by (identify the agency). The government has certain rights in the invention."

(e) Owner will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for Owner in this clause, and Owner will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(f) Owner will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by federal law.

(g) In the case of subcontracts, at any tier, when the prime award with County was a contract (but not a grant or cooperative agreement), County, subcontractor, and Owner agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and County with respect to the matters covered by the clause.

4.4 **Copyright.**

(a) Developer agrees and acknowledges that all expressive content subject to copyright protection, including without limitation all reports, drafts of reports, drawings, artwork, photographs, video, computer programs and codes, and/or any other expressive content acquired or developed by Owner or Developer pursuant to this Agreement (individually, a "Work," and collectively the "Works"), will be made the exclusive property of County. Owner and Developer acknowledge that each Work is a "work made for hire" under the United States Copyright Act of 1976. All rights in and to each Work, including the copyright to the Work, shall be and remain the sole and exclusive property of County.

(b) If, for any reason, any Work or any portion of a Work is not a work made for hire, Owner and/or Developer hereby irrevocably assign to County ownership of all right, title and interest in and to the Works or such portion of any Work, including without limitation the entire and exclusive copyright in the Works and all rights associated with the copyright, including but not limited to reproduction rights, distribution rights, the right to prepare translations and other derivative works, and the right to display the Works in all formats and media now known or developed in the future; subject to the rights of the senior lender in and to such Works.

(c) Owner and/or Developer, as applicable, must give County, as well as any person designated by county, all assistance required to perfect the rights granted to County defined herein without any charge or expense beyond the stated amount payable to Developer for the services authorized under this Agreement.

4.5 **Access to Records.** Representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government and their duly authorized representatives have the right of access to any documents, papers, or other records of Owner and/or Developer which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to Owner's and Developer's personnel for the purpose of interview and discussion related to such documents.

4.6 **Records.** Owner must retain all applicable records in accordance with 24 CFR §570.506. Owner shall maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided under this Agreement.

4.7 **Public Records.**

(a) The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

(b) In accordance with Florida law, to the extent that Owner's performance under this Contract constitutes an act on behalf of the County, Owner shall comply with all requirements of Florida's public records law. Specifically, if Owner is expressly authorized, and acts on behalf of the County under this Agreement, Owner shall:

(i) Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services;

(ii) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

(iii) Ensure that public records related to this Agreement that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and following completion of this Agreement if the Owner does not transfer the records to the County; and

(iv) Upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Owner or keep and maintain public records required by the County to perform the services.

If the Owner transfers all public records to the County upon completion of this Agreement, the Owner shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Owner keeps and maintains public records upon completion of this Agreement, the Owner shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

Failure by the Owner to comply with the requirements of this section shall be an event of default and shall be grounds for termination of this Agreement by the County as provided below in Article 5.

IF THE OWNER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**500 San Sebastian View
St. Augustine, FL 32084
(904) 209-0805
publicrecords@sjcfl.us**

4.8 **Record Retention Requirements.** Owner and Developer hereby agree that financial records, supporting documents, statistical records, and all other records pertinent to County's CDBG-DR award shall be retained for a period of six (6) years from the date of submission of the final expenditure report unless Owner and Developer are notified by County that a longer period is required (in which case, the extended period shall be substituted throughout this Section 4.7). HUD and County may not impose any other record retention requirements upon either Developer or Owner. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 6-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When either Developer or Owner is notified in writing by HUD, the cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or County to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for six (6) years after final disposition.

(d) When records are transferred to or maintained by the HUD or County, the six (6) year retention requirement is not applicable to Owner or Developer.

(e) Owner and Developer shall maintain all records and supporting documentation for Owner, Developer and for all contractors, subcontractors and consultants paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other Governing Authority.

(f) Owner shall either (i) maintain all funds provided under this Agreement in a separate bank account or (ii) ensure that the Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement. Provided further, that the only option available for advanced funds (i.e. those funds disbursed for work and/or materials not yet incorporated into the Project) is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Agreement with any other funds, projects or programs. County may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as herein described.

(g) Owner, including all of its employees or agents, contractors, subcontractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(h) Owner shall include the aforementioned recordkeeping requirements in all approved contracts, subcontracts, and assignments, or shall incorporate same by reference to this Agreement.

4.9 **Technical Assistance.** County will provide Owner and Developer with a contact list for specific questions related to compliance during operations. Owner and/or Developer are expected to hire any technical assistance Developer may need. Technical assistance will not be paid for with CDBG-DR funds.

ARTICLE 5

DEFAULTS; REMEDIES; TERMINATION

5.1 **Default.** In the event Owner, Developer or Nonprofit breach, default or otherwise fail to comply with the terms of this Agreement, any of the CDBG Loan Documents or any Governing Authority, County shall provide written notice of such default, breach or noncompliance. Failure of Owner, Developer or Nonprofit to correct any and all items of noncompliance or take corrective action acceptable to County within fifteen (15) consecutive calendar days following such written notice, Owner and Developer shall be in default of this Agreement ("Default"); provided, however, neither Owner nor Developer shall be in default hereunder if the default, breach or noncompliance cannot reasonably be cured within such 30 day period if Owner or Developer commences such cure within such 15-day period and thereafter prosecutes same to completion.

5.2 **Remedies.**

(a) Following Default, County may, at its option, (a) institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations, and the cost and expense thereof shall be promptly paid by Owner and Developer, (b) terminate this Agreement upon fourteen (14) consecutive calendar days' written notice to Owner, (c) exercise the rights and remedies under the CDBG Loan Documents and/or (d) recapture and be reimbursed for any payments County has made that (i) exceed the maximum allowable rates; (ii) are not allowed under applicable Governing Authority; or (iii) are otherwise inconsistent with this Agreement, including any unapproved expenditures.

(b) Should Owner or, in case of its default, the surety (pursuant to surety bond) fail to complete the work within the time stipulated in this Agreement, particularly Section 2.4, Owner or, in case of its default, Surety shall pay to County, not as a penalty but as liquidated damages, the sum of five thousand eight hundred eighteen dollars (\$5,818.00) for each and every

calendar day of Unexcused Delay in achieving Substantial Completion beyond the date specified herein. "Unexcused Delay" shall mean those delays for which the respondent, his subcontractor or supplier, has responsibility, and which entitle the respondent to neither a time extension nor any added compensation. "Substantial Completion" shall mean that stage in the progression of the construction of the Project when the Project is sufficiently complete as provided by this Agreement when the Project can be occupied for its intended purpose, as evidenced by a temporary certificate of occupancy.

5.3 **Termination by County.**

(a) The funding being made available under this Agreement is appropriated under the Further Continuing and Security Assistance Appropriations Act of 2017 to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892. The fulfillment of this Agreement by County contingent upon appropriations, availability of funding to County and is subject to any modification in accordance with Chapters or 132, Florida Statutes, or the Florida Constitution. If funding is not made available to County as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or the DEO, all obligations on the part of County to make any disbursements shall terminate and neither Owner nor Developer shall have a cause of action against County resulting from such termination (the same being hereby waived). Nothing in this Agreement shall create any obligation on the part of the Board of County Commissioners to appropriate funds from any non-CDBG-DR source in any given fiscal year.

(b) County may terminate this Agreement at any time, without cause, upon thirty (30) days written notice to Owner of its intention to do so. If, at any time, this Agreement is terminated by the County, whether for cause or for convenience, County may, at its sole discretion, negotiate with the second lowest, responsible, responsive bidder, in order to enter into a contract with that vendor to complete the remaining, specified services to prevent a gap in performance of services for County, if it serves the best interest of County to do so.

5.4 **Mortgage Holders' and Investor's Notice of Default and Option to Cure.**

(a) Notices of Default. Any notice of the breach or Default on this Agreement, or of the default on any related agreements instruments related to this Agreement, or any demand to Owner or Developer from County will, at the same time, be forwarded to Owner's tax credit investor and each holder of an authorized mortgage at the last address of such holder shown in County records or the CDBG Loan Agreement.

(b) Option to Cure. Owner's tax credit investor and/or Mortgage holders will have the right, at their option, to cure or remedy any breach or Default on the part of Owner or Owner's successor in interest, as mortgagor, subject to the same terms, conditions and timing requirements that would otherwise be applicable to Owner; provided that such holders shall not be authorized to undertake or complete construction of the Project without having, the County shall have no further obligation to continue to fund the proceeds of the CDBG Loan pursuant to this Agreement or the CDBG Loan Documents unless such Mortgage holders or tax credit investor

have expressly assumed the obligations of this Agreement first arising from and after the effective date of such assumption by written agreement reasonably satisfactory to County.

(c) In cases where Owner's tax credit investor or the holder of any mortgage on the Property does not exercise its option to complete the Project, or fails to complete the Project within the period agreed to between the County and the investor/holder, and such failure continues for sixty (60) days, the County will have the option of paying to the holder the amount of the outstanding mortgage debt and securing an assignment of the mortgage and debt secured thereby, or if the holder has acquired the Property through foreclosure of action in lieu, the County will (subject to any subordination agreement entered into by County and the senior lender) be entitled, at its option, to a conveyance to it of the Property upon payment to such holder of an amount equaling: (a) the mortgage debt at the time of foreclosure/action in lieu; (b) all expenses related to the foreclosure/action in lieu; (c) the net expense (exclusive of general overhead) incurred by holder in and as a direct result of subsequent management of the Property; (d) costs of any improvements made by such holder; and (e) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had amounts become part of its mortgage debt and such debt had continued in existence.

5.5 Rights and Remedies Cumulative; No Waiver by Delay. The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, will be cumulative, and the exercise by either party of any one or more of such remedies will not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligations under this Agreement will be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligations beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the party.

5.6 Party in Position of Surety with Respect to Obligations. Owner, for itself and its successors and assigns and for all other persons who are or who will become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under this Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

ARTICLE 6 **MISCELLANEOUS**

6.1 Relationship of the Parties. The undertaking of this Agreement is a complex process that will require the mutual cooperation of the parties and their timely actions on matters that are appropriate or necessary to implement this Agreement. The Parties will use their best efforts in good faith to perform and assist each other in performing their respective obligations in accordance with this Agreement. This Agreement specifically does not create any partnership or

joint venture between the Parties, nor render any Party liable for any of the debts or obligations of any other Party.

6.2 **Notices.** A notice, demand, or other communication under this Agreement by either Party to the other will be sufficiently given or delivered if dispatched by registered or certified mail, postage prepaid, return receipt requested, or nationally recognized overnight courier, or delivered personally, and:

(a) in the case of Owner or Developer, is addressed (or delivered personally) to Owner and Developer in care of:

With a copy to:

(b) in the case of the County, is addressed (or delivered personally) to the County at:

St. Johns County Board of County Commissioners
Administration Building
500 San Sebastian View
St. Augustine, Florida 32084
Attn: Disaster Recovery
Email: _____

With a copy to:

Office of the County Attorney
500 San Sebastian View
St. Augustine, Florida 32084

or to such other address with respect as each party may from time to time designate in writing and forward to the other as provided in this Section.

6.3 **Amendments; Time of the Essence.** This Agreement may not be changed orally, but only by an agreement in writing and signed by all parties hereto. The parties understand and agree that time is of the essence with regard to all the terms and provisions of this Agreement.

6.4 **Force Majeure.** For the purpose of any of the provisions of this Agreement, neither County nor Owner or Developer, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations with respect to the Project, in the event of a

forced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the Federal government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such forced delay, the time or times for performance of the obligations described in this Agreement shall be extended for the period of the forced delay, as reasonably determined by County; provided, that the party seeking the benefit of the provisions of this subsection shall, within thirty (30) days after the beginning of such forced delay, have first notified the other party thereof in writing, and of the cause or causes thereof, and requested an extension for the period of the forced delay.

6.5 **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Florida governing agreements made and fully performed in Florida. Venue for any cause of action arising under this Agreement shall lie exclusively in St. Johns County or, for federal causes of action, in the Middle District of Florida. If any provisions of this Agreement or their application to any persons or circumstances will, to any extent, be invalid or unenforceable, then the remainder of this Agreement and the application of such provision shall be valid and enforceable to the fullest extent permitted by law. Except as otherwise referenced, this Agreement sets forth the entire understanding between the Parties with respect to its subject matter, there being no terms, conditions, warranties or representations with respect to its subject matter other than that contained herein. This Agreement will be binding upon and will inure to the benefit of the parties hereto, their respective successors and assigns.

6.6 **Counterparts.** This Agreement is executed in multiple counterparts, each of which will constitute an original of this instrument.

[Signature Pages Follow]

COUNTY:

ST. JOHNS COUNTY

By: _____

Name: _____

Title: _____

ACKNOWLEDGEMENT

STATE OF FLORIDA)

) ss.

COUNTY OF)

The foregoing instrument was acknowledged before me by means of _____ physical address or _____ online notarization this _____ day of _____, 2020, by _____, who is personally known to me, or who has produced _____ as identification.

_____, Notary Public

(Name of Notary, typed or printed)

Commission Number: _____

Commission Expires: _____

DEVELOPER:

SHAG DEVELOPMENT, LLC,
a Florida limited liability company

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF FLORIDA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me by means of _____ physical address or _____ online notarization this _____ day of _____, 2020, by _____, who is personally known to me, or who has produced _____ as identification.

_____, Notary Public
(Name of Notary, typed or printed)
Commission Number: _____
Commission Expires: _____

OWNER:

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF FLORIDA)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me by means of _____ physical address or _____ online notarization this _____ day of _____, 2020, by _____, who is personally known to me, or who has produced _____ as identification.

, Notary Public
(Name of Notary, typed or printed)
Commission Number: _____
Commission Expires: _____

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

[Insert legal description]



EXHIBIT "B"
APPLICABLE RULES (NON-EXHAUSTIVE LIST)

GENERALLY

The Acts and Regulations specified in this Contract;
Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Public Law No. 114-223); Consolidated Appropriations Act, 2017 (Public Law No. 115-31);
The Housing and Community Development Act of 1974 (12 U.S.C. § 5301, et seq.);
The United States Housing Act of 1937, as amended, 42 U.S.C. § 1437f(o)(13) (2016) and related provisions governing Public Housing Authority project-based assistance, and implementing regulations at 24 CFR Part 983 (2016);
Cash Management Improvement Act regulations (31 CFR Part 205);
Community Development Block Grants (24 CFR Part 570);
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200); and
Disaster Recovery Implementation Manual.

CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, et seq.); 24 CFR Part 1, "Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development - Effectuation of Title VI of the Civil Rights Act of 1964";
Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (42 U.S.C. § 2000e, et seq.);
Title VIII of the Civil Rights Act of 1968, "The Fair Housing Act of 1968" (42 U.S.C. § 3601, et seq.), as amended;
Executive Order 11063, as amended by Executive Order 12259, and 24 CFR Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"; The failure or refusal of Provider to comply with the requirements of Executive Order 11063 or 24 CFR Part 107 shall be a proper basis for the imposition of sanctions specified in 24 CFR 107.60;
The Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.); and
Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794.) and "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development", 24 CFR Part 8. By signing this Contract, Provider understands and agrees that the activities funded shall be performed in accordance with 24 CFR Part 8; and the Architectural Barriers Act of 1968 (42 U.S.C. § 4151, et seq.), including the use of a telecommunications device for deaf persons (TDDs) or equally effective communication system.

LABOR STANDARDS

The Davis-Bacon Act, as amended (originally, 40 U.S.C. §§ 276a-276a-5 and re-codified at 40 U.S.C. §§ 3141-3148); 29 CFR Part 5;
The Copeland "Anti-Kickback" Act (originally, 18 U.S.C. § 874 and re-codified at 40 U.S.C. § 3145); 29 CFR Part 3;
Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (originally, 40 U.S.C. §§ 327A and 330 and re-codified at 40 U.S.C. §§ 3701-3708); and

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act) (29 CFR Part 5); and Federal Executive Order 11246, as amended.

EMPLOYMENT OPPORTUNITIES

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u); 24 CFR §§ 135.3(a)(2) and (a)(3);

The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. § 4212);

Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1688); and

Federal Executive Order 11246, as amended.

GRANT AND AUDIT STANDARDS

Single Audit Act Amendments of 1996, 31 U.S.C. § 7501; and

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

LEAD-BASED PAINT

Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831(b)).

HISTORIC PROPERTIES

The National Historic Preservation Act of 1966 as amended (16 U.S.C. § 470, et seq.), particularly sections 106 and 110 (16 U.S.C. §§ 470 and 470h-2), except as provided in §58.17 for Section 17 projects;

Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR, 1971-1975 Comp., p. 559, particularly section 2(c);

Federal historic preservation regulations as follows: 36 CFR Part 800 with respect to HUD programs; and

The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. § 469, et seq.), particularly section 3 (16 U.S.C. § 469a-1).

ENVIRONMENTAL LAW AND AUTHORITIES

Environmental Review Procedures for Recipients assuming HUD Environmental Responsibilities (24 CFR Part 58, as amended);

National Environmental Policy Act of 1969, as amended (42 U.S.C. §§ 4321-4347); and

Council for Environmental Quality Regulations for Implementing NEPA (40 CFR Parts 1500-1508).

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION

Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR Part 55, particularly Section 2(a) of the Order (For an explanation of the relationship between the decision-making process in 24 CFR Part 55 and this part, see § 55.10.); and

Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, particularly Sections 2 and 5.

COASTAL ZONE MANAGEMENT

The Coastal Zone Management Act of 1972 (16 U.S.C. § 1451, et seq.), as amended, particularly sections 307(c) and (d) (16 U.S.C. § 1456(c) and (d)).

SOLE SOURCE AQUIFERS

The Safe Drinking Water Act of 1974 (42 U.S.C. §§ 201, 300(f), et seq., and 21 U.S.C. § 349) as amended; particularly section 1424(e) (42 U.S.C. § 300h-3(e)); and Sole Source Aquifers (Environmental Protection Agency-40 CFR Part 149).

ENDANGERED SPECIES

The Endangered Species Act of 1973 (16 U.S.C. § 1531, et seq.) as amended, particularly section 7 (16 U.S.C. § 1536).

WILD AND SCENIC RIVERS

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271, et seq.) as amended, particularly sections 7(b) and (c) (16 U.S.C. § 1278(b) and (c)).

AIR QUALITY

The Clean Air Act (42 U.S.C. § 7401, et seq.) as amended, particularly sections 176(c) and (d) (42 U.S.C. § 7506(c) and (d)); and Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR Parts 6, 51, and 93).

FARMLAND PROTECTION

Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201, et seq.), particularly sections 1540(b) and 1541 (7 U.S.C. §§ 4201(b) and 4202); and Farmland Protection Policy (Department of Agriculture—7 CFR Part 658).

HUD ENVIRONMENTAL STANDARDS

Applicable criteria and standards specified in HUD environmental regulations (24 CFR Part 51) (other than the runway clear zone and clear zone notification requirement in 24 CFR § 51.303(a)(3)); and HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979.

ENVIRONMENTAL JUSTICE

Executive Order 12898 of February 11, 1994—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

SUSPENSION AND DEBARMENT

Use of debarred, suspended, or ineligible contractors or subrecipients (24 CFR § 570.609); General HUD Program Requirements; Waivers (24 CFR Part 5); and Nonprocurement Suspension and Debarment (2 CFR Part 2424).

OTHER REQUIREMENTS

Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities
(24 CFR Part 58).

ACQUISITION / RELOCATION

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601, et seq.), 24 CFR Part 42, and 24 CFR § 570.606.

FAITH-BASED ACTIVITIES

Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 FR 77141).

FLORIDA TRENCH SAFETY ACT

Florida Trench Safety Act, in accordance with the requirements of Chapter 553, Florida Statutes (if trenching is required for the Project).

ACTION PLAN

State of Florida Action Plan for Disaster Recovery, as amended (hereinafter referred to as the "Action Plan").

SUBAWARD

The agreement between St. Johns County and the Florida Department of Economic Opportunity (agreement #H2338), as amended from time to time.

PUBLIC RECORDS

Chapter 119, Florida Statutes

FLORIDA MARKETABLE RECORD TITLE ACT

Chapter 712, Florida Statutes

**EXHIBIT "C"
CERTIFICATIONS**

(Attached)

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