

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20061064

1. ACTION REQUESTED/PURPOSE:

Amend Lee County Contract C-3381 between the BOCC and Southwest Florida GWI Housing X, Inc. (Goodwill) to incorporate the U. S. Dept of Housing and Urban Development's (HUD) new interpretation of rules regarding secondary financing which clarifies that all changes are subject to HUD's approval.

2. WHAT ACTION ACCOMPLISHES:

The county provided supplemental Hurricane Housing Recovery (HHR) funding to a HUD financed development for very-low income disabled rental households. HUD considers this supplemental funding as secondary financing and requires that the county incorporate the attached amendments into its contracts.

3. MANAGEMENT RECOMMENDATION:

Approve

4. Departmental Category: 04

CAB

5. Meeting Date: August 22, 2006

6. Agenda:

- Consent**
- Administrative**
- Appeals**
- Public**
- Walk-On**

7. Requirement/Purpose: (specify)

- Statute**
- Ordinance**
- Admin. Code**
- Other** HHR Plan

8. Request Initiated:

Commissioner N/A
Department Community Development
Division Planning
By: Paul O'Connor, Planning Director
POC 8/10/06

9. Background:

Goodwill "The Pines": On January 24, 2006 per Blue Sheet 20060016 the Board of County Commissioners executed a grant award agreement to provide HHR funding for 14 apartments, nine-one bedroom units and five-two bedroom units to house a total of 19 very-low income disabled rental households in North Fort Myers called "The Pines". For this development, Southwest Florida GWI Housing X, Inc. received a \$1,355,600 grant through the HUD Sec 811 Supportive Housing for Persons with Disabilities Program.

To date no funds have been drawn against this agreement. For Lee County to make these HHR funds available, HUD is requiring that the county amend the agreement with the attached language which clarifies that all changes are subject to HUD's approval.

No additional funds are being requested.

Attachment: Proposed amendment to HHR Contract C-3381

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>M...</i>	<i>...</i>	N/A	N/A	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>

11. Commission Action:

- Approved**
- Deferred**
- Denied**
- Other**

RECEIVED BY COUNTY ADMIN: ID
8/10/06 2:30pm
 COUNTY ADMIN
 FORWARDED TO: PL
8/11/06
SAM

Rec. by CoAtty
 Date: 8/10/06
 Time: 1:30pm
 Forwarded To: CAD 8/10/06
2:30pm

**FIRST AMENDMENT TO THE
AGREEMENT BETWEEN THE
LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AND
SOUTHWEST FLORIDA GWI HOUSING X, INC.**

WITNESSETH:

WHEREAS, the referenced Parties to Hurricane Housing Recovery (HHR) Contract No. C-3381 desire to amend the Contract to include the subrecipient agreement addendum as required by the U.S. Department of Housing and Urban Development (HUD Notice 95-38 and HUD Handbook 4571.5 Rev).

NOW, THEREFORE IN CONSIDERATION OF THE MUTUAL PROMISES STATED HEREIN, the referenced contract is amended as follows adding a new Attachment 4:

ATTACHMENT 4

ADDENDUM TO SUBRECIPIENT AGREEMENT

WHEREAS, the parties hereto entered into an Agreement for LEE COUNTY HURRICANE HOUSING RECOVERY (HHR) RENTAL/SPECIAL NEEDS FUNDS in connection with the construction and implementation of the Project known as "The Pines", HUD Project No. 066-HD053, pursuant to the Capital Advance issued by HUD;

WHEREAS, per HUD Notice 95-38 and HUD Handbook 4571.5 Rev., HUD requires a Mortgage, Regulatory Agreement, Use Agreement and other security instruments for the construction and implementation of said Capital Advance, and further requires when secondary financing contemplated by the Subrecipient Agreement is utilized, an agreement be established to provide for certain terms in the event of conflict between the HUD Capital Advance instruments of security and the secondary financing for the Subrecipient Agreement; and

WHEREAS, the parties desire to evidence compliance with the HUD regulations;

NOW, THEREFORE, this Addendum is made and incorporated into the Subrecipient Agreement for the Project known as "The Pines" as follows:

1. Paragraph 4 of the Subrecipient Agreement, Attachment 3 is amended to delete the Project Name "Woodward Manor" and insert the Project Name "The Pines."
2. Notwithstanding anything in the Agreement to the contrary, so long as the Department of Housing and Urban Development ("HUD") is the insurer or holder of the Note, secured by the Mortgage for the intended development (identified as HUD Project #066-HD053), any indemnification shall be expressly limited to (1) liability insurance coverage; or (2) distribution approved by HUD from surplus cash or residual receipts.
3. So long as the Property is subject to HUD instruments of security, the Corporation shall neither voluntarily or involuntarily permit the Property or any part thereof to become subject to any other secondary or junior lien, mortgage or security interest without prior consent of HUD. HUD approval of a transfer of physical assets (TPA) constitutes approval of the TPA by all parties to the Agreement.
 - (i) Any Mortgage given as security for the County funding shall be subordinate to the HUD Mortgage. The County loan documents may not impose any requirements that interfere or conflict with HUD requirements concerning development or operation of the Project.
 - (ii) No default under the County Mortgage can be declared without HUD approval.
 - (iii) The Mortgage may not become due and payable prior to the amortization of the HUD Mortgage. If an early maturity date is required by the County, the loan documents for the County must indicate that payments to the loan will only be made from residual receipts to the extent of any loan with HUD approval.

The Parties hereby executed this Amendment on _____, 2006.

CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY _____
DEPUTY CLERK

BY: _____
CHAIRWOMAN

SOUTHWEST FLORIDA GWI HOUSING X, INC.,
A Florida non-profit corporation

Witness (Signature)

BY: _____
Jean Devereaux, President

Witness (Name, Address)

FEIN#: 51-00530426

Witness (Signature)

Witness (Name, Address)

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

BY: _____
Lee County Attorney's Office