

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

Blue Sheet No. 20070086

1. ACTION REQUESTED/PURPOSE: Execute a new grant award agreement for \$25,000 in SHIP (State Housing Initiatives Partnership) funds to replace a contract (C-3468) with the Lee County Housing Development Corp which expired on December 31, 2006. No additional SHIP funds are required. **FUND - BONUS DENSITY (HOUSING); PROGRAM - HOUSING/URBAN DEV JLD**

2. WHAT ACTION ACCOMPLISHES: Continuation of homeownership training and counseling for potential SHIP beneficiaries.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: C4B		5. Meeting Date: 2-6-2007	
6. Agenda:	7. Requirement/Purpose: (specify)	8. Request Initiated:	
	<input checked="" type="checkbox"/> Statute		Commissioner N/A
	<input type="checkbox"/> Ordinance		Department Community Development
	<input type="checkbox"/> Admin. Code		Division Planning
	<input type="checkbox"/> Other		By: Paul O'Connor, AICP, Planning Director
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Administrative			
<input type="checkbox"/> Appeals			
<input type="checkbox"/> Public			
<input type="checkbox"/> Walk-On			

9. Background:
The SHIP program requires the provision of homeownership education. For over 10 years Lee County has contracted with Lee County Housing Development Corp (LCHDC), a nonprofit organization, to provide homeowner counseling and training to households considering purchasing a house with the assistance of SHIP funds. Due to a clerical error by staff the contract (C-3468), which awarded \$25,000 for the provision of these services, was set to expire on December 31, 2006. The new contract will correct this error by having an expiration date of December 31, 2007. This contract is for education only; there are no construction activities associated with this contract. No additional SHIP funds are required.

The existing funds are available in account LB55405 13801.508302 S/L LB009
Attachments: New LCHDC Contract C-

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mer.	
<i>Mary Gibbs</i>	<i>[Signature]</i>			<i>Michelle A. Jones</i>	<i>JLD</i> 1/25/07	<i>MP</i> 1/25/07	<i>MP</i> 1/25/07	<i>MP</i> 1/25/07	<i>[Signature]</i> 1-24-07

11. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY COUNTY ADMIN: <i>MP</i>
<i>1/25</i> 10:40
COUNTY ADMIN FORWARDED TO:
<i>1/25</i> 3:00 to PR

Rec. by CoAtty
Date: <i>1/25/07</i>
Time: <i>3:15 PM</i>
Forwarded To: <i>Admin.</i> <i>1/22/07 9:40 am</i>

CSFA # 52.901
Contract No. C-
Funding Source: LB 5540513801.508302 S/L LB 009

AGREEMENT BETWEEN
THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS
And
Lee County Housing Development Corporation, Inc.

THIS **Service** **Capital (check one) CONTRACT** entered this 4th day of April 2006, between LEE COUNTY hereinafter referred to as **COUNTY** and Lee County Housing Development Corporation, Inc., a Not-for-Profit Corporation existing under the laws of the State of Florida and, hereinafter referred to as "**PROVIDER**".

WHEREAS, COUNTY believes it to be in the public interest to provide certain activities to Lee County through the **PROVIDER** according to this contract, the agency's intent as stated in the proposal and attachments and/or exhibits and all other terms and conditions as specified.

NOW THEREFORE, in consideration of the mutual covenants, promises, and representations contained herein **COUNTY** and the **PROVIDER** agree as follows:

ARTICLE I SCOPE OF SERVICES

The **COUNTY** has awarded the following amounts for each program listed below. The **PROVIDER** will be responsible for implementing these program(s) for the residents of Lee County: Program(s) must be implemented in accordance with the approved proposal(s) and exhibits/attachments.

ARTICLE II TERM OF CONTRACT

This contract shall begin **April 4, 2006** and ends **December 31, 2007** unless terminated as specified in Article VIII, Suspension/Termination.

ARTICLE III COMPENSATION AND REPORTS

A. Contract Payment

Payments will be made by the **COUNTY** to the **PROVIDER** and the **PROVIDER** agrees to accept as full compensation the total amount not to exceed **\$25,000.00** during the term of this contract, subject to the provisions of Article III B. Deferred Payment/Return of Funds, and Article VIII, Suspension/Termination. Funding is contingent upon the **COUNTY** receiving the related State funds.

B. Deferred Payment/Return of Funds

The **PROVIDER** agrees to return to the **COUNTY** any overpayments due to funds disallowed pursuant to the terms of this contract. Such funds shall be considered county funds and must be refunded to the **COUNTY** within

thirty (30) calendar days of receiving notice from the **COUNTY** in writing regarding the overpayment. Should repayment not be made in a timely manner, the **COUNTY** will charge interest of one (1) percent per month compounded on the outstanding balance after forty (40) calendar days after the date of notification or discovery. The **PROVIDER** will be required to reimburse the **COUNTY** for any acts of non-compliance resulting in disallowed costs or fines.

It is at the option of the **COUNTY** to defer payment to the **PROVIDER** for noncompliance with contract deliverables or during the period of a county audit or monitoring due to questionable items. If as a result of the audit or monitoring, unallowable or unsupported costs are found, no further payments will be made until the full amount of overpayment is remitted to Lee County or a repayment agreement is accepted by Lee County.

C. Required Reports

- 1. Financial and Compliance Audit Requirements in Exhibit/Attachment 1**
- 2. Quarterly reports, final report, and any other report as stipulated in Exhibit/Attachment 2**

ARTICLE IV AUDITS, MONITORING, AND RECORDS

A. Monitoring

The **PROVIDER** agrees to permit employees duly authorized by the **COUNTY** and the Federal or State grantor agency (if applicable) or any representatives to inspect all records, papers, documents, facility's goods and services of the **PROVIDER** and/or interview any clients and employees of the **PROVIDER** to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the law after giving the **PROVIDER** reasonable notice. The monitoring is a limited scope review of the contract and agency management and does not relieve the **PROVIDER** of its obligation to manage the grant in accordance with applicable rules and sound management practices.

Following such monitoring the **COUNTY** may deliver to the **PROVIDER** a written report regarding the manner in which goods or services are being provided. The **PROVIDER** will rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the **COUNTY** with a reasonable and acceptable justification for not correcting the noted shortcomings. The **PROVIDER'S** failure to correct or justify the deficiencies within the time specified by the **COUNTY** may result in the withholding of payments, being deemed in noncompliance, or termination of this contract.

PROVIDER must supply **COUNTY** with copies of all monitoring reports of programs which are also funded by the **COUNTY**, including agency response, within thirty (30) days of receipt.

B. Audit and Inspections

The **PROVIDER** will make all records referenced in Article IV. C., and all items included on financial statements available for audit or inspection purposes at any time during normal business hours and as often as **COUNTY** deems necessary.

The Clerk of Courts Internal Audit division, the Federal or State grantor agency (if applicable), Lee County employees, or any duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of **PROVIDER** or **CPA** that are pertinent to the contract in order to make audits, examinations, excerpts, transcripts and copies of such documents. If contract non-compliance or material weaknesses in the organization is noted, the **COUNTY** or other authorized representatives have the right to

unlimited access to records during an audit or inspection. This includes timely and reasonable access to a **PROVIDER'S** personnel for the purpose of interview and discussion related to such documents.

C. Records

The **PROVIDER** shall retain all financial, client demographic, and programmatic records, supporting documentation, statistical records and other records which are necessary to document service provision, client demographics, expenditures, income and assets of the **PROVIDER** by funding source, program, and functional expenses category during the term of this contract and five (5) years from the date of contract expiration. If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the 5-year period, the records shall be retained for one (1) year after the final resolution of the action and final resolution of all issues that arise from such action.

D. Independent Audit

An original, bound annual audit of the **PROVIDER'S** financial statements in accordance with FASB 117, or current GAGA Standards as applicable including the auditor's opinion, requisite reports on internal control and compliance if required, management letter addressing internal controls if required, and management's response to such letter if required, must be submitted to the **COUNTY** no later than **180** days following the end of the **PROVIDER'S** fiscal year along with any corrective action plan if applicable.

The audit must be conducted by an independent licensed certified public accountant who has received an unmodified opinion on their current Peer Review and must be in accordance with Auditing Standards Generally Accepted in the United States, and generally accepted Government Auditing Standards, OMB Circular A-133, "Audits of Institutions of Higher Education and other Non-Profit Organizations" if applicable, the Florida Single Audit Act (F.S. 215.97) if applicable, and the Auditor General rule 10.550 if applicable. The audit must detail the programs or service areas that are funded by Lee County either in the statement of functional expenses, revenues and expenditures, footnotes, schedule of federal awards and state financial assistance or as supplemental data in the financial statements. The statement should be consistent with programs detailed in the corresponding proposal(s) and exhibit(s).

The **PROVIDER** agrees to comply with all **FINANCIAL AND COMPLIANCE AUDIT REQUIREMENTS** as specified in Attachment A.

Failure to submit the report within the required time frame will result in the withholding of payment, or termination of the contract by the **COUNTY**.

ARTICLE V MODIFICATIONS

Modifications of provisions of this contract shall only be valid when they have been reduced to writing and duly signed and dated by both parties.

ARTICLE VI CONTRACTOR STATUS

A. Independent Contractor

It is mutually agreed that the **PROVIDER** is an independent contractor and not an agent or employee of the **COUNTY**.

B. Subcontracts

Primary roles and responsibilities of **PROVIDER** cannot be subcontracted. It is mutually agreed that any **COUNTY** funded program component that is subcontracted by **PROVIDER** must have a written contract upon execution of this contract. The **PROVIDER** must ensure each subcontractor conforms to the terms and conditions of this contract and must be subject to indemnification as stated in Article VII.

ARTICLE VII RISK MANAGEMENT

A. Indemnification

The **PROVIDER** will defend, hold harmless, and indemnify the **COUNTY** from and against any and all liability, loss, claims, damages, costs, attorneys' fees, and expenses of whatever kind or nature which the **COUNTY** may sustain, incur, or be required to pay either by reason of the loss or improper use of any monies disbursed or to be disbursed hereunder including but not limited to fraud, embezzlement, or dishonesty on the part of any person represented or employed by the **PROVIDER**, or by reason of the intentional or negligent act of the **PROVIDER** or its agents, representatives and/or employees.

The **PROVIDER** further agrees that it will, at its own expense, defend any and all claims, actions, suits, or proceedings that may be brought against the **COUNTY** in connection with the above and satisfy, pay, and discharge any and all judgments or other resolution of claims that may be entered against the **COUNTY** in any such action or proceedings.

The **PROVIDER** further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the contract. All individuals hired are employees of the **PROVIDER** and not of the **COUNTY**.

B. Insurance

The **PROVIDER** agrees to provide and maintain during the term of this contract Commercial General Liability insurance insuring the **PROVIDER** against any and all claims, demands, or causes of action whatsoever for injuries received or damage to property incurred in the performance of the terms of this Contract or the use, occupation, management, or control of any facility herein provided for and the improvements thereto. Such a policy of insurance will insure the **PROVIDER** in an amount not less than \$300,000 to cover any and all bodily injury, personal injury. And/or property damage claim connected with any **COUNTY** accident or occurrence that may arise or be claimed to have arisen against the **PROVIDER**. The **PROVIDER** must furnish an appropriate Certificate of Insurance (**Exhibit**) naming Lee County Board Of County Commissioners as Certificate Holder and Additional insured. The **PROVIDER** agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess. The **PROVIDER** agrees that this insurance requirement shall not relieve or limit **PROVIDERS** liability and that the **COUNTY** does not in any way represent

that the insurance required is sufficient or adequate to protect the **PROVIDER'S** interests or liabilities, but are merely minimums. Certificates of Insurance and bonding and renewals must be submitted to:

Risk Management
Lee County Board of County Commissioners
P.O. Box 398 Fort Myers, Florida 33902-0398

C. Bonding

The PROVIDER must provide fidelity bonding for all employees that handle PROVIDER'S funds. The amount of the bond must be equivalent to the highest daily cash balance of the PROVIDER. Proof of this bonding must be submitted to the COUNTY prior to the date of execution of this contract.

ARTICLE VIII SUSPENSION/TERMINATION

A. Suspension

The **COUNTY** reserves the right to suspend funding for failure to comply with the requirements of this contract.

In the event **PROVIDER** ceases operation for any reason or files for protection from creditors under bankruptcy law, any remaining unpaid portion of this contract, less funds for expenditures already incurred, shall be retained by the **COUNTY** and the **COUNTY** shall have no further funding obligation to the **PROVIDER** with regard to those unpaid funds.

B. Termination by COUNTY

The **COUNTY** may at any time and for any reason cancel this contract by giving twenty-four (24) hours written notice to the **PROVIDER** by certified mail following a determination by the Board of **COUNTY** Commissioners, at its sole discretion, that such cancellation is in the best interest of the people of the **COUNTY**. From the date of cancellation, neither party shall have any further obligation unless specified in the termination notice.

C. Termination by PROVIDER

The **PROVIDER** may at any time and for any reason cancel this contract by giving seventy-two (72) hours prior written notice to the **COUNTY** by certified mail of such and specifying the effective date.

COUNTY'S obligation to make any payments under any provision of this contract shall cease on the effective date of termination.

ARTICLE IX ASSURANCE, CERTIFICATIONS, AND COMPLIANCE

The **PROVIDER** agrees that compliance with these assurances and certifications constitutes a condition of continued receipt of or benefit from funds provided through this contract, and that it is binding upon the **PROVIDER**, its successors, transferees, and assignees for the period during which services are provided. The **PROVIDER** further assures that all contractors, subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of statutes, regulations, guidelines and standards. By acceptance of this funding, the **PROVIDER** assures and certifies the following:

- A. That it will comply with all applicable laws, ordinances and regulations of the United States, the State of Florida, the **COUNTY**, and the municipalities as said laws, ordinances and regulations exist and are amended from time to time. In entering into this contract, the **COUNTY** does not waive the requirements of any county or local ordinance or the requirements of obtaining any permits or licenses that are normally required to conduct business or activity contemplated by the **PROVIDER**.
- B. That it will comply with Chapter 760, Florida Statutes and Lee County Ordinance 00-19 which prohibit discrimination in housing on the basis of race, color, national origin, sex, religion, disability or familial status.
- C. That it will comply with Chapter 760, Florida Statutes and Lee County Ordinance 00-18 which prohibit discrimination in employment on the basis of race, color, national origin, sex, religion, disability or marital status.
- D. That it will administer its programs under procedures, supervision, safeguards, and such other methods as may be necessary to prevent fraud and abuse, and that it will target its services to those who most need them.
- E. That if clients are to be transported under this contract, the **PROVIDER** will comply with the provisions of Chapter 427, Florida Statutes, which requires the coordination of transportation for the disadvantaged.
- F. That any products or materials purchased with contract funds shall be procured in accordance with the provisions of Chapter 403.7065, Florida Statutes, which refers to the procurement of products or materials with recycled content.
- G. That it will comply with the Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
- H. That it shall report any unusual incidents involving funded activities to the **COUNTY**, in writing, within five (5) calendar days of the occurrence or the **COUNTY** may terminate this contract. Unusual incidents include, but are not limited to those events which are reported to local police authorities by the **PROVIDER** or any person whose report requires any type of response by local law enforcement authorities; those events which result in physical injury to a person receiving **PROVIDER** services that are underwritten in any way by the **COUNTY**; or, those incidents or events which result in a report to or investigation arising from a call to the Florida Abuse Hotline. In accordance with Chapter 415, Florida Statute, an employee of the **PROVIDER** who knows or has reasonable cause to suspect that a child, aged person, or disabled adult has been abused, neglected, or exploited, shall immediately report such knowledge or suspicion to the Florida Abuse Hotline on the statewide toll-free number (1-800-96- ABUSE).
- I. That it will comply with Chapter 216.347, Florida Statutes, which prohibits the expenditure of contract funds for the purpose of lobbying the Legislature, State or County agencies.
- J. That it will notify the **COUNTY** immediately of any funding source changes and/or additions from other sources that are different from that shown in the **PROVIDER'S** proposal. This notification must include a statement as to how this change in funding affects provision of service as well as the use of and continued need for county funds.
- K. That it will acknowledge support for programs funded by Lee County.

L. That it will notify the **COUNTY** of any **SIGNIFICANT** changes to the **PROVIDER** organization to include articles of incorporation and bylaws within ten (10) working days of the effective date.

ARTICLE X NOTICES

Official notices concerning this contract shall be directed to the following authorized representatives:

COUNTY: ATTN:Gloria M. Sajgo, AICP, Principal Planner <u>Lee County Department of Community Development/Planning</u>	PROVIDER: Name: _____ Title: _____ Agency: _____ Address: _____ Telephone: _____ Web site address: _____ E-mail: _____
Telephone: (239) <u>479-8311</u>	
Fax: (239) <u>479-8161</u>	
E-mail: <u>sajgogm@leegov.com</u>	

The signatures of the persons shown below are designated and authorized to sign all applicable reports:

OR

Name: Gloria M. Sajgo, AICP
(typed)

Name: _____
(typed)

Signature

Signature

Principal Planner
Title

Title

In the event that different representatives are designated by either party after execution of this contract, notice of the name and address of the new representative will be rendered in writing by authorized officer of **PROVIDER** to the **COUNTY**. The notification shall be attached to originals of this contract.

ARTICLE XI SPECIAL PROVISIONS

A. If needed, **PROVIDER** may be called upon to assist county during a natural disaster or emergency.

ARTICLE XII ALL TERMS AND CONDITIONS INCLUDED

This contract and its **attachments**, and any **exhibits** referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions terms, conditions, or obligations other than those contained herein, and this contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties. If any term or

provision of this contract is legally determined unlawful or unenforceable, the remainder of the contract shall remain in full force and effect and such terms or provisions shall be stricken.

IN WITNESS THEREOF, **PROVIDER** and **COUNTY** have caused this contract, to be executed by their undersigned officials as duly authorized.

PROVIDER:

COUNTY: LEE COUNTY

By: _____
Name (typed)

By: _____
Name (typed)

Signature of authorized officer

Signature of authorized officer

Title

Title

Date

Date

NOTARY:

ATTEST: CLERK OF CIRCUIT COURT

By: _____
Notary of Public (Signature)

By: _____

Name (Typed)

Title: _____

Date: _____

**APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE**

By: _____

Title: _____

Date: _____

ATTACHMENT 2
**Lee County Housing Development Corporation Education/Homeownership
Training/Counseling**

1. a. The Project, as approved for grant assistance, shall consist of the following authorized scope of Project work:

“The Way Home” Homeownership Education and Counseling for potential SHIP beneficiaries to be completed by December 31, 2007.
 - b. The amount of funds awarded under this grant is \$25,000.00. The Grantor is not obligated or authorized to award any funds in addition to this amount.
 - c. The Provider is expected to make every reasonable effort to participate in program training activities offered by the Florida Housing Finance Corporation, the Florida Housing Coalition, Lee County or similar organizations in order to ensure compliance with local and State regulations governing the State Housing Initiatives Partnership Program.
2. The Grantor agrees to provide drawdowns to the Provider, upon receipt and verification of the Provider's request and documentation for project costs pursuant to and as defined in Subsection 1. a. up to a maximum of \$5,000.00 or the amount of actual cash expended by the Provider for project work, whichever is less.
 3. The Provider is hereby placed on notice that when public funds are expended by an agency, then all the financial, business, and membership records pertaining to the public agency from which or on whose behalf the payments are made, of the person, corporation, foundation, trust, association, group, or organization to whom such payments are made shall be public records and subject to the provisions of Florida Statutes, Chapter 119 Public Records.

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Before any person is granted access to the records related to these funds (except governmental agencies or their agents who are entitled to access to the records specified in this paragraph for the purposes of auditing federal, state, or local housing programs or housing assistance programs), please seek the advice of your legal counsel or contact the Lee County Division of Planning who shall seek counsel from the office of the County Attorney. Home addresses, telephone numbers, social security numbers, photographs, and places of employment of the certain personnel, spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from public record. Medical history records, bank account numbers, credit card numbers, telephone numbers, and information related to health or property insurance furnished by an individual to any agency pursuant to federal, state, or local housing assistance programs are confidential and exempt. Any other information produced or received by any private or public entity in direct connection with federal,

state, or local housing assistance programs, unless the subject of another federal or state exemption, is subject to public records requests.

A person who has custody of a public record and who asserts that an exemption or special law applies to a particular public record or part of such record shall delete or excise from the record only that portion of the record with respect to which an exemption has been asserted and validly applies, and such person shall produce the remainder of such record for inspection and examination.

4. The Provider agrees to perform all necessary requirements to assist the Grantor in implementing its monitoring responsibilities, which include on-site inspections of the project to determine compliance with applicable laws, rules, regulations, ordinances, and codes of the federal, state, and local governments, including the requirements of the State Housing Initiatives Partnership (SHIP) and the Lee County Local Housing Assistance Plan.
5. The Grantor shall be provided access to all contracts of the Provider for the procurement of goods and/or services relating to the project work described in Subsection 1. a. and all change orders or amendments, but said access shall not be construed as acceptance by or imposition of upon the Grantor of any financial liability in connection with said contracts.
6. The Grantor shall be provided access to all detailed plans, specifications and home buyer incomes relating to the project and records relating thereto describe in subsection 1-a to ensure compliance with the objectives, requirements, and limitations of the Lee County SHIP Affordable Housing Program. The following documentation must be maintained on file for each beneficiary or unit produced by the Provider for a period of seven (7) years following the effective date of contract.
7. The Provider shall provide to the grantor proof of the following prior to receiving final payment:
 - a. Proof of registration and attendance of all beneficiaries
 - b. Copies of all course materials
 - c. Course Outline
8. All projects must be in compliance with the rules and regulations of the State Housing Initiatives Partnership Program as authorized by Florida Statutes, Chapter 420.907, Florida Administrative Code 67-37, and the Lee County Housing Assistance Program authorized by Lee County Ordinance 95-17, as amended, and in particular:
 - a. Income limits
 - b. Definition of Affordability
 - c. Non-discrimination
 - d. Maximum production or purchase cost
 - e. Maximum SHIP funds per unit
 - f. Compliance reporting as required per project