

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM  
US 17-92 COMMUNITY REDEVELOPMENT AGENCY**

**SUBJECT:** Authorization of CRA funds for Demolition Activities associated with the Spartan Drive Redevelopment Project

**DEPARTMENT:** Economic Development **DIVISION:** US 17/92 CRA

**AUTHORIZED BY:** William McDermott **CONTACT:** Kevin Fall *[Signature]* **EXT.** 7133

<b>Agenda Date</b> <u>6/14/05</u>	<b>Regular</b> <input checked="" type="checkbox"/>	<b>Consent</b> <input type="checkbox"/>	<b>Work Session</b> <input type="checkbox"/>	<b>Briefing</b> <input type="checkbox"/>
	<b>Public Hearing – 1:30</b> <input type="checkbox"/>		<b>Public Hearing – 7:00</b> <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

Request authorization to appropriate \$5,000 from the 17-92 Redevelopment Trust Fund and authorize Chairman to execute attached CRA Redevelopment Grant Agreement as recommended by the US 17-92 Redevelopment Planning Agency.

**BACKGROUND:**

The US 17-92 Redevelopment Planning Agency, at its April 29, 2005 meeting, recommended forwarding the attached CRA Redevelopment Grant Agreement with Terra Firma Construction Management Inc. to the US 17-92 Community Redevelopment Agency for approval.

The proposal presents an opportunity for the US 17-92 Community Redevelopment Agency to participate in and support the redevelopment of a derelict property (two abandoned structures) located at the intersection of Spartan Drive and US 17-92 in the Fern Park area.

The property owner, Gary Jensen, is proposing to redevelop the property into a multi-tenant office and/or retail use and has indicated to the RPA that he would welcome the opportunity to work with the CRA in the ultimate architectural and functional design of the project. (Note; this property was specifically called out in the Fern Park Redevelopment Framework as an example of the challenges facing the redevelopment of a small site).

The redevelopment of the site is planned to be constructed concurrently with the road and sewer improvements associated with the FDOT Urban Reconstruct Project.

The demolition activities consist of removal of the existing structures including concrete slabs, foundations and footers to be replaced with clean fill and bahia seed. The total cost of the demolition work including environmental/asbestos review, is \$14,450.

Reviewed by:	<i>[Signature]</i>
Co Atty:	<i>[Signature]</i>
DFS:	
Other:	<i>[Signature]</i>
DCM:	<i>[Signature]</i>
CM:	<i>[Signature]</i>
File No.	<u>CRA 05</u>

As a condition of the CRA's financial assistance, the following uses of the property will be restricted via an executed, recordable covenant running with the land:

- Adult Entertainment Establishments
- Used Automobile Sales as primary commercial activity
- Junk Yard or Auto Salvage
- Bail Bondsman
- Roadside Fruit and Vegetable Stand
- Day Labor, Labor Pool or Temporary Labor activities

Benefits to the Redevelopment Area include:

1. Continued improvement of an area located at the County's southern gateway
2. Provides for a positive influence and future service while complimenting the existing area.
3. Eliminates an aesthetical eyesore in the community
4. Adds green space within the redevelopment area

The US 17-92 CRA Redevelopment Grant Agreement (attached) is a performance based agreement requiring the developer to attain specific project completion and investment thresholds prior to seeking the CRA grant funds. CRA funds can only be accessed by the developer on a reimbursement basis and only after specific project completion and investment thresholds are met for the project.

Funds are available in the adopted FY04/05 CRA budget within the CRA (Small Business Property Improvement Fund).

Attachment: CRA Redevelopment Grant Agreement

**US 17-92 CRA REDEVELOPMENT GRANT AGREEMENT**

**THIS AGREEMENT** is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by and between the US 17-92 Community Redevelopment Agency, a public agency created by Resolution No. 97-R-130 pursuant to Florida State Statute(s) 165.031, 163.356 or 163.357 of and in the state of Florida, whose address is 1101 East First Street , Sanford, Florida 32771 (hereinafter referred as the "CRA") and Terra Firma Construction Management, Inc., authorized to do business and doing business in the State of Florida, whose address is \_\_\_\_\_ Post Office Box 618063, Orlando, Florida 32861 and whose Federal Employer I.D. Number is \_\_\_\_\_ (hereinafter referred to as the (COMPANY)).

**WITNESSETH:**

**WHEREAS**, the Board of County Commissioners of Seminole County, Florida, (the "BOARD") has established the CRA in accordance with the Community Redevelopment Act of 1969, Chapter 163 Part III Florida Statutes, in recognition of the need to address, prevent and eliminate blighted conditions within the community; and

**WHEREAS**, the BOARD enacted Ordinance Number 97-54 adopting the US 17-92 Corridor Redevelopment PLAN (the "PLAN") for the purposes of community redevelopment within the US 17-92 Community Redevelopment Area (the "AREA"); and

**WHEREAS**, the CRA is authorized to undertake and carry out community redevelopment projects and related activities in accordance with Florida Statutes Section 163.370; and

**WHEREAS**, the CRA has identified the need to eliminate blight conditions, increase commercial activity, improve pedestrian safety and provide job opportunities for area residents in the PLAN; and

**WHEREAS**, the US 17-92 Redevelopment Planning Agency (the "RPA") is empowered to review redevelopment projects, programs, opportunities and provide recommendations to the CRA as authorized by the Multiparty Interlocal Agreement Establishing the US 17-92 Redevelopment Planning Agency; and

**WHEREAS**, the RPA has reviewed the proposal for demolition and restoration activities to be completed at 9495 South US Highway 17-92, (the "PROJECT"), presented by the COMPANY and found the PROJECT consistent and complementary to the goals of the PLAN, and;

**WHEREAS**, the PROJECT is consistent with the following strategies identified in the PLAN:

- Encourage the acquisition, demolition, and reuse of those properties that, by virtue of their location, condition, or value, no longer function at their highest economic potential

- Create or promote programs to foster development and rehabilitation of properties, including financial or other economic incentives, to facilitate new investment in the redevelopment district
- Encourage projects that promote environmental clean-up, restoration and protection
- Advocate approval of development proposals that meet stated criteria, and should actively participate in the expeditious permitting and site plan approval process
- Improve the investment image of the redevelopment area and use selected public actions to stimulate private investment
- Establish a partnership between the public sector and the private sector for the purpose of understanding the mutual benefits of proposed redevelopment projects; and

**WHEREAS**, on April 29, 2005, the RPA unanimously endorsed the PROJECT and recommends the PROJECT be forwarded to the CRA for approval; and;

**WHEREAS**, the COMPANY is proposing the PROJECT, as described in EXHIBIT A, (attached), located within the unincorporated area of the County and within the geographic boundaries of the AREA, and;

**WHEREAS**, on \_\_\_\_\_, 2005, the CRA authorized financial assistance from the 17-92 Redevelopment Trust Fund in the form of a CRA Economic Redevelopment Grant Agreement to the COMPANY to assist the COMPANY in the construction of the PROJECT, and;

**WHEREAS**, the CRA and the COMPANY desire to enter into this Agreement for the purpose of establishing additional assurances to the CRA that expenditures of the CRA related to the PROJECT will produce a positive economic effect in the AREA as a result of the COMPANY'S activities in the AREA, and;

**NOW, THEREFORE**, in consideration of the premises and mutual covenants hereinafter contain and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

**SECTION 1. Recitals**

(A) The above recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

(B) The CRA finds and declares that it is in the public's best interest and serves a public purpose to award a CRA Economic Redevelopment Grant from the 17-92 Redevelopment Trust Fund to the COMPANY, in the amount of \$ 5,000 \_\_\_\_\_, pursuant to the terms of this Agreement.

**SECTION 2. Definitions**

- (A) **"PROJECT"** – Includes all development, renovation, construction and redevelopment as proposed in EXHIBIT A. Completion of the PROJECT shall be done in a single phase to be completed within 90 days from the date this agreement is executed.
  
- (B) **"Completion Threshold"** – The PROJECT shall be deemed completed when the demolition and restoration activities specifically described in EXHIBIT A have been concluded, as verified by the CRA.
  
- (C) **"Award Payout"** – Award payout for the PROJECT shall be made only after the COMPANY has satisfied the completion thresholds for the PROJECT within the prescribed time period, as referenced in Section 2(A) and Section 2(B) of the Agreement, and the thresholds achievement have been verified by the office of the CRA.
  
- (D) **"Allowable Costs"** – any costs, allowable by law, associated with the redevelopment, renovation and construction of the PROJECT as described in EXHIBIT A. Said costs may include parcel aggregation and acquisition, site development costs, construction costs, construction materials costs, impact fees or professional service fees associated with the PROJECT.

### **SECTION 3. Representations of the COMPANY**

The COMPANY hereby represents and warrants to the CRA the following:

(A) The COMPANY is duly organized and validly existing under the laws of the State of Florida and is authorized to do business in the State of Florida.

(B) The COMPANY has the corporate power, authority, and legal right to execute, deliver, and perform this Agreement. The execution, delivery, and performance of this Agreement by the COMPANY have been duly authorized by all necessary corporate and shareholder action.

(C) The COMPANY'S PROJECT Manager shall be Gary Jensen or his designee.

#### **SECTION 4. Covenants of the COMPANY**

The COMPANY hereby covenants with the CRA to do the following:

(A) The COMPANY agrees to complete demolition and restoration activities as more specifically described in EXHIBIT A and in accordance with the schedule set forth in Section 2(A) of this Agreement. .

(B) The COMPANY agrees to satisfy the terms as described in Section 2(B) of this Agreement, before requesting the disbursement of the award associated with satisfaction of the PROJECT terms, as confirmed by the office of the CRA.

(C) The COMPANY shall provide written verification, satisfactory to the CRA, demonstrating compliance with this Agreement.

(D) When the PROJECT is complete, the COMPANY shall cause notice to be given to the CRA and will make any related documentation available for review and inspection by the CRA.

(E) As a condition of the CRA's financial assistance, the COMPANY agrees to provide to the CRA and Seminole County an executed recordable covenant running with the land restricting the following uses from occurring on the property (as more specifically described in EXHIBIT A) in the future:

- Adult Entertainment Establishments
- Used Automobile Sales as primary commercial activity
- Junk Yard or Auto Salvage
- Bail Bondsman
- Roadside Fruit and Vegetable stand
- Day Labor, Labor Pool or Temporary Labor activities

Said covenant shall also contain a provision prohibiting the release of said restriction by any entity other than Seminole County.

**SECTION 5. Covenants of the Community Redevelopment Agency** Upon submission of proof of satisfaction of the terms described in Section 2(B) and submission of allowable costs incurred by the COMPANY as a result of the activities described in EXHIBIT A , which are satisfactory to the CRA, the CRA will cause to be issued a payment to the COMPANY in the amount of \$ 5,000 for demonstrated and allowable costs incurred.

**SECTION 6. Term** This Agreement shall become effective upon execution by the CRA and the COMPANY and shall remain in effect through close out of the Agreement pursuant to and consistent with its terms. This Agreement will terminate upon completion of construction of all activities described in EXHIBIT A by the COMPANY and upon satisfaction of the terms and conditions of this Agreement as evidenced by a Report prepared by the COMPANY and forwarded to the CRA, outlining the COMPANY'S satisfaction of the terms and conditions of this Agreement.

**SECTION 7. Reports** Upon completion of the PROJECT, the COMPANY shall provide a Report to the CRA demonstrating the COMPANY'S satisfaction of the terms and criteria listed in EXHIBIT A.

**SECTION 8. Force Majeure** In the event any party hereunder fails to satisfy a requirement imposed in a timely manner, due to a hurricane, flood, tornado, or other Act of God or force majeure, then said party shall not be in default hereunder; provided, however, that performance shall recommence upon such event ceasing its effect.

**SECTION 9. Binding Effect** This Agreement shall be binding upon and inure to the benefit of the parties hereto and the successors in interest, transferees, and assigns of the parties.

**SECTION 10. Assignment** This Agreement shall not be assigned by either party without the prior written approval of the other.

**SECTION 11. Public Records**

The COMPANY shall allow public access to all documents, papers, letters or other materials, which have been made or received by the COMPANY in conjunction with this Agreement.

**SECTION 12. Records and Audits**

(A) The COMPANY shall maintain in its place of business all books, documents, papers, and other evidence pertaining to work performed under this Agreement. Such records shall be and remain available at the COMPANY place of business at all reasonable times during the term of this Agreement and for two (2) years after Agreement closure.

(B) The COMPANY agrees that the CRA or its duly authorized representatives shall, until the expiration of two (2) years after Agreement closure, have access to examine any of COMPANY'S books, documents, papers, and records involving transactions related to this Agreement. The COMPANY agrees that payments made under this Agreement shall be subject to reduction for amounts charged which are found, based on audit examination, not to constitute allowable costs.

(C) All required records shall be maintained until an audit has been completed and all questions arising from it are resolved or until two (2) years after closure of the Agreement, in writing, and submission of the final invoice, whichever is sooner. COMPANY will provide proper facilities for access to and inspection of all required records.

**SECTION 13. Notices** Whenever either party desires to give notice unto the other, notice may be sent to:

CRA

US 17-92 Community Redevelopment Agency  
1101 East First Street  
Sanford, Florida 32772

With copies to:

Seminole County Economic Development Department  
Kevin Fall , Coordinator US 17-92 Community Redevelopment Agency  
1301 East Second Street  
Sanford, Florida 32772

COMPANY

Gary Jensen  
D/B/A Terra Firma Construction Management, Inc.  
Post Office Box 618063  
Orlando, Florida 32861

Either of the parties may change, by written notice as provided herein, the addresses or persons for receipt of notices or invoices. All notices shall be effective upon receipt.

**SECTION 14. Indemnity and Insurance**

(A) Each party to the Agreement is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof.

(B) To the extent allowed by law, each party to this Agreement shall indemnify, save and hold harmless the other party and all of its respective officers, agents, and employees from and against all losses and all claims, demands, payments, suits, actions, recoveries, and judgments of every nature and description whatsoever, including claims for property damage and claims for injury to or death of persons brought or recovered against other party to this Agreement, by reason of any act or omission of the responsible party, its respective officers, agents, subcontractors, or employees, in the execution of the work relating to this Agreement.

(C) The parties further agree that nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available to such parties under the laws of the State Of Florida, nor as a waiver of sovereign immunity of the CRA beyond the waiver provided for in Section 768.28, Florida Statutes.

(D) The COMPANY shall provide necessary workers compensation coverage and unemployment compensation for its employees.

#### **SECTION 15. Conflict of Interest**

(A) The COMPANY agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with

the CRA or which would violate or cause others to violate the provisions of Part 111, Chapter 112, Florida Statutes, relating to ethics in government.

(B) The COMPANY hereby certifies that no officer, agent or employee of the CRA has any material interest (as defined in Section 12.312, Florida Statutes) either directly or indirectly, in the business of the COMPANY to be conducted here, and that no such person shall have any such interest at any time during the term of this Agreement.

(C) Pursuant to Section 216.347, Florida Statutes, the COMPANY hereby agrees that monies received from the CRA pursuant to this Agreement will not be used for the purpose of lobbying the Legislature or any other State or Federal Agency.

(D) The COMPANY agrees that it will comport all of its activities with the provisions of Chapter 760, Florida Statutes.

**SECTION 16. Compliance with Laws and Regulations** In performing under this Agreement, the parties shall abide by all laws, statutes, ordinances, rules, and regulations pertaining to, or regulating the performance set forth herein, including those now in effect and hereafter adopted. Any material violation of said laws, statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement, and shall entitle the non-violating party to terminate this Agreement immediately upon delivery of written notice of termination to the violating party.

**SECTION 17. Employee/Company Status**

(A) Persons employed or retained by the COMPANY in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the CRA officers and employees, either by operation of law or by the CRA.

(B) The COMPANY assumes total responsibility for salaries, employment benefits, contractual rights and benefits, contract payments, federal, state and local employment taxes if any attributable to the COMPANY personnel or contractors, and agrees to indemnify and hold the CRA harmless from any responsibility for same.

(C) In performing this Agreement, planning, developing, constructing, equipping, and operating the PROJECT or carrying out any of the activities to be carried out by the COMPANY, the COMPANY will be acting independently, in the capacity of an independent entity, and not as a joint venturer, partner, associate, employee, agent or representative of the CRA.

**SECTION 18. No Third-Party Beneficiaries** This Agreement is made for the sole benefit of the parties hereto and their respective successors and assigns, including any successor in interest to the COMPANY'S interest in the PROJECT, and is not intended to and shall not benefit any third party. No third party shall have any rights hereunder or as a result of this Agreement or any right to enforce any provisions of this Agreement.

**SECTION 19. Contingent Fees/Conflicting Employment**

(A) The COMPANY covenants that it has employed and retained only bona fide employees working for the COMPANY and attorneys and consultants, to solicit or secure this Agreement. The CRA warrants that it has not paid or agreed to pay any person, COMPANY, corporation, individual or from other than a bona fide employee working for the COMPANY, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award of making of this Agreement.

(B) The COMPANY agrees that at the time of execution of this Agreement it has no retainer or employment agreement, oral or written, with any third party relating to any matter which adversely affect any interest or position of the CRA. The COMPANY shall not accept during the terms of this Agreement any retainer or employment from a third party whose interest appear to be conflicting or inconsistent with those of the CRA.

**SECTION 20. Governing Law/Attorneys' Fees** This Agreement shall be construed and interpreted according to the laws of the State of Florida. In the event of litigation between the parties arising from or pertaining to this Agreement, the prevailing party shall be entitled to recover from the other, reasonable trial and appellate attorneys, fees and costs.

**SECTION 21. Construction of Agreement** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties. Its being recognized that both parties, the CRA and the COMPANY, have contributed substantially and materially to the preparation hereof.

## **SECTION 22. Constitutional and Statutory Limitation on Authority of the CRA**

The terms and conditions of this Agreement placed upon the CRA are applicable only to the extent they are within and consistent with the constitutional and statutory limitations on the authority of the CRA. Specifically, the parties acknowledge that the CRA is without authority to grant or pledge a security interest in any of the CRA's revenue sources or property.

## **SECTION 23. Events of Default/Remedies**

(A) For purposes of this Agreement, "Event of Default" shall mean any of the following:

- (1) The COMPANY shall misapply or cause the misapplication of CRA funds or credits received pursuant to this Agreement.
- (2) Any representation or warranty made by the COMPANY herein or in any statement, invoice or certificate furnished to the CRA in connection with the performance of the Agreement proves to be untrue in a material respect as of the date of issuance or making thereof and shall not be corrected or brought into compliance within thirty (30) days after written notice thereof to the COMPANY by the CRA.
- (3) The COMPANY shall materially breach any covenant contained in this Agreement and such breach shall not be corrected or cured within thirty (30) days after written notice thereof to the COMPANY by the

CRA, provided however; that the CRA may declare a lesser time period in the event that it finds, in its sole and absolute discretion, that such lesser period is necessary to protect the public health, safety or welfare.

- (4) The COMPANY fails to provide to the CRA the written verification, satisfactory to the CRA, of its performance obligations herein.
- (5) The COMPANY fails to expend CRA Funds in accordance with this Agreement.
- (6) The COMPANY fails to satisfy the terms and conditions of EXHIBIT A.
- (7) If within forty-five (45) days after receiving written notice from the CRA that an Event of Default has occurred, the COMPANY shall refund such disbursed funds which the CRA determines have been misapplied under the terms of this Agreement, or, in the alternative, deposit such funds into the registry of the court, subject to determination of the CRA's entitlement thereto. The CRA may proceed to assert any and all legal or equitable remedies provided by law.

**SECTION 24. Counterparts** This Agreement may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

**SECTION 25. Headings** All sections and descriptive headings in this Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.

**SECTION 26. Time** Time is of the essence of this Agreement.

**SECTION 27. Severability** If any provision, term or clause of this Agreement is determined to be invalid or unenforceable by a Court of competent jurisdiction, said determination shall not, in any way, effect the obligation of the parties as provided for or referred to herein and, to that end, the provisions of this Agreement shall be deemed severable. However, such invalidity or unenforceability shall preclude the continuing effect of this Agreement if a failure of consideration were to occur.

**SECTION 28. Entire Agreement**

(A) This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and may not be modified or amended except by a written instrument equal in dignity herewith and executed by the parties to be bound thereby.

(B) No waiver or consent to any departure from any term, condition or provision of this Agreement shall be effective or binding upon any party hereto unless such waiver or consent is in writing, signed by an authorized officer of the party giving the same and delivered to the other party.

(C) The COMPANY agrees that no representations have been made by the (CRA) in order to induce the COMPANY to enter into this Agreement other than as expressly stated in this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement for the purposes stated herein.

\_\_\_\_\_

CRA Chairman

ATTEST:

\_\_\_\_\_

Witness

\_\_\_\_\_

Date

\_\_\_\_\_

President

ATTEST:

\_\_\_\_\_

Witness

\_\_\_\_\_

Date

(CORPORATE SEAL)

# EXHIBIT A

**TERRA FIRMA CONSTRUCTION MANAGEMENT INC  
DEMOLITION AND RESTORATION PROJECT  
9495 S US HIGHWAY 17-92**

**Parcel Identification #: 19-21-30-300-0630-0000**

## PROJECT SCOPE

- Collect bulk samples of building materials from designated interior spaces using a sampling protocol in compliance with existing local, state, and federal guidelines;
- Collect bulk samples of building materials from designated exterior spaces using a sampling protocol that is sufficient to characterize the materials with regards to asbestos content;
- Generate a written report detailing the materials identified as asbestos-containing-materials (ACM), the condition of the material at the time of the survey, and the Environmental Protection Agency (EPA) classification of each ACM;
- Demolish and completely remove the existing building (former restaurant) and the free standing block store building, including entire structures, concrete slabs, foundations, footers.
- Removal of any remaining trash and debris on the site
- Deliver and grade up to a maximum of six (6) loads of clean fill and grade pads level
- Spread bahia grass seed on pads and cover lightly with straw
- Haul all demolition debris off site to an approved landfill for proper disposal