

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** US 17-92 Small Business Property Improvement Program Grant Application

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

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

<b>Agenda Date</b> 09/26/06 <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"/>
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**MOTION/RECOMMENDATION:**

Request the US 17-92 Community Redevelopment Agency (CRA) approve the 17-92 Economic Development Grant Agreement between the US 17-92 CRA and Florida Retail Specialists, Inc. in the amount of \$66,934 related to the 17-92/25<sup>th</sup> Street Redevelopment Project and authorize Chairman to execute the agreement.

**BACKGROUND:**

On August 25, 2006, representatives from Florida Retail Specialists, Inc. made a presentation to the US 17-92 Redevelopment Planning Agency regarding a proposed redevelopment project at the northwest corner of the intersection of the US 17-92 and 25<sup>th</sup> Street in Sanford. The proposed project has been reviewed by the City of Sanford and includes improvements to the building, parking areas, pedestrian areas, lighting in addition to right of way dedication and access improvements along US 17-92.

Due to the significant costs associated with the redevelopment of this site, Florida Retail Specialists, Inc. has applied for assistance from the CRA Small Business property Improvements Program.

The CRA Small Business Property Improvement Program provides performance based grant incentives to property owners that construct physical improvements to their property/business that enhance the overall aesthetic appeal of the corridor and are consistent with existing and/or proposed land development regulations.

On September 11, 2006, the Sanford City Commission recommended forwarding an economic development grant agreement in the amount of \$66,934, to the US 17-92 CRA for financial assistance utilizing the US 17-92 CRA Small Business Property Improvement Program to support the US 17-92/25<sup>th</sup> Street Redevelopment project.

Reviewed by:	
Co Atty:	
DFS:	
Other:	
DCM:	
CM:	
File No.:	<u>CRA07</u>

## US 17-92 CRA REDEVELOPMENT GRANT AGREEMENT

**THIS AGREEMENT** is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2006, 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 Florida Retail Specialists Inc. D/B/A Gateway to Sanford, authorized to do business and doing business in the State of Florida, whose address is 6700 Conroy Windermere Road Suite 230 Orlando, FL. 32835, whose Federal Employer I.D. Number is 59-3550927 (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 commercial redevelopment of the shopping plaza located at US 17-92 and 25th Street in Sanford, known as the Gateway to Sanford Commercial Redevelopment Project (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:

- Promote and locate strategic land use activities of regional importance within the redevelopment area to capture emerging market opportunities while reinforcing the unique character of the community

- 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 September 22, 2006, the RPA unanimously endorsed the PROJECT and recommended the PROJECT be forwarded to the CRA for approval; and;

**WHEREAS**, the COMPANY is proposing as part of the PROJECT, to renovate and redevelop the Gateway to Sanford Plaza (former Farmers Furniture) as described in EXHIBIT A, "Development Proposal" attached), located within the corporate limits of the City of Sanford and within the geographic boundaries of the AREA, at an approximate cost of \$986,179, which sum represents a significant capital investment, and;

**WHEREAS**, The City of Sanford has identified a capital investment of \$669,340 as eligible project cost for reimbursement from the CRA trust fund, as recommended by the Sanford City Commission, and;

**WHEREAS**, on \_\_\_\_\_, 2006, 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 \$66,934.00 (SIXTY SIX THOUSAND NINE HUNDRED AND THIRTY FOUR DOLLARS) , pursuant to the terms of this Agreement.

## SECTION 2. - Definitions

- (A) **"PROJECT"** – Includes all development , renovation, construction and redevelopment as proposed in EXHIBIT A. Renovation of the plaza shall be done in 1 Phase: Renovation .

Renovation Phase to be completed by September 30, 2007.

- (B) **"Completion Thresholds"** – The Phases of the redevelopment PROJECT shall be deemed completed when a specified capital investment amount has been achieved, as verified by the Seminole County Property Appraisers Office. These thresholds are:

Renovation Phase = \$986,179

The capital invesment measurement period above includes investments from the date that the COMPANY took possession of the affected parcels.

- (C) **"Award Payouts"** – Award payouts for the Renovation Phase shall be made only after the COMPANY has satisfied the completion thresholds for that Phase of the PROJECT within the prescribed time period referenced is Section 2(A) and Section 2(B) of the Agreement, and these threshold achievements have been verified with the official records maintained by the Seminole County Property Appraisers Office.

The awards are to be proportional to the capital investment amount made to date.

Renovation Phase - The award upon completion of the Renovation Phase shall be \$66,934 (sixty six thousand nine hundred and Thirty Four dollars). This amount represents approximately 100% of the total grant award of \$66,934.00.

- (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 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 Bob Kaplus or his/her designee.

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

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

(A) The COMPANY agrees to redevelopment the Gateway to Sanford Plaza (former Farmers Furniture Plaza) 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), Renovation Phase, of this Agreement, before requesting the disbursement of the award associated with satisfaction of the Renovation Phase terms. The COMPANY will not request disbursement of the Renovation Phase award funds until the terms and conditions of Section 2(B), Renovation Phase, have been satisfied as confirmed in the official records maintained by the Seminole County Property Appraisers Office.

(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.

## **SECTION 5. - Covenants of the Community Redevelopment Agency**

(A) Upon submission of proof of satisfaction of the terms described in Section 2(B), Renovation Phase, 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 for demonstrated and allowable costs incurred up to \$66,934 (Sixty Six Thousand Nine Hundred and Thirty Four Dollars) for Renovation Phase redevelopment costs.

## **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 32771

With copies to:

Seminole County Economic Development Department  
Kevin Fall , Coordinator US 17-92 Community Redevelopment Agency  
1301 East Second Street  
Sanford, Florida 32771

COMPANY  
Florida Retail Specialists  
6700 Conroy Windermere Road Suite 230  
Orlando, Florida 32835

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 1 12.3 12, 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.





*City of Sanford, Florida*

WS ____ RM __X__
Item No. ____

**CITY COMMISSION MEMORANDUM  
SEPTEMBER 11, 2006, AGENDA**

**TO:** Honorable Mayor and Members of the City Commission  
**PREPARED BY:** Christopher Smith, Project Manager / Russ Gibson, Director  
**SUBMITTED BY:** Robert (Sherman) Yehl, City Manager  
**SUBJECT:** US 17-92 CRA funding request for French Avenue Center at 2430 French Avenue

**SYNOPSIS:**

The property owner of the shopping center at the northwest corner of French Avenue and 25<sup>th</sup> Street is seeking funding assistance from the US 17-92 Community Redevelopment Agency. Endorsement from the Sanford City Commission is being requested.

**FISCAL/STAFFING STATEMENT:**

None.

**BACKGROUND:**

Florida Retail Specialist, Inc., owns the 36,741 square foot retail shopping center located at 2430 French Avenue. The site, built in 1958, contained various retail businesses at one time including a Winn-Dixie Supermarket and a Rite Aid Pharmacy. Farmer's Furniture Store recently vacated the premises. In order to attract new tenants, the owner has obtained approval from the City to construct improvements to the existing non-conforming property including but not limited to landscaping, parking, signage and utility improvements. Additionally, the owner has secured lease commitments from Save-A-Lot Supermarket and Amcot Financial Services. Family Dollar Stores and Aaron's Rentals are also tenants of the premises.

The site improvements proposed by Florida Retail Specialist are eligible for the US 17-92 CRA's Redevelopment Partnership Program which provides partnership opportunities to transform under-performing properties within the CRA boundaries into successful, value added sites. The highly visible location of the property at a major intersection and the marginal ability of the property to generate a profit make this project a good candidate for a CRA partnership.

Traditionally, the CRA has funded about 10% of the bricks and mortar improvement costs. Florida Retail Specialists has estimated the cost of their bricks and mortar improvements at \$669,340. In addition, the owners are dedicating a 15 foot right-of-way easement on both US 17-92 and County Road 46A.

**LEGAL REVIEW:**

N/A

**RECOMMENDATION:**

The US 17-92 Redevelopment Planning Agency is now requesting that all projects seeking CRA funding in the Redevelopment Partnership Program include an endorsement of the project from the local jurisdiction.

**SUGGESTED MOTION:**

"I endorse the owner of the French Avenue Center to pursue CRA funding in order to make improvements to the property in compliance with Sanford's regulations."

Attachments: Costs of proposed site improvements  
 Site Plan for proposed improvements

**Florida Retail Specialist, Inc.**  
**List of Site Improvements**  
**2430 French Avenue**

Demolition	\$ 13,800
Reseal and Patch	\$ 12,560
Dumpster Enclosure	\$ 12,480
Concrete curbs	\$ 14,000
Concrete ramps	\$ 6,200
Striping	\$ 6,600
Lift Station	\$ 22,000
Landscaping	\$ 38,000
Irrigation	\$ 8,200
Re-roof	\$175,000
HVAC replacement	\$ 78,000
Exterior lighting	\$ 20,000
Amscot shell build-out	\$175,000
Amscot sewer and water	\$ 8,500
Permit fee	\$ 3,000
<u>Engineering fee</u>	<u>\$ 36,000</u>
<b>Total</b>	<b>\$669,340</b>





**PLANNING AND DEVELOPMENT SERVICES DEPARTMENT**

September 12, 2006

**MAILING ADDRESS**  
CITY OF SANFORD  
POST OFFICE BOX 1788  
SANFORD, FLORIDA 32772-1788

**PHYSICAL ADDRESS**  
CITY HALL  
300 NORTH PARK AVENUE  
SANFORD, FLORIDA 32771-1244

TELEPHONE  
407.330.5673

FACSIMILE  
407.330.5679

WEBSITE  
WWW.CI.SANFORD.FL.US

**CITY COMMISSION**

LINDA KUHN  
MAYOR

ART WOODRUFF  
DISTRICT 1

DR. VELMA H. WILLIAMS  
DISTRICT 2, VICE MAYOR

RANDY JONES  
DISTRICT 3

JACK T. BRIDGES  
DISTRICT 4

**CITY MANAGER**  
ROBERT (SHERMAN) YEHL

Mr. Kevin Fall, 17-92 CRA Coordinator  
Seminole County Economic Development  
1101 E. 1<sup>st</sup> Street  
Sanford, FL 32771

RE: 17-92 CRA funding for French Avenue Center

Dear Mr. ~~Fall~~ *Kevin* -

On Monday, September 11, 2006, the Sanford City Commission by a unanimous vote endorsed the owner of the French Avenue Center to pursue CRA funding in order to make improvements to the property located at 2430 French Avenue in compliance with Sanford's regulations. The attached information and exhibits were provided to the Commission.

I appreciate your assistance regarding this matter. Please let me or Bob Tunis, Economic Development Director know if we can be of further assistance.

Thank you.

Most sincerely,

CITY OF SANFORD

Russ L. Gibson, AICP  
Director

Cc: Bob Tunis

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## The Subject Property

### “Gateway to Sanford”

- A. Location – Located at “Main and Main” Sanford – 25<sup>th</sup> St. and US Highway 17-92 (French Ave.)
- B. Physical Characteristics – Former Winn Dixie Shopping Center – built in 1964; containing 41,367 SF on 3.63 acres of land.
- C. Changing tenants w/o changing use – former Winn Dixie/Farmer’s Furniture to Save-A-Lot; however, unbeknownst to us City is seeking major capital improvements of us to enhance the corridor.
- D. Currently facing liability from delayed opening of Save-A-Lot

**Community Improvement** – Tenants (i.e. Save-A-Lot) as well as required landscaping and site improvements will be a major community improvement

### Tenant Incentives

- A. \$100,000 to contribute towards Save-A-Lot’s build-out to entice them to lease at the property.
- B. \$109,550 to contribute towards Amscot’s build-out to entice them to lease at the property.

### Financial Situation

Current financial condition as well as major capital expenditures required by City precludes attempts to obtain conventional financing

Profit and Loss 2005 - \$12,370 net income (see attached)

Profit and Loss YTD - \$14,254 net loss (see attached)

### Capital Expenditures

Because of the property’s “Main and Main” location, the City is requiring the owner’s to: close an access point; remove substantial asphalt; provide an abundance of landscaping; install new irrigation, new site lighting and new signage; **dedicate 15 feet of property along the entire property frontage at no cost to the City** . . . . .

Total Capital Expenditures for items including, but not limited to demolition, demising wall, tenant incentives, engineering and architectural fees, landscaping, site improvements . . . (see attached cost breakdown estimate) are estimated at **\$986,179**

It will take many years of rent to recoup the cost of these improvements.

### CRA Assistance

#### Catalyst for the rest of the corridor

In an effort to spur redevelopment and avoid eyesores and dilapidated vacancies like the Heilig Myers building, former Scotty’s, former Eckerds, etc. . . . . we seek your assistance.

- A. Our improvements will serve as the catalyst for the rest of the corridor.
- B. The improvements will enhance the tax base by beautifying and enhancing property values and leading the way for other developers to improve the existing properties.
- C. These improvements will lend towards a possible expansion of the buildings and inherent property taxes.

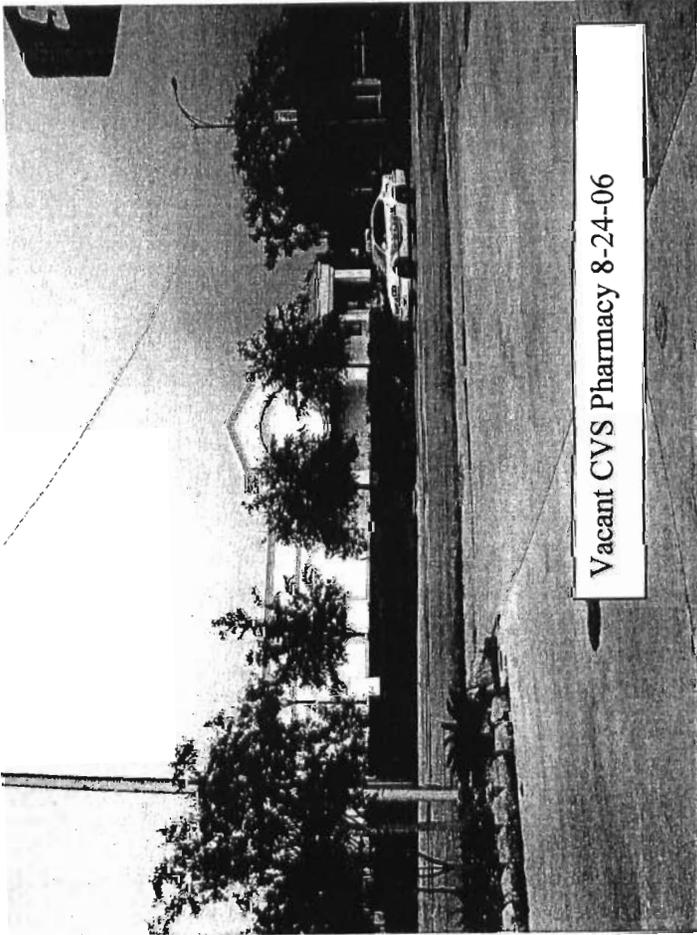
Florida Retail Specialists, Inc.  
**Profit & Loss**  
January through June 2006

	<u>Jan-Jun 06</u>
<b>Ordinary Income/Expense</b>	
Income	
Other Income	
Interest	6,107.23
Sales Tax Admin. Fee	<u>136.30</u>
Total Other Income	6,243.53
Rental Income	
Base Rent	69,780.20
CAM Income	2,409.09
Insurance	2,852.70
Real Estate Taxes	<u>1,617.73</u>
Total Rental Income	<u>76,659.72</u>
Total Income	82,903.25
Expense	
Administration	
Delivery	14.57
Bank Charges	<u>90.85</u>
Total Administration	105.42
Fidelity Advisory Fee	938.88
Insurance	
Liability Insurance	<u>11,072.06</u>
Total Insurance	11,072.06
Interest Expense	42,425.27
Legal and Prof. Management	19,256.33
Dues	4,459.64
Filing	954.55
Non-Cam Utilities	550.00
Prop. Maint.	
Exterminating	3,330.81
Landscaping	608.00
Prkg. Lot Sweep	<u>1,890.00</u>
Total Prop. Maint.	4,154.16
Repairs & Maint.	
Electric	8,937.14
Roofing	<u>1,382.38</u>
Total Repairs & Maint.	8,319.52
Utilities	
Electricity	1,098.82
Water & Sewer	<u>491.60</u>
Total Utilities	<u>1,590.42</u>
Total Expense	<u>97,157.06</u>
Net Ordinary Income	<u>-14,253.81</u>
Net Income	<u><u>-14,253.81</u></u>

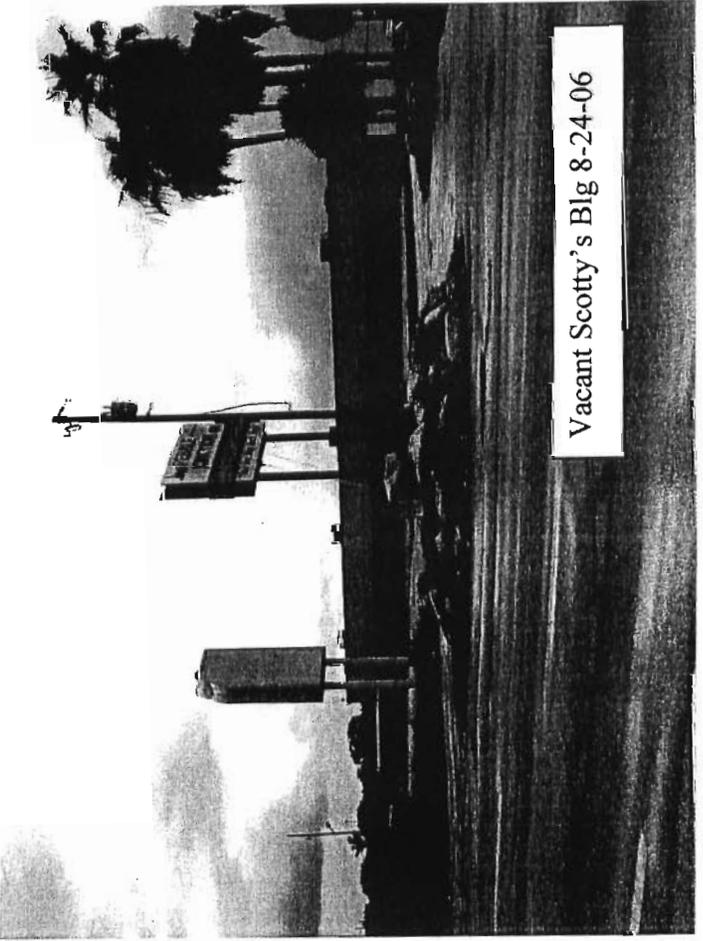
Florida Retail Specialists, Inc.  
**Profit & Loss**  
January through December 2005

	<u>Jan - Dec 06</u>
Ordinary Income/Expense	
Income	
Other Income	
Expense Reimbursement	-1,051.17
Interest	910.46
Sales Tax Admin. Fee	360.00
Total Other Income	<u>219.29</u>
Rental Income	
Base Rent	209,833.07
CAM Income	15,671.59
Insurance	7,917.07
Real Estate Taxes	15,629.88
Total Rental Income	<u>249,051.59</u>
Total Income	249,270.88
Expense	
Administration	
Bank Charges	161.10
Office Supplies	51.33
Overnight Delivery	47.49
Total Administration	<u>269.92</u>
Commissions	53,645.04
Dues	150.00
Fidelity Advisory Fee	2,688.74
Insurance	
Liability Insurance	10,317.30
Total Insurance	<u>10,317.30</u>
Interest Expense	83,776.18
Legal & Prof	17,057.63
Management	14,533.71
Prop. Maint.	
Landscaping	3,630.00
Maint. Man	505.00
Pressure Cleaning	760.00
Prkg. Lot Sweep	3,871.22
Signs	398.02
Total Prop. Maint.	<u>9,154.24</u>
Real Estate Tax	26,799.74
Repairs & Maint.	
Electric	1,218.36
Fire Sprinklers	200.00
HVAC	12,428.00
Plumbing	395.00
Roofing	3,302.97
Total Repairs & Maint.	<u>17,542.33</u>
Utilities	
Electricity	867.78
Water & Sewer	108.30
Total Utilities	<u>976.08</u>
Total Expense	<u>236,900.91</u>
Net Ordinary Income	<u>12,369.97</u>
Net Income	<u><u>12,369.97</u></u>

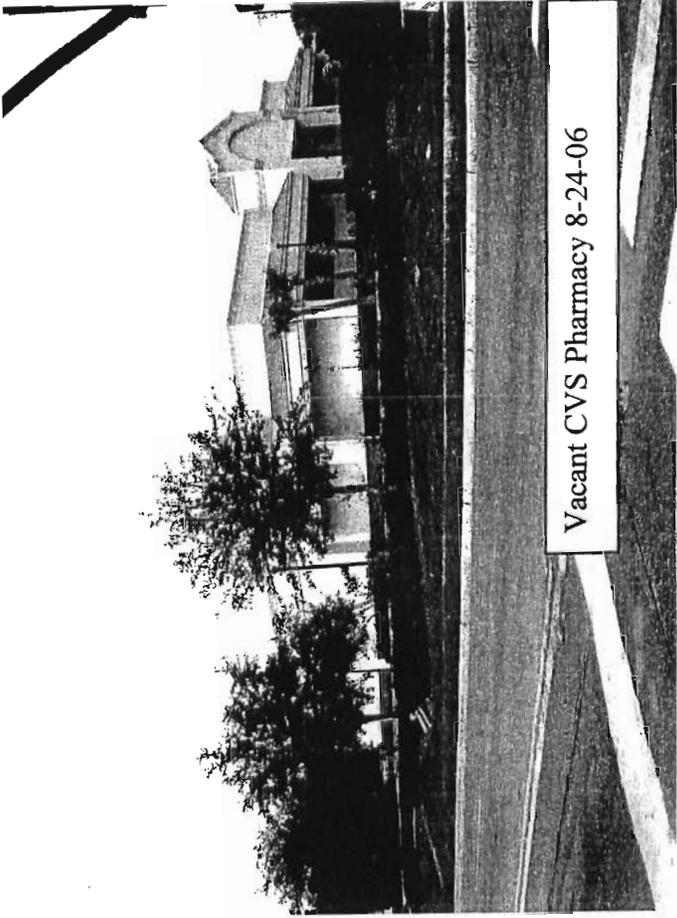
	<b>Estimate</b>
Demolition	\$ 13,800
Reseal and Patch	\$ 12,560
Dumpster Enclosure	\$ 12,480
Concrete Ramps	\$ 6,200
Concrete curbs	\$ 14,000
Striping	\$ 6,600
Lift Station	\$ 22,000
Landscaping	\$ 38,000
Irrigation	\$ 8,200
Re-Roof	\$175,000
HVAC Replacement	\$ 78,000
Site Lighting	\$ 20,000
Signage	\$ 40,000
Save-A-Lot Incentives	\$100,000
Amscot Incentives	\$109,550
Amscot "Shell" build-out	\$175,000
Sewer & Water Amscot	\$ 8,500
Permit Fee	\$ 3,000
Lease Commissions	\$107,289
Engineering Fees	<u>\$ 36,000</u>
 TOTAL	 \$986,179



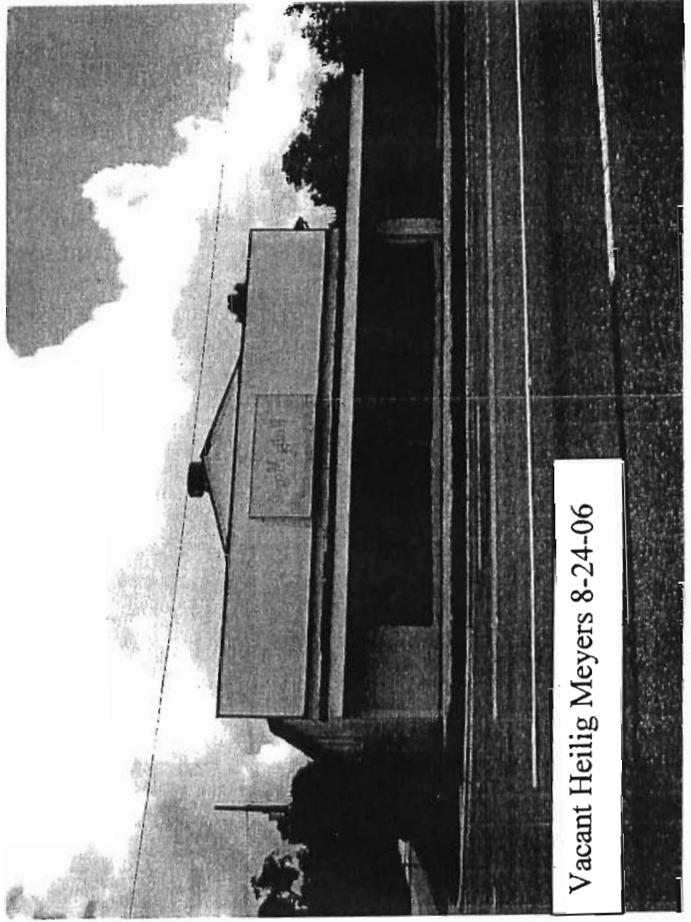
Vacant CVS Pharmacy 8-24-06



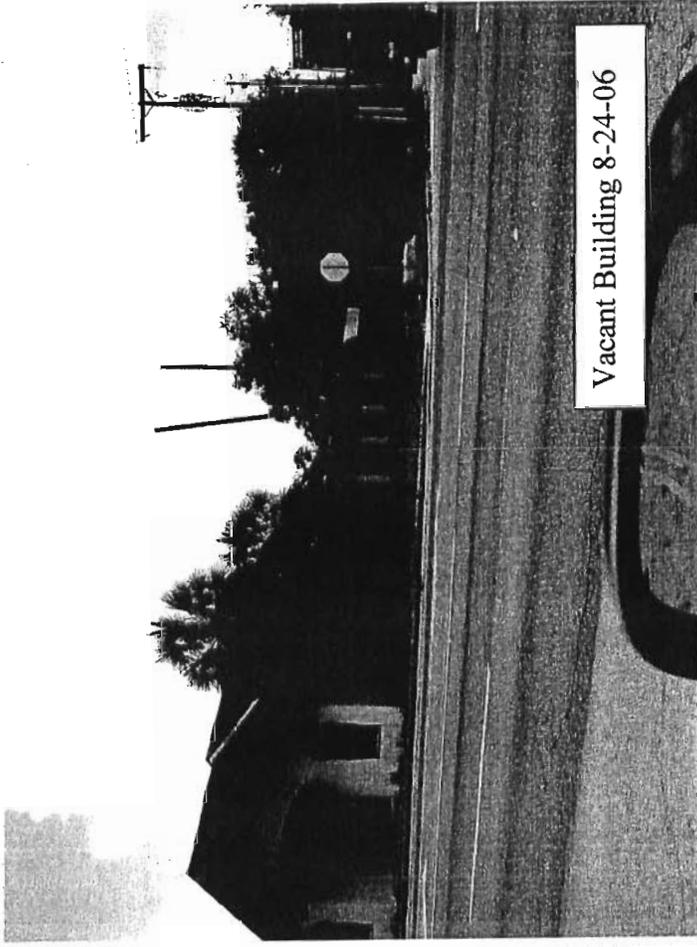
Vacant Scotty's Bldg 8-24-06



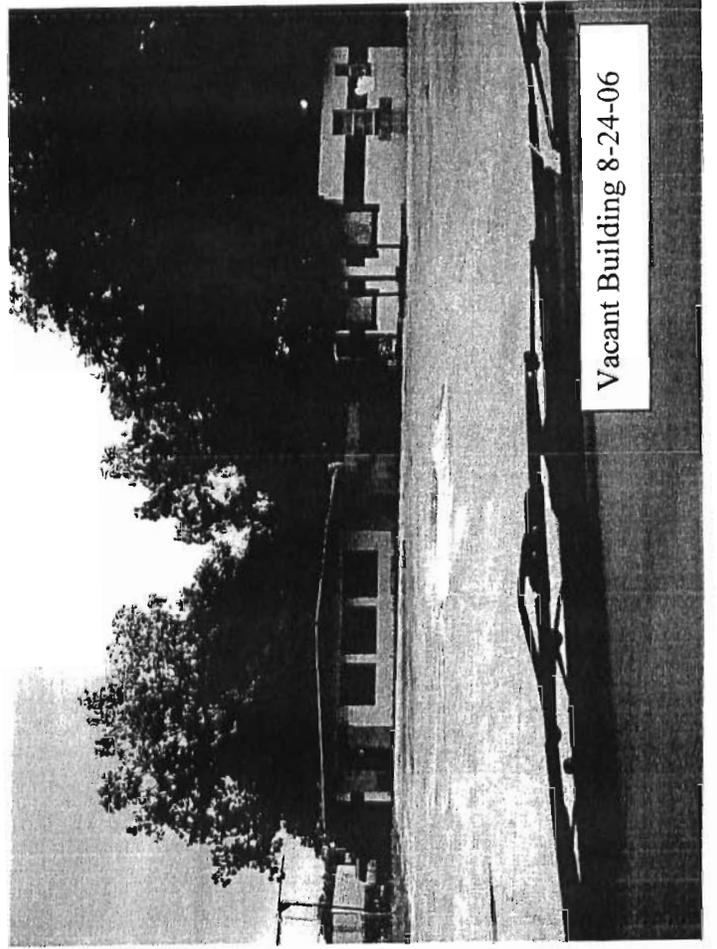
Vacant CVS Pharmacy 8-24-06



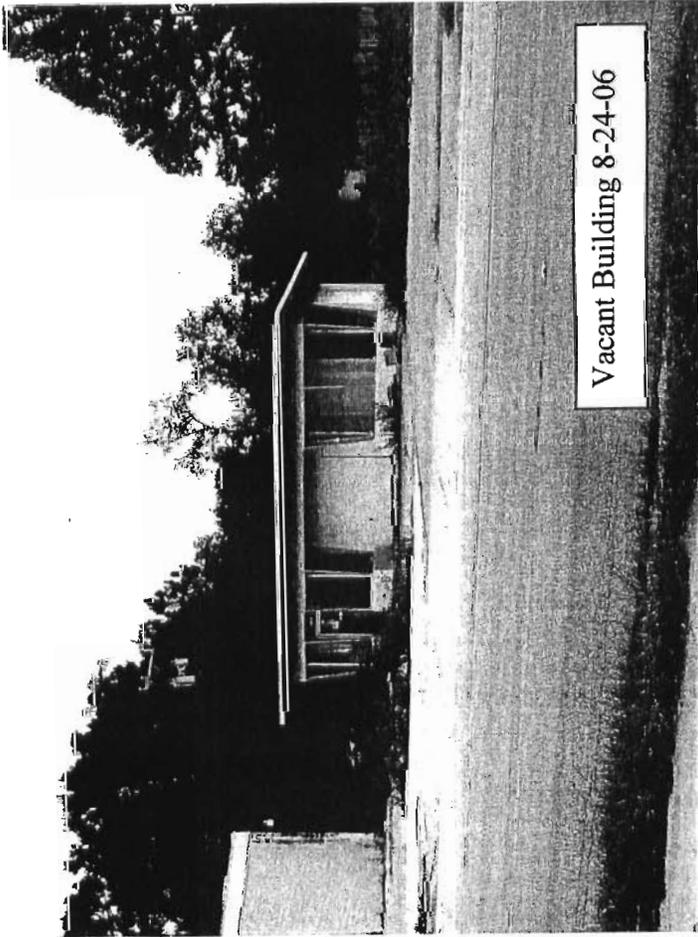
Vacant Heilig Meyers 8-24-06



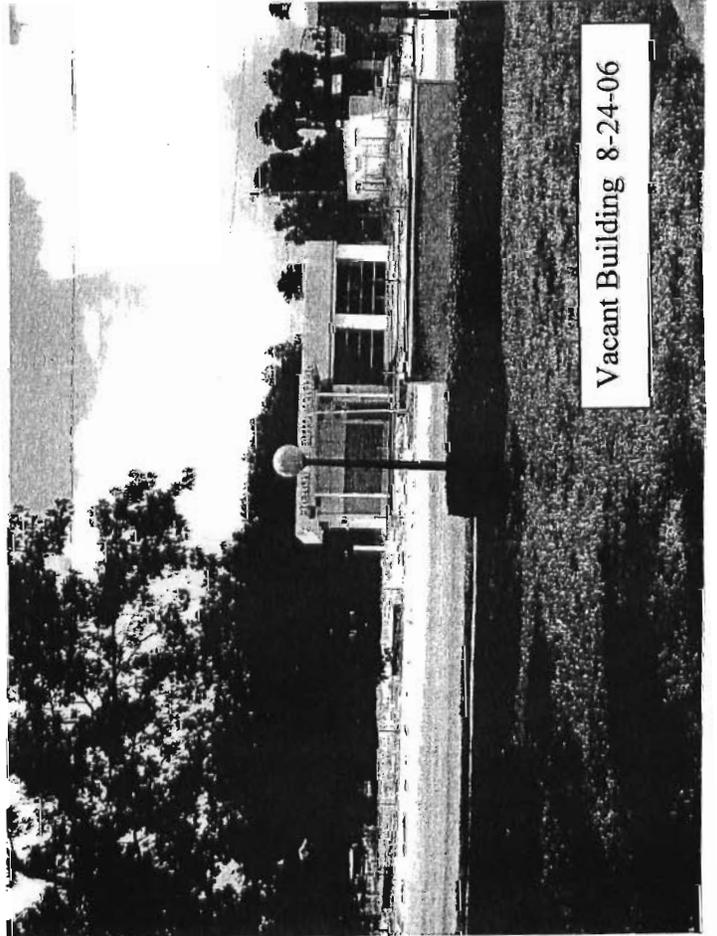
Vacant Building 8-24-06



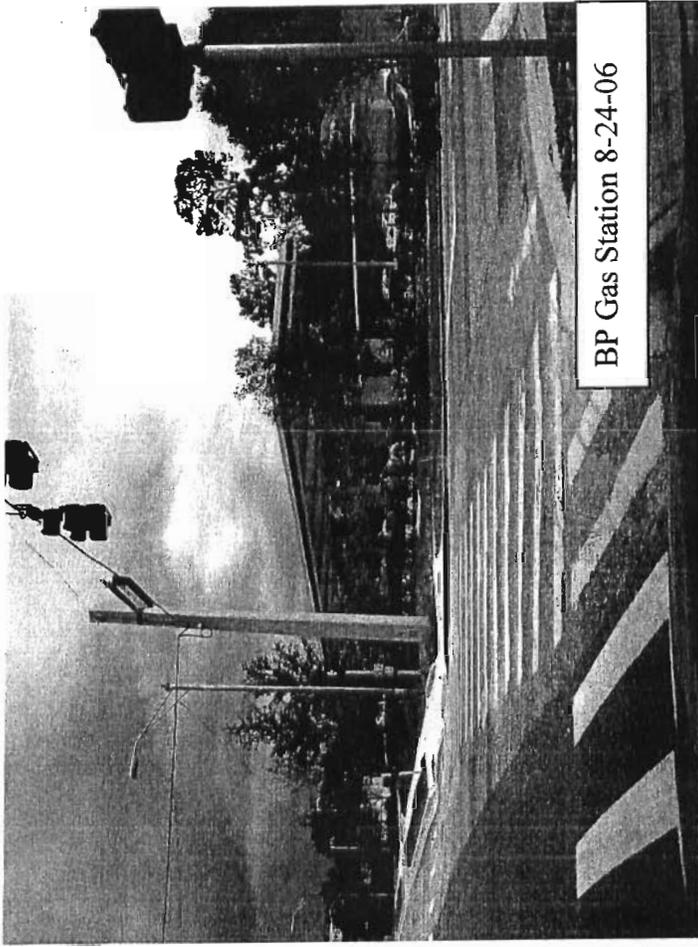
Vacant Building 8-24-06



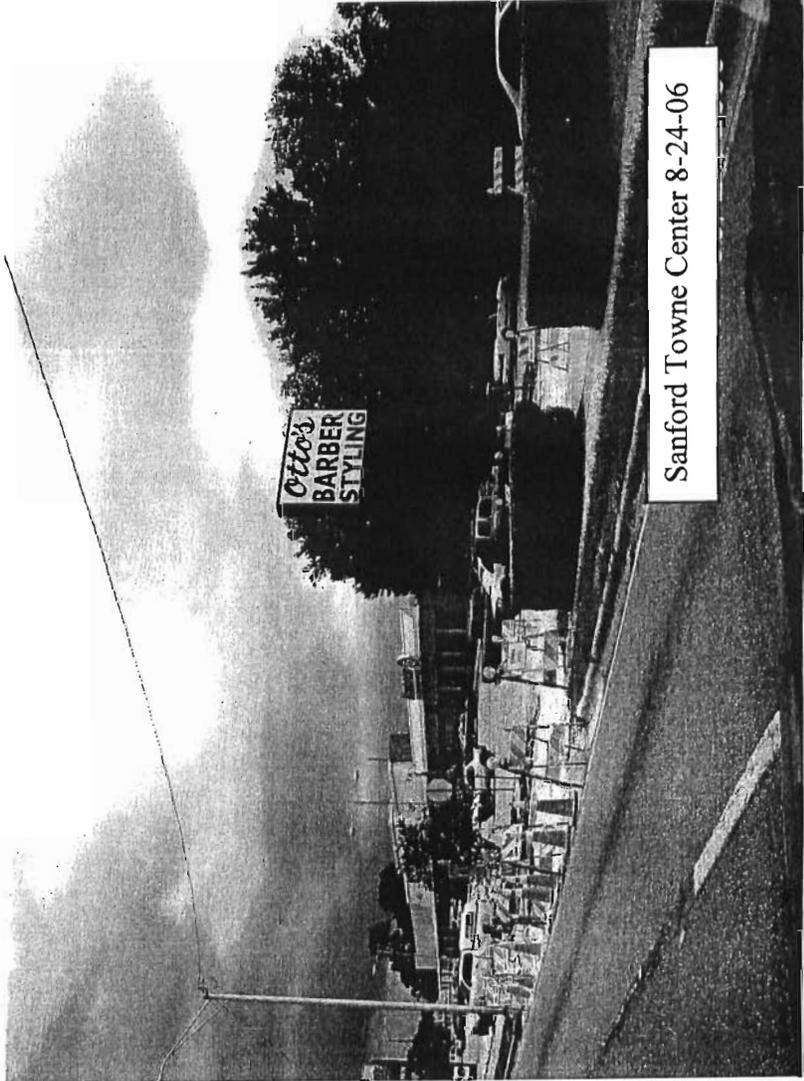
Vacant Building 8-24-06



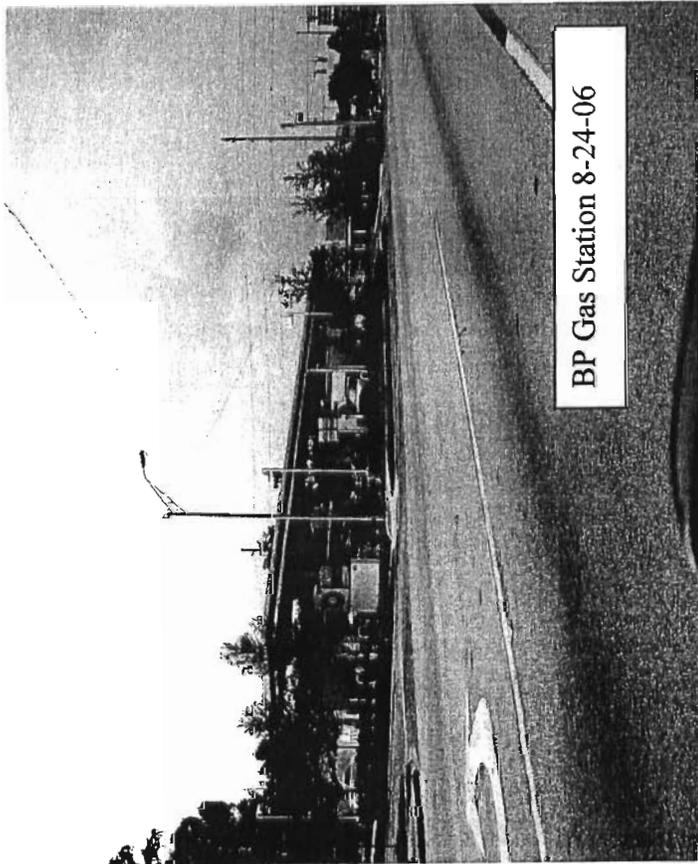
Vacant Building 8-24-06



BP Gas Station 8-24-06



Sanford Towne Center 8-24-06



BP Gas Station 8-24-06

## US 17-92 CRA REDEVELOPMENT GRANT AGREEMENT

**THIS AGREEMENT** is effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2006, 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 Florida Retail Specialists, D/B/A Gateway to Sanford, authorized to do business and doing business in the State of Florida, whose address is Suite 230 6700 Conroy Windermere Road 32835, whose Federal Employer I.D. Number is 59-3550927 (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 commercial redevelopment of the shopping plaza located at US 17-92 and French Avenue in Sanford, known as the Gateway to Sanford Commercial Redevelopment Project (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:

- Promote and locate strategic land use activities of regional importance within the redevelopment area to capture emerging market opportunities while reinforcing the unique character of the community

- 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 September 22, 2006, the RPA unanimously endorsed the PROJECT and recommended the PROJECT be forwarded to the CRA for approval; and;

**WHEREAS**, the COMPANY is proposing as part of the PROJECT, to renovate and redevelop the Gateway to Sanford Plaza (former Farmers Furniture) as described in EXHIBIT A, "Development Proposal" attached), located within the corporate limits of the City of Sanford and within the geographic boundaries of the AREA, at an approximate cost of \$986,179, which sum represents a significant capital investment, and;

**WHEREAS**, The City of Sanford has identified a capital investment of \$669,340 as eligible project cost for reimbursement from the CRA trust fund, as recommended by the Sanford City Commission, and;

**WHEREAS**, on \_\_\_\_\_, 2006, 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 \$66,934.00 (SIXTY SIX THOUSAND NINE HUNDRED AND THIRTY FOUR DOLLARS) , pursuant to the terms of this Agreement.

## SECTION 2. - Definitions

- (A) **"PROJECT"** – Includes all development , renovation, construction and redevelopment as proposed in EXHIBIT A. Renovation of the plaza shall be done in 1 Phase: Renovation.

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Renovation Phase to be completed by September 30, 2007.

- (B) **"Completion Thresholds"** – The Phases of the redevelopment PROJECT shall be deemed completed when a specified capital investment amount has been achieved, as verified by the Seminole County Property Appraisers Office. These thresholds are:

Renovation Phase \_\_\_\_\_ = \$986,179

The capital investment measurement period above includes investments from the date that the COMPANY took possession of the affected parcels.

- (C) **"Award Payouts"** – Award payouts for the Renovation Phase shall be made only after the COMPANY has satisfied the completion threshold for that Phase of the PROJECT within the prescribed time period referenced in Section 2(A) and Section 2(B) of the Agreement, and these threshold achievements have been verified with the official records maintained by the Seminole County Property Appraisers Office.

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The awards are to be proportional to the capital investment amount made to date.

Renovation Phase - The award upon completion of the Renovation Phase shall be \$66,934 (sixty six thousand nine hundred and Thirty Four dollars). This amount represents approximately 100% of the total grant award of \$66,934.00.

- (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 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 Bob Kaplus or his/her designee.

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

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

(A) The COMPANY agrees to redevelopment the Gateway to Sanford Plaza (former Farmers Furniture Plaza) 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), Renovation Phase, of this Agreement, before requesting the disbursement of the award associated with satisfaction of the Renovation Phase terms. The COMPANY will not request disbursement of the Renovation Phase award funds until the terms and conditions of Section 2(B), Renovation Phase, have been satisfied as confirmed in the official records maintained by the Seminole County Property Appraisers Office.

(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.

**SECTION 5. - Covenants of the Community Redevelopment Agency**

(A) Upon submission of proof of satisfaction of the terms described in Section 2(B), Renovation Phase, 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, for demonstrated and allowable costs incurred up to \$66,934 (Sixty Six Thousand Nine Hundred and Thirty Four Dollars) for Renovation Phase redevelopment costs.

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**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  
Florida Retail Specialists  
Suite 230  
6700 Conroy Windermere Road  
Orlando, Florida 32835

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 1 12.3 12, 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.

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**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.

ATTEST:

BY:	_____	_____
	President	Date
	_____	_____
	CRA Chairman	Date

ATTEST:

\_\_\_\_\_

Date

(CORPORATE SEAL)