

CITY OF LAKE WALES, FLORIDA
CONTRACT FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
ADMINISTRATION SERVICES
CARES ACT - CORONAVIRUS (CV) CATEGORY

THIS CONTRACT is made and entered into this _____ day of _____ 2021, by and between the City of Lake Wales, (“CITY”) and Andy Easton and Associates, Inc. (“CONTRACTOR”). This Contract shall become effective upon the date of execution of this Contract; however, the provision of Grant Program Administration Services is subject to award and availability of funding pursuant to that Grant Award Agreement between the CITY and the Florida Department of Economic Opportunity, (“DEO”).

WHEREAS, the CITY has solicited competitive proposals, and selected CONTRACTOR, to perform CDBG grant program administration services for an anticipated Community Development Block Grant (CDBG) in the Coronavirus (CV) category.

NOW THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

A. Covenant for Services

The CITY does hereby contract with CONTRACTOR to perform the services described herein and CONTRACTOR does hereby agree to perform such services under the terms and conditions set forth in this Contract.

B. Availability of Funds

Payment of funds pursuant to this Contract is subject to and conditioned upon the release of authorized appropriations from the DEO. CONTRACTOR shall be paid in accordance with paragraph D of this Contract. The CITY’S Grant Award Agreement from DEO shall become part of this Contract consistent with the requirements established in Florida Administrative Code, Section 73C-23.

C. Scope of Services

(1) Intent of this Contract

CONTRACTOR agrees, under the terms and conditions of this Contract and the applicable federal, state, and local laws and regulations, to undertake, perform, and complete the necessary CDBG grant program administration activities required to implement and complete the CITY’S CDBG-CV project in compliance with applicable laws and regulations. The following, together with the description of administration services contained in Attachment C and Attachment D, which are attached hereto and incorporated herein, describe the services to be performed under this contract.

(2) Scope of Services – Program Administration Services

- Representation during site visits and monitoring

- Develop project information management and filing system
- Develop project financial management system for receiving and disbursing funds
- Maintain project account records
- Develop Work plans for project contract document
- Preparation of project contract document
- Develop budget for project contract
- Environmental Review (limited to CDBG regulations format)
- Oversight of project schedule and compliance
- Coordination with other agencies and contracts, as necessary
- Request Wage Decisions
- Budget tracking
- Review bid documents and contract documents for compliance
- Conduct Pre-construction Conference
- Oversight of citizen complaint process
- Monitor contractor, engineer, and construction specialist progress
- Supervision of payment authorizations
- Develop and process amendments, as needed
- Review change orders and amendments for compliance, as needed
- Provide regular project status reports to Council
- Monitor all project activity to ensure compliance
- Provide all other necessary technical assistance
- Review final change order, pay request, and construction documents
- Balance final project budget
- Gather all necessary supporting documents
- Prepare documents for administrative/financial close out
- Prepare final status report

If the Grant Award Agreement between the CITY and DEO is amended, the scope of services for the project shall be amended to be consistent with that Agreement.

D. Consideration and Method of Payment for Services

(1) Amount of Consideration

For Grant Program Administration Services, the CITY will pay CONTRACTOR the sum of \$50,000. The CITY shall issue the fee amount to CONTRACTOR over the period of grant administration as hereinafter provided. CONTRACTOR shall send monthly invoices to CITY for services provided. No more than \$5,000 shall be billed to CITY prior to the “Release of Grant Funds” letter from DEO. The remaining administration fee shall be billed monthly through project closeout. However, the final \$1,000 shall not be paid by CITY until the project closeout report has been prepared. Attachment C to this contract shows the fees for each administrative component of this project. If the grant is not awarded to the City, no fee is due.

(2) Method of Payments

CONTRACTOR will submit a monthly invoice on or before the 15th day of each

month during grant administration, which will reflect the monthly amount due. The invoice shall be submitted to the CITY for the CITY'S review and approval. Payment will be made in accordance with the Florida Prompt Payment Act.

(3) Additional Services

If CITY requests additional services not specified herein that may be needed for this CDBG-CV project, then the additional services shall be established based on an hourly rate or on a negotiated fee basis. Also, CONTRACTOR may provide other planning and grant services for other projects undertaken by the CITY for an hourly fee of \$70.00 per hour, or on a negotiated fee basis.

E. Subcontracts

The CITY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor to perform properly under this Agreement. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance of the new subcontractor by the CITY.

F. Modification of Contract

All modifications or amendments to this Contract shall be in writing, executed with the same formalities as this Contract, and addressed to the appropriate parties hereto and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a national recognized overnight courier service. All modifications or amendments shall be effective upon the date of receipt and attached to the original of this Contract. The amount of compensation to be paid to CONTRACTOR will not be amended without mutual agreement of the CITY and CONTRACTOR, formally executed in writing, subject to availability of funds.

G. Applicable Law and Remedies

The Parties acknowledge that the negotiations, anticipated performance, and execution of this Agreement occurred or shall occur in Polk County, Florida. All applicable laws, regulations, and ordinances of the State of Florida, Polk County, and the City of Lake Wales will apply to this Contract and this Contract shall be governed by the laws of the State of Florida both as to intention and performance. Venue for any litigation pertaining to the subject matter of this Agreement shall be solely and exclusively in the state circuit and appellate courts in and for Polk County, Florida. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court or the right to bring an action or proceeding in any other court. The parties hereby irrevocably waive any claim that any such action has been brought in an inconvenient forum. The parties agree that this Agreement is consummated and entered into in Polk County, Florida. Service of any court paper may be affected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

H. Liability

(1) CONTRACTOR shall be responsible for all damages to persons or property that occur as a result of CONTRACTOR'S fault or negligence, in connection with work performed under the provisions of this Contract, and CONTRACTOR shall be financially and otherwise responsible for the proper care and protection of all such work performed until completion thereof and final acceptance by the CITY. CONTRACTOR shall maintain \$1,000,000 of Professional Liability Insurance and \$1,000,000 of Automobile Liability Insurance. If employees are hired by CONTRACTOR, Workman's Compensation insurance shall be maintained as required by Florida Law. Documentation regarding insurance will be made available upon request.

(2) CONTRACTOR shall indemnify and save harmless the CITY, its agents, and employees from liability for any injury or damages to persons or property resulting from CONTRACTOR prosecution of work pursuant to the provisions of this Contract.

I. Project Representatives

The CITY's Project Manager for this Contract is: James Slaton, Interim City Manager. The Project Manager for CONTRACTOR is Andy Easton. CONTRACTOR is located at 203 Ridgeland Road, Tallahassee, Florida 32312. 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 to the party and said notification attached to the original of this Contract.

J. Terms and Conditions

This Contract contains all the terms and conditions agreed upon by the parties.

K. Eligibility

CONTRACTOR certifies that it is eligible to receive state and federally funded contracts. CONTRACTOR also certifies that no party, which is ineligible for such work, will be subcontracted to perform services under this Contract.

L. Federal Statutory Requirements

When applicable, CONTRACTOR and the CITY shall comply with the provisions contained in Attachment A and incorporated herein.

M. Authority to Practice

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required for conducting its business in the State of Florida, and that it will at all times conduct its business activities in a reputable manner.

N. Contract Documents and Attachments

The other documents which comprise the entire Contract are incorporated herein and made a part hereof by reference and consist of the following:

1. Grant Award Agreement from DEO shall become part of this Contract consistent with the requirements established in Florida Administrative Code, Section 73C-23.
2. Advertisement for Bids.
3. Andy Easton & Associates Proposal for CDBG Grant Services
4. Addendums (if any)
5. Change Orders (if any)

This Contract is also subject to the provisions of the following Attachments, which are attached to and made a part of this Contract:

Attachment	Description
A	Federal Provisions
B	Section 3 and Affirmative Action Plan
C	Scope of Work and Fee Schedule

In the event of a conflict between the terms of the above documents and the terms of this Agreement, the terms of this Agreement shall prevail.

O. Severability

If any term or provision on this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

P. Independent Capacity of Contractor

The Parties agree that CONTRACTOR, and any agents and employees of CONTRACTOR, in the performance of this Contract, shall act in an independent capacity and is an independent contractor and not an agent or employee of the CITY for any purpose including, but not limited to, federal tax and other state and federal law purposes. The CONTRACTOR assumes responsibility for payment of all federal, state, and local taxes imposed or required of the CONTRACTOR under unemployment insurance, Social Security, and income tax laws. CONTRACTOR shall be solely responsible for any worker's compensation insurance required by law and shall provide the CITY with proof of insurance upon demand. The parties agree that the CITY shall not: pay dues, licenses, or membership fees for CONTRACTOR; require attendance by CONTRACTOR, except as otherwise specified herein; control the method, manner, or means of performing under this Contract, except as otherwise specified herein; or restrict or prevent CONTRACTOR from working for any other party. Neither party has the right or the power to enter into any contract or commitment on behalf of the other party, including

entering into agreements with third parties, exercising incidents of ownership with respect to property owned by the City or executing contracts binding upon the City.

Q. No Waiver

The failure of either Party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either Party's right to thereafter enforce the same in accordance with this Contract in the event of a continuing or subsequent default on the part of CONTRACTOR or CITY.

R. Attorney's Fees

If any action is commenced to construe or enforce this agreement or the rights and duties created hereunder, then each party shall bear its own respective fees and costs.

S. General

The parties agree to sign all such documents and do all such things as may be necessary or desirable to completely and effectively carry out the terms and conditions of this agreement. Time shall be of the essence of this agreement. This agreement constitutes the entire agreement among the parties and shall not be modified or amended except with consent in writing of the parties hereto. In this agreement, wherefore the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this agreement. The parties agree that this contract is consummated and entered into in Polk County, Florida.

The parties, in exchange for good and valuable consideration hereto have signed this agreement and agree to be bound by the terms contained herein.

CONTRACTOR

BY _____
Andy Easton, Grant Consultant
Andy Easton & Associates, Inc.

Attest

CITY OF LAKE WALES

(Seal)

BY: _____
Mayor

Approved as to legal form for the
reliance of the City of Lake Wales only:

City Attorney

ATTACHMENT A

FEDERAL PROVISIONS

1. Termination (Cause and/or Convenience)

(1) This Contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(2) This Contract may be terminated in whole or in part in writing by the CITY for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in paragraph (1) above.

(3) If termination for default is effected by the CITY, an equitable adjustment in the price for this Contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to CONTRACTOR at the time of termination may be adjusted to cover any additional costs to the CITY because of CONTRACTOR'S default.

For any termination, the equitable adjustment shall provide for payment to CONTRACTOR for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by CONTRACTOR relating to commitments (e.g., suppliers, subcontractors) which had become contracted prior to receipt of the notice of intent to terminate.

(4) Upon receipt of a termination action under paragraphs (1) or (2) above, CONTRACTOR shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) immediately deliver to the CITY all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by CONTRACTOR in performing this Contract, whether completed or in process.

(5) Upon termination, the CITY may take over the work and may award another party a Contract to complete the work described in this Contract.

(6) If, after termination for failure of CONTRACTOR to fulfill contractual obligations, it is determined that CONTRACTOR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the CITY. In such event, adjustment of the contract price shall be made as provided in paragraph (3) above.

2. Equal Employment Opportunity

During the performance of this Contract, CONTRACTOR agrees as follows:

a. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, sex, color, genetics, or national origin. CONTRACTOR

will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, creed, sex, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.

b. CONTRACTOR will, in all solicitation or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

3. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

4. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act.

5. Access and Retention of Records

Any public or private entity or official and any member of the public shall have access to any books, documents, papers, and records of the CITY and CONTRACTOR which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcriptions. CONTRACTOR agrees to comply with the Florida Public Records Law.

6. Retention of Records

The CITY and CONTRACTOR shall retain all records relating to this contract for six years after the local government makes final payment and all other pending matters are closed.

7. Environmental Compliance

If this contract exceeds \$100,000, the CONTRACTOR shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The CONTRACTOR shall include this clause in any subcontracts over \$100,000.

8. Energy Efficiency

CONTRACTOR shall comply with mandatory standards and policies relating to energy

efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

9. Conflict of Interest

No member of or Delegate to the Congress of the United States, or Resident Commissioner, and no elected state official or state employee shall share in any proceeds from this Contract, or in any benefits to arise from it. No officer or employee of the local jurisdiction or its designers or agents, no member of a governing body, and no other official of the locality who exercises any function or responsibility with respect to this Contract during his/her tenure or for one year thereafter, shall have any interest direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed.

10. Additional clauses

The following additional clauses are required by the CDBG Grant Program:

- a. CONTRACTOR shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, or representatives of the Federal government and their duly authorized representatives. Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday.
- b. The CONTRACTOR shall:
 1. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONTRACTOR during the Agreement term.
 2. Include in all sub contracts under this Agreement the requirement that entities performing work or providing services pursuant to this Agreement use the E-Verify system to verify the employment eligibility of all new employees hired by the contractors, subcontractors, consultants

The Department of Homeland Security's E-Verify system can be found at:
<http://www.uscis.gov/e-verify>

If the CONTRACTOR does not have an E-Verify MOU in effect, the CONTRACTOR will enroll in the E-Verify system prior to hiring any new employee after the effective date of this Agreement.

- c. The CONTRACTOR agrees to:
 1. be bound by the terms of this Agreement;
 2. be bound by all applicable State and Federal laws, rules, and regulations;
 3. hold DEO and the City harmless against all claims of whatever nature arising out of the CONTRACTOR'S performance of work under this Agreement;

4. document on a quarterly basis contractor's progress in performing its work under this Agreement.

11. Conflicts with Other Clauses

If this Contract contains any clauses which conflict with the above clauses, then this Contract will be governed by the clause(s) in Attachment A.

ATTACHMENT B

SECTION 3 and AFFIRMATIVE ACTION PLAN

1. CONTRACTOR will solicit and evaluate applications for employment in a manner that is non-discriminatory based upon age, race, sex, national origin, ethnic background, and handicap status.
2. When training and/or employment opportunity arises in connection with this project, CONTRACTOR will provide maximum opportunity to residents of the jurisdiction. Employment opportunity will be locally advertised in manner that will ensure that potentially eligible applicants are 1) made aware of the opportunity, and 2) provided a convenient way to apply for employment. Special consideration will be given to qualified applicants who are lower income residents, members of a minority race or ethnic group, or female.
3. CONTRACTOR will utilize the HUD and Florida lists of minority businesses in filling subcontracting and/or purchasing needs.
4. CONTRACTOR shall publicize and post this policy in a conspicuous place available to employees and applicants for employment and training.

Fee

Grant Administration Fee: The total fee (price) for this City of Lake Wales CDBG-CV grant administration services project is a lump sum fee of \$50,000. The CDBG grant will be administered with funds provided by the grant. Grant administration activities are shown below:

Grant Initiation Activities	Fee
Review CDBG grant agreement/Civil rights profile	
Prepare Signature authorization form	
Develop Project milestones document (schedule)	
Insure compliance with procurement requirements	
Develop Environmental Review Record	
Total	\$10,000
Monitoring Reports and Attend Monitoring Site Visits	Fee
Organize files, prepare for monitoring visits	\$2,000
Represent City during monitoring visits	\$3,000
Prepare monitoring response letters for the City	\$1,000
Total	\$6,000
Project Administration Activities	Fee
Coordinate with Engineer to review bid documents	\$1,000
Review procurement policy (amend as needed)	\$0.00
Monitor project milestones and budget	\$1,500
Ensure project milestones and budget are in compliance	\$3,500
Develop grant amendments to revise the project scope	\$2,500
Order Wage Decision	\$500
Prepare for and conduct preconstruction conference	\$1,500
Prepare quarterly reports and financial projection reports	\$4,500
Ensure compliance with MBE procurement requirements	\$2,500
Conduct Davis Bacon labor interviews	\$4,500
Conduct quarterly fair housing activities	\$2,500
Review/approve contractor change orders	\$1,500
Total	\$26,000
Financial Management Activities	Fee
Review City's existing financial management system	\$500
Assist with ordering CDBG funds	\$1,000
Prepare budget summaries, analyses, and reports	\$2,000
Review, approve, and process contractor pay requests	\$1,500
Total	\$5,000
Program Closeout Activities	Fee
Review completed project and compare to budget	\$1,000
Develop and submit the project closeout report	\$2,000
Total	\$3,000
TOTAL FEE (to be paid by the CDBG Grant) (If the grant is not awarded to the City, no fee is due)	\$50,000