

**FIRST AMENDED
GRANT AGREEMENT FOR
COMMERCIAL FAÇADE IMPROVEMENT**

THIS AGREEMENT ("Agreement") made and entered into this ___ day of _____ 2022, ("Effective Date") between the Fort Pierce Redevelopment Agency, a community redevelopment agency established pursuant to Florida Statutes Chapter 163 (the "FPRA") and DEAN PROPERTIES, LLC, a Florida Limited Liability Company, ("Recipient") (collectively, "Parties").

WITNESSETH:

WHEREAS, as part of its mission to alleviate slum and blight and, in order to promote the revitalization of commercial areas by improving the physical appearance of buildings, the Fort Pierce Redevelopment Agency, a Dependent Special District of the City of Fort Pierce, Florida ("FPRA"), established the Commercial Façade Improvement Grant Program; and

WHEREAS, the Commercial Façade Grant currently offers financial assistance of up to \$25,000 to commercial property and business owners looking to improve the façade of commercial buildings within the FPRA community redevelopment area; and

WHEREAS, Dean Properties, LLC, submitted a Commercial Façade Grant application to the FPRA requesting \$25,000 for the facade renovation of a currently vacant structure located at 809 Delaware Avenue, Fort Pierce, FL (Parcel ID: 2410-709-0013-000-5) (the "Property"); and

WHEREAS, the purpose of the intended renovation is to substantially improve the façade of the property by constructing a deck and pergola for outdoor seating, painting the façade and completing other exterior improvements; and

WHEREAS, the property is located within the FPRA district boundaries and the renovation of the property coincides with the FPRA plan; and

WHEREAS, the FPRA Board desires to approve a reimbursable Commercial Façade Grant award in an amount up to one half of the approved cost of eligible improvements, not to exceed \$25,000 to Dean Properties, LLC for the façade renovation of the property; and such approval was affirmed by the FPRA Board at their regular meeting on March 8, 2022; and

WHEREAS, the Recipient desires to participate in the Commercial Façade Grant Program pursuant to the terms and provisions of this Agreement; and

WHEREAS, the Recipient has represented to the FPRA that it will complete the project set forth in its completed Commercial Façade Grant application package submitted to the FPRA ("Project"), and that the Project, located at 809 Delaware Avenue, will further economic development in the FPRA by improving a building on a commercial corridor, decreasing vacancy rates on a commercial corridor, and creating new commercial space in the FPRA; and

WHEREAS, the FPRA granted two extensions to obtain building permits. The first extension was granted by the FPRA Board September 13, 2022, for a 45-day extension. The second extension was approved by the FPRA Board November 8, 2022, for an additional 90 days. The recipient's new deadline to obtain building permits is February 26, 2023.

NOW, THEREFORE, the parties do hereby agree to the following:

1. **Grant of Funds.** The FPRA shall pay to the Recipient, on a reimbursement basis, an amount of fifty percent (50%) of eligible project costs, not to exceed Twenty-Five Thousand Dollars

(\$25,000.00) ("Grant") for the Recipient's completion of the Project. Provided the Recipient is in compliance with the terms and conditions of this Agreement, the FPRA shall make such payment within thirty (30) days after the Recipient's request for payment of the Grant funds and submission of invoices and any other information necessary to substantiate Recipient's compliance with this Agreement. Nothing herein shall be construed to grant the FPRA any ownership interests in the Project, and the FPRA shall have no liability whatsoever related to the Project.

2. **Compliance.** The Recipient shall complete the Project and comply with all the terms and conditions of this Agreement, including but not limited to (i) complying with the Project Development Plan, which is attached hereto as Appendix A, and (ii) complying with the Recipient's completed Commercial Façade Grant Application package that was reviewed by City staff and approved by the FPRA Board, which is set forth in Appendix B ("Application").
3. **Appendices.** All appendices referenced in this Agreement are attached to this Agreement and made a part hereof by reference.
4. **Project Deadline/Term.** The Recipient must receive the building permits by February 26, 2023 and shall complete the Project by February 26, 2024. This period shall be considered the Agreement Term (the "Term"). The FPRA shall have a right to terminate this Agreement in the event the Recipient fails to meet the Project Deadline. During this period the Recipient shall provide evidence of building permit approval to the FPRA by February 26, 2023. For projects not requiring a building permit, the Recipient shall notify the Department by electronic and postal mail when it will start within the aforementioned period.
5. **Extension.** The FPRA, in its sole and absolute discretion, may authorize an extension of the Project Deadline to allow the Recipient to complete its obligations set forth in this Agreement in a timely manner if the Recipient is in compliance with this Agreement and the Recipient is taking reasonable steps to complete its obligations set forth in this Agreement. Any authorization to extend the Project Deadline shall be in writing and approved by the FPRA Board.
6. **Compliance with Laws.** The Recipient shall comply at all times with all federal, state, and local statutes, rules, regulations and ordinances, the federal and state constitutions, and the orders and decrees of lawful authorities having jurisdiction over the matter at issue (collectively, "Laws"), including but not limited to Florida laws regarding public records.
7. **Publicity.** Publications, press releases, media productions, etc., produced by the Recipient regarding the project shall include the following statement: *Sponsored in part by the Fort Pierce Redevelopment Agency's Commercial Façade Grant Program* from the Effective Date to six months after date of project completion.
8. **Progress Reports.** Recipient agrees to submit to FPRA written progress/status reports upon request by FPRA, including, but not limited to such reports which provide a list of activities and expenditures for the project.
9. **Records, Reports and Inspection.**
 - A. The Recipient shall maintain financial books, records, and accounting information related to this Agreement. These books, records, and information shall comply with generally accepted accounting principles. Nothing herein shall be construed to allow destruction of records that may be required to be retained longer by the statutes of the State of Florida.

- B. The Recipient shall, at any reasonable time requested by the FPRA and as often as the FPRA may deem necessary, make available to the FPRA for examination all of its books, records and information with respect to all matters covered by this Agreement and shall permit the FPRA or its designated authorized representatives to audit and inspect all such books, records and information, including but not limited to invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
- C. The FPRA shall have the right, at any reasonable time during the Term, to inspect the Project site and to determine that the property use is consistent with the uses described in the project development plan, in accordance with this Agreement.

10. Default and Termination.

- A. The FPRA may terminate this Agreement in the event of failure by the Recipient to observe or perform any term or condition of this Agreement if such failure continues for ten (10) days after written notice thereof from the FPRA to the Recipient in accordance with Paragraph 12 of this Agreement.
- B. The FPRA's liability and obligations to the Recipient or any person having a claim pursuant to this Agreement or to the completion of the Project provided by the herein described Grant funds shall be limited solely to the amount and terms and conditions of this Agreement.
- C. If this Agreement is terminated by the FPRA, the FPRA shall have no obligation to pay any of the Grant funds to the Recipient.

11. Indemnification. The Recipient shall defend at its expense, pay on behalf of, hold harmless and indemnify the FPRA, its officers, employees, agents, elected and appointed officials and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses and damages (collectively, "Claims"), whether or not a lawsuit is filed, including but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities; and costs, expenses and attorneys' and experts' fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly:

- a. The performance of this Agreement (including changes and amendments thereto) and any work performed on the Project by the Recipient, its employees, agents, representatives, contractors, subcontractors, or volunteers; or
- b. The failure of the Recipient, its employees, agents, representatives, contractors, subcontractors, or volunteers to comply and conform with any applicable Laws; or
- c. Any negligent act or omission of the Recipient, its employees, agents, representatives, contractors, subcontractors, or volunteers, whether or not such negligence is claimed to be either solely that of the Recipient, its employees, agents, representatives, contractors, subcontractors or volunteers or to be in conjunction with the claimed negligence of others, including that of any of the Indemnified Parties; or
- d. Any reckless or intentional wrongful act or omission of the Recipient, its employees, agents, representatives, contractors, subcontractors, or volunteers.
- e. The provisions of this paragraph are independent of, and will not be limited by, any insurance required to be obtained by the Recipient pursuant to this Agreement or otherwise obtained by the Recipient and shall survive the expiration or earlier termination of this Agreement with respect to any Claims or liability arising in connection with any event occurring prior to such expiration or termination.

12. **Insurance.** The Recipient shall maintain insurance coverage in the form and amount deemed adequate by the FPRA for all risks inherent in the functions and aspects of its operation, including but not limited to, risks of fire, casualty, automobile coverage as required by law, workers' compensation insurance as required by law, employers' liability insurance, and general liability insurance for personal injury, property damage and contractual liability under this Agreement.
13. **Notices.** Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approvals or other communications which are required to be given by either party to the other shall be in writing and shall be deemed given and delivered on the date delivered in person to the authorized representative of the recipient provided below, or upon the expiration of five (5) business days following the date mailed by registered or certified mail, postage prepaid, return receipt requested to the authorized representative of the recipient at the address provided below, or upon the date delivered by overnight courier (signature required) to the authorized representative of the recipient at the address provided below.

Fort Pierce Redevelopment Agency:

City of Fort Pierce
Attn: Fort Pierce Redevelopment Agency
100 North US Highway 1
Fort Pierce, FL 34950

Copy:

City of Fort Pierce
Attn: City Attorney
100 North US Highway 1
Fort Pierce, FL 34950

Recipient:

Dean Properties, LLC
1005 Kentucky Avenue
Fort Pierce, FL 34950

14. **Assignment.** The Recipient shall not assign this Agreement without the prior written consent of the FPRA. Any assignment of this Agreement contrary to this paragraph shall be void and shall confer no rights upon the assignee. The Recipient shall notify the FPRA thirty (30) days prior to any conveyance or sale, granting or transferring any real property ("Property") underlying the Project or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Property.
15. **Change of Use.** For five years from the date of Project completion, the Recipient shall maintain the Property in the use for which it was awarded funding through the Commercial Facade Grant Program. Failure to do so may result in the Recipient repaying the grant award to the FPRA, unless the requirement to repay the grant award is waived by the FPRA Board, at its sole discretion, upon written request made to the FPRA by the Recipient. If the Recipient intends to change the use of the Property, it shall notify the FPRA of its intent prior to applying for building permits.
16. **Due Authority.** Each party to this Agreement represents and warrants to the other party that: (i) it is duly organized, qualified and existing entities under the laws of the State of Florida; and (ii) all appropriate action has been taken so as to duly authorize the persons executing this Agreement to so execute the same and fully bind the parties on whose behalf he or she is executing.
17. **Headings.** The paragraph headings are inserted herein for convenience and reference only, and in no way define, limit, or otherwise describe the scope or intent of any provisions hereof.

18. **No Third-Party Beneficiaries.** Notwithstanding anything to the contrary contained in this Agreement, persons, or entities not a party to this Agreement may not claim any benefit hereunder or as third-party beneficiaries hereto.
19. **Entire Agreement and Modification.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matters covered herein and there are no oral representations, arrangements, or understandings between or among the Parties relating to the subject matters of this Agreement. No change to this Agreement will be valid unless made by a written amendment executed by the Parties.
20. **Waiver.** No provision of this Agreement will be deemed waived by the FPRA unless expressly waived in writing by the FPRA. No waiver shall be implied by delay or any other act or omission of the FPRA. No waiver by the FPRA of any provision of this Agreement shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and the FPRA's consent respecting any action by the Recipient shall not constitute waiver of the requirement for obtaining the FPRA's consent respecting any subsequent action.
21. **Severability.** Should any paragraph or portion of any paragraph of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section of this Agreement.
22. **FPRA Consent and Action.** For purposes of this Agreement, any required written permission, consent, acceptance, approval, or agreement by the FPRA means the approval of the FPRA Board or their authorized designee, unless otherwise set forth in this Agreement or unless otherwise required by the City Charter or applicable Laws.
23. **Survival.** All obligations and rights of any party arising during or attributable to the period prior to expiration or earlier termination of this Agreement, including but not limited to those obligations and rights related to indemnification, shall survive such expiration or earlier termination.
24. **Governing Law and Venue.** This Agreement and the rights of the Parties shall be governed by and construed or enforced in accordance with the laws of the State of Florida. Venue for any action arising out of this Agreement is in the courts of St. Lucie County, Florida. Any action shall be tried as a non-jury case.

(REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, as of the date first above written.

OWNER WITNESSES:

Sign: [Signature]
Print: MIKE MENARD
Date: 12/8/22

Sign: [Signature]
Print: Kelly Williams
Date: 12/8/22

CITY WITNESSES:

Sign: _____
Print: _____
Date: _____

Sign: _____
Print: _____
Date: _____

OWNER:

Sign: [Signature]
Print: DARRYL T. BEY
Date: 12/08/2022

ACCEPTED FOR THE FORT PIERCE REDEVELOPMENT AGENCY:

Sign: _____
Print: Linda Hudson
As its: Chair
Date: _____

APPROVED AS TO FORM & CORRECTNESS:

Tanya M. Earley, Esq.
City Attorney

APPENDIX "A"

PROJECT DEVELOPMENT PLAN

809 DELAWARE AVENUE FORT PIERCE, FL 34950

Project Description

This Commercial Façade Grant is awarded to Dean Properties, LLC for the renovation of property located at 809 Delaware Avenue. This grant will provide funds to assist with property improvements, including constructing a deck and pergola for outdoor seating, painting the façade, and completing other exterior improvements.

The Recipient will provide to the FPRA a final report documenting all construction costs incurred in association with the improvement included in the Application (Appendix "B") prior to receiving reimbursement payment(s). These can include:

- A. Copies of all required closed permits
- B. Occupancy certificates
- C. Copies of all invoices
- D. Proof of payment (Cancelled checks)
- E. Releases of liens
- F. Photographs of the work undertaken

Maximum FPRA Grant Award : Fifty percent (50%) of eligible project costs, not to exceed Twenty-Five Thousand Dollars (\$25,000.00)

Project Timelines

1. The Recipient must receive the building permits by February 26, 2023. During this time period, the Recipient shall provide evidence of the building permit approval to the FPRA.
2. The Recipient shall complete the Project within twelve months after the issuance of the building permits.
3. For projects not requiring a building permit, the Recipient shall notify the Department of when it will start within the aforementioned period.
4. The Recipient must provide written progress updates upon request by the FPRA.
5. Request for payment to the FPRA, shall include a final report documenting all construction costs incurred in association with the Project. These can include copies of all required permits, occupancy certificates, cancelled checks, invoices, releases of liens and photographs of the work undertaken.
6. Completion and/or occupancy and full operation of the services described in this Agreement shall be achieved by February 26, 2024.

These reports/request can be sent electronic or by postal mail:

Fort Pierce Redevelopment Agency
100 N US Hwy 1
Fort Pierce, FL 34950
fpra@cityoffortpierce.com

APPENDIX "B"

APPLICATION PACKET

809 DELAWARE AVENUE FORT PIERCE, FL 34950