

Meeting Date
July 7, 2015



AGENDA	
Section	CONSENT
Item No.	II.B.1

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	APPROVAL, RE: AGREEMENT WITH CROSSWINDS YOUTH SERVICES, INC.
DEPT/OFFICE:	HOUSING AND HUMAN SERVICES DEPARTMENT

Requested Action:

It is requested that the Board of County Commissioners (BOCC) authorize the County Manager or designee, to execute an agreement with Crosswinds Youth Services, Inc., for housing improvements to their children's emergency shelter, and further authorize the County Manager or designee to execute modifications and amendments to the agreement, upon approval by the County Attorney and Risk Management.

Summary Explanation & Background:

The Affordable Housing Council voted to recommend that the BOCC fund Crosswinds Youth Services in response to a request for proposal to provide rehabilitation/reconstruction, acquisition and new construction rental housing projects with State Housing Initiative Partnership (SHIP) funding in the amount of \$90,000 for Crosswinds Youth Services, Inc., for the replacement of two (2) commercial HVAC units at the children's emergency shelter.

Crosswinds Youth Services, Inc. is requesting rehabilitation funding for the replacement of the HVAC units in the 28-bed children's emergency shelter because the system is degraded due to age and corrosion. The units are 14 years old and have extensive corrosion, which is causing refrigerant leaks to form. This results in a lack of efficiency, which results in higher energy consumption. Due to the need for the shelter to be secure, windows cannot be opened; therefore, the system runs year round.

Over the past 14 years nearly 5,000 youth have been served in the emergency shelter, which is licensed by the Department of Children and Families as a Child Caring Agency. Crosswinds' emergency shelter serves children and teenagers ages 10 through 17 who are experiencing serious family instability, have been abused or neglected, are endangered because they have run away or are without an appropriate place to live, whose foster care placement was interrupted, or are facing other crises. The program provides for a youth's immediate basic needs and, through a range of services, works to strengthen and reunite families and ensure each child exits the program into a safe living environment. Other services provided in the shelter include: counseling, case management, life and social skills group, and recreational activities.

Fiscal Impact: FY 15/16 – There is no impact to the General Fund. Grant funds are budgeted in Business Area 1490, Cost Center, 298033

**FY 16/17 – There is no impact to the General Fund. Grant funds are budgeted in Business Area 1490, Cost Center 298033**

Name: Juanita Davis, Assistant Department Director  
 Phone: (321) 633-2076

Clerk to the Board Instructions: Please have the County Manager sign all three (3) original contracts and return to Housing and Human Services.

Exhibits Attached: Three (3) original Contracts

Contract /Agreement (If attached): Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager – Stockton Whitten	Assistant County Manager, Venetta Valdengo	Department Director - Ian Golden, 5-2007



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972

July 8, 2015

MEMORANDUM

TO: Ian Golden, Housing and Human Services

Attn: Juanita Davis

RE: Item II.B.1., Agreement with Crosswinds Youth Services, Inc. for Housing Improvements to Children's Emergency Shelter

The Board of County Commissioners, in regular session on July 7, 2015, executed Agreement with Crosswinds Youth Services, Inc., for housing improvements to their children's emergency shelter; and authorized the County Manager or designee to execute modifications and amendments to the Agreement, upon approval by the County Attorney and Risk Management. Enclosed are three executed Agreements for your action.

**Upon execution by Crosswinds Youth Services, Inc., please return a fully-executed Agreement to this office for inclusion in the official minutes.**

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

/kg

Encls. (3)

cc: Contracts Administration  
Finance  
Budget

AGREEMENT BETWEEN  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS  
AND  
CROSSWINDS YOUTH SHELTER, INC.

THIS AGREEMENT, entered into this 7 day of July 2015 by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the County), and Crosswinds Youth Shelter, Inc. (hereinafter referred to as the Owner).

WHEREAS, the Florida Housing Finance Corporation allocated State Housing Initiatives Partnership Program (SHIP) funds to the County to fund housing programs that meet local needs and priorities; and

WHEREAS, the County in accordance with SHIP, allocates funds for projects that result in the creation of affordable housing for very low income households; and

WHEREAS, the County desires to award a non-interest bearing, forgivable SHIP loan in an amount of up to Ninety Thousand Dollars \$90,000 to the Owner for this rehabilitation project; and

WHEREAS, the Owner agrees that the project will be carried out in accordance with SHIP requirements, the terms of this agreement, and those set forth in the submitted Application dated December 31, 2014.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained, including the attachments, and subject to the terms and conditions hereinafter stated, the parties mutually understand and agree as follows:

**SECTION I: DEFINITIONS**

**Affordability:** refers to the requirements of the SHIP Program that relate to the cost of housing at initial occupancy through established timeframes, as prescribed in the SHIP regulations. Affordability requirements vary depending on the nature of the SHIP-assisted activity, such as homeownership or rental housing.

**Area Median Income (AMI):** the median family income adjusted for family size, as published by Florida Housing Finance Corporation annually.

**Annual Income:** projected annual income established in compliance with SHIP regulations, specifically established at 24 CFR Part 5.609.

**Department:** Housing and Human Services Department of Brevard County.

**Director:** the Director of the Housing and Human Services Department.

**Fair Housing:** requirements for non-discrimination based on race, color, sex, disability, religion, familial status or national origin in accordance with Federal Regulations 24 CFR 100-146 and State Law FS 760.

**Hard Costs:** costs associated with the construction of a project.

**Owner:** Crosswinds Youth Services, Inc.

**Project:** one or more buildings on a single site or multiple sites that are under common ownership, management, and financing to be assisted with SHIP funds as a single undertaking.

**Project Completion:** the stage at which all necessary title transfer requirements and construction work have been performed: the project complies with all SHIP funds requirements; the final draw-down has been disbursed for the project; and the project completion information has been entered in the SHIP tracking), established by the State of Florida.

**SHIP:** State Housing Initiative Program

**Soft costs:** Administrative and holding costs associated with a project.

**Very Low-Income:** individual whose gross annual income does not exceed fifty percent (50%) of the AMI.

**Work:** all the professional, technical, and construction services to be rendered or provided by the Developer.

## SECTION II: USE OF SHIP FUNDS

### A. Project Description

Crosswinds Youth Services, Inc. (Owner) Emergency Children's Shelter serves children and teenagers ages 10 through 17 who are experiencing serious family instability, have been abused or neglected, are endangered because they have run away or are without an appropriate place to live, whose foster care placement was interrupted, or are facing other crises. Crosswinds Youth Services provides a variety of programs and services to include a transitional living program for young adults, ages 16-21 and Independent Living Services for youth transitioning from foster care to adulthood.

This rehabilitation project will consist of the replacement of two (2) commercial HVAC units in the 28-bed/units Robert E. Lehton Emergency Children's Shelter for children and teenagers ages 10 through 17, located at 1407 Dixon Blvd, Cocoa, FL 32922.

As a part of this project, the Owner will continue to coordinate with the Brevard Homeless Coalition (BHC) for referrals to the shelter.

- B. Owner expressly agrees to complete all work required by this agreement in accordance with the proposed timetable set forth. The Owner shall, upon completion of the project, and until the expiration of this agreement, take all steps necessary to manage, maintain and operate the property in accordance with all applicable federal, state and local laws, statutes, regulations and ordinances.

MILESTONE	COMPLETION DATE
Project Start	5 days from Contract Signing
Construction time to substantial completion	125 days from Contract Signing
Final Completion	155 days from Contract Signing

### C. Construction/Rehabilitation Management

- Construction and Rehabilitation Standards:** housing that is constructed or rehabilitated must meet all local codes and ordinances at the time of project completion in accordance with local property standards.
- Contracts and Sub-Contracts:** the Owner shall be fully responsible to the County for the acts and omissions of persons directly employed by them to work on this Project. Nothing contained in this agreement shall create any contractual relationship between the Owner and any of the Owner's subcontractors and the County.
- Licenses and Permits:** the Owner shall be responsible for obtaining and processing, throughout the term of this agreement, all licenses and permits applicable to its operations under federal, state and local laws, and shall comply with all fire, health and other applicable regulatory codes.

4. **Procurement Standards:** the Owner shall be required to comply with the County's Procurement Policy. It is understood that rehabilitation/repairs cannot begin until three bid packets have been reviewed and approved by the County.

### **SECTION III: TIMING AND DURATION OF AGREEMENT**

The term of this agreement between the County and the Owner shall begin on the date of execution by both parties and shall continue for (15) years unless extended in accordance with the provisions of this agreement.

### **SECTION IV: AFFORDABILITY REQUIREMENTS**

The shelter beds/units must meet the affordability requirements and the applicable property standards throughout the affordability period. The shelter beds/units shall remain affordable for the duration of the agreement as the youth residing in the shelter will not be charged rent.

The affordability period shall be for fifteen (15) years. The Owner agrees to sign a fifteen (15) year mortgage deed and security agreement and mortgage note, made a part hereof by references as **Attachments A and B**.

Owner will be required to repay the loan if the housing does not meet the affordability requirements for the specified time period.

### **SECTION V: INCOME/ELIGIBILITY**

The project will impact 100% of youths served at the shelter. The youth residing in the shelter are considered to be homeless and have no income.

### **SECTION VI: COMPLIANCE MONITORING**

Monitoring will include compliance with all contractual requirements, including, but not limited to reporting, record retention and project development. In addition, the project is subject to ongoing SHIP compliance requirements for fifteen (15) years from contract execution. During this compliance period, the Owner will assure continued compliance with SHIP requirements. Compliance shall include maintaining property standards, occupancy compliance, and the following:

#### **A. On-going Monitoring for the Period of Affordability:**

- Tenants eligibility
- Unit affordability
- Physical inspection of the units

### **SECTION VII: ENFORCEMENT PROVISIONS**

Timely completion of the work specified in this agreement is an integral and essential part of performance. The expenditure of SHIP funds is subject to Florida Housing Finance Corporation deadline and could result in the loss of funds. By the acceptance and execution of this agreement, the Owner understands and agrees that the project will be completed as expeditiously as possible and that the Owner will make every effort to ensure that the project will proceed and not be delayed. Failure to meet these deadlines can result in the cancellation of this contract and the revocation of SHIP funds.

All SHIP funds are subject to repayment in the event the project does not meet the project requirements.

It is understood that, upon the completion of the project, any SHIP funds reserved; but not expended under this agreement will be retained to the County.

Funds will remain as a deferred, forgivable interest free loan for a period of fifteen (15) years after the project is complete. Sale of the property to another party may occur only with the approval from the County, and the purchaser shall assume all obligations of the Owner under this agreement, the note, mortgage, and the deed covenants. Provisions in those documents will provide for the deletion of the requirements only in the event of a third-party foreclosure or deed in lieu of foreclosure.

## **SECTION VIII: ADMINISTRATIVE REQUIREMENTS**

### **A. Record Keeping**

The Owner shall be responsible for maintaining a project file and tenant files, with documentation relevant to this project such as, but not limited to, proposal, agreement, financial expenditures, reports, tenant income, affordability and correspondence. All records shall be presented and maintained in sufficient detail as required to ensure a proper audit.

### **B. Record Retention**

The Owner shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of **five (5)** years after the expiration date of the agreement. If any audit findings have not been resolved at the end of the five (5) year period, the records shall be retained until resolution of the audit findings. State auditors and any persons duly authorized by the County shall have full access to, and shall have the right to examine, any of said materials upon request during regular business hours.

General records shall be maintained for five (5) years after expiration or termination of the contract period. Records regarding tenant income, affordability and inspection information must be maintained for the most recent five (5) years, until five (5) years after the affordability period ends.

### **C. Reporting**

The Owner agrees to submit a Demographics Report to the County at the time of project completion, attached hereto and made a part of by reference **Attachment C**, and a monthly status report attached hereto and made a part of by reference **Attachment D**.

The County retains the right to change the reporting requirements or data elements with notice to the Owner without an amendment to this contract.

## **SECTION IX: PROPOSED BUDGET**

It is agreed and understood that the total amount to be paid by the County under this agreement shall not exceed the awarded SHIP funds, in an amount of up to Ninety Thousand Dollars (\$90,000).

A proposed budget has been submitted by the Owner as part of the Owner proposal. It is further understood that upon the receipt of three (3) bids, the Owner will submit a final budget to the County for review and approval within two (2) weeks. Said budget shall identify all sources and uses of funds, and allocated SHIP and non-SHIP funds to activities or line items.

- A. Eligible Use of Funds:** Funds may be used solely for the purpose of rehabilitation of the property that has been approved by the County.

- B. Ineligible Uses of Funds:** Funds may not be used for supportive services. Costs, expenses, and items which would be disallowed as supportive services shall include, but not be limited to: back taxes, security or utility deposits, maintenance costs, code enforcement fines and/or liens, homeowner association fees, or condominium fees.

The County shall not pay, or reimburse, the Owner for any interest charges, late payment charges, or litigation expenses, such as, but not limited to, attorney fees and legal costs the Owner may incur for the Owner's failure to pay any subcontractors and/or supplier in a timely manner as provided for by contract or statute.

BUDGETED ITEM	PROPOSED BUDGETED	SOURCE
HVAC units	\$90,000	Brevard County
HVAC units	\$3,327	Crosswinds Youth Services
<b>Total</b>	<b>\$93,327</b>	<b>Brevard County/Crosswinds Youth Services</b>

**C. Change Order Process and Requirements**

It is understood that any changes in the scope of work shall be based upon an agreement between the County and the Owner. The Owner shall submit a written request for a change order to the County. The change order must state the requested changes to be performed and the new amount of the change. The County will review the request and approve if applicable. The County will prepare a written change order that will include the approved changes and the revised dollar amount of the change.

**SECTION X: REQUEST FOR DISBURSEMENT OF FUNDS/PAYMENT PROCEDURES**

The Owner shall submit a **Housing and Human Services Department Request for Reimbursement Invoice Form**, attached hereto and made a part hereof by reference as **Attachment E**, according to the following conditions:

- A. The Owner may only request disbursement of SHIP funds when the funds are needed to pay eligible costs.
- B. The Owner may not request payment of funds until an inspection approving all construction work is performed by the County.
- C. Brevard County will withhold and retain ten percent (10%) of each draw request for the rehabilitation costs associated with the project. After the initial payment, **Release of Liens for previous payments and copies of cancelled checks to contractors and sub-contractors** will be required before additional draw requests will be approved. The final payment of the retainage withheld shall be made upon issuance of a Certificate of Completion from the local building department and final approval by the County. Full release of liens, final inspection from the County, and proof of warranty from the Contractor must be provided by the Owner before the final payment is processed.
- D. Upon receipt of supporting documentation, payments will be mailed directly to the Owner.

Failure to submit the required documentation will result in payment delays. The County shall pay the Owner within **forty-five (45) working days** from receipt of approved payment request.

If the Owner has not requested a payment/disbursement within a twelve (12) month period, regardless if previous requests for disbursement have been made, the Owner will be required to provide a written narrative with the reason(s) to the County. Failure to provide a written narrative may result in the cancellation of the project.

## SECTION XI: GENERAL CONDITIONS

### A. Indemnification

The Owner shall indemnify and hold harmless the County and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of the Owner, or anyone directly or indirectly employed by the Owner, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused, in part, by a party indemnified hereunder. In any and all claims against the County, or any of its agents or anyone directly or indirectly employed by the Owner, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial Owner, under workers' compensation acts, or other related policies of insurance. The parties acknowledge specific consideration has been exchanged for this provision.

### B. Amendments/Modifications to Contract

This agreement, together with any attachments, task assignments and schedules constitute the entire agreement between the County and the Owner and supersedes all prior written or oral understandings. This agreement and any attachments, task assignments and schedules may only be amended, supplemented or cancelled by a written instrument duly executed by the parties hereto. The Director of the Housing and Human Services Department is authorized to sign any amendments/modifications to this agreement.

### C. Insurance

The Owner shall at their own expense, keep in force and at all times maintain, during construction and then during the term of this Agreement, the insurance as listed below. The Owner will also be responsible for any losses incurred due to theft, vandalism or any other related losses.

1. **General Liability Insurance:** General Liability Insurance issued by responsible insurance companies, and in a form acceptable to the County, with combined single limits of not less than One Million Dollars \$1,000,000.00 for Bodily Injury and Property Damage per occurrence, if applicable.
2. **Directors and Officers Insurance:** Directors and Officers coverage with minimum limits of One Million Dollars \$1,000,000.00, if applicable.
4. **Workers' Compensation Coverage:** Full and complete Workers' Compensation Coverage, as required by the State of Florida law shall be provided, if applicable.
5. **Builders Risk Insurance:** Loss limits shall be equal to the value of the construction project, if applicable.
6. **Property Insurance:** Coverage providing all risk insurance including windstorm protection, in an amount equal to the replacement cost of the structure.
7. **Insurance Certificates:** The Owner shall provide the County with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the County. Said Liability Policies shall provide that the County be an additional insured. The County shall be notified in writing of any reduction, cancellation, or substantial change of policy or policies, at least thirty (30) days prior to the effective date of said action. Responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida shall issue all insurance policies. The Owner shall ensure that its insurance of its contracted agents is adequate and sufficient to cover the activities performed under this agreement and that the insurance requirements upon all Owner conform to and comply with all applicable local, state and/or federal requirements.

#### **D. Attorney's Fees**

In the event of any legal action to enforce the terms of this agreement, each party shall bear its own attorney's fees and costs.

#### **E. Governing Law**

This agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

#### **F. Compliance with Statutes**

It shall be the Owner's responsibility to comply with all federal, state and local laws.

#### **G. Venue**

Venue for any legal action by any party to this agreement to interpret, construe or enforce this agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

#### **H. Assignments**

The Owner shall not assign any portion of the agreement without written permission of the County.

#### **I. Termination**

If party fails or refuses to perform any of the provisions of this agreement or otherwise fails to timely satisfy the agreement provisions, either may notify the other party in writing of the nonperformance or terminate the agreement or such part of the agreement as to which there has been delay or a failure to properly perform. Such termination is effective upon the other party's receipt of the Notice of Termination. Any work completed or services provided prior to the date of termination shall, at the option of the County, become the property of the County. The County is only responsible for payment for work completed prior to the effective date of termination. The County may also terminate this agreement at any time based upon availability of funds as determined by evaluation of the departmental expenditure goals, compliance with these contract term and regulatory compliance by the Director of Housing and Human Services.

#### **J. Independent Contractor**

The Owner shall perform under the terms of this agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in the agreement shall be interpreted or construed to constitute the Owner or any of its agents or employees to be the agent, employee or representative of the County.

#### **K. Right to Audit**

In the performance of this agreement, the Owner shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the County and shall be retained by the Owner for a period of the entire term of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Agreement, shall be subject to copyright by Owner in the United States or any other country.

#### **L. Audits**

If the Owner is a local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Owner expends \$750,000 or more in federal or State awards in its fiscal year, the Owner must have a single or program-specific audit conducted in accordance with the Single Audit Act Amendments of 1996, and OMB Circular A-133, as revised. In determining the federal awards expended in its fiscal year, the Owner shall consider all sources of Federal and State awards, including federal resources received from the County. The

determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Owner conducted by an independent certified public accountant (CPA) licensed under Chapter 473, Florida Statutes, in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph. If the Owner expends less than \$750,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Owner expends less than \$300,000 in federal or State awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-federal resources (such as the cost of such audit must be paid from the Owner's resources obtained from other than federal entities).

In accordance with OMB Circular A-133, if applicable, the Owner shall submit to the County a copy of the audit and all related responses within one hundred twenty (120) days after termination of this agreement. If unable to meet the audit deadline, the Owner must submit a written request for an extension approval by the Director to the following address:

Housing and Human Services Department  
Ian Golden, Director  
2725 Judge Fran Jamieson Way, Building B  
Viera, FL 32940

**M. Unauthorized Alien Workers**

The County will not intentionally award publicly-funded contracts to any Owner who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act (INA)). The County shall consider the Owner's intentional employment of unauthorized aliens as grounds for immediate termination of this agreement.

**N. Federal Tax ID Number**

The Owner shall provide to the County the Owner's Federal Tax ID Number or, if the Owner is a sole proprietor, a Social Security Number.

**O. Conflict of Interest**

The Owner shall not engage the services of any person or persons now employed by the County, including any department, agency board or commission thereof, to provide services relating to this contract without written consent from the County. The Owner shall not accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements. The Owner shall not award a contract or subcontract under this agreement to any company who the Owner has a financial or any other interest in, including but not limited to employing an employee, an employee of the Owner or any member of an employee's, agents, or officer's immediate family of the Owner employee, including officers, employees, agents, consultants or elected or appointed officials. The Owner and/or any of the aforementioned entities may not occupy a unit unless approved by the County.

**P. Public Entity Crimes**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as an Owner, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

#### **Q. Information Release/Grantor Recognition**

News releases, publicity releases, or advertisements relating to this agreement or the tasks or projects associated with the project, shall be submitted in writing to the County and be approved in advance of any release or publication. Releases shall identify the funding entity as well as the funding source.

#### **R. Debarment and Suspension**

The County will not intentionally award contracts to any agency or its Owner and/or subcontractors that:

1. Have been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local Department or agency;
2. Have, within a three (3) year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) above; and
4. Have, within a three (3) year period preceding this application/proposal, had one or more public transactions (Federal, State, or local) terminated for cause or default.

#### **SECTION XI: CONSTRUCTION OF AGREEMENT**

The parties hereby acknowledge that they fully reviewed this agreement and its attachments and have had an opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the drafter of this agreement.

#### **SECTION XII: NOTICES**

All notices required or permitted by this agreement shall be in writing and shall be deemed delivered upon hand delivery, or three (3) days following deposit in the United States Postal System, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

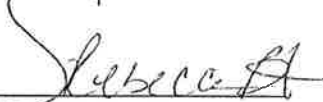
##### **FOR THE COUNTY:**

Housing and Human Services Department  
Ian Golden, Director  
2725 Judge Fran Jamieson Way, Building B  
Viera, FL 32940

##### **FOR THE OWNER:**

Crosswinds Youth Services, Inc.  
Jon Lokay, President/CEO  
1407 Dixon Boulevard  
Cocoa, FL 32922

Reviewed as to form  
And legal content for  
Use and reliance of  
Brevard County only.

  
Assistant County Attorney

Date: 6/10/15

**IN WITNESS WHEREOF:** the parties have hereunto set their hands and seals on the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

By:   
Stockton Whitten, County Manager

Date: \_\_\_\_\_

As approved by the Board on: 07-07-15

**WITNESS:**  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title, Typed or Printed

By: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Name & Title, Typed or Printed

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Area Code/Telephone Number

ATTACHMENT A

15 YEAR TERM

MORTGAGE DEED AND SECURITY AGREEMENT

Brevard County Board of County Commissioners

**THIS MORTGAGE DEED AND SECURITY AGREEMENT** (Mortgage) made, executed and given this \_\_\_\_ day of \_\_\_\_\_, 2015 by Crosswinds Youth Services, Inc. (individually and collectively, Mortgagor) with its principal place of business located at 1407 Dixon Blvd., Cocoa, FL 32922, to and in favor of the Brevard County Board of County Commissioners, a political subdivision of the State of Florida, with its principal place of business located at 2725 Judge Fran Jamieson Way, Viera, Florida, (herein designated as the Mortgagee) for funding assisted with Brevard County SHIP funds.

**WITNESSETH**, that for diverse good and valuable consideration of the aggregate sum named in the promissory note (Note), which reference includes renewals thereof, hereinafter described, the Mortgagor does grant, bargain, sell, alien, remise, release, convey and confirm unto thee Mortgagee, in fee simple, all that certain tract of land, together with all improvements therein or thereon or as hereinafter described (Property), of which the Mortgagor is now or hereafter seized and possessed, located in Brevard County, State of Florida, as described at:

PART OF N 1/2 OF SW 1/4 OF NW 1/4 AS DESC IN ORB 890 PG 136; ALL OF BLK D OF PB 5 PG 39; ALL OF BLKS A,B,D & LOTS 6 & 7 OF BLK C OF PB 11 PG 87 ALSO INCLUDING ALL OF VAC WESTWOOD LANE & GARDEN LANE

**TOGETHER** with all and singular the structures, improvements and appurtenances thereunto which are now or hereafter placed upon said Property and the fixtures, machinery, equipment, and articles of personal property attached thereto or used in connection therewith, and all rents, issues, proceeds and profits accruing and to accrue from the Property and any deposits, fees and prepayments made to regulatory agencies for the benefit of the Property and any permits or reserved capacities or utility service obtained in consideration therefore, and all of the rights, title and interest of the Mortgagor of, in and to the lands lying in the bed of any street, road, avenue, alley or right-of-way in front of or adjoining the Property and to the strips and gores of land adjacent to or adjoining the Property or incidental thereto and in and to any and all water rights, easements and all of the estate and rights of the Mortgagor in and to the Property, all of which are included within the foregoing description and the addendum hereof, and all gas, steam, electric, water and other heating, cooking, refrigerating, lighting, plumbing, ventilating, irrigating, and power systems, machines, appliances, fixtures and appurtenances, which are now or hereafter pertain to or be used with, in or on the Property, even though they may be detached or detachable, with every privilege, right, title, interest and estate, dower and right of dower, reversion and easement thereunto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and also in the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the Mortgagor in and to the same and every part and parcel thereof unto the Mortgagee in fee simple.

And Mortgagor, and Mortgagor's heirs, legal representatives, successors and assigns, hereby covenants with Mortgagee that Mortgagor is indefeasibly seized of the Property in fee simple; that the Mortgagor has full power and lawful right to convey the same in fee simple as aforesaid; that it shall be lawful for Mortgagee, at all times peaceable and quietly, to enter upon, hold, occupy and enjoy the Property and every part thereof; that said

Property is free from all encumbrances, except as stated herein; that Mortgagor and Mortgagor's heirs, legal representatives, successors and assigns, will make such further assurances to perfect the fee simple title to the

Property in Mortgagee as may reasonably be required; and that Mortgagor does hereby fully warrant the title to the Property and every part thereof and will defend the same against the claim of all persons whomsoever.

**PROVIDED ALWAYS** that, if Mortgagor shall pay unto the Mortgagee the indebtedness stated in the Note, a copy or copies of which is/are attached hereto and made a part hereof by reference, and shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and the estate hereby created shall cease and be null and void; otherwise, the Mortgagee may, at the Mortgagee's option, declare the entire balance of the indebtedness secured hereby due and payable. The principal sum together with interest thereon at the rate of zero percent (0%) annum, shall become due at the completion of the **entire term of this agreement** period, except that the entire principal shall be forgiven at the completion of the entire term of this agreement in accordance with the term of the 15 year mortgage note.

**AND MORTGAGOR DOES HEREBY COVENANT TO AND AGREE WITH MORTGAGEE AS FOLLOWS:**

1. To pay all and singular the principal and interest and other sums of money payable by virtue of the Note and Mortgage, or either, promptly on the days respectively the same severally come due. To perform, comply with and abide by each and every of the stipulations, agreements, conditions and covenants set forth in the Note and this Mortgage. The principal sum together with interest thereon at the rate of zero percent (0%) annum, shall be forgiven at the completion of the 15 year term of this agreement period.

2. To pay all and singular the taxes, assessments, levies, liabilities, obligations and encumbrances of every nature on the Property each and every when due and payable, according to law, before they become delinquent; and, if the same shall not be promptly paid, the Mortgagee, at any time, either before or after delinquency, may pay the same without waiving or affecting its option to foreclose or any right hereunder, and every payment so made shall bear interest from the date thereof at the highest legal rate permitted by the laws of the State of Florida, payable monthly, until repaid, and each such payment, together with said interest thereon, shall be secured by the lien of this Mortgage.

3. To keep the buildings and all equipment and personal property now or hereafter on the Property covered by this Mortgage insured in a sum equal to at least the balance of the Note and equal to an amount sufficient to comply with any co-insurance requirements covering the same under the laws of the State of Florida and the insurance contract, covering loss from both fire and extended coverage, making the loss under said policies, each and every, payable to Mortgagee as its interest may appear and naming Mortgagee as additional insured; and the policy or policies shall be held by Mortgagee and in the event any sum of money becomes payable under such policy or policies, the Mortgagee shall have the option to receive and apply the same on account of indebtedness hereby secured or may permit Mortgagor to receive and use it or any part thereof for other purposes, without thereby waiving or impairing any equity, lien or right under and by virtue of this Mortgage. Mortgagee may place and pay for such insurance, or any part thereof, without waiving or affecting its option to foreclose or any right hereunder, and each and every payment so made shall bear interest from date thereof at the highest legal rate permitted by the laws of the State of Florida, payable monthly, until repaid, and each such payment, together with said interest thereon, shall be secured by the lien of this Mortgage.

4. To permit, commit or suffer no waste, impairment or deterioration of the Property, or any part thereof, and, upon the failure of the Mortgagor to keep the buildings or other improvements on the Property in good condition and repair, Mortgagee may demand the immediate repair of said buildings or other improvements or an increase in the amount of security or the immediate repayment of the debt hereby secured, and the failure of the Mortgagor to comply with said demand of the Mortgagee, for a period of thirty (30) days, shall constitute a breach of the Mortgage and, at the option of Mortgagee, immediately mature the entire amount of principal and interest hereby

secured, and Mortgagee immediately and without notice may institute proceedings to foreclose this Mortgage and may apply for and have appointed a receiver, as hereinafter provided.

5. The Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property; provided that the Mortgagee shall give the Mortgagor reasonable notice prior to any such inspection with reasonable cause related to the Mortgagee's interest in the Property.

6. To deliver to Mortgagee, on or before March 15 of each year, tax receipts evidencing the payment of all lawfully imposed taxes for the preceding calendar year, to deliver to Mortgagee receipts evidencing the payment of all liens for public improvements within forty-five (45) days after the same shall become due and payable; and to pay or discharge within ten (10) days after due date any and all government levies that may be made on the Property, on this Mortgage or Note, or in any other way resulting from the indebtedness secured by this Mortgage; and, if this condition be not complied with and performed, Mortgagee may, without waiving or affecting its option to foreclose, pay such sum or sums which shall become part of the debt secured by this Mortgage and which shall bear interest, payable monthly until repaid, at the highest legal rate permitted by the laws of the State of Florida.

7. The Mortgagor shall indemnify and hold the Mortgagee harmless from and against all costs, expenses, liabilities, suits, claims and demand of every kind or nature by or on behalf of any person whomsoever arising out of any accident, injury or damage which may happen in, on or about the property, and for any matter or thing growing out of the condition, occupation, maintenance, modification or use of the property.

8. That, in the event of a breach by Mortgagor of any covenant contained in this Mortgage or in the Note or, if applicable, in an Acquisition & Preservation Loan Agreement or Construction Loan Agreement between Mortgagor and Mortgagee and covering the Property, or any part thereof, the terms of such agreement being incorporated herein by reference, Mortgagee is entitled to receive all rents, issues, proceeds and profits accruing and to accrue from the Property pursuant to Florida Statutes 697.07 (2011) and, upon Mortgagor's receipt of a written demand made by Mortgagee, all future payments shall be paid directly to Mortgagee. If a receiver is appointed by a court having jurisdiction hereof, pursuant to Paragraph 8 or other provisions of this Mortgage, the order appointing such a receiver may direct that said rents, issues, proceeds, profits shall be paid to the receiver after the date of appointment. Nothing in this paragraph shall require the appointment of a receiver or excuse Mortgagor from failing to make payments directly to Mortgagee upon receipt of written demand therefore.

9. That Mortgagee is entitled to the appointment of a receiver even if the market value of the Property exceeds the amount of balance owed on the Note and additional charges due under this Mortgage and the Note.

10. If proceedings under any bankruptcy or insolvency law are commenced by or against Mortgagor or if a general assignment for the benefit of creditors is made by Mortgagor, whether under state or federal law, or a trustee or receiver of all or a substantial part of Mortgagor's property, whether or not covered by the lien of the Mortgage, is appointed, then, at Mortgagee's option and if permitted by law, the whole of the unpaid principal sum and accrued interest remaining unpaid on the Note shall become immediately due and payable.

11. That, if a guarantor of the payment and performance of the covenants, conditions and agreements of this Mortgage and the Note shall die or if a petition shall be filed for any relief under the provisions of the federal Bankruptcy Act or any state insolvency statute by or against a guarantor or if a guarantor shall make a general assignment for the benefit of creditors or if a receiver shall be appointed for substantially all of the property of the guarantor, then, and in any of the foregoing events, the Note shall become immediately due and payable at the option of the Mortgagee.

12. That, if all or any part of the Property or an interest therein is sold or transferred by Mortgagor, whether voluntary or involuntary, without Mortgagee's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household

appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three (3) years or less not containing an option to purchase, Mortgagee may, at its option, declare all the sums secured by this Mortgage to be immediately due and payable. Mortgagee shall have waived such option to accelerate if, prior to the sale or transfer for which such waiver of option is requested, the Mortgagee and the person or entity to whom the Property is to be sold or transferred reach agreement in writing that the credit of such third party is satisfactory to Mortgagee and that the interest payable on the Note shall be at such rate as Mortgagee shall request. If Mortgagee exercises such option to accelerate, Mortgagee shall mail Mortgagor notice of acceleration and such notice shall provide a period of not less than thirty (30) days from the date the notice is mailed within which Mortgagor must pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may, without further notice demand on Mortgagor, invoke any remedies permitted by this Mortgage and the Note.

13. If the Property or any part thereof shall be condemned and taken for public use under the power of eminent domain, Mortgagee shall have the right to require that all damages awarded for the taking of or damages to said Property shall be paid to Mortgagee up to the aggregate amount then unpaid on the Note and credited to the payment or payments last payable thereon.

14. That time is of the essence of this Mortgage and of the Note and no waiver of any obligation hereunder or in the Note shall at any time thereafter be held to be a waiver of the terms hereof or of the Note or other instruments secured hereby.

15. To comply with all the terms, provisions and conditions of any superior mortgage or lien encumbering the Property, including, but not limited to, those applicable to the payment of the principal and interest due under said superior mortgage or lien or *deed restrictions*. If Mortgagor fails to comply with each and every one of the terms, provisions and conditions of said encumbrance, the failure to comply or default on Mortgagor's part shall constitute a default under this Mortgage and the Note shall entitle Mortgagee, at its option, to exercise any and all of its rights and remedies hereunder. If foreclosure proceedings of any superior or inferior mortgage or any senior or junior lien of any kind should be instituted, Mortgagee may, at Mortgagee's option, immediately or thereafter, declare this Mortgage and the entire indebtedness secured hereby due and payable.

16. To the extent of the indebtedness of the Mortgagor to Mortgagee described herein, or secured hereby, Mortgagee is hereby subrogated to the lien or liens and to the rights of the Developers and holders of each and every mortgage, lien or other encumbrance on the Property which is or has been paid or satisfied, in whole or in part, out of the proceeds of the Note and the respective liens of said mortgages, liens, Deed Restrictions attached to this Mortgage Agreement or other encumbrances, shall be, and the same are hereby, preserved and shall pass to and be held by the Mortgagee herein as a security for the indebtedness to Mortgagee herein described or hereby secured to the same extent that it would have been passed to and held by Mortgagee, had it been duly and regularly assigned, transferred, set over and delivered unto Mortgagee by separate assignment, notwithstanding the fact that the same may be satisfied and canceled of record.

17. To pay all and singular the costs, charges and expenses, including reasonable attorney's fees and costs of abstracts of title, incurred or paid at any time by Mortgagee because or in the event of the failure on the part of the Mortgagor to duly, promptly and fully perform, discharge, execute, effect, complete, comply with and abide by each and every the stipulations, agreements, conditions and covenants of the Note and this Mortgage, any or either, and said costs, charges and expenses, each and every, shall be immediately due and payable whether or not there be notice, demand, attempt to collect or suit pending; then the full amount of each and every such payment shall bear interest from the date thereof until paid at the highest legal rate permitted by the laws of the State of Florida; and all said costs, charges and expenses so incurred or paid, together with such interest, shall be secured by the lien of this Mortgage. Reference herein to "reasonable attorney's fees" shall include attorney fee incurred by the Mortgagee for appellate and bankruptcy proceedings incident to any action brought hereunder or upon the Note.

18. That, if any word, clause, term, phrase or paragraph used in the Note or this Mortgage should be held to be unenforceable by any court of competent jurisdiction, the same shall not affect, alter or otherwise impair the meaning of any other word, clause, term, phrase or paragraph in the Note and Mortgage, and the same shall stand in full force and effect and shall be obligatory upon the parties hereto and the assignees, heirs and legal representatives of the parties hereto.

19. That, except for any notice required under applicable law to be given in another manner, any notice to Mortgagee provided for or given pursuant to this Mortgage shall be given by mailing such notice, postage prepaid, by United States registered or certified mail, return receipt requested, to Mortgagee's address as stated herein or in the Note secured hereby or to such other address as Mortgagee may designate, in writing, by notice to Mortgagor from time to time.

20. That all remedies provided in this Mortgage or in the Note, other instrument secured hereby or incorporated by reference herein, are distinct and cumulative to any other right or remedy under this Mortgage or such other instrument or afforded by law or equity and may be exercised concurrently, independently or successively. The Note shall become due at the option of Mortgagee if any representation or warranty made or given by Mortgagor or otherwise made in writing in connection with the transaction evidence by this Mortgage shall prove to have been false or incorrect in any material respect as of date hereof and such defect (if curable) shall not have been cured within seven (7) days from the date of the mailing of notice thereof to the Mortgagor.

21. That, notwithstanding anything to the contrary contained in this Mortgage or in the Note or in any other instruments securing the Note, Mortgagee may, at Mortgagee's option, declare the entire indebtedness secured hereby, together with all interest thereon and all advances made by the Mortgagee hereunder, immediately due and payable in the event of the breach by Mortgagor of any covenant contained in this Mortgage or in the Note or, if applicable, in the Acquisition & Preservation Loan Agreement or a Construction Loan Agreement referred to in Paragraph 7. In the event of any conflict between the terms of this Mortgage and the terms of said loan agreement, the terms of the loan agreement shall prevail.

22. To collaterally assign, coincident herewith or hereafter, to Mortgagee, any lease or leases of all or of any portions of the Property. If such assignment is made and accepted by Mortgagee, Mortgagor shall perform promptly each and every covenant and agreement of any such lease that is to be kept or performed by the Mortgagor in Mortgagor's capacity as lessor and any violation on Mortgagor's part of any covenant or agreement in any such lease or in the assignment of said lease that is to be kept or performed by Mortgagor, or any violation on Mortgagor's part of any agreement by Mortgagor set out in such Assignment of Lease, shall constitute a breach of this Mortgage and thereupon Mortgagee may, at its option, without notice, declare the Note immediately due and payable. Mortgagor will advise Mortgagee promptly of the execution hereafter of any lease of all or any part of the Property and shall, upon Mortgagee's request, submit to Mortgagee for examination and approval any such lease. If Mortgagee so requests, Mortgagor shall specifically collaterally assign such lease to Mortgagee (in form acceptable to Mortgagee) and it is agreed that the provisions of this Mortgage with regard to Mortgagor's obligations and Mortgagee's rights with respect to leases and collateral assignment of the same shall apply to all such additional leases and assignments thereof. Mortgagee may, at its option, perform any covenant or provision of any such lease for and on behalf of the Mortgagor and at the Mortgagor's expense and any amount advanced for this purpose shall bear interest at the same rate as for other advances and shall be secured by this Mortgage and shall be payable upon demand. The security interest created by the following paragraph of this Mortgage is specifically intended to cover and include all leases of the Property, together with all amendments and supplements thereto, between Mortgagor as lessor and any tenants named therein as lessees including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacements of said leases, together with all the right, title and interest of Mortgagor as lessor hereunder, including, without and any tenants named therein as lessees, including all extended terms of all extensions and limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any and all of the rents, income, revenue, issues, profits and moneys payable as damages or in lieu of the rent, and moneys payable as the purchase price of the

Property, or any part thereof, or of awards of claims for money and other sums of money payable or receivable hereunder, howsoever payable; and to bring actions and proceedings hereunder or for the enforcement thereof; and to do any and all things which Mortgagor or any lessor is or may be entitled to do under the lease, provided that the assignment made by this paragraph and the collateral assignment of lease, if any, entered into simultaneously herewith or subsequent hereto shall not impair or diminish any obligations of Mortgagor under the lease nor shall any obligations be imposed upon the Mortgagee, except at Mortgagee's option, to perform any duties or obligations imposed by the terms of the lease upon the Mortgagor as lessor in said lease. Nothing herein contained, including the acceptance of a Collateral Assignment of Lease by Mortgagee, shall subordinate the lien of this Mortgage to such lease unless such subordination is specifically provided for herein or by separate written instrument executed by Mortgagee.

23. That, in addition to all other right, title and interest of Mortgagor granted, mortgaged, conveyed, pledged and assigned herein, or in instruments collateral hereto, Mortgagee shall have, and there is hereby created in favor of Mortgagee, a security interest in all equipment and fixtures now or hereafter attached to or used in connection with the Property, as well as any other property of Mortgagor as may be useful and necessary for operation of the Property, including, but not limited to, electrical, plumbing, heating and cooling systems, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by Mortgagor and is affixed, attached, or annexed to or used in connection with the Property, shall be and remain or become and constitute a portion of the Property and be subject to the lien of the security interest created by this Mortgage, together with all rents, income, revenues, issues and profits thereof and present and continuing right in the Mortgagee to make claim for, collect, receive and receipt for the same. Mortgagor will not remove, attempt to remove or permit to be removed any part of the Property, which includes items described in the security instrument referenced in Paragraph 22, without first and prior to removal thereof, having received permission in writing for such removal from Mortgagee. Mortgagor will immediately execute such Financing Statements and renewals thereof as may be periodically requested by Mortgagee. If Mortgagor fails or refuses to comply with such request, Mortgagee is irrevocably authorized to execute such documents as Mortgagee's attorney-in-fact.

24. To not use, nor knowingly permit the use of, the Property or any part thereof for any unlawful purpose or for the commission of a nuisance.

25. That neither the provisions of this Mortgage, nor of the Note, shall have the effect of or be construed as requiring or permitting the Mortgagor to pay interest in excess of the highest rate per annum allowed by the laws of the State of Florida on any item or items of indebtedness referred to in the Note or this Mortgage and, if any such excess interest be charged or paid, written notification thereof shall be given by Mortgagor to Mortgagee and such excess interest, together with interest thereon at the legal rate, shall, at Mortgagor's option, either be credited to the unpaid principal indebtedness secured hereby or reimbursed to the Mortgagor.

26. That any part of the security herein described and covered by the lien or this Mortgage may be released with or without consideration and without regard to the amount of consideration furnished without in anywise altering, varying or diminishing the force, effect or lien of this Mortgage or any renewal or extension of it, and the same shall continue as a lien on all Property not expressly released until all sums, with interest and charges hereby secured, be fully paid.

27. That the terms "hazardous waste", "hazardous substance", "disposal", "release", and "threatened release", as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, *et. Seq.*, ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA") the Hazardous Materials Transportation Act. 49 U.S.C. Section 6901, *et. Seq.*, or other applicable state or federal laws, rules, or regulations adopted pursuant to any of the foregoing. Mortgagor represents and warrants to Mortgagee that: (a) during the period of Mortgagor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment,

disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property; and (b) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Mortgagee in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any prior Developers or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) except as previously disclosed to and acknowledged by Mortgagee in writing, (i) neither Mortgagor, nor any tenant, Developer, agent or other authorized present or future user of the Property, shall use, generate, manufacture, store, treat, dispose of or release any hazardous waste or substance on, under or about the Property and (ii) any activity on the Property shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances, including, without limitation, those laws, regulations and ordinances described above. Mortgagor authorizes Mortgagee and Mortgagee's agents to enter upon the Property to make such inspections and tests as Mortgagee may deem appropriate to determine compliance by Mortgagor and the Property with the provisions hereof. Any inspections or tests made by Mortgagee shall be for Mortgagee's purposes and benefit only and shall not be construed to create any responsibility or liability on the part of Mortgagee to Mortgagor or to any other person or entity, governmental or otherwise. The representations and warranties continued herein are based on Mortgagor's due diligence in investigating the Property for hazardous waste. Mortgagor (a) releases and waives any present or future claims against Mortgagee for indemnity or contribution if Mortgagor becomes liable for cleanup or other costs under such laws, and (b) agrees to indemnify and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties and expenses which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this provision or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior or subsequent to Mortgagor's ownership or interest in the Property, whether or not the same was or should have been known to Mortgagor. The provisions of this paragraph, including the obligation to indemnify, shall survive the payment of the Note and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Property, whether by foreclosure or otherwise.

28. To maintain the Property, at Mortgagor's sole expense, and make such repairs and renovations as may, during the term of this Mortgage, be required for compliance with The Americans with Disabilities Act, 42. U.S.C. 12101, et. Seq. and amendments thereto (ADA). Any notice or warning of violation or noncompliance of or with the provisions of ADA received by Mortgagor shall be sent in accordance with Paragraph 18 to Mortgagee within ten (10) days after receipt thereof and Mortgagor shall have a period of thirty (30) days thereafter (unless a shorter term is imposed by the notice or warning) within which to furnish to Mortgagee a written plan and time schedule for correcting the deficiency in accordance with the requirements of ADA.

29. This Mortgage shall, at the option of the Mortgagee, secure, in addition to the debt evidenced by the Note, any other liability or liabilities owned by the Mortgagor to the Mortgagee, whether direct or indirect, secured or unsecured, contingent or fixed, now due or to become due, or which may hereafter be contracted by virtue of any advances, disbursements, payments, charges or costs made or incurred by the Mortgagee under the terms of this Mortgage or any other instrument including, but not by way of limitation, promissory notes, guaranties, financing statements, security agreements, endorsements and overdrafts, though the aggregate outstanding amount at any time may exceed the amount originally secured hereby. Mortgagee shall be entitled to receive and retain the full amount of the debt evidenced by the Note and the other liabilities herein described in any action for foreclosure, redemption by the Mortgagor, accounting for the proceeds of a foreclosure sale, accounting for insurance proceeds or condemnation award.

30. To waive and renounce to the extent permitted by law any and all homestead and exemption rights Mortgagor may now or hereafter have as against the payment of the obligation evidences or secured hereby, or any portion thereof, or any other obligation or damage that may accrue to Mortgagee's benefit under the terms of the Note and this Mortgage.

31. To pay to Mortgagee a transfer fee each time the legal or beneficial title to the Property is conveyed or assigned. The amount of such fee will be a specified amount or a percent of the principal balance remaining unpaid on the Note at the time of conveyance or assignment, except that such transfer fee shall not exceed one percent (1%) of the then principal balance or three hundred dollars (\$300.00), whichever is greater. The collection of a transfer fee shall not be construed as authorizing the assumption of this Mortgage other than as provided hereinabove.

32. That Mortgagee shall not be responsible or liable to anyone other than the Mortgagor for Mortgagee's disbursement of or failure to disburse the funds or any part thereof evidenced by the Note, and no third party, including any creditor or subrogate of the Mortgagor, shall have any claim or right against the Mortgagee under this Mortgage or the Note for Mortgagee's administration of disbursement, nor shall the Mortgagee be liable for the manner in which any disbursements under this Mortgage or the Note may be applied or misapplied by the Mortgagor.

33. In this Mortgage and the Note, the singular shall include the plural and the masculine shall include the feminine and neuter. Whenever the term Mortgagor is used herein, it shall include corporate and individual mortgagors, their heirs, personal representatives, trustees in dissolution, assigns and successors in interest in title to the Property.

34. This Mortgage, the Note and other instruments incidental hereto or referenced herein shall be construed according to the laws of the State of Florida, and the venue for any litigation brought on account of or incidental to this Mortgage shall be Brevard County, Florida, except that any foreclosure of this Mortgage will be filed in the county wherein the Property is located.

35. Mortgagee and Mortgagor hereby knowingly, voluntarily, and intentionally waive the right either may have to a trial by jury in respect to any litigation based hereon, or arising out of, under or in connection with this Mortgage and any agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or action of either party. This provision is a material inducement for Mortgagee entering into this transaction with Mortgagor.

36. Upon fulfillment of the requirements of this Mortgage, Note and Deed Restriction, the Mortgagee shall record a Satisfaction of Mortgage with the Clerk of the Court, Brevard County, Florida.

**IN WITNESS WHEREOF**, the Mortgagor has signed and sealed this Mortgage, the day and year first above written.

\_\_\_\_\_  
Jan Lokay, President/CEO  
Crosswinds Youth Services, Inc.

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, who is  personally known to me or has produced  \_\_\_\_\_ as identification and who did take an oath.

NOTARY SEAL

\_\_\_\_\_  
Notary Public – State of Florida

Commission Expires: \_\_\_\_\_

ATTACHMENT B

15 YEAR  
MORTGAGE NOTE

Brevard County Board of County Commissioners  
Brevard County, Florida

\$ \_\_\_\_\_, 2015

**For Value Received**, the undersigned promises to pay to the order of Brevard County Board of County Commissioners, 2725 Judge Fran Jamieson Way, Building B, 1<sup>st</sup> Floor, Viera, Florida, the principal sum of \$ \_\_\_\_\_ Dollars (\$0.00) together with interest thereon at the rate of zero percent (0%) per annum, shall be forgiven at the completion of the **entire term of this agreement** period. The Mortgage note shall become due within fifteen (15) years if all or any part of the Property or any interest in it is sold, transferred, gifted or otherwise conveyed, whether by voluntary act, involuntarily, by operation of law or otherwise, or if the Mortgagor is divested of title by judicial sale, levy or other proceeding, or if foreclosure action is instituted against the Property, or if the Mortgage is satisfied or refinanced, or if the Property is not utilized for affordable housing for persons with low income as defined by the HUD guidelines federal, state and local regulations. **The Lender reserves the first right of refusal for the purchase at the current market value minus awards** or to have all sums secured by this Mortgage become payable upon demand. Upon fulfillment of the terms of this Mortgage, at the end of fifteen (15) years from the date of this note, this note shall be extinguished in full.

**THIS NOTE** is secured by a Mortgage dated the \_\_\_\_ day of \_\_\_\_\_, 2015 herewith and is to be construed and enforced according to the laws of the State of Florida; upon violation of the terms of the Mortgage and this note, the whole sum of the principal Failure to exercise this option by Brevard County shall not constitute a waiver of the right to exercise the same in the event of subsequent default. A default shall be the occurrence of any of the following events, and upon that occurrence the Lender may, at the Lender's option, declare all sums secured by the Mortgage to be immediately due and payable.

- a. Nonperformance by the Borrower of any covenant, agreement, term or condition of the Mortgage, or of the Note, or of any other agreement made by the Borrower with the Lender in connection with such indebtedness, after the Borrower has been given due notice, as described hereafter, by the Lender of such nonperformance;
- b. Failure of the Borrower to perform any covenant, agreement, term or condition in any instrument creating a lien upon the mortgaged property, or any part thereof, which shall have priority over the lien of the Mortgage;
- c. The Lender's discovery of the Borrower's failure in any application of the Borrower to the Lender to disclose any fact deemed by the Lender to be material, or the making therein, or in any of the agreements entered into by the Borrower with the Lender (including, but not limited to, the Note and Mortgage) of any misrepresentation by, on behalf of, or for the benefit of the Borrower; and
- d. If property does not remain the principal residence of the Borrower, or if all or any part of the property or an interest therein is rented, leased, sold or transferred by the Borrower.

**OPTION OF LENDER UPON THE EVENT OF A DEFAULT.** Upon the occurrence of a default, the Lender shall send or hand deliver the Notice to the Borrower as is provided in Paragraph 16 hereof, specifying:

- a. The breach;
- b. The action required to cure such breach; and
- c. A date not less than thirty (30) days from the date the Notice is hand delivered or mailed to the Borrower by which such breach must be cured.

If the default is not cured on or before the date specified in the Notice, the Lender, at the Lender's option, may declare all of the sums secured by the Mortgage to be immediately due and payable without further demand.

The Lender shall give prior written notice of acceleration or default under the subordinate lien to the Mortgage Holder.

All sums repaid under the terms of this Agreement shall be paid to Brevard County Board of County Commissioners in care of Housing and Human Services Department.

\_\_\_\_\_  
Jan Lokay, President/CEO  
Crosswinds Youth Services, Inc.

Date: \_\_\_\_\_

ATTACHMENT C  
SHIP DEMOGRAPHIC AND TRACKING SHEET

Applicant's/Organization's Name (Head of Household): \_\_\_\_\_

Address: \_\_\_\_\_

Type of assistance:       Acquisition - Rental  
                                  Rehabilitation - Rental

\_\_\_\_\_ Maximum per unit award amount (\$\_\_\_\_\_ Construction + \$5000 Soft Costs)  
(total project costs cannot exceed maximum **this includes soft costs**)

\_\_\_\_\_ Date funds encumbered

\_\_\_\_\_ Applicants income level (ELI, VL, L, or MOD)

Yes \_\_\_\_\_ No \_\_\_\_\_ Unincorporated area (Is the unit in County, Unincorporated area?)

\_\_\_\_\_ Age of head of household    \_\_\_\_\_ Number of persons in household    # of Bed Rooms \_\_\_\_\_

Race: \_\_\_ White \_\_\_ Black \_\_\_ Hispanic \_\_\_ Asian \_\_\_ American Indian \_\_\_ Other (Specify)

Special Needs: Yes \_\_\_ No \_\_\_\_\_  
                         If yes, \_\_\_ elderly \_\_\_ disabled \_\_\_ farm worker \_\_\_ developmental disability)

Monthly Rent Amount \$ \_\_\_\_\_ (Client's monthly rental rate)

\_\_\_\_\_ Market or Original rent rate  
\_\_\_\_\_ SHIP/HOME loan amount  
\_\_\_\_\_ SHIP/HOME grant amount  
\_\_\_\_\_ Amount of public funds in this project or unit  
\_\_\_\_\_ Amount of private funds in this project or unit

Yes \_\_\_\_\_ No \_\_\_\_\_ Rental activity  
Yes \_\_\_\_\_ No \_\_\_\_\_ Construction activity

Completed by: \_\_\_\_\_ Date \_\_\_\_\_ Entered by: \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*Close Out\*\*\*\*\*

Total Project Cost \$ \_\_\_\_\_ (\$ \_\_\_\_\_ Total Construction + \$ \_\_\_\_\_ Total Soft Costs)

\_\_\_\_\_ Final Completion Date (date funds are fully expended and unit is occupied)

Close Out: Completed by \_\_\_\_\_ Date \_\_\_\_\_ Entered by \_\_\_\_\_ Date \_\_\_\_\_

Reviewed by \_\_\_\_\_ Date \_\_\_\_\_



ATTACHMENT E  
HOUSING AND HUMAN SERVICES DEPARTMENT  
REQUEST FOR REIMBURSEMENT FORM

REVIEWED BY: CONTRACT/PROJECT MONITOR: BRIAN BRESLIN	
FINANCIAL APPROVAL: _____	
BUSINESS AREA: <u>1490</u>	COST CENTER: <u>298033</u>
VENDOR#: <u>007147</u>	P.O.#: _____
AMOUNT: \$ _____	G.L. ACCOUNT: _____
APPROVED FOR PAYMENT BY: _____	
AUTHORIZED SIGNATURE	DATE
FUNDING SOURCE:	SHIP
NAME OF ORGANIZATION:	CROSSWINDS YOUTH SERVICES
CONTACT PERSON:	JAN LOKAY
PROGRAM ADDRESS:	1407 DIXON BLVD COCOA, FL. 32922
MAILING ADDRESS: <i>(if different from program address)</i>	
E-MAIL ADDRESS:	janlokay@aol.com
TELEPHONE NUMBER:	321-452-0800
REQUEST DATE:	
REQUEST NUMBER:	#
FINAL PAYMENT REQUEST:	Yes/No
FUNDS ARE HEREBY REQUESTED FOR THE FOLLOWING: Rehabilitation (Replacement of Commercial HVAC units)	
▪ TOTAL AMOUNT TO BE PAID	\$
AUTHORIZED SIGNATURE:	

#	Date of Request	Amount Expended	Amount Retained	Amount Requested	Amount Expended YTD	Percentage Expended YTD	Balance
							\$0.00
1.							
2.							
3.							
4.							
5.							

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT FORM**



**SECTION I**

The following information must be completed on all new contracts submitted to the Board.

<b>1. Contractor:</b> Crosswinds Youth Services Inc.	
<b>2. Fund/Account #:</b> 1490-298033-546000	<b>Division Name:</b> Contracts
<b>4. Contract Description:</b> Replace HVAC	
<b>5. Contract Monitor:</b> Brian Breslin	<b>6. Mail Stop #:</b> 82
<b>7. Dept./Office Director:</b> Ian Golden	<b>8. Contract Type:</b> Rehab
<b>ACTION DATE:</b> 30 days from entry	<b>ACTION REQUIREMENT:</b> Review

**SECTION II**

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>		5/29/15
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>		6/4/2015
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

If any office denies approval, the package will be returned immediately to the User Agency.

**NOTE:** This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

AO-29: EXHIBIT I

  
5/18/15

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT FORM**

**SECTION I**

The following information must be completed on all new contracts submitted to the Board.

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**SECTION II**

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>AB</u>	<u>5/29/15</u>
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>BA</u>	<u>6/1/15</u>

If any office denies approval, the package will be returned immediately to the User Agency.

**NOTE:** This form should be attached to all new contracts being submitted to the Board for approval. After the contract has been approved, the contract package, including this form, will go to the Clerk to the Board. The Clerk's office will return the Initial Contract Form to department for contract to be entered into the Contract Management System. See AO-29 for additional information.

AO-29: EXHIBIT I

AB  
5/26/15  
BA  
5/18/15