RESOLUTION No. 2007-174-680

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE WITH SYNERGY SOLUTIONS FOR FLORIDA, LLC FOR LAND ACQUISITION AND GRANT FUNDING SERVICES; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Synergy Solutions for Florida, LLC ("Synergy") is in the business of assisting cities secure grant funding from the Florida Community Trust for the acquisition of property for community-based parks, open space and greenways, and

WHEREAS, the City Council is committed to acquiring property for this purpose, and

WHEREAS, the Mayor has met with representatives of Synergy and based upon it's past successes is recommending that the City contract with Synergy to have it attempt to obtain funding for City park(s) open space, etc., and

WHEREAS, Synergy anticipates being paid for all costs associated with preparing the grant document as well as a brokers fee in the event the City uses the grant funds towards the purchase of a parcel of property,

WHEREAS, the Mayor is requesting that the City Council authorize the City Attorney and City Manager to negotiate a contract with Synergy and to bring the same back to the City Council for approval, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Resolution No. 2007-174-680

Section 2. AUTHORITY: The City Attorney and City Manager are hereby authorized to negotiate an agreement with Synergy Solutions For Florida LLC., for land acquisition and development grand funding services. Said Agreement shall be brought back before the City Council for approval.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON DECEMBER 12, 2007.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: SHIRLEY GIBSON, MAYOR

MOVED BY: Councilwoman Pritchett
SECONDED BY: Councilman Bratton

VOTE: 6-0

Mayor Shirley Gibson	x (Yes)	___(No)
Vice Mayor Barbara Watson	x (Yes)	___(No)
Councilman Melvin L. Bratton	x (Yes)	___(No)
Councilman Oscar Braynon, II	___(Yes)	___(No) Not present
Councilman Aaron Campbell	x (Yes)	___(No)
Councilwoman Sharon Pritchett	x (Yes)	___(No)
Councilman André Williams	x (Yes)	___(No)

SKD/teh

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City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson
Councilman Andre Williams

MEMORANDUM

To: The Honorable City Council Members

From: Shirley Gibson, Mayor

Date: December 12, 2007

Re: Agreement for Grant Writing Services

Background:

The attached resolution authorizes the City Manager to enter into an agreement with Synergy Solutions for land acquisition and grant writing services. Based on Synergy Solutions' prior success in applying and winning awards from the Florida Communities Trust on behalf of its other municipal clients, the City seeks to contract their services.

RECOMMENDATION:
It is recommended that the City Council approve the agreement thereby authorizing the City Manager to execute such document, in order to contract Synergy Solutions for its land acquisition and grant writing purposes.

DC:AP

K-17) CONSENT AGENDA
Agreement with Synergy Solutions of Florida for land acquisition and grant funding services

SYNERGY SOLUTIONS FOR FLORIDA, LLC

and

CITY OF MIAMI GARDENS

Providing for

DEVELOPMENT GRANT FUNDING SERVICES

This Agreement is made by and between Synergy Solutions for Florida, LLC, a Florida limited liability company (hereinafter referred to as "Synergy Solutions"), and the CITY OF MIAMI GARDENS, a municipal corporation of the State of Florida (hereinafter referred to as "CITY").

WHEREAS, the CITY desires to purchase and protect significant natural areas and open space for future public parks, storm water storage and conservation areas; and

WHEREAS, the City Council is aware that the Florida Community Trust, an agency of the State of Florida ("FCT") allocates approximately $66,000,000 annually for the acquisition of community-based parks, open space and greenways in the State of Florida that further outdoor recreation and natural resource protection needs identified in local government comprehensive plans; and

WHEREAS, the City Council has been informed that within the grant funding regulations established by FCT, a CITY with a population greater than 10,000 can receive up to 75% funding for acquisition and closing costs on project sites based upon a very competitive scoring system; and

WHEREAS, CITY desires to acquire a portion of the Manheim site for the development of open space, recreation and community activities; and

WHEREAS, the City Council has been informed the Synergy Solutions team is highly successful in receiving significant annual grant awards from FCT (sixteen (16) grant applications submitted to FCT for grant awards have been awarded); and

WHEREAS, the City Council believes it is in the best interest of the CITY to contract with a professional, experienced and qualified firm to provide Land Acquisition and Development Grant Funding Services to the CITY, and to assist the CITY to purchase and protect natural areas and open space; and

WHEREAS, Synergy Solutions and the CITY desire to enter into an Agreement for the provision of Development Grant Funding Services by Synergy Solutions under the terms and conditions set forth hereinafter.

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NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Synergy Solutions and the CITY do hereby agree as follows:

ARTICLE I
BACKGROUND, PURPOSE AND INTENT

1.1 The above recitals and any exhibits attached hereto are true and correct and incorporated herein as if set forth in full hereunder.

1.2 The CITY and Synergy Solutions each find that the method of delivery of Development Grant Funding Services set forth in this Agreement is in the best interest of the public, and can be best accomplished through coordination of the provisions of such services as set forth herein.

ARTICLE 2
SCOPE OF SERVICES

2.1 Synergy Solutions agrees to provide Development Grant Funding Services pursuant to Exhibit "A" attached hereto (hereinafter collectively referred to as "Services" or "Scope of Services"), in connection with the Manheim property. Notwithstanding the foregoing, the CITY and Synergy Solutions each acknowledge and agree that Synergy Solutions shall only commence preparing an FCT grant application ("Grant Application") for the Manheim property, upon the request of the City Manager. .

2.2 Synergy Solutions shall provide ongoing reporting on the progress of the Services to the CITY Manager for the Term of this Agreement.

2.3 Synergy Solutions has advised the CITY that it may require certain books, maps and records of the CITY in order to perform the Services. The CITY agrees that all records, documentation, and information requested by Synergy Solutions in connection with the delivery of the Scope of Services will be timely made available to it, that all material information will be disclosed, and that Synergy Solutions will have the full cooperation of the City, its Council and the City employees and agents and contractors throughout the Term.

2.4 Synergy Solutions agrees and acknowledges that the CITY Manager shall review and approve the development of the Grant Application for the Manheim property prior to publication and submittal to FCT, and may propose revisions at such time.

2.5 CITY agrees to provide documentation, within the time frame and format defined by Synergy Solutions pursuant to Exhibit "B" attached hereto (hereinafter collectively referred to as "CITY Responsibilities").

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2.6 CITY agrees to provide in house professional staff, if available, biological, and engineering input into the development of specified development costs associated with an the acquisition after receiving award of grant.

2.7 CITY authorizes Synergy Solutions to represent the CITY as a "No Brokerage Relationship" on the Property identified in Section 2.1 No Brokerage Relationship is defined as a licensed real estate broker entrusted to facilitate the sale or purchase, working with the buyer and seller. No Brokerage Relationship has the following three duties: 1) Deal honestly and fairly; 2) Disclose all known facts that materially affect the value of real property that are not readily observable to the buyer or seller; 3) Account for all funds entrusted. Under no circumstances with the City pay a brokerage fee to Synergy Solutions.

2.8 Synergy Solutions will be responsible for obtaining an executed brokerage contract between the Property identified in Section 2.1 and in coordination with granting agency and CITY, the negotiation of a purchase and sale agreement with the owners of the Property for the acquisition of the identified Property.

ARTICLE 3
TERM OF AGREEMENT

3.1 This Agreement shall become effective upon the last date set forth beside the signatures of the parties hereunder (the "Effective Date"), and shall continue in effect until all FCT application cycles for the Manheim property have been completed, pursuant to the terms set forth in Section 4.1 below, unless earlier terminated in accordance with Section 3.2 hereof (the "Initial Term").

3.2 Notwithstanding any other provision of this Agreement, this Agreement is terminable at will by the CITY or by Synergy Solutions, with or without cause. Notice of termination shall be provided in accordance with Section 13.1 hereof. The terminating party must provide thirty (30) days prior written notice to the other. In the event that this Agreement is terminated, Synergy Solutions shall be paid for Reimbursable Costs for any Services performed up to the date this Agreement is terminated, and Synergy Solutions shall still be entitled to any brokerage commission pursuant to Section 2.7, upon award of a grant. Synergy Solutions shall not be entitled to any additional compensation, of any kind or in any amount, from the CITY as a result of being terminated. Termination of this Agreement shall not affect any brokerage listing agreement between Synergy Solutions (or its affiliate) and any seller of Property. Synergy Solutions specifically waives any and all rights to seek any additional sums or damages from the CITY due to being terminated other than Synergy Solutions' sole right to be paid for any Reimbursable Costs within the Scope of Services performed up to the date this Agreement is terminated, and any brokerage Council due or to be due. Upon delivery or receipt of a notice of termination, Synergy Solutions shall immediately refrain from performing further Services for the CITY.

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ARTICLE 4
COMPENSATION and REIMBURSEMENTS

4.1 Synergy Solutions shall provide Land Acquisition and Development Grant Funding Services, as described in Exhibit "A", to the CITY at no cost to the CITY, providing Synergy Solutions (or its designated affiliate) has an executed real estate brokerage contract between Synergy Solutions and such Manheim selected Property owner(s).

4.2 The CITY agrees that Reimbursable Costs shall include, without limitation, the following costs: miscellaneous supplies associated with performing Services under this Agreement, postage, grant application packages, photocopies, photos, postage and. These reimbursable costs are estimated at Fifteen ~~Thousand~~ Hundred ($1,500). The CITY agrees that Reimbursable Costs shall also include any expenses approved in writing as Reimbursable Costs by the CITY Manager and any such specifically requested Reimbursable Costs shall not be subject to or a part of the estimated reimbursable cost. The City will be responsible for contracting, as necessary, for appraiser, engineering, biologist, archeologist and environmental services.

4.3 Synergy Solutions shall submit to FCT on behalf of the CITY all eligible reimbursement cost for reimbursement to CITY as a part of this Agreement.

4.4 By the fifteenth (15th) day of each month during the Term, Synergy Solutions may submit an invoice for its prior reimbursable costs. The CITY shall pay Synergy Solutions in accordance with the Local Government Prompt Payment Act, Section 218.74 F.S. as amended. To be deemed proper, an invoice must comply with the requirements set forth in this Agreement and must be submitted on the form, and pursuant to instructions, prescribed by the CITY Manager.

ARTICLE 5
INDEMNIFICATION, LIABILITY & INSURANCE

5.1 To the fullest extent permitted by law, Synergy Solutions shall indemnify, and hold harmless the CITY and the City officers, contractors, agents, and employees from liabilities, damages, losses and costs incurred as a result of the malfeasance, negligence, recklessness, or intentional wrongful misconduct of Synergy Solutions and persons employed or utilized by Synergy Solutions in the performance of the Services pursuant to this Agreement, including without limitation reasonable attorney's fees and costs at the trial level and all appeals. CITY and Synergy Solutions agree that one percent (1%) of the compensation due to Synergy Solutions from CITY pursuant to this Agreement is offered and accepted as sufficient separate consideration for Synergy Solutions' agreement to indemnify CITY and City officers, contractors, agents, and employees as provided for in this Section. This specific consideration for Synergy Solutions' agreement to indemnify is already incorporated in the reimbursement fee agreed to between CITY and Synergy

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Solutions. Synergy Solutions agrees to be fully responsible for acts and omissions of its respective agents or employees. Nothing herein is intended to serve as a waiver of sovereign immunity by the CITY to which sovereign immunity from, or limitation of, liability the CITY may have under the Doctrine of Sovereign Immunity of Section 768.28 F.S., as amended. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter, whether arising out of this Agreement or any other contract.

5.2 Without limiting any of the other obligations or liabilities of Synergy Solutions, Synergy Solutions shall provide, pay for, and maintain in force all insurance specified herein. The insurance coverage to be acquired and/or maintained during the Term by Synergy Solutions is as follows:

5.2.1 Workers' Compensation Insurance to apply to employees in compliance with the "Worker's Compensation Law" of the State of Florida except as modified herein; and

5.2.2 Automobile liability insurance to cover any automotive vehicle used in providing its Services, with a limit of coverage of at least $50,000/$100,000 Dollars per occurrence; and

5.2.3 General liability insurance, with a limit of coverage of at least $1,000,000.

5.3 Synergy Solutions shall name the CITY as an additional insured on its general liability insurance policy, which policy shall be in an amount of not less than One Million Dollars ($1,000,000) per occurrence, with an annual aggregate of at least One Million Dollars ($1,000,000) for injuries, including death, to one or more persons. This general liability insurance policy shall be an "occurrence" policy and not a "claims made" policy. Within sixty (60) days following the Effective Date of this Agreement, a Certificate of Insurance naming the CITY as an additional Insured and showing an "occurrence policy" shall be delivered to the CITY. All certificates and endorsements required herein shall state that the CITY shall be given thirty (30) days notice prior to expiration or cancellation of said policy if such expiration or cancellation is to occur during the Term.

5.4 These insurance requirements shall not relieve or limit the liability of Synergy Solutions. The CITY does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect Synergy Solutions' interests or liabilities but are merely minimum requirements established by the CITY Coordinator.

ARTICLE 6
RELATIONSHIP

6.1 Synergy Solutions shall perform all of the Services enumerated in this Agreement solely as an independent contractor, and not as an employee, of the CITY. Services provided by Synergy Solutions' agents shall be subject to the supervision of Synergy Solutions. In providing the Services, Synergy Solutions or its agents shall not be acting,

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and shall not be deemed as acting, as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Synergy Solutions' agents shall be those of Synergy Solutions.

ARTICLE 7
INPSECTION RIGHT AND RETENTION OF RECORDS

7.1 CITY shall have the right to inspect the nonproprietary books, records, computer records, electronic stored data, and accounts that are directly related this Agreement. Synergy Solutions shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. Synergy Solutions shall preserve and make available, at reasonable times for public access and examination by the CITY, all financial records, supporting documents, statistical records and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes) if required by such Act. If copies of all records related to the Services are not turned over to the CITY upon termination of this Agreement, then Synergy Solutions shall retain such records for the required retention period of the Florida Public Records Act. If the Florida Public Records Act is applicable to City or to Synergy Solutions' records, such parties shall comply with all requirements thereof.

ARTICLE 8
OWNERSHIP RIGHTS

8.1 All work performed and materials created under this Agreement shall be considered work product and shall be the exclusive intellectual property of the CITY, to be used only after the Term for any purpose deemed appropriate by the CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by Synergy Solutions, whether finished or unfinished, shall be delivered by Synergy Solutions to the CITY Manager within seven (7) days of termination of this Agreement.

ARTICLE 9
NONDISCRIMINATION & PUBLIC ENTITY CRIME ACT

9.1 Synergy Solutions shall not unlawfully discriminate against any person in its operations and activities, or in its use or expenditure of funds, in fulfilling its obligations under this Agreement. Synergy Solutions shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any Services, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Synergy Solutions shall take affirmative steps to ensure nondiscrimination in its employment against disabled persons.

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9.2 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 a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

ARTICLE 10
ENTIRE AGREEMENT; NO AMENDMENT OR WAIVER

10.1 This Agreement incorporates and includes all prior negotiations and understandings between the parties applicable to the matters contained herein., The parties agree that this Agreement constitutes the entire understanding and Agreement between the parties as to the subject matter hereof and supersedes any previous agreements and representations, whether written or oral.

10.2 This Agreement may not be changed, altered or modified except by an instrument in writing signed by all parties hereto, with the same formality and of equal dignity as the execution of this Agreement.

ARTICLE 11
SEVERABILITY

11.1 In the event any term or provision of this Agreement shall be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed to be in full force and effect unless the CITY elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

ARTICLE 12
PROFESSIONAL ASSURANCES

12.1 Synergy Solutions shall perform all Services under this Agreement in accordance with the highest standard of care used by similar professionals in the State of Florida, under similar circumstances and shall exercise a reasonable degree of skill and care, as determined by the degree of skill and care ordinarily employed by others of the same profession. Synergy Solutions represents that all persons delivering the Services required by this Agreement have the knowledge and skills, either by training, experience, education or a combination thereof, to adequately and competently perform such services

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to City satisfaction. CITY acknowledges that signing of this Agreement does not guarantee the award or funding of any specific grant, or the acquisition of any property.

ARTICLE 13
NOTICE

13.1 Whenever either party is required by this Agreement to give notice unto the other, such notice must be in writing, sent by certified United States Mail, first-class postage prepaid, return-receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice to a party shall remain the same as set forth herein until changed by such party in writing in the manner provided in this Section. Each party hereby designates the following as the respective place for giving of notice:

For CITY:
CITY OF MIAMI GARDENS
Attn: CITY Manager
1515 NW 167 Street Building 5 Suite 200
Miami Gardens, FL 33169

For Synergy Solutions:
Synergy Solutions for Florida, LLC
Attn: Richard S. Rubin, President
5731 SW 196 Lane
Southwest Ranches, FL 33332

ARTICLE 14
CONSTRUCTION

14.1 This Agreement has been a joint effort of the parties, and the resulting documents shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The Article and Section headings used in this Agreement are for convenience only and shall not be considered as part of this Agreement in any respect nor shall they in any way affect the substance of any provisions contained in this Agreement. Wherever the context requires, any noun or pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter in form thereof and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural and vice versa as the case may require. In the event of any conflict between this Agreement and Exhibit A hereto, the provisions of this Agreement shall control.

ARTICLE 15
FURTHER ASSURANCES

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15.1 CITY and Synergy Solutions agree to execute, acknowledge, and deliver, and cause to be done, executed, acknowledged, and delivered, all such further documents and perform such acts as shall be requested of it to carry out this Agreement and give effect hereto solely consistent with applicable federal, state and local laws, rules or regulations. Accordingly, without, in any manner, limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

ARTICLE 16
COUNTERPARTS

16.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute the same Agreement.

ARTICLE 17
MISCELLANEOUS

17.1 This Agreement shall be construed in accordance with the laws of the State of Florida. The venue for any litigation arising out of this Agreement shall be in CITY, Florida.

17.3 This Agreement may not be assigned by Synergy Solutions without the express written consent of the other. Any such assignments shall not relieve the assigning party of its responsibilities and obligations resulting from this Agreement.

17.4 Time is of the essence with respect to the performance of every provision of this Agreement, in which time of performance is a factor.

17.5 The party who prevails in any claim or action brought under this Agreement shall be entitled to costs and expenses of such suit including reasonable attorneys' fees, from the non-prevailing party.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: SYNERGY SOLUTIONS FOR FLORIDA, LLC, through its President, Richard S. Rubin, authorized to execute same, and CITY OF MIAMI GARDENS, signing by and through its Chair duly authorized to execute same by Council action on the 27th day of February, 2008.

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SYNERGY SOLTUIONS FOR FLORIDA, LLC

By: _____
Richard S. Rubin, President

15 day of OCT., 2008

CITY OF MIAMI GARDENS

By: _____
CITY Manager

21ST day of OCTOBER, 2008

ATTEST:

By: _____
CITY Clerk

APPROVED AS TO FORM:

By: _____
CITY Attorney

Scope of Services

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Exhibit "A"

Services Provided
by SYNERGY SOLUTIONS

Full Service Grant Application

Meeting with Local staff and shareholders
Grant Application preparation
Meetings with Grant Agency
Comprehensive Plan update, necessary
Local review meetings
Financial Plan
Site investigation and analysis
Environmental assessment review
Options for environmentally substantial concept designs
Designs to protect natural and cultural resources
Graphic illustration of design options

Financial Strategy

Budget Review
Development Strategy
Close Negotiations
Negotiation Strategy and Plans
Financial Partnerships
Financial Leveraging Solutions

Reporting and Implementation

Grant agreement review and processing
Required comprehensive site-specific management plan
Coordination of financial elements for project plan
Required monthly progress reports
Necessary follow up and agency meetings
Multi-year project budget
Schedule of improvements time frame
Staff training, as necessary

CITY RESPONSIBILITIES

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Exhibit "B"

List of documents to be provided electronically for each application site as applicable.

A. Documents and Records
   1) Local Comprehensive Plan
   2) USGS map
   3) Property Appraiser map
   4) Aerial Photo (1:300 control)
   5) FEMA Flood Zones map
   6) Future Land Use map

B. Executed Letters on Government Stationary
   (format provided by Synergy Solutions)
   7) FNAI request letter
   8) Letter of educational commitment
   9) Transmittal Letter

C. If Applicable Documents
   10) Pre-acquisition documents:
       warranty deed and closing statement
   11) Greenway Trail map
   12) Urban Service Area map
   13) State Designated Paddling Trail map
   14) CRA Ordinance
   15) Prior Management Plan
   16) Prior FCT Grant Application

MK