

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: October 3, 2006

Consent

Regular

Ordinance

Public Hearing

Department

Submitted By: Administration

Submitted For: Office of Small Business Assistance

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: Approve a grant agreement with the Palm Beach County Resource Center, Inc., (PBCRC) a not-for-profit 501(c) (3) corporation in the amount of \$96,800 for consulting/professional services for the period of October 1, 2006 through September 30, 2007. **Summary:** This agreement with the PBCRC provides funding for activities and services to assist and develop small businesses in Palm Beach County. The PBCRC provides local businesses with access to capital, technical assistance, and procurement opportunities. Staff has determined that the services and assistance provided by the PBCRC are essential to the small business community.

On August 4, 2006, the Office of Small Business Assistance completed an audit for Programmatic Efficiency, Financial Accountability, Contract Compliancy and Customer Satisfaction, and concluded that the PBCRC has successfully provided business development services to both start-up and existing businesses. As of August 31, 2006, the PBCRC exceeded all but one of its contracted goals. The PBCRC expects to achieve 100 clients by September 30, 2006. Countywide (TKF)

	Deliverables	FY 06 Contracted	Achieved (As of 8/31/06)	FY 07 Contracted
1	Loans Approved	\$1,470,000	2,560,180	1,543,500
2	Procurements Approved	4,200,000	8,867,244	4,410,000
3	New Clients Assisted	100	92	100
4	Client Service Hours	3,000	7,200	3,150

Background Justification: In 1998, the Palm Beach County responded to a request for emergency funding for the Palm Beach County Resource Center, Inc. (PBCRC). Formal funding of the PBCRC commenced in 1999. The PBCRC is a not-for-profit successor to the Minority Business Development Center (MBDC) operated by the former Suncoast Chamber of Commerce.

Attachments:

1. Contract for Consulting Services
2. Insurance Documents

Recommended By: *Harold Bendure*
Director, Office of Small Business Assistance

9/18/06
Date

Approved By: *J. Bralier*
Deputy County Administrator

9/27/06
Date

PBCRC is a race and gender neutral program whose mission is to provide technical assistance services, including:

Incorporation Services	On-Line Dodge Reports
Feasibility Studies	Strategic & Economic Analyses
Business Plans	Debt Modification Packages
Loan Packages	Bid Preparation
Surety Bond Packages	Procurement Assistance
SBE, M/WBE, SDB & 8(a) Certification Packages	Compliance of Letters of Credit

PBCRC has a well established track record for providing technical assistance to small businesses throughout the County, and is recognized as an essential member of our "business support network." Both OSBA and the Office of Economic Development routinely refer clients to PBCRC for assistance. It is staff's observation that the response to clients is timely, appropriate for the assistance required, and delivered in a professional manner.

Risk Management has reviewed the services offered under this contract and has deemed Directors and Officers Liability Coverage an acceptable alternative to Professional Liability.

10/01/06

CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

This Contract is made as of the **1st day of October, 2006**, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the **COUNTY**, and **PALM BEACH COUNTY RESOURCE CENTER, INC. (PBCRC)**, a corporation authorized to do business in the State of Florida, hereinafter referred to as the **CONSULTANT**, whose Federal I.D. number is **65-0880746**.

In consideration of the mutual promises contained herein, the COUNTY and the CONSULTANT agree as follows:

ARTICLE 1 - SERVICES

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services in the area of small business assistance, as more specifically set forth in the Scope of Work detailed in **Exhibit "A"**.

The COUNTY's representative/liaison during the performance of this Contract shall be Hazel L. K. Oxendine, Director, Office of Small Business Assistance, 50 South Military Trail, Suite 209, West Palm Beach, Florida 33415, telephone no. (561) 616-6840.

ARTICLE 2 - SCHEDULE

The CONSULTANT shall commence services on **October 1, 2006** and complete all services by **September 30, 2007**.

ARTICLE 3 - PAYMENTS TO CONSULTANT

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials including, if applicable, "out of pocket" expenses (specified in paragraph C below) shall not exceed a total contract amount of Eighty-eight Thousand Dollars (\$96,800.00) per year. The CONSULTANT shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONSULTANT will bill the COUNTY on a monthly basis, at the amounts set forth in **Exhibit "B"** for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.
- B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the COUNTY's representative, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. "Out-of-pocket" expenses will be reimbursed up to an amount not to exceed Zero Dollars (\$0), and in accordance with the list of the types and amounts of expenditures eligible for

reimbursement as set forth in **Exhibit "B"**. All requests for payment of "out-of-pocket" expenses eligible under the terms of this Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Contract. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract will be paid in accordance with the rates and conditions set forth in Section II 2.061, Florida Statutes.

- D. **Final Invoice:** In order for both parties herein to close their books and records, the CONSULTANT will clearly state "**final invoice**" on the CONSULTANT's final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONSULTANT's most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

This Contract may be canceled by the CONSULTANT upon thirty (30) days' prior written notice to the COUNTY's representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the COUNTY's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONSULTANT shall:

- A. stop work on the date and to the extent specified;
- B. terminate and settle all orders and subcontracts relating to the performance of the terminated work;
- C. transfer all work in process, completed work, and other materials related to the terminated

work to the COUNTY; and

D. continue and complete all parts of the work that have not been terminated

ARTICLE 6 - PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required herein shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONSULTANT's key personnel, as may be listed in **Exhibit "A,"** must be made known to the COUNTY's representative and written approval must be granted by the COUNTY's representative before said change or substitution can become effective.

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 7 - SUBCONTRACTING

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONSULTANT is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY. The CONSULTANT agrees to abide by all provisions of the SBE Ordinance and understands that failure to comply with any of the requirements will be considered a breach of contract.

The CONSULTANT understands that each Small Business Enterprise utilized on this contract must be certified by Palm Beach County in order to be counted toward the contract goal.

The CONSULTANT further agrees to provide the Office of Small Business Assistance with a copy of the CONSULTANT's contract with the SBE sub-consultant or any other related documentation upon request.

The CONSULTANT understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of the Contract as it relates to the use of SBE firms. Any SBEs who, for any reason, no longer remain associated with the contract of CONSULTANT shall be replaced

with other certified SBEs, unless approval to the contrary is granted by the County.

The CONSULTANT agrees to maintain all relevant records and information necessary to document compliance pursuant to Palm Beach County Code, Section 2-80.21 through 2-80.34 and any revisions thereto, effective October, 2002, and will allow the County to inspect such records.

ARTICLE 8 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY's Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

ARTICLE 9 - AVAILABILITY OF FUNDS

The COUNTY's performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners.

ARTICLE 10 - INSURANCE

- A. CONSULTANT shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONSULTANT, are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by CONSULTANT under the contract.
- B. **Commercial General Liability** CONSULTANT shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CONSULTANT shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.

- D. **Worker's Compensation Insurance & Employer's Liability** CONSULTANT shall maintain Worker's Compensation & Employer's Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.
- E. **Directors and Officers Liability** CONSULTANT shall agree to maintain Directors and Officers Liability, or equivalent Errors & Omissions Liability at a limit of liability not less than \$500,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT warrants the Retroactive Date equals or precedes the effective date of this contract. In the event the policy is cancelled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, CONSULTANT shall agree to purchase a SERP with a minimum reporting period not less than three (3) years. CONSULTANT shall agree this coverage shall be provided on a primary basis.
- F. **Additional Insured** CONSULTANT shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "*Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents.*" CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.
- G. **Waiver of Subrogation** CONSULTANT hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.
- H. **Certificate(s) of Insurance** Prior to execution of this Contract, CONSULTANT shall deliver to the COUNTY a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage.
- I. **Umbrella or Excess Liability** If necessary, CONSULTANT may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The