

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 12-19-06 Consent Regular
 Workshop Public Hearing

Submitted By: Economic Development Office

I. EXECUTIVE BRIEF

Motion and Title: STAFF RECOMMENDS MOTION TO APPROVE: a First Amendment to the Development Regions Round IX Grant Agreement R2005-1271 with the West Palm Beach Community Redevelopment Agency (CRA) to extend the term of the Agreement an additional six (6) calendar months.

Summary: On June 21, 2005, the Board of County Commissioners approved the Grant Agreement for the West Palm Beach CRA (R2005-1271) for three (3) business projects, City Market-Belmat Inc. d/b/a Lucky Supermarket, Palm Beach Yachts International, Inc. and Pleasant City Restaurant LLC. Palm Beach Yachts International, Inc. completed its project and permits are in process for the remaining two businesses. This amendment will allow for extension of the construction reimbursement deadline due to a delay in starting the renovations, and extending the hiring deadlines and job maintenance requirements according to the project's deadline. These projects are located in the "Acute" (35% or higher poverty) and "Core" (20% to < 35% poverty) areas of the County. District 7 (DW)

Background and Policy Issues: With the extension, the Agreement will provide a total of 24 months for construction. Full-time equivalent jobs must be created by the 26th month and maintained an additional 24 months. The total project costs are \$2,090,475 with County funds totaling \$125,000. These projects will create 24 full-time equivalent jobs and retain 10.

Attachments:

- 1. First Amendment
- 2. Contract R2005-1271

Recommended By: [Signature] Date

Economic Development Director

Approved By: [Signature] Date

Deputy County Administrator

12/18/06

**FIRST AMENDMENT TO DEVELOPMENT REGIONS
GRANT AGREEMENT R2005-1271
WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY**

THIS AMENDMENT is made _____, 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 the WEST PALM BEACH COMMUNITY REDEVELOPMENT AGENCY (CRA), a public body corporate and politic, hereinafter referred to as GRANTEE.

WITNESSETH

WHEREAS, on June 21, 2005, the COUNTY and the GRANTEE entered into a Grant Agreement (Defined as "Agreement") Document #R2005-1271, for three business projects located in the West Palm Beach Community Redevelopment Area (CRA) and

WHEREAS, two of the participating businesses are behind schedule due to site plan revisions required in the permitting process; and

WHEREAS, the COUNTY and the GRANTEE desire to amend the Agreement as set forth below; and

WHEREAS, the COUNTY finds and declares that it is in the public's best interest to amend the Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereby amend the Agreement as follows:

1. Paragraph I. entitled **TERM OF AGREEMENT**:

Sentence 2 is hereby deleted and replaced with the following: This Agreement will commence on June 21, 2005 and expire fifty (50) months following the Effective Date on August 21, 2009.

II. Paragraph III. Entitled **GRANTEE'S PERFORMANCE OBLIGATIONS**

Sentence 2 of Section A. **Redevelopment Activities** is hereby deleted and replaced with the following:

Such activities as described in **Exhibit "A"** shall commence within eighteen (18) months of the effective date of this Agreement.

Sentence 1 of Section B. **Grant Award and Job Requirements** is hereby deleted and replaced with the following:

GRANTEE shall cause, as a direct result of the activities set forth in **Exhibit "A"** to this Agreement, the creation of at least **twenty-four (24) full-time or equivalent jobs** in Palm Beach County within twenty-six (26) months [August 21, 2007] and maintain same for twenty-four (24) months, or through the fiftieth (50th) month [August 21, 2009], which ever shall occur first.

Sentence 2 of Section D. **Verification of Terms and Conditions** is hereby deleted and replaced with the following:

GRANTEE may provide to COUNTY this verification at any time following satisfaction of such terms and conditions, but not later than August 21, 2009, the expiration of the fiftieth (50th) month subsequent to the Effective Date of this Agreement.

III. Paragraph IV. entitled **PAYMENT PROCEDURES, CONDITIONS**

Number 2. of Section A. **Reimbursement of Eligible Expenses** is hereby deleted and replaced with the following:

2. incurred not more than twenty-four (24) calendar months [ending June 21, 2007] subsequent to the Effective Date of this Agreement.

Sentence 1 of Section C. **Reimbursement Deadline** is hereby deleted and replaced with the following:

Requests for payment of Eligible Expenses shall not be honored if received by COUNTY later than the expiration date of the twenty-sixth (26th) calendar month [August 21, 2007].

- IV. Paragraph VI. entitled **REPORTING REQUIREMENTS** is hereby added with an additional sixth months to the semi-annual reporting dates.

Reporting Period	Due Date
9 (July – December '09)	Friday, January 30, 2010

- V. Paragraph XXIII. entitled **NOTICE**

The names and titles are hereby deleted and replaced with

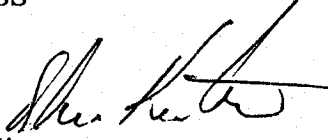
Kevin Johns
Economic Development Director
PBC Governmental Center, 10th Floor
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-3624
Fax: 561-355-6017

Kim Briesemeister, CRA Executive Director
West Palm Beach Community Redevelopment Agency (CRA)
P.O. Box 3366
West Palm Beach, Florida 33402
(561) 822-1550
Fax: (561) 822-1460

Except as set forth herein, the Agreement remains unrevised and in full force and effect, and the parties hereby ratify, confirm and adopt the Agreement as amended hereby.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day set forth above.

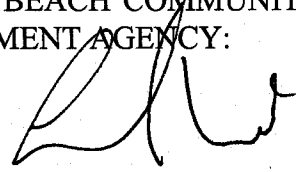
WITNESS


Signature


Blane Kawthen
Name (type or print)

WEST PALM BEACH COMMUNITY
REDEVELOPMENT AGENCY:

Chair



CRA ATTORNEY:
Approved as to form
and legal sufficiency

By: 
Date: 12/4/06

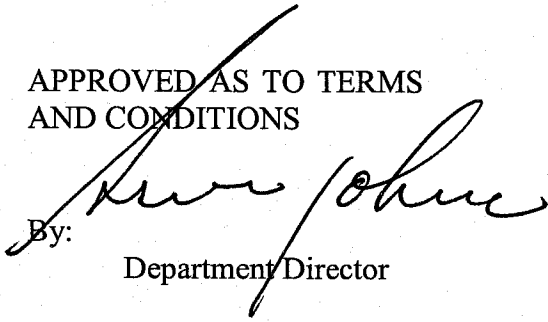
ATTEST: SHARON
R. BOCK, Clerk &
Comptroller

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

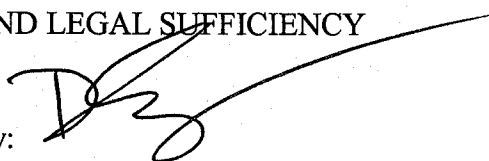
By:
Deputy Clerk

By:
Addie L. Greene, Chairperson

APPROVED AS TO TERMS
AND CONDITIONS


By:
Department Director

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


By:
County Attorney



"The Capital City of the Palm Beaches"

City of West Palm Beach
Finance Department
Risk Management Division
1000 45th Street, Suite 7
West Palm Beach, FL 33407

December 15, 2006

Palm Beach County
Economic Development

Re: Certificate of Insurance

This serves to inform that the City of West Palm Beach is self insured for Workers Compensation, General and Automobile Liability. The City carries an excess liability umbrella policy.

Please feel free to contact me with any questions you may have.

Regards,

Ann-Marie Sharpe
Risk Manager

"An Equal Opportunity Employer"

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 12/15/06
PRODUCER 1-305-592-6080 Arthur J. Gallagher & Co. - Florida Arthur J. Gallagher Risk Management Services (Miami) 8200 N.W. 41st Street Suite 200 Miami, FL 33166	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED City of West Palm Beach 1000 45th Street, Suite 7 West Palm Beach, FL 33407	INSURERS AFFORDING COVERAGE	NAIC #
	INSURER A: Illinois Union Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 250,000	PEPG22905363	10/01/06	10/01/07	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? INCL EXCL If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Re: Grant Program Amendment.

Palm Beach County Board of County Commissioners is shown as an Additional Insured solely with respect to the Excess Liability coverage as evidenced herein as required by written contract.

CERTIFICATE HOLDER Palm Beach County Office of Economic Development Governmental Center, 10th Floor P.O. Bo x 1989 West Palm Beach, FL 33402	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>[Signature]</i>
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PALM BEACH COUNTY DEVELOPMENT REGIONS
GRANT AGREEMENT

THIS AGREEMENT is made as of JUN 21 2005, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as COUNTY, and the West Palm Beach Community Redevelopment Agency (CRA), a public body corporate and politic, hereinafter referred to as GRANTEE.

WITNESSETH:

WHEREAS, it is the policy of the COUNTY to stimulate and encourage economic growth in Palm Beach County; and

WHEREAS, the Board of County Commissioners has determined that providing assistance and support within development regions is essential to a stronger, more balanced, and stable economy in Palm Beach County; and

WHEREAS, GRANTEE wishes to provide such assistance and support by participating in the redevelopment and revitalization of a development region within GRANTEE'S geographic boundaries; and

WHEREAS, the Board of County Commissioners has determined that the GRANTEE is best able to provide such assistance and support, as set forth by the terms of this Agreement; and

WHEREAS, the Board of County Commissioners has determined that it is in the public's best interests to award a grant to the GRANTEE pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties do agree as follows:

I. TERM OF AGREEMENT

This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners, and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners. This Agreement will commence on June 21, 2005 and expire forty-four (44) calendar months following the Effective Date on February 21, 2009.

II. MAXIMUM GRANT AMOUNT

In no event shall the reimbursements made to GRANTEE pursuant to this Agreement exceed the maximum total Grant Award of one hundred and twenty-five thousand dollars (\$125,000).

III. GRANTEE'S PERFORMANCE OBLIGATIONS

- A. Redevelopment Activities. GRANTEE shall contract with one or more qualified entities to perform certain redevelopment activities as more specifically set forth in Exhibit A, attached hereto and incorporated herein by reference. Such activities as described in Exhibit A shall commence within twelve (12) calendar months of the effective date of this Agreement. GRANTEE shall cause the redevelopment activities contemplated by this Agreement to be completed in accordance with the terms of this Agreement. GRANTEE agrees that it shall be solely liable to COUNTY for performance under this Agreement, and that, in the event of default, GRANTEE shall, as more specifically set forth hereinafter, refund to COUNTY the Grant Award.

GRANTEE hereby certifies that it is authorized by law to be so bound.

B. Grant Award and Job Requirements. GRANTEE shall cause, as a direct result of the activities set forth in **Exhibit A** to this Agreement, the creation of at least **twenty-four (24) full-time or equivalent jobs** in Palm Beach County within twenty (20) months [February 21, 2007] and maintain same for twenty-four (24) months, or through the forty-fourth (44th) month [February 21, 2009], which ever shall occur first. The grant award is **\$5,208.33** per full-time or equivalent job. The total grant award shall not exceed **\$125,000**. In the event the GRANTEE fails to create/retain and/or maintain, all of the aforementioned jobs, GRANTEE shall refund to COUNTY the amount equal to the grant award per job, multiplied by the number of positions not created, retained or maintained. GRANTEE shall provide evidence, satisfactory to COUNTY, substantiating the number, dates and salaries of all jobs created and/or retained in Palm Beach County. Such evidence must be provided with the final semi-annual report in the format set forth on **Exhibit C**. For the purposes hereof, a full-time or equivalent job equals one job totaling 2080 hours annually or two or more positions that together total at least 2080 hours per year, and a part time or equivalent job equals one job totaling 1040 hours annually or two or more positions that together total at least 1040 hours per year. A job must pay a salary equal to or better than the minimum wage as determined by the Florida Agency for Workforce Innovation. For the purposes of this Agreement, the term salary means wages, gratuities, salaries, commissions, bonuses, drawing accounts (against future earnings), prizes and awards (if given by an employer for the status of employment), vacation pay, sick pay, and other payments consistent with the Florida Agency for Workforce Innovation definitions, paid to employees.

C. Workforce Alliance, Inc. In the event a job becomes available, the business shall mail the job description to the Workforce Alliance, Inc. at the address stated below. It is the intent of this clause to make all opening positions available on a competitive basis.

Kathryn Schmidt, President/CEO
Workforce Alliance, Inc.
326 Fern Street, Suite 310
West Palm Beach, FL 33401
561-837-5500, Ext. 201
Fax: 561-837-5600

D. Verification of Terms and Conditions. As a further condition to retaining any Grant funds from COUNTY, the GRANTEE shall provide to COUNTY written verification, satisfactory to COUNTY in its sole discretion, that GRANTEE has satisfied the terms and conditions of this Agreement, or caused the same to be satisfied. GRANTEE may provide to COUNTY this verification at any time following satisfaction of such terms and conditions, but not later than February 21, 2009, the expiration of the forty-fourth (44th) month subsequent to the Effective Date of this Agreement. In the event GRANTEE fails to create/retain and/or maintain the required jobs, or provide the aforementioned verification within the permitted times, GRANTEE shall refund to COUNTY the portion of the grant award paid by COUNTY to GRANTEE for each job not created/retained/maintained, or verified.

- E. **Material Change of Circumstances.** GRANTEE shall immediately notify COUNTY of any material change of circumstances at the business(es) identified on **Exhibit A** hereto. For the purposes hereof, material change of circumstance shall include, but not be limited to, the failure of the business(es) to diligently and actively pursue fulfillment of the terms hereof, the sale or transfer of more than 10% of the assets or stock or ownership interest in the business(es), the suspension, closing or cessation of operation of the business(es), voluntary or involuntary bankruptcy or an assignment for the benefit of such business(es) creditors. In the event of a material change of circumstances, COUNTY shall have the right to terminate this Agreement, whereupon COUNTY shall have no further obligation to GRANTEE under this Agreement. Any Agreement entered into between GRANTEE and such business(es) shall require such business(es) to immediately notify GRANTEE and COUNTY of a material change of circumstances and shall inform such business(es) of the potential for termination of funding in the event of a material change of circumstances. GRANTEE shall use reasonable diligence to monitor the business(es) to insure that no material change of circumstances occur at such business(es) which COUNTY is not informed of and shall certify to COUNTY the absence of same at the time of any requests for payment hereunder.
- F. **Budget Changes.** Project budget changes in **Exhibit A** of up to ten percent (10%) of the amount stated in this Agreement may be approved, in writing, by the Economic Development Coordinator at his/her discretion during the period of this Agreement. Such requests for budget changes must be made in writing by the GRANTEE to the Economic Development Coordinator.

IV. PAYMENT PROCEDURES, CONDITIONS

- A. **Reimbursement of Eligible Expenses.** Upon satisfaction of conditions set forth herein, COUNTY shall pay GRANTEE a grant award of **\$125,000** (the "Grant Award"). GRANTEE shall only be entitled to receive the Grant Award available under this Agreement in reimbursement of expenses related directly to the work as set forth on **Exhibit A**, for the eligible types of expenditures which are identified on **Exhibit B** to this Agreement, which is attached hereto and incorporated herein by reference (the "Eligible Expenses"). To be eligible for reimbursement, such expenses must be:
1. incurred on or after June 21, 2005; and
 2. incurred not more than eighteen (18) calendar months [ending December 21, 2006] subsequent to the Effective Date of this Agreement;
- B. **Proper Documentation of Expenses.** Requests for payment of Eligible Expenses incurred after the Effective Date of this Agreement shall be submitted to COUNTY, and shall be accompanied by proper documentation as determined by County in its sole discretion. For the purposes of this paragraph, originals or copies of invoices, receipts, or other evidence of indebtedness shall be considered proper documentation. In the case of invoices that have not first been paid by GRANTEE, GRANTEE shall certify to the COUNTY that each invoice presented for payment relates directly to work satisfactorily completed in accordance with this Agreement.
- C. **Reimbursement Deadline.** Requests for payment of Eligible Expenses shall not be honored if received by COUNTY later than the expiration date of the twentieth (20) calendar month [February 21, 2007]. If GRANTEE fails to submit any requests for payment of Eligible Expenses by the expiration date of this Agreement, then COUNTY'S obligation under this Agreement shall automatically terminate, thereby relieving COUNTY of any future obligations hereunder.

- D. **Failure to Comply.** If the GRANTEE fails to comply with any of the provisions of this Agreement, the COUNTY may withhold, temporarily or permanently, all, or any, unpaid portion of the Grant Award upon giving written notice to the GRANTEE, terminate this Agreement and/or demand a refund of the Grant Award and the COUNTY shall have no further funding obligation to the GRANTEE under this Agreement.
- E. **Repayment of Funds.** The GRANTEE shall repay COUNTY for all unauthorized, illegal or unlawful expenditures of funds, including unlawful and/or unauthorized expenditures discovered after the expiration of this Agreement. The GRANTEE shall also be liable for reimbursing the COUNTY for any lost or stolen funds.
- F. **Termination of Agreement.** Termination of this Agreement by COUNTY shall relieve COUNTY of any further obligation hereunder. Such termination shall not release GRANTEE from its obligations hereunder, including, without limitation, those relating to verification of jobs retained and refunding any unearned portion of the Grant Award. Any portion of the Grant Award which is to be repaid to the COUNTY pursuant to this Agreement is to be repaid by delivering to the COUNTY a cashier's check for the total amount due, payable to Palm Beach County, within ninety (90) days of the COUNTY's demand therefor.
- G. **Remedy and Rights.** Nothing contained herein shall be construed as limiting or waiving any rights of COUNTY or preventing COUNTY from pursuing any other remedy which may be available to it under law. Nothing contained herein shall act as a limitation of the COUNTY's rights in the event the GRANTEE fails to comply with the terms of this Agreement.

V. **COUNTY'S DEFAULT**

- A. **Nature of Default Notice.** In the event that the COUNTY fails to comply with the terms of this Agreement, then GRANTEE shall provide the COUNTY with notice detailing the nature of the default, whereupon COUNTY shall have 30 days within which to initiate action to correct the default and 90 days within which to cure the default.
- B. **Fail to Cure Default.** In the event that the COUNTY fails to cure the default, GRANTEE shall have the right to terminate this Agreement. The Effective Date of the termination shall be the date of the notice of termination by the GRANTEE.

VI. **REPORTING REQUIREMENTS**

GRANTEE shall submit to COUNTY semi-annual reports satisfactory to COUNTY in its sole discretion in the format set forth on **Exhibit C**, attached hereto and incorporated herein by reference. These reports shall be submitted no later than thirty (30) days following completion of each reporting period.

<u>Reporting Period</u>	<u>Due Date</u>
1 (July - December '05)	Tuesday, January 31, 2006
2 (January - June '06)	Monday, July 31, 2006
3 (July - December '06)	Wednesday, January 31, 2007
4 (January - June '07)	Tuesday, July 31, 2007
5 (July - December '07)	Thursday, January 31, 2008
6 (January - June '08)	Thursday, July 31, 2008
7 (July - December '08)	Friday, January 30, 2009
8 (January - June '09)	Friday, July 31, 2009

All grant payments made pursuant to this Agreement shall be contingent on the receipt and approval of the semi-annual reports required by this paragraph. Failure of GRANTEE to

- D. Statement or Certificate of Insurance.** GRANTEE agrees to provide a statement, or Certificate of Insurance, evidencing insurance or self-insurance for the above required coverages to the attention of Palm Beach County, Economic Development Office, Governmental Center, 10th Floor, P.O. Box 1989, West Palm Beach, FL 33402.
- E. County Reserves the Right.** COUNTY, by and through its Risk Management Department, in cooperation with the Office of Economic Development, reserves the right to review, modify, reject or accept any required self-insurance, policies of insurance, including limits, coverages, or endorsements, throughout the life of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any self-insurer or insurer providing coverage because of its poor financial

submit satisfactory reports shall entitle COUNTY to terminate this Agreement and demand a refund of all or a portion of the Grant Award.

VII. FINANCIAL ACCOUNTABILITY, REPORTS AND AUDITS

The COUNTY may have an audit, a financial system analysis and/or an internal fiscal control evaluation of the GRANTEE performed by an independent auditing firm employed by the COUNTY or by the COUNTY Internal Auditor, at any time the COUNTY deems necessary to determine the capability of the GRANTEE to fiscally manage the Grant Award. Upon completion of all tasks contemplated under this Agreement, copies of all documents and records relating to this Agreement shall be submitted to the COUNTY if requested.

VIII. PERFORMANCE

The parties expressly agree that time is of the essence with regard to performance hereunder and failure by GRANTEE to complete performance within the times specified, or within a reasonable time if no time is specified herein, shall, at the option of the COUNTY, in addition to any of the COUNTY'S other rights or remedies, relieve the COUNTY of any obligation under this Agreement.

IX. INDEMNIFICATION

Without waiving the right to sovereign immunity as provided by Florida Statute, chapter 768.28, GRANTEE shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, its employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages, or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of GRANTEE's performance of the terms of this Agreement or due to the acts or omissions of GRANTEE.

X. GRANTEE INSURANCE REQUIREMENTS

GRANTEE shall, on a primary basis and at its sole expense, agree to maintain at all times during the life of this Agreement, self-insurance, insurance coverages, limits, including endorsements, as described herein. The requirements contained herein, as well as COUNTY'S review or acceptance of self-insurance or insurance maintained by GRANTEE are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by GRANTEE under the Agreement.

- A. **Sovereign Immunity.** Without waiving the right to sovereign immunity as provided by Florida Statute, Chapter 768.28, GRANTEE reserves the right to self-insure for General Liability and Automobile Liability under Florida's sovereign immunity statute with coverage limits of **\$100,000 Per Person** and **\$200,000 Per Occurrence**; or such monetary waiver limits as set forth by the Florida Legislature.
- B. **Liability & Additional Insured.** In the event GRANTEE maintains Commercial General Liability or Business Auto Liability, GRANTEE agrees to maintain said insurance policies at limits not less than **\$500,000 per occurrence**. GRANTEE further agrees to endorse Palm Beach County Board of County Commissioners as an "Additional Insured" to the Commercial General Liability, but only with respect to negligence other than COUNTY's negligence arising out of this Agreement. **This paragraph does not apply to an indemnity based claims-bill general liability policy.**
- C. **Worker's Compensation & Employer's Liability.** GRANTEE agrees to maintain, or self-insure, Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440.

condition or failure to operate legally.

XI. AVAILABILITY OF FUNDS

The COUNTY'S obligation to pay under this Agreement is contingent upon annual appropriation for such purpose by the Board of County Commissioners.

XII. REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

XIII. NONDISCRIMINATION

The GRANTEE warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

XIV. SEVERABILITY

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

XV. ENTIRE AGREEMENT

The COUNTY and the GRANTEE agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

XVI. CONSTRUCTION

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it.

XVII. SURVIVAL

The parties' warranties, agreements, covenants and representations set forth in this Agreement shall survive the expiration or termination of this Agreement.

XVIII. ASSIGNMENT

GRANTEE may not assign this Agreement or any interest herein without the prior written consent of COUNTY, which may be granted or withheld at COUNTY's sole and absolute discretion.

XIX. GOVERNING LAW & VENUE

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

XX. BINDING EFFECT

This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and assigns.

XXI. HEADINGS

The paragraph headings or captions appearing in this Agreement are for convenience only, are not part of this Agreement, and are not to be considered in interpreting this Agreement.

XXII. WAIVER

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party(s) waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

XXIII. NOTICE

All notices and elections (collectively, Anotices@) to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or Federal Express, or alternately shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or Federal Express, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

Kevin Johns
Economic Development Director
Economic Development Office, 10th Floor
P.B.C. Governmental Center
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-3624
Fax: 561-355-6017

with a copy to:

County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225
Fax: 561-355-6461

and if sent to the GRANTEE shall be mailed to:

Kim Briesemeister, Executive Director
West Palm Beach Community Redevelopment Agency
P.O. Box 3366
West Palm Beach, Florida 33402
561-822-1435
Fax: 561-822-1460
kimjackson@wpb.org

Any party may from time to time change the address to which notice under this Agreement shall be given such party, upon three (3) days prior written notice to the other parties.

(Remainder of page left blank intentionally.)

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY and the GRANTEE has hereunto set its hand the day and year above written.

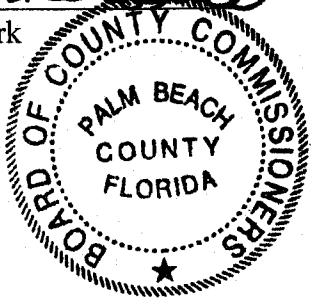
R 2005 1271
JUN 21 2005

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS:

By: Judith Croline
Deputy Clerk

By: Tony Masiloti
Tony Masiloti, Chairman



ATTEST:

WEST PALM BEACH COMMUNITY
REDEVELOPMENT AGENCY:

By: Therese DuFouchet
Title: CITY CLERK

By: [Signature]
Mayor/Chair

APPROVED AS TO TERMS
AND CONDITIONS

By: [Signature]
Department Director

CRA ATTORNEY
Approved as to form
and legal sufficiency
By: [Signature]
Date: 6-3-05

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: [Signature]
County Attorney

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Exhibit A

**BUSINESS/PUBLIC IMPROVEMENT PROJECT
AND
PROJECT DESCRIPTION**

Project Name #1: City Market - Belmat Inc. d/b/a Lucky Supermarket

Description: Lucky Supermarket, soon to be renamed City Market, began operations in 1995 utilizing 40% of the building. The building was purchased in 2002. The business will be expanding from 5,000 s.f. to 12,000 s.f. The business is presently renovating the interior and exterior of the building including two parking lots. Besides replacing existing equipment/fixtures/interior infrastructure, new materials and equipment will be purchased and installed in the expansion space. At present, 60% of the building is vacant. Construction is planned to begin summer 2005 to this vacant area and anticipated to be complete December 2005 or January 2006. The space will be furnished with appropriate counters, refrigeration, etc.. Plans call for a new deli section for prepared food to go as a new service to the community. Some exterior improvements will also take place during this phase.

Location: 5011 Broadway, West Palm Beach, FL 33407

Performance Goal: Full-time or equivalent jobs to be created: 6
Full-time or equivalent jobs existing at time of contract: 7

Funding Sources:

Palm Beach County	\$ 50,000
City/CRA	\$ 25,000
Private Investment	<u>\$1,365,000</u> Bank loan
Total Project Cost	\$1,440,000

Contact: Belkys & Mateo Diaz
5011 Broadway
West Palm Beach, Florida 33407
561-848-4856
Fax: 561-848-4807
belkysdiaz06@hotmail.com

Project Name #2: Palm Beach Yachts International, Inc.

Description: The business recently closed on the 4220 Broadway. Plans will be to change the exterior façade including landscaping, fencing and exterior lighting as well as making interior renovations. The business will be expanding the yacht brokerage, sales and charter services of the company. The project will begin July 1, 2005 and be completed by September 2005.

Location: 4220 Broadway, West Palm Beach, FL 33407

Performance Goal: Full-time or equivalent jobs to be created: 8
Full-time or equivalent jobs existing at time of contract: 3

Funding Sources:

Palm Beach County	\$ 25,000
City/CRA	\$ 25,000
Private Investment	\$ 144,000 Liquid cash
	<u>\$ 288,000</u> Bank loan
Total Project Cost	\$482,000

Contact: Donna & Duane MacPhail
Palm Beach Yachts International, Inc.
4200 N. Flagler Drive

West Palm Beach, Florida 33407
561-863-0082
Fax: 561-863-4406
donna@yachtcrew.com

Project Name #3: Pleasant City Restaurant LLC

Description: The Pleasant City Restaurant is an American/Greek restaurant. The owner has had the existing building since 1986. Architects are working on the layout and design of the project. Once completed, the business will begin permitting and construction. Funds will be needed to purchase large kitchen equipment, exterior lighting and landscaping. The restaurant is to open at the end of September, early October 2005.

Location: 505 15th Street, West Palm Beach, FL 33407

Performance Goal: Full-time or equivalent jobs **to be created:** 10
Full-time or equivalent jobs **existing at time of contract:** 0

Funding Sources:	Palm Beach County	\$ 50,000
	City/CRA	\$ 25,000
	Private Investment	<u>\$ 93,475</u> Bank loan
	Total Project Cost	\$168,475

Contact: Jim Madravazakis, President
2463 N. Wallen Drive
Palm Beach Gardens, Florida 33410
561-694-2719
Fax: 561-694-2719

Exhibit B

LIST OF ELIGIBLE EXPENSES

1. Acquisition of real property.
2. Expansion of existing property.
3. Providing payment of impact fees.
4. Public Improvements.
(Includes Facade Programs)
5. Construction of new buildings.
6. Renovation of existing buildings.
7. Site development.
8. Machinery & Equipment

**Exhibit C
SEMI-ANNUAL DEVELOPMENT REGIONS REPORT FORM**

Name of Applicant:

Contract Year:

Semi-Annual Report for the Period of:

Do not include in-kind in the below information. Matched local cash (Municipality / CRA / CDC) may include cash values of the following: waiving of utilities and water/sewer hookup costs; waiving of city=s occupational license fees; and donation of land, buildings and easements.

Identify the appropriate current status level for each one of the projects in second column below:

(A) Site Development (B) Land Acquisition (C) Rehabilitation/Construction (D) Completed

Business Name	County Award		City/CRA/CDC Award		Private Funds		Total Amount		Current Project Status (See Above)	# of Current Workers Hired Prior the Project	# of Current Part-time Workers Hired since the Beginning of the Project	# of Current Full-time Workers Hired since the Beginning of the Project
	Paid this Period	Paid Total	Paid this Period	Paid Total	Paid this Period	Paid Total	Paid this Period	Paid Total				