

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: 10/02/2007 Consent Regular
 Workshop Public Hearing
Department: Administration
Submitted By: Administration
Submitted For: Economic Development Office

I. EXECUTIVE BRIEF

Motion & Title: Staff recommends motion to approve a Business Incubation Program Grant Agreement with the Business & Economic Development & Revitalization (BEDR) Corporation in the amount of \$88,000 from October 1, 2007 to September 30, 2008.

Summary: The proposed \$88,000 Incubation Program Grant Agreement with BEDR Corporation will provide for operational expenses for BEDR to assist start-up and existing businesses and to improve the services offered to the business community. The scope of services outlined for the FY 2008 contract include: Reporting the Return on Investment, creating 10 new businesses and 25 new full-time jobs, providing technical assistance to 100 businesses/entrepreneurs, generating \$5,000 in revenue from operations, and signing 20 new incubation agreements with clients. BEDR exceeded contractual deadlines in FY 07. BEDR is located in West Palm Beach, and their target area is central and northern Palm Beach County. Countywide (DW)

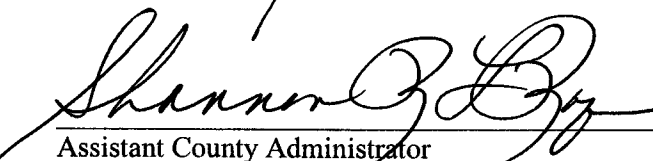
Background and Policy Issues: The Palm Beach County Business Incubation Program was initiated in 1994 through the creation of one business incubator center. By 1999, the program had four centers, of which three are classified as empowerment incubators and one as a technology incubator. The Program provides services to small start-up and existing businesses. The overall program outcome in the first three quarters of FY 07 shows that the four business incubators provided assistance to 832 clients; created 104 new full-time equivalent jobs and contributed toward retaining 238 jobs; assisted creating 35 new businesses; accepted 7 new tenants; signed 218 new incubation agreements with local businesses / entrepreneurs; and assisted clients obtaining \$1,785,228 in grants/loans/contracts and \$5,650,000 in investments.

BEDR's combined performance of last year's two six-month Agreements (R2006-2309 and R2007-0417), as of 8/31/07.

Performance Measure	FY 07 Contracted 10/1/06 – 9/30/07	Actual Results 10/1/06 – 8/31/07	% Accomplished	Projected Performance 9/1/07 – 9/30/07	Projected Results 10/1/06 – 9/30/07	Projected % Accomplished
Jobs Created	20	20.5	103%	2	22.5	113%
New Business Created	10	12	120%	3	15	150%
Businesses Assisted	70	106	151%	21	127	181%
Revenue from Operations	\$5,000	5,110	102%	2,000	7,110	142%
New Incubation Agreements	20	25	125%	6	31	155%

Attachment:
Grant Agreement

Recommended by: 
Economic Development Director Date

Approved by: 
Assistant County Administrator 9-24-07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures					
Operating Costs	<u>88,000</u>				
Operating Revenues					
Program Income (PBC)					
In-Kind Match (PBC)					
NET FISCAL IMPACT	<u>88,000</u>				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Proposed

Is Item Included In ~~Current~~ Budget? Yes **XX** No

Budget Account No.: Fund 1539 Department 764 Unit 1101 Object 8201
Program Code 0865

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The source for the \$88,000 is the Incubator Program fund account # 1539-764-1101-8201

C. Departmental Fiscal Review:

[Signature] 8/2/07

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

The amount requested is included in the proposed FY 2008 budget.

[Signature] 8-4-07
9/31/07 OFMB *original*

[Signature] 9/17/07
Contract Dev. and Control 9/17/07

This Contract complies with our contract review requirements.

B. Legal Sufficiency:

[Signature] 9/18/07
Assistant County Attorney

C. Other Department Review:

This summary is not to be used as a basis for payment.

AN INCUBATION PROGRAM GRANT AGREEMENT BETWEEN
PALM BEACH COUNTY
AND
**BUSINESS & ECONOMIC DEVELOPMENT & REVITALIZATION
(BEDR) CORPORATION OF PALM BEACH COUNTY, INC.**

THIS Grant Agreement, entered into this _____ day of _____, 2007, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY" and the **Business & Economic Development & Revitalization (BEDR) Corporation of Palm Beach County, Inc.**, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida, having its principal office at **5725 Corporate Way, Suite 201, West Palm Beach, FL 33407**, hereinafter referred to as the "GRANTEE", whose Federal I.D. number is **650499595**.

WHEREAS, Palm Beach County and the GRANTEE desire to assist small and start-up businesses by providing the services specified in Exhibit A of this Agreement; and

WHEREAS, Palm Beach County desires to engage the GRANTEE to implement such undertakings of the Palm Beach County Incubation Program, hereinafter referred to as "PROGRAM" in order to foster a stronger and more balanced economy in Palm Beach County.

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

Recitals

The foregoing recitals are correct and true at the time of execution of this Agreement and are incorporated herein by reference:

**PART I
TERMS OF THE AGREEMENT**

Scope of Services

The GRANTEE shall, in a satisfactory and proper manner as determined by the COUNTY, perform the tasks necessary to complete the Scope of Services outlined in Exhibit "A", submit invoices using the cover sheet as shown in Exhibit "B", and provide reports as shown in Exhibit "C", which are attached hereto and made a part hereof.

Effective Date and Term

The effective date of this Agreement shall be the 1st day of **October, 2007**. The term of this Agreement shall be twelve (12) months from the effective date of this Agreement. This Agreement shall end on the 30th day of **September, 2008**.

Grant Amount

The GRANTEE will be eligible for a grant amount not to exceed **\$88,000 (eighty eight thousand dollars)**, which shall be payable in accordance with the terms of this Agreement and the eligible expenses outlined in Exhibit "A." Any funds not obligated by the expiration date of this Agreement shall automatically revert to the COUNTY.

Performance Period

The GRANTEE shall have twelve (12) months from the effective date of this Agreement to fulfill the obligations as scheduled in Exhibit "A." Said services shall be performed in a manner satisfactory to COUNTY. **In any event, all services required hereunder shall be completed by the GRANTEE no later than September 30, 2008.**

Eligible Reimbursements

The grant funds available under this Agreement shall be provided only for reimbursement expenses associated with the GRANTEE's operational expenses as set forth in Exhibit "A."

Method of Payment

The COUNTY agrees to make payments and to reimburse the GRANTEE for all eligible expenses, as described in Exhibit "A", permitted by COUNTY guidelines up to the maximum compensation set

forth above. Payments of the COUNTY shall be made to GRANTEE as reimbursement for eligible expenditures, upon submission of invoices by GRANTEE to COUNTY, and a determination by COUNTY that the reimbursement requests are a COUNTY-approved budget line item under this Agreement. Each invoice submitted by GRANTEE shall be itemized in sufficient detail for audit thereof, and shall be supported by copies of the corresponding vendor invoices and proof of receipt of the goods or services invoiced. In no event shall the COUNTY provide advance funding to the GRANTEE or any subcontractor hereunder. The GRANTEE will bill the COUNTY on a monthly basis, or as otherwise provided, for expenses actually incurred and paid. **The amount billed in any month shall not, however, exceed 1/12th of the total Agreement amount or \$7,333.33** However, the GRANTEE may submit a cumulative billing request for more than the sum of \$7,333.33, if the preceding month's billing did not equal the 1/12th share, or if requested in writing by the GRANTEE and agreed to by the COUNTY's Economic Development Director.

All requests for reimbursements shall include copies of invoices, canceled checks, or other documentation acceptable to the Palm Beach County Economic Development Office and the Finance Department of the Clerk of the Circuit Court, and shall be sufficient to adequately describe the expenses and establish that the expense was actually incurred directly by the GRANTEE. When submitting copies of invoices, GRANTEE shall provide to COUNTY on a quarterly basis verification of payment for approved invoices in the form of canceled checks or other documentation acceptable to COUNTY. Invoices should be submitted to the COUNTY for approval **within thirty (30) days** following the month in which the expense was incurred. Invoices shall **not** be honored if received by the Palm Beach County Finance Department **later than forty-five (45) days** after the expiration date of this Agreement, nor will any invoices be honored that predate the effective date of this Agreement. COUNTY reserves the right to withhold reimbursement if the deliverables are not completed as specified in Exhibit "A."

Budget Changes

GRANTEE may change each budget line item, as described in Exhibit "A", up to ten percent (10%) without written approval. For budget line item changes of more than ten percent (10%), GRANTEE must submit a letter of request to the Economic Development Office prior to the budget change. The Economic Development Office shall submit a written approval to GRANTEE before proceeding with the budget changes. The total budget amount and the budget line items shall remain the same.

Conditions on which Payment is Contingent

- A. **Financial Accountability**
The COUNTY as it deems necessary, may at any time review the GRANTEE's financial systems, or conduct an audit of the GRANTEE or any of its subcontractors, to determine the capability of the GRANTEE to fiscally manage the Scope of Services in accordance with COUNTY requirements.
- B. **Subcontracts**
None of the work or services covered by this Agreement, including but not limited to consultant work or services, shall be subcontracted or reimbursed without the prior written approval of the COUNTY.
- C. **Reports**
Reports shall be submitted to the COUNTY, postmarked no later than fourteen (14) days after the end of the reporting period, as outlined in Exhibit "C". The reports shall be to the satisfaction of the COUNTY and be subject to verification. The COUNTY reserves the right to request additional reports that are reasonable and fair from the GRANTEE, for any previous periods funded by the COUNTY upon ten (10) business days notice. The final report produced and submitted by the GRANTEE will reflect quarterly and cumulative figures.
- D. **Prior Written Approvals**
The following, among others, require the prior written approval of the COUNTY to be eligible for reimbursement or payment:
 - (i) All subcontracts and/or agreements pursuant to this Agreement; and
 - (ii) All capital equipment expenditures of \$1,000 or more.

**PART II
GENERAL CONDITIONS**

Opportunities for Residents and Civil Rights Compliance

The GRANTEE agrees that no person shall, on the grounds of race, color, disability, national origin, religion, age, familial status, sex, or sexual orientation be excluded from the benefits of, or be subjected to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the COUNTY shall have the right to terminate this Agreement. To the greatest extent feasible, low-income residents of the COUNTY shall be given opportunities for training and employment; and to the greatest extent feasible, businesses located in or owned by persons residing in the COUNTY shall be awarded contracts in connection with this Grant.

Opportunities for Small and Minority/Women-Owned Business Enterprises

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the GRANTEE shall make a positive effort to utilize small and minority/women-owned business enterprises as sources of supplies and services, and provide these enterprises the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible, these small and minority/women-owned business enterprises shall be located in and/or owned by residents of Palm Beach County.

Contract Documents

The following documents are herein incorporated by reference or made part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- A. This Agreement including its Exhibits;
- B. Title VI of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- C. The Drug-Free Workplace Act of 1988, as amended;
- D. The GRANTEE's Policies and Procedures Manuals, and Job Descriptions;
- E. The GRANTEE's Articles of Incorporation and Bylaws;
- F. The GRANTEE's Certificate of Insurance;
- G. Current list of the GRANTEE's Officers and members of Board of Directors;
- H. Proof of GRANTEE's 501(c)(3) certification from Internal Revenue Service (IRS); and
- I. Florida Statute 112.061, relating to per diem, travel.

All of these documents will be maintained on file by the GRANTEE. The GRANTEE shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

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 GRANTEE. GRANTEE shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the GRANTEE authorized to use the COUNTY'S Tax Exemption Number in securing such materials. The GRANTEE shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

Governing Law and Venue

This Agreement shall be performed in accordance with applicable Federal, State, COUNTY laws, ordinances and codes. These represent minimum regulations which may be supplemented by more restrictive guidelines set forth by the COUNTY. Venue in any action, suit or proceeding in connection with this Agreement shall lie in a Florida State Court of competent jurisdiction located in Palm Beach County.

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.

Construction of Agreement

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 this final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based on who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Recognition

The GRANTEE shall include a reference to the financial support herein provided by the COUNTY in all publications and publicity. In addition, the GRANTEE shall make a good faith effort to recognize the COUNTY's support for all activities made possible with funds available under this Agreement.

No Forfeiture

The rights of the COUNTY under this Agreement shall be cumulative and failure on the part of the COUNTY to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

Default

In the event the GRANTEE fails or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in the Agreement, the COUNTY shall, in addition to any other remedies provided at law or in equity, have the right of specific performance thereof.

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.

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.

Termination

This Agreement may be terminated by the GRANTEE upon sixty (60) 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 Agreement through no fault of the GRANTEE. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the GRANTEE. Unless the GRANTEE is in breach of this Agreement, the GRANTEE 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 GRANTEE shall stop work on the date and to the extent specified.

Amendments

The COUNTY may, at its discretion, amend this Agreement to conform to changes required by Federal, State, or COUNTY guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the Board of County Commissioners. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the Board of County Commissioners and signed by both parties.

Personnel

The GRANTEE represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the COUNTY. All of the services required herein under shall be performed by the GRANTEE 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. The GRANTEE warrants that all services shall be performed by skilled and

competent personnel to the highest professional standards in the field. All of the GRANTEE's personnel (and all Subcontractors) while on COUNTY premises will comply with all COUNTY requirements governing conduct, safety and security.

Evaluation and Monitoring

The GRANTEE agrees that the COUNTY will carry out periodic monitoring and evaluation activities as determined necessary by the COUNTY and that the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement and comparisons of planned versus actual progress relating to project scheduling, budgets, audit reports, and output measures. The GRANTEE shall submit information and status reports required by the COUNTY, on forms approved by the COUNTY. The GRANTEE shall allow the COUNTY to monitor the GRANTEE on site. Such visits may be scheduled or unscheduled as determined by the COUNTY.

Insurance

GRANTEE shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverage and limits (including endorsements), as described herein. GRANTEE shall agree to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverage. The requirements contained herein, as well as COUNTY's review or acceptance of 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 this Agreement.

A. ***Commercial General Liability***

GRANTEE 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. GRANTEE shall provide this coverage on a primary basis.

B. ***Business Automobile Liability***

GRANTEE shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000 Each Accident** for all owned, non-owned and hired automobiles. In the event GRANTEE does not own any automobiles, the Business Auto Liability requirement shall be amended allowing GRANTEE 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. GRANTEE shall provide this coverage on a primary basis.

C. ***Worker's Compensation Insurance & Employers Liability***

GRANTEE shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. GRANTEE shall provide this coverage on a primary basis.

D. ***Additional Insured***

GRANTEE 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."** GRANTEE shall provide the Additional Insured endorsements coverage on a primary basis.

E. ***Certificate(s) of Insurance***

Prior to execution of this Agreement, GRANTEE shall deliver to the COUNTY's representative as identified in the *Notice Article*, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. **Such Certificate(s) of Insurance shall include a minimum ten (10) days endeavor to notify due to cancellation or non-renewal of coverage. The Certificate of Insurance shall be issued to "Palm Beach County, C/O Economic Development Office, 301 N. Olive Avenue, 10th Floor, West Palm Beach, FL 33401."**

F. ***Right to Review***

COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any

required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

Indemnification

The GRANTEE shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, 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 performance of the terms of this Agreement or due to the acts or omissions of the GRANTEE.

Successors and Assigns

The COUNTY and the GRANTEE each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the GRANTEE shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the GRANTEE.

Remedies

This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will 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.

Conflict of Interest

The GRANTEE represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes.

The GRANTEE further represents that no person having any such conflict of interest shall be employed for said performance of services. The GRANTEE covenants that no person who presently exercises any functions or responsibilities in connection with the PROGRAM has any personal financial interest, direct or indirect, in the activities that will be provided under this Agreement, which would conflict in any manner or degree with the performance of this Agreement.

The GRANTEE shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the GRANTEE's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the GRANTEE may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would constitute a conflict of interest if entered into by the GRANTEE. The COUNTY agrees to notify the GRANTEE of its opinion by certified mail within thirty (30) days of receipt of notification by the GRANTEE. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the GRANTEE, the COUNTY shall so state in the notification and the GRANTEE shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the GRANTEE under the terms of this Contract.

Excusable Delays

The GRANTEE shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the GRANTEE or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Arrears

The GRANTEE shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The GRANTEE further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

Independent Contractor Relationship

The GRANTEE is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the GRANTEE'S sole direction, supervision, and control. The GRANTEE shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the GRANTEE's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY. The GRANTEE does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

Access and Audits

The GRANTEE shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the GRANTEE's place of business.

Non Discrimination

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.

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 provision, 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.

Public Entity Crimes

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the GRANTEE certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

Availability of Funds

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

County Funded Programs

COUNTY funding can be used to match grants from other non-COUNTY sources; however, the GRANTEE cannot submit reimbursement requests for the same expenses to more than one funding source or under more than one COUNTY funded program.

Business Incubation Program Definitions

New Job Creation

New employee hired by:

- (A) An existing or newly created enterprise with an active Incubation Service Agreement that has its business located at the Incubator Center or elsewhere.
- (B) An enterprise that graduated from the Business Incubation Program within the twenty-four (24) months.

Existing Job

A job that was created by an enterprise before entering into a Business Incubation Program Agreement with the Business Incubator.

Part Time Job

A job of less than thirty-five (35) hours per week or less than 1,820 hours per year.

Full Time Job

A job of more than thirty-five (35) hours per week or more than 1,820 hours per year.

Full-Time Equivalent (FTE) Job

Equals one (1) job totaling 2,080 hours annually or two (2) or more job positions that together total 2,080 hours per year.

New Business Creation

A business that was not incorporated or that was listed as "inactive" by the State of Florida's Division of Corporations for more than one (1) year and that was created / incorporated under the guidance of the Incubation Center to set the right business conditions to start operating.

Business Assistance

The provision of incubation program services to individuals / entrepreneurs, affiliate companies and tenant companies, either by in-house resources or through the Business Incubator network or services providers.

Active Agreement

An incubator agreement between a client and the Incubator Center that has not expired.

Anchor Business

An established, rent paying business or organization admitted to an incubator that may or may not provide some form of benefit to small business tenants and does not require services from the incubator center.

Start-Up Business

A business that has been in operations for less than one (1) year.

Existing Business

A business that has been in operations for more than one (1) year.

Tenant Company

A business that is renting space in an incubator facility and has agreed to participate in the incubation program.

Graduate Tenant

A business which has reached the point where its experience and viability are sufficient to operate on a stand alone basis outside the incubator environment.

Affiliate Company

A business that has signed an incubator agreement to participate in the incubation program and that is not renting incubator space.

Notice

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance.

If sent to the COUNTY, notices shall be addressed to:

Kevin Johns, AICP, Economic Development Director
Economic Development Office
301 North Olive Ave., 10th Floor
West Palm Beach, Florida 33401
Phone (561) 355-3624
Fax (561) 355-6017

With a copy to:

Dawn Wynn, Assistant County Attorney
County Attorney Office
P.O. Box 1989
West Palm Beach, Florida 33402-1989

If sent to the GRANTEE, notices shall be addressed to:

Lia T. Gaines, President / CEO
BEDR Corporation
5725 Corporate Way, Suite 201
West Palm Beach, Florida 33407
Phone (561) 686-0064
Fax (561) 689-0070

Entirety of Contractual 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 in accordance with Article - Modifications of Work.

Criminal History Records Check

The GRANTEE shall comply with the provisions of Ordinance 2003-030, the Criminal History Records Check Ordinance ("Ordinance"), if GRANTEE's employees or subcontractors are required under this contract to enter a "critical facility" (if applicable) as identified in Resolution R-2003-1274. The GRANTEE acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the GRANTEE shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

Regulations; Licensing Requirements

GRANTEE shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. GRANTEE is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

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 and seal the day and year above written.

ATTEST:

Sharon R. Bock, Clerk & Comptroller

**PALM BEACH COUNTY, FLORIDA, A POLITICAL
SUBDIVISION OF THE STATE OF FLORIDA
BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

APPROVED AS TO
TERMS AND CONDITIONS:

By: _____
Assistant County Attorney

By: _____
Economic Development Director

GRANTEE:
BEDR Corporation

By: _____
Representative's Name & Title

Signature

(CORPORATE SEAL)

WITNESS:

Witness Name

Signature

EXHIBIT A

SCOPE OF SERVICES

BUSINESS INCUBATION PROGRAM OBJECTIVES

- A. To create a network of business support resources and services to small and start-up businesses in Palm Beach County.
- B. To offer services to existing and start-up small businesses such as: below market rent for work-site facilities, office services, access to equipment, business training and development, and technical assistance.
- C. To provide management guidelines and consulting services to businesses to accelerate the successful development of entrepreneurial companies throughout Palm Beach County.
- D. To assist small businesses in accessing financing sources.

The GRANTEE agrees to meet the above objectives and complete the deliverables specified for the following performance measures:

PERFORMANCE MEASURES	FY 2008 DELIVERABLES
Return on Investment	Report based on REMI Model
New Full-time Equivalent Jobs Created	25
New Businesses Created	10
Businesses/Entrepreneurs Assisted	100
Revenue Generated from Incubator Operations	5,000
Number of New Businesses under Incubation Agreement	20

BUDGET AND ELIGIBLE EXPENSES

The COUNTY agrees to provide technical assistance to ensure that the GRANTEE will be in compliance with applicable State, Federal and COUNTY regulations and this Agreement, and to provide funding totaling \$88,000 as specified in the following eligible expenses:

EXPENDITURES	FY 2008 BUDGET
Salary & Fringe Benefits	46,406
Rental / Lease	22,248
Telephone / Utilities	5,000
Insurance	2,300
Operations / Supplies	2,500
Professional Services	9,546
TOTAL BUDGET	88,000

EXHIBIT B

LETTERHEAD STATIONERY

DATE:

TO: Kevin Johns, AICP, Economic Development Director
Economic Development Office
301 North Olive Avenue, 10th Floor
West Palm Beach, Florida 33401

FROM: Name of GRANTEE
Address
Telephone

SUBJECT: Reimbursement Request No.-
Contract No.-

Attached, you will find Invoice #____, requesting reimbursement in the amount of \$ _____.
The expenditures for this invoice covers the period of _____ through _____. You will also
find attached, back-up original documentation relating to the expenditures being involved.

Signature

EXHIBIT C
REPORTING FORM

DATE:

BUSINESS INCUBATOR CENTER:

REPORTING PERIOD: 1st Quarter 2nd Quarter 3rd Quarter 4th Quarter

REPORT SUBMITTED BY:

Part I: Cover Letter

Provide a cover letter with each quarterly report with the following information:

- A. Other fund raising efforts for the Business Incubator Program. Specify name of prospect grantor, amount, and expected date of award.
- B. List of workshops offered to the business community and entrepreneurs. Attach back up documentation and a copy of the list of attendees.
- C. Any other information that impacts positively or negatively the Business Incubation Program.

Part II: Financial Information

Use Attachment 1.

Part III: Job Creation Report

Use Attachment 2 to survey each one of the businesses that have an active Incubator Agreement.

Use Attachment 3 to provide a summary report.

Part IV: Business Creation Report

Use Attachment 4.

Provide copies of each application submitted to the State of Florida on behalf of the client.

Part V: Business Incubation Agreements Report

Use Attachment 5.

Part VI: Business / Entrepreneur Assistance Report

Use Attachment 6.

Part VII: Real Estate Investment & Tax Contribution Report

Use Attachment 7.

Part VIII: Return on Investment

Used Attachment 8 to request an analysis of the return on the investment of businesses.

Attachment 1. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
FINANCIAL INFORMATION

Business Incubator Center:

Date:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Year-to-Date
	Oct.1 to Dec.31	Jan. 1 to March 31	April 1 to June 30	July 1 to Sept. 30	2008
SOURCES OF INCOME					
(DO NOT include in-kind contribution)					
A. Sponsors					
City/County/State/Federal Governments					
Universities /Colleges					
Community organizations					
For-profit org. / Financing institutions					
Other (specify)					
Sub-Total					
B. Loans					
Line of Credit					
Credit Card					
Other					
Sub-Total					
C. Revenues from Business Operations					
Contracts & services to clients					
Tenant's space lease (Gross Rent)					
Clients membership fees					
Interest from Investments					
Other (specify)					
Sub-Total					
TOTAL INCOME					
EXPENSES					
Incubation program					
Salaries & benefits					
Rent/Utilities/Maintenance					
All other operational expenses					
Staff professional development					
Loan interests					
TOTAL EXPENSES					
NET BALANCE					

Total income minus total expenses

Incubation program expenses: Professional services such as business consulting for clients, feasibility studies, assessment of proposals, and grant writing. Customer survey expenses, subsidies to clients for loan applications, conferences, workshops, training courses, protocol expenses, subscription fees, and other expenses related directly to the program.

Payroll & benefits: If you report the salary of a business consultant to clients as an Incubation Program expense, you cannot include the same expense in the payroll & benefits section.

Rent/Utilities/Maintenance (building costs) expenses: Maintenance / repairs, lease or mortgage expenses.

All other operational expenses: Supplies, equipment and professional services (related to operational activities only).

Staff Professional Development Expenses: Staff members participating in: executive programs, training workshops/courses, computer courses, etc.

Loan interest and principal expenses: The total amount paid on a business loan to finance business incubator activities. This include interest and principal.

Attachment 2. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
JOB CREATION REPORT

Business Name:

Date:

INFORMATION FROM EACH BUSINESS					CALCULATIONS	
A	B	C	D	E	F	G
			Hours Employed per Week	Weeks Employed per Year	Total hours worked per Year: multiply column D by column E	FTE* Jobs: Divide column F by 2,080
Job Position Name	Date Hired	Date Terminated				

Existing Job Positions: Created prior to entering into an agreement with the client

Sub-Total			hrs	wks	hrs	FTE

New Job Positions: Created after entering into an agreement with the client or after creating a new business

Sub-Total			hrs	wks	hrs	FTE

* FTE - Full Time Equivalent

Attachment 3. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
Job Creation Summary Report

	A	B	C
No.	Business Name	Existing FTE* Jobs from Attachment 2	New FTE Jobs from Attachment 2
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
	TOTAL		

* FTE - Full Time Equivalent

Attachment 4. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
Business Creation Report

New Business Creation: A business that was not incorporated or that was listed as inactive by the State of Florida's Division of Corporations for more than one year **and** that was created/incorporated under the guidance of the Incubation Center to set the right business conditions to start operating.

No.	Business Name	Date Incorporated
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

Attachment 5. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
Business Incubation Agreements Report

New Incubator Agreement

A business or tenant that: (A) Signs an agreement for the first time to participate in the Incubation Program. Or (B) Renews an agreement to continue participating in the Incubation Program.

No.	Entrepreneur or Business Name	Start Date	Expiration Date	Type of Agreement		Tenant?
				New	Renewal	Y/N
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

Attachment 6. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
Business / Entrepreneur Assistance Report

Date	Business / Individual Name (Enter only once)	Type of Client				Services Provided		
		Individual	Established Business	Start-Up Business	Tenant	Business Development	Loan / Grant / Investment Application and Amount APPROVED	Other

Business Development Services: Accounting/financial system evaluation, business plan preparation, marketing research or strategy, intellectual property management, and software/biotech product assessment & commercialization.

Attachment 7. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
Real Estate Investment & Tax Contribution Report

No.	Business Name	Amount of Real Estate Investment				TOTAL	Taxes Paid		DIFFERENCE (Taxes generated from investment)
		Purchase	Expansion	Relocation	Renovation		Year prior to investment	Year after investment	
						\$			\$
TOTAL									

Taxes Paid: Log onto the COUNTY's Property Appraiser's website at www.pbcgov.com/papa to inquire about the taxes paid for the business property. Provide a copy of the Property Appraiser's report for each business property.

Attachment 8. Exhibit C Reporting Form
PALM BEACH COUNTY BUSINESS INCUBATION PROGRAM
Economic Return on Investment

Economic Return on Investment Analysis Request Form
Palm Beach County Business Incubation Program

Instructions:

1. This form is for (1) new businesses created by the business incubator that have started business operations in the current fiscal year and added new job positions; (2) existing businesses that have added new job positions; and (3) new or existing businesses that built a new property or expanded an existing one.
2. Fill out one form per eligible business.
3. Submit all forms on a quarterly basis to the Economic Development Office, with the Business Incubator Quarterly Report.

Business Incubator:	
Requested by:	Phone:
E-mail:	Fax:

Business Name:
NAICS Code:
Industry:
Type of Service:
Number of new full-time job positions added: _____
Number of new part-time job positions added: _____
Combined annual salary (from both NEW full and part time jobs):
New Commercial Facility Square footage: _____ sq. ft. Construction cost/ capital investment: \$ _____
Existing Commercial Facility Square footage added: _____ sq. ft. Construction cost/ capital investment: \$ _____