

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 04-01-08 [X] Consent [ ] Regular  
[ ] Workshop [ ] Public Hearing

Department: County Administration  
Submitted By: County Administration  
Submitted For: Economic Development Office

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Amendment No.1 to Agreement R2006-1169 with the Delray Beach Community Redevelopment Agency (CRA) to: a) extend the term of the expiration date from February 20, 2010 to February 20, 2011; and b) revise Exhibit A to the contract.

**Summary:** On June 20, 2006, the Board of County Commissioners approved the Grant Agreement with the Delray Beach Community Redevelopment Agency (R2006-1169) for three economic development projects; City Limits (SCRAM LLC), Dental Office of Jonathan Freed, DDS, and BADI d/b/a Community Market Store and Hammad Plaza. City Limits (SCRAM LLC) has been completed. The Dental Office of Jonathan Freed, DDS, did not want to proceed with its project. The remaining project, BADI d/b/a Community Market Store and Hammad Plaza, experienced delays due to a project size and cost increase which is now moving forward and is in the final permitting phase. This amendment will allow for a twelve month extension to the construction reimbursement deadline, the hiring deadline and job maintenance period for the BADI project, and eliminate the \$50,000 earmarked for the Dental Office of Jonathan Freed, DDS. All projects are located in the "Core" (20% or greater poverty) area of the Development Regions. District 7 (DW)

**Background and Policy Issues:** The scope of the BADI project which includes interior/exterior renovations has increased. The total project cost increased from \$350,000 to \$400,000 with County funds remaining at \$50,000, the CRA funds remaining at \$25,000 and private funds increasing to \$325,000. In addition, the CRA has committed to paying a portion of the landscape and sidewalk improvements. This project will create a total of five (5) full-time equivalent jobs. The completed project, City Limits (SCRAM LLC) was awarded \$50,000 in County funds with a \$25,000 CRA match to renovate its building for a total cost of \$773,050, creating eighteen (18) full-time equivalent jobs. With the elimination of the Dental Office of Jonathan Freed, DDS, project, the Grant Agreement (R2006-1168) with the Delray Beach Community Redevelopment Agency will decrease from \$150,000 to \$100,000 in County funds. With this extension, the BADI project will have a total of twelve (12) months for construction to be completed, thirty-two (32) months from the date of the agreement (June 20, 2006) to create the full-time or equivalent jobs and a job maintenance period of twenty-four (24) months.

**Attachments:**

1. First Amendment
2. Contract R2006-1168

Recommended By: [Signature] 3-17-08  
Economic Development Director Date

Approved By: [Signature] 3-25-08  
Assistant County Administrator Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>(50,000)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (PBC)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match (PBC)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>(50,000)</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
# ADDITIONAL FTE POSITIONS (Cumulative) _____	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No: Fund 1539 Department 764 Unit 1060 Object 8201  
 Reporting Category \_\_\_\_\_

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

Grant funds reduced from \$150,000 to \$100,000 due to elimination of one business project. The \$50,000 fund is unencumbered.

### C. Departmental Fiscal Review:

*[Signature]* <sup>for MM</sup>

## III. REVIEW COMMENTS

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

*[Signature]* 3/24/08  
 OFMB *[Stamp]*

*[Signature]* 3/24/08  
 Contract Dev. and Control

### B. Legal Sufficiency:

*[Signature]* 3/24/08  
 Assistant County Attorney

**This amendment complies with  
our review requirements.**

### C. Other Department Review:

\_\_\_\_\_  
 Department Director

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

**FIRST AMENDMENT TO DEVELOPMENT REGIONS  
GRANT AGREEMENT R2006-1169  
DELRAY 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 DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic, hereinafter referred to as GRANTEE.

**WITNESSETH**

**WHEREAS**, on June 20, 2006, the COUNTY and the GRANTEE entered into a Grant Agreement (Defined as "Agreement") Document #R2006-1169, for three (3) business projects; City Limits (SCRAM LLC), BADI d/b/a Community Market Store and Hammad Plaza and the Dental Office of Jonathan Freed, DDS, located in the Delray Beach Community Redevelopment Area; and

**WHEREAS**, City Limits (SCRAM LLC) completed its project and the Dental Office of Jonathan Freed, DDS, did not meet the contractual requirements, withdrawing from the program; and

**WHEREAS**, the owner of BADI d/b/a Community Market Store and Hammad Plaza had a project cost increase which has been resolved and is now is the final permitting phase, and

**WHEREAS**, the CRA has requested a twelve month extension for the business project, BADI d/b/a Community Market Store and Hammad Plaza, using the awarded \$50,000 in County funds to complete the expansion and interior/exterior renovations for the Community Market Store and the additional two bays which will be used for a coffee/pizzeria and retail shop in the West Atlantic Redevelopment Area; and

**WHEREAS**, the business project for the Dental Office of Jonathan Freed, DDS, and the unspent County funds totaling \$50,000 will be removed from the Agreement which will decrease the total grant amount from \$150,000 to \$100,000 in County funds; and

**WHEREAS**, the COUNTY and the GRANTEE desires 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:

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

Sentence 2 is hereby deleted and replaced with the following: This Agreement will commence on June 20, 2006 and expire fifty-six (56) months following the Effective Date on February 20, 2011.

II. Paragraph I. entitled Maximum Grant Amount

Sentence 1 is hereby deleted and replaced with the following: In no event shall the reimbursements made to GRANTEE pursuant to this Agreement exceed the maximum total Grant Award of one hundred thousand dollars (\$100,000).

III. 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 twenty-two (22) calendar months [April 20, 2008] of the effective date of this Agreement [June 20, 2006].

Sentence 1, 2 and 3 of Section **B. Grant Award and Job Requirements** is hereby deleted and replace 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-three (23) full-time or equivalent jobs in Palm Beach County within thirty-two (32) months [**February 20, 2009**] and maintain same for twenty-four (24) months or through the fifty-sixth (56<sup>th</sup>) month [**February 20, 2011**], which ever shall occur first. The grant award is \$4,347.82 per full-time or equivalent job. The total grant award shall not exceed \$100,000.

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 February 20, 2011, the expiration of the fifty sixth (56<sup>th</sup>) month subsequent to the Effective Date of this Agreement [June 20, 2006].

IV. 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 thirty (30) calendar months [ending December 20, 2008] subsequent to the Effective Date of this Agreement [June 20, 2006].

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 thirty-second (32<sup>nd</sup>) calendar month [February 20, 2009].

V. Paragraph **VI. entitled REPORTING REQUIREMENTS** is hereby amended to include an additional reporting period:

Reporting Period	Due Date
9 (July – December 2010)	Monday, January 31, 2011
10 (January – June 2011)	Friday, July 29, 2011

VI. Project Name **#3 of Exhibit A entitled BUSINESS/PUBLIC IMPROVEMENT PROJECT AND PROJECT DESCRIPTION** is hereby deleted.


(THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY.)

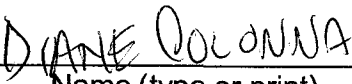
Except as set forth herein, the Agreement remains unrevised and in full force and effect, and the parties hereby ratify, confirm and adopt the Agreement as amended hereby. IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day set forth above.

WITNESS

DELRAY BEACH COMMUNITY REDEVELOPMENT  
AGENCY:

  
\_\_\_\_\_  
Signature

By:   
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Name (type or print)

Seal

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

# CERTIFICATE OF COVERAGE

Certificate Holder

PALM BEACH COUNTY  
ECONOMIC DEVELOPMENT OFFICE  
PO BOX 1989  
WEST PALM BEACH FL 33402 1989

Administrator

Issue Date 2/28/08

Florida League of Cities, Inc.  
Public Risk Services  
P.O. Box 530065  
Orlando, Florida 32853-0065

## COVERAGES

THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE 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 COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT.

COVERAGE PROVIDED BY:

FLORIDA MUNICIPAL INSURANCE TRUST

AGREEMENT NUMBER: FMIT 0704

COVERAGE PERIOD: FROM 10/1/07

COVERAGE PERIOD: TO 10/1/08 12:01 AM STANDARD TIME

### TYPE OF COVERAGE - LIABILITY

#### General Liability

- ☒ Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury
- ☒ Errors and Omissions Liability
- ☒ Supplemental Employment Practice
- ☒ Employee Benefits Program Administration Liability
- ☒ Medical Attendants/Medical Directors' Malpractice Liability
- ☒ Broad Form Property Damage
- ☐ Law Enforcement Liability
- ☒ Underground, Explosion & Collapse Hazard

#### Limits of Liability

\* Combined Single Limit

Deductible N/A

#### Automobile Liability

- ☐ All owned Autos (Private Passenger)
- ☐ All owned Autos (Other than Private Passenger)
- ☒ Hired Autos
- ☒ Non-Owned Autos

#### Limits of Liability

\* Combined Single Limit

Deductible N/A

### TYPE OF COVERAGE - PROPERTY

- ☒ Buildings
  - ☐ Basic Form
  - ☒ Special Form
- ☒ Personal Property
  - ☐ Basic Form
  - ☒ Special Form
- ☐ Agreed Amount
- ☒ Deductible \$1,000
- ☒ Coinsurance 80%
- ☐ Blanket
- ☒ Specific
- ☒ Replacement Cost
- ☐ Actual Cash Value

#### Miscellaneous

- ☒ Inland Marine
- ☒ Electronic Data Processing
- ☐ Bond

Limits of Liability on File with Administrator

### TYPE OF COVERAGE - WORKERS' COMPENSATION

- ☒ Statutory Workers' Compensation
- ☒ Employers Liability
  - \$1,000,000 Each Accident
  - \$1,000,000 By Disease
  - \$1,000,000 Aggregate By Disease
- ☐ Deductible N/A
- ☐

### Automobile/Equipment - Deductible

- ☒ Physical Damage    N/A - Comprehensive - Auto    N/A - Collision - Auto    Per Schedule - Miscellaneous Equipment

### Other

The limit of liability is \$100,000 Bodily Injury and/or Property Damage per person or \$200,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to \$2,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability imposed pursuant to Federal Law or actions outside the State of Florida.

### Description of Operations/Locations/Vehicles/Special Items

RE: Grants.

The Certificate Holder is hereby added as an additional insured, except for Workers' Compensation and Employers Liability, as respects the member's liability for the above described item.


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 AGREEMENT ABOVE.

### DESIGNATED MEMBER

DELRAY BEACH COMMUNITY REDEVELOPMENT  
AGENCY  
20 NORTH SWINTON AVENUE  
DELRAY BEACH FL 33444

### CANCELLATIONS

SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.



AUTHORIZED REPRESENTATIVE

2  
R2006-1169

PALM BEACH COUNTY DEVELOPMENT REGIONS  
GRANT AGREEMENT

THIS AGREEMENT is made as of June 20, 2006, 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 Delray 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 20, 2006 and expire forty-four (44) calendar months following the Effective Date on February 20, 2010.

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 fifty thousand dollars (\$150,000).

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-eight (28) full-time or equivalent jobs** in Palm Beach County within twenty (20) months [February 20, 2008] and maintain same for twenty-four (24) months, or through the forty-fourth (44<sup>th</sup>) month [February 20, 2010], which ever shall occur first. The grant award is **\$5,357.14** per full-time or equivalent job. The total grant award shall not exceed **\$150,000**. 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.
- Workforce Alliance, Inc.  
326 Fern Street, Suite 301  
West Palm Beach, FL 33401  
561-340-1061, ext. 221  
Fax: 561-340-1062
- 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 20, 2010, the expiration of the forty-fourth (44<sup>th</sup>) 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 Director 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 Director.

#### IV. PAYMENT PROCEDURES, CONDITIONS

- A. **Reimbursement of Eligible Expenses.** Upon satisfaction of conditions set forth herein, COUNTY shall pay GRANTEE a grant award of **\$150,000** (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 20, 2006; and
  2. incurred not more than eighteen (18) calendar months [ending December 20, 2007] 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 20, 2008]. 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.

<b><u>Reporting Period</u></b>	<b><u>Due Date</u></b>
1 (July - December '06)	Wednesday, January 31, 2007
2 (January - June '07)	Tuesday, July 31, 2007
3 (July - December '07)	Thursday, January 31, 2008
4 (January - June '08)	Thursday, July 31, 2008
5 (July - December '08)	Friday, January 30, 2009
6 (January - June '09)	Friday, July 31, 2009
7 (July - December '09)	Friday, January 29, 2010
8 (January - June '10)	Friday, July 30, 2010

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 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.
- 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

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. 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" 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.

#### **XXIV. REGULATIONS; LICENSING**

The 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. CONSULTANT 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.

#### **XXIV. NOTICE**

All notices and elections (collectively, "notices") 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:

Diane Colonna, Executive Director  
Delray Beach Community Redevelopment Agency  
20 North Swinton Avenue  
Delray Beach, Florida 33444  
561-276-8640  
Fax: 561-276-8558

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.

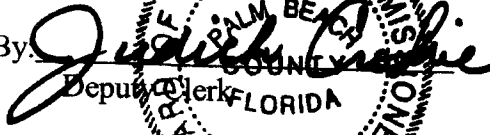
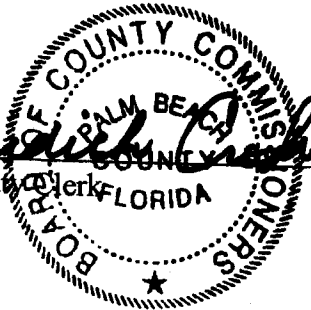
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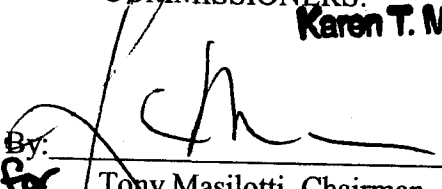
IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of the COUNTY and the GRANTEE has hereunto set its hand the day and year above written.

R2006 1169

ATTEST:  
SHARON R. BOCK, Clerk & Comptroller

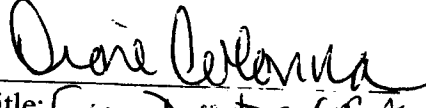
JUN 20 2006  
PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS:  
Karen T. Marcus


By:   
Deputy Clerk  


By:   
for Tony Masilotti, Chairman

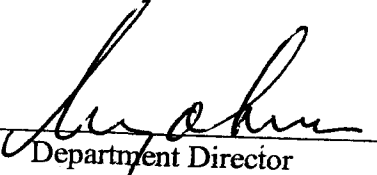
ATTEST:

DELRAY BEACH COMMUNITY  
REDEVELOPMENT AGENCY:

By:   
Title: Exec. Director, CRA

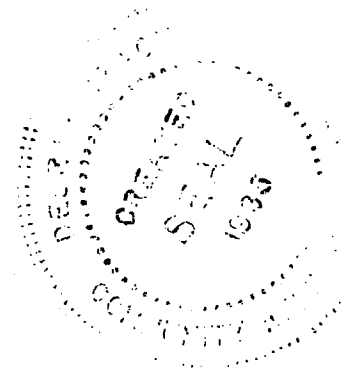
By:   
Chair

APPROVED AS TO TERMS  
AND CONDITIONS

By:   
Department Director

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By:   
County Attorney



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**Exhibit A**

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

**Project Name #1:**     **BADI d/b/a Community Market Store and Hammad Plaza**

**Description:**       The owner has a commercial building structure with three bays. The owner runs the Community Market Store which occupies one bay and plans to start a small coffee shop or pizzeria and a retail shop in the other two bays. Funds will be used for interior/exterior renovations and increasing the size of the building 285 sq. ft. to square off the building. Project activity starts June 2006 and ends December 2006.

**Location:**           139 NW 5th Avenue, Delray Beach, FL 33444

**Performance Goal:** Full-time or equivalent jobs to be created: 5  
Full-time or equivalent jobs existing at time of contract: 5

<b>Funding Sources:</b>	Palm Beach County	\$ 50,000
	City/CRA	\$ 25,000
	Private	<u>\$ 275,000</u>
	<b>Total Project Cost</b>	<b>\$ 350,000</b>

**Contact:**           Amjad (Mike) Hammad  
BADI d/b/a Community Market Store  
139 NW 5th Avenue  
Delray Beach, FL 33444  
954-270-1049

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**Project Name #2:**     **City Limits (SCRAM LLC)**

**Description:**       The new City Limits will consist of a 5,000 sq. ft. stand alone building erected in 1925 that formerly served as a warehouse for Hand's Stationers. Funds will assist in the renovation and expansion of the building to 6,900 sq. ft. (2 floors) which include a mezzanine, state-of-the-art stage, dance floor and bars. City Limits will offer a wide range of music featuring top entertainment in Delray Beach. The owners have committed to a five year lease ending December 31, 2010 with an option to extend. Project activity starts January 2006 and ends July 2006.

**Location:**           19 N.E. 3rd Avenue, Delray Beach, FL 33444

**Performance Goal:** Full-time or equivalent jobs to be created: 18  
Full-time or equivalent jobs existing at time of contract: 0

<b>Funding Sources:</b>	Palm Beach County	\$ 50,000
	City/CRA	\$ 25,000
	Private Liquid Cash	\$ 248,050
	Bank Loan	<u>\$ 450,000</u>
	<b>Total Project Cost</b>	<b>\$ 773,050</b>

**Contact:**           Margaret Gallagher, Seth L. Goldman, Craig Brierley  
City Limits (SCRAM, LLC)  
19 N.E. 3rd Avenue  
Delray Beach, FL 33444  
561-279-8222

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**Project Name #3:**     **Dental Office of Jonathon Freed, DDS**

**Description:**     The doctor will lease space to open a new practice within Atlantic Grove. The practice will focus on restorative, preventive and cosmetic procedures, offering a variety of payment plans to make services more affordable to patients. Funds will be used for renovations and purchasing equipment. The doctor has committed to a five year lease with a five year option. Project activity starts April 2006 and ends July 2006.

**Location:**     301 W. Atlantic Avenue, Unit 4, Delray Beach, FL 33444

**Performance Goal:** Full-time or equivalent jobs to be created: 5  
Full-time or equivalent jobs existing at time of contract: 0

<b>Funding Sources:</b>	Palm Beach County	\$ 50,000
	City/CRA	\$ 25,000
	Private Bank Loan	<u>\$ 131,247</u>
	<b>Total Project Cost</b>	<b>\$ 206,247</b>

**Contact:**     Jonathan Freed, DDS  
16235 Bristol Pointe Drive  
Delray Beach, FL 33446  
561-400-1819 or 561-637-3896  
Email: jonfreedent@yahoo.com

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## **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

**Contract Year:**

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

[illegible]

