

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures					
Grant Expenditure	<u>84,243</u>				
Operating Revenues					
Program Income (PBC)					
In-Kind Match (PBC)					
NET FISCAL IMPACT	<u>84,243</u>				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current budget? Yes X No _____

Budget Account Number:

Fund 1539 Department 764 Unit 1231 Object 3401

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

The source for the \$84,243 is the Economic Strategic Plan budget line item.

C. Departmental Fiscal Review: *[Signature]*

III. REVIEW COMMENTS

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

[Signature] 9.29.08
OFMB
[Initials] 9/29/08

[Signature] 9/30/08
Contract Dev. and Control

This Contract complies with our contract review requirements

B. Legal Sufficiency:

[Signature] 10/1/08
Assistant County Attorney

C. Other Department Review:

Department Director

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

Background and Policy Issues (Continued from page 1)

The Center for Urban & Environmental Solutions (CUES) at FAU is an applied research center known for its problem solving capabilities and ability to facilitate agreement and bring resources together. FAU outsourcing is being utilized to perform critical research and technical assistance in support of early stages of the economic plan's implementation, especially benchmarking, and adopting an economic indicators program and providing an analysis of the economic impacts of implementation of immediate undertakings. CUES at FAU will identify those major projects and initiatives that will affect the economic conditions most significantly, with a focus on the near term projects or those that need special attention in maximizing the County's return on investment. CUES at FAU role is to meet with Palm Beach County partners on an on-going basis for the purposes of assisting in fulfillment of implementation of the action items identified in the adopted Plan. CUES's responsibility includes evaluating and redirecting partners' focus if applicable, and interceding on behalf of the EDO in implementation. Additionally, FAU will assist in identifying efforts to jumpstart those initiatives that may be languishing. For groups who are well underway contacting key stakeholders, evaluation of implementation may be sufficient. As these determinations are flexible in scope and magnitude, the decision as to the level of input from CUES at FAU will reside with the EDO.

CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES
BETWEEN
PALM BEACH COUNTY
AND
FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES

This Contract, entered into this _____ day of _____, 2008, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as COUNTY and the **Florida Atlantic University Board of Trustees**, a public corporation of the State of Florida, on behalf of the University's **Center for Urban and Environmental Solutions (CUES)**, having its principal address at 777 Glades Road, Boca Raton, FL 33431, hereinafter referred as the CONSULTANT, whose Federal Identification Number is **65-0385507**.

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

ARTICLE 1 - SERVICES

The CONSULTANT's responsibility under this Contract is to provide professional/consultation services for assisting in implementing the five-year Palm Beach County Strategic Economic Development Plan set forth in the Scope of Work detailed in Exhibit "A."

The COUNTY's representative/liaison during the performance of this Contract shall be Kevin Johns, AICP, Economic Development Director, telephone no. (561) 355-3624.

The CONSULTANT's representative for administrative matters during the performance of this Contract shall be Camille E. Coley, J.D., Assistant V.P. of Research , telephone no. (561) 297-3461

The CONSULTANT's representative for Contract auditing matters during the performance of this Contract shall be Edwin Bemmell, Director, Contracts & Grants, Division of Research, telephone no. (561) 297-2606.

The Scope of Work, as described in Exhibit "A", shall be carried out under the direction of Marie L. York and Mary Beth Hartman of The Center of Urban and Environmental Solutions, having its principal address at 5353 Parkside Drive, SR 230, Jupiter, FL 33458, telephone number (561) 799-8730 hereinafter referred as the CO-PROJECT DIRECTORS. The CONSULTANT agrees that there shall be no change of PROJECT DIRECTOR without prior written approval of COUNTY.

ARTICLE 2 - SCHEDULE

The CONSULTANT shall commence services on **October 1, 2008** and complete all services by **September 30, 2009** with two (2) one (1) year options for renewal at the sole discretion of the COUNTY. It is understood that the Scope of Work, set forth in Exhibit "A", may be extended for additional periods of time under terms mutually agreed upon in writing in a duly executed amendment to this Contract. Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

ARTICLE 3 - PAYMENTS TO CONSULTANT

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total Contract amount of **eighty four thousand two hundred forty three dollars (\$84,243.)** The CONSULTANT will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" for services rendered toward the completion of the Scope of Work. Where incremental billing for partially completed items is permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.
- B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT's final/last billing to the COUNTY. This shall constitute CONSULTANT's certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the CONSULTANT.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

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

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

ARTICLE 5 - TERMINATION

This Contract may be terminated by the CONSULTANT 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 Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the COUNTY's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated, with the written approval of the COUNTY, including a budget to complete this work. COUNTY will also reimburse CONSULTANT for all non-cancelable costs incurred prior to termination, unless

CONSULTANT is in breach of this Contract.

ARTICLE 6 - PERSONNEL

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

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

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

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

All of the CONSULTANT's personnel (and all Subcontractors) while on COUNTY premises shall comply with all COUNTY requirements governing conduct, safety and security.

ARTICLE 7 - SUBCONTRACTING

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONSULTANT is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If the CONSULTANT uses any subcontractors on this project the following provisions of this Article shall apply:

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

The Palm Beach County Board of County Commissioners has established a minimum goal for SBE participation of 15% on all County solicitations.

The CONSULTANT agrees to abide by all provisions of the Palm Beach County Code establishing the SBE Program, as amended, and understands that failure to comply with any of the requirements will be considered a breach of Contract.

The CONSULTANT understands that each SBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the SBE participation goal.

The CONSULTANT shall provide the COUNTY with a copy of the CONSULTANT's contract with any SBE subcontractor or any other related documentation upon request.

The CONSULTANT understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of this Contract as it relates to the use of SBE firms.

The CONSULTANT will only be permitted to replace a certified SBE subcontractor who is unwilling or unable to perform. Such substitutions must be done with another certified SBE in order to maintain the

SBE percentages established in this Contract. Requests for substitutions of SBE'S must be submitted to the COUNTY's representative and to the Office of Small Business Assistance.

The CONSULTANT shall be required to submit to the COUNTY Schedule 1 (Participation of SBE-M/WBE Contractors) and Schedule 2 (Letter of Intent) to further indicate the specific participation anticipated, where applicable.

The CONSULTANT agrees to maintain all relevant records and information necessary to document compliance pursuant to Palm Beach County Code, Chapter 2, Article III, Sections 2-71 through 2-80.13 and any revisions thereto, and will allow the COUNTY to inspect such records.

ARTICLE 8 - FEDERAL AND STATE TAX

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

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

ARTICLE 9 - AVAILABILITY OF FUNDS

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

ARTICLE 10 - INSURANCE

Without waiving the right to sovereign immunity as provided by *s.768.28 F.S.*, CONSULTANT acknowledges to be self-insured for General Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event CONSULTANT maintains third party Commercial General Liability in lieu of exclusive reliance of self-insurance under *s.768.28 F.S.*, CONSULTANT shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

CONSULTANT agrees to maintain, or be self-insured for Worker's Compensation & Employer's Liability insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above mentioned coverage.

ARTICLE 11 - INDEMNIFICATION

To the extent permitted by Florida law and without waiving any defense or immunity, CONSULTANT shall protect, defend, reimburse, indemnify and hold 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 and as a result of their performance of the terms of this Contract or due to the acts or omissions of CONSULTANT.