

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date:	February 15, 2011	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing
Department:	Administration		
Submitted By:	Administration		
Submitted For:	Economic Development Office		

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I. EXECUTIVE BRIEF


**Motion and Title:** Staff recommends motion to approve: the satisfaction of mortgage encumbering property owned by Pioneer Growers Cooperative.


**Summary:** This document will release the County's interest in a mortgage lien recorded in the official records of Palm Beach County, Book 19259, Page 1255, encumbering property owned by Pioneer Growers Cooperative to Palm Beach County and satisfy the promissory note secured by such mortgage. The Economic Development Office has determined that Pioneer Growers Cooperative met its contractual requirements by completing the redevelopment of the site and creating and maintaining nine (9) full time equivalent jobs over a period of 24 months and therefore recommends the release. District 6 (DW)

**Background and Justification:** On September 15, 2005, a mortgage lien, executed by Pioneer Growers Cooperative in Belle Glade, Florida, was granted to the County as required under the Development Regions Grant Agreement R2005-1266 dated June 21, 2005 totaling \$50,000 for redevelopment activities associated with the expansion of the property identified by PCN 00-37-43-30-00-000-5020 and the creation and maintenance of nine (9) full time equivalent jobs over a period of 24 months. Upon completion of the redevelopment of the site and the creation and maintenance of jobs, the mortgage lien is no longer required and should be released.

**Attachments:**

1. Satisfaction of Mortgage
2. Location Map
3. Recorded Mortgage Lien and Promissory Note
4. Contract R2005-1266

Recommended By:  1-28-2011  
Economic Development Director Date

Approved By:   
Assistant County Administrator Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Cost	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (PBC)	_____	_____	_____	_____	_____
In-Kind Match (PBC)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS	_____	_____	_____	_____	_____
(Cumulative)	_____0_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_

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

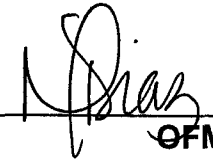
\*There is no fiscal impact associated with the release of this mortgage lien. Net fiscal impact of \$50,000.00 was approved by the BCC on June 21, 2005 and distributed to Pioneer Growers on 10/13/2005.

### C. Departmental Fiscal Review:

  
Economic Development

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Administration Comments:

  
N. Diaz 2/2/2011  
ALJ 2/1/2011  
OFMB  
SN 2/1/11  
2/1/11

  
Dr. J. Jacob 2/4/11  
Contract Administration

### B. Legal Sufficiency:

  
2/8/11  
Assistant County Attorney

### C. Other Department Review:

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

Prepared by/Return to:  
Howard J. Falcon III  
Assistant County Attorney  
Palm Beach County Attorney's Office  
301 North Olive Avenue, Suite 601  
West Palm Beach, Florida 33401

## **SATISFACTION OF MORTGAGE**

**KNOW ALL MEN BY THESE PRESENTS:** That PALM BEACH COUNTY, a political subdivision of the State of Florida, the owner and holder of that certain mortgage given by Pioneer Growers Cooperative to Palm Beach County, recorded September 16, 2005 in Official Records Book 19259, at Page 1255, securing a promissory note dated September 15, 2005, in the original principal amount of Fifty Thousand Dollars(\$50,000), and certain promises and obligations set forth in said mortgage and encumbering certain property situated in said State and County described as follows, to wit:

**30-43-37, S 1/3 OF N 3/4 OF SE 1/4 (LESS RY & COUNTY RD R/W & LESS PT OF TR IN OR58P537), SW 1/4 OF SE 1/4 OF SW 1/4 OF SE 1/4 (LESS S 35 FT RDR/W & WLY 506.30 FT LVGS OF FEC SPUR TRACK & ADDL R/W OF SR 15) Public Records of Palm Beach County, Florida.**

hereby acknowledges satisfaction of said note and mortgage, and surrenders the same as canceled, and hereby directs the Clerk of the Circuit Court of Palm Beach County to cancel the same of record.

**IN WITNESS WHEREOF,** Palm Beach County has caused these presents to be executed on \_\_\_\_\_.

**PALM BEACH COUNTY**, a political  
Subdivision of the State of Florida

ATTEST:  
SHARON R. BOCK, Clerk & Comptroller

BY ITS BOARD OF COUNTY  
COMMISSIONERS


By: \_\_\_\_\_  
Deputy Clerk

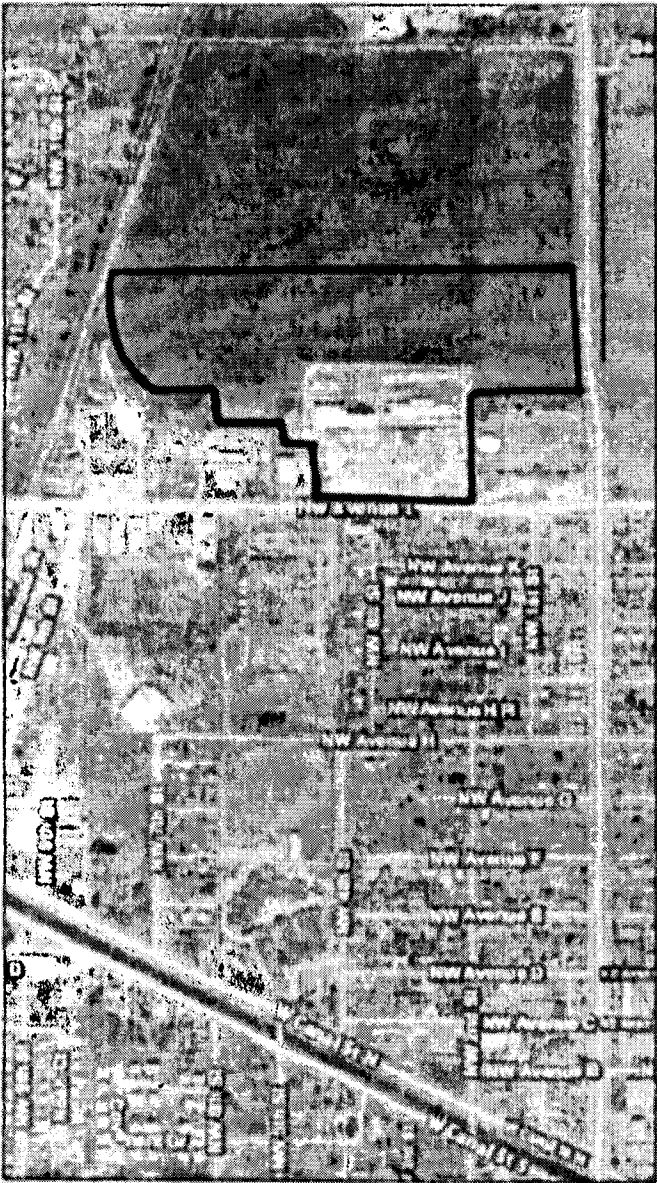
By: \_\_\_\_\_  
Karen T. Marcus, Chair

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By:  \_\_\_\_\_  
Assistant County Attorney

By:  \_\_\_\_\_  
Department Director



**Property Details**

**Owner Information**  
PCN: 0037433000005020  
View Property Details  
Name: PIONEER GROWERS  
COOPERATIVE  
Location: 227 NW AVENUE L  
Mailing: PO BOX 460  
BELLE GLADE, FL 33430  
0460

**Appraisal Value**  
Market Value: \$2,644,328  
Assessed Value: \$2,542,101  
Exempt Amnt: \$0  
Taxable: \$2,542,101

**Tax Value**  
Ad Valorem: \$50,257.08  
Non ad valorem: \$3,984.07  
Total: \$54,241.15

**Sales Info**  
Sale Date      Sale Price

00-37-43-30-00-000-5020



Palm Beach County  
Property Appraiser  
Gary R Nikolits, CFA



RETURN TO:  
This instrument prepared by:  
Pamela L. Nolan  
Economic Development Office, 10<sup>th</sup> FL  
Governmental Center  
301 N. Olive Avenue  
West Palm Beach, FL 33401

CFN 20050586167  
OR BK 19259 PG 1255  
RECORDED 09/16/2005 09:36:59  
Palm Beach County, Florida  
AMT 50,000.00  
Sharon R. Bock, CLERK & COMPTROLLER  
Pgs 1255 - 1257; (3pgs)

(Space Above This Line For Recording Data)

THIS MORTGAGE DEED

Executed the 15 day of September, A.D. 2005, by **PIONEER GROWERS COOPERATIVE**, hereinafter called the mortgagee, to **PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS**, hereinafter called the mortgagor:

*(Wherever used herein the terms Amortgagor,@ and Amortgagee@ include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations; and the term Anote@ includes all the notes herein described if more than one.)*

**WITNESSETH**, that for good and valuable consideration, and also in consideration of the aggregate sum named in the promissory note of even date herewith, hereinafter described, the mortgagee hereby grants, bargains, sells, assigns, remises, conveys and confirms unto the mortgagor all the certain land of which the mortgagee is now seized and in possession situated in Palm Beach County, Florida, viz:

30-43-37, S 1/3 OF N 3/4 OF SE 1/4 (LESS RY & COUNTY RD R/W & LESS PT OF TR IN OR58P537), SW 1/4 OF SE 1/4 OF SW 1/4 OF SE 1/4 (LESS S 35 FT RDR/W & WLY 506.30 FT LVG S OF FEC SPUR TRACK & ADDL R/W OF SR 15) Public Records of Palm Beach County, Florida.

**THIS IS A SECOND MORTGAGE**

This Mortgage is subject to that certain Mortgage from Mortgagee to **Farm Credit of South Florida, ACA**, recorded in Official Record Book 18830, Page 983 of Public Records of Palm Beach County, Florida.

**TO HAVE AND TO HOLD** the same, together with tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, unto the mortgagee, in fee simple.

**AND** the mortgagee covenants with the mortgagor that the mortgagee is indefeasibly seized of said land in fee simple; that the mortgagee has good right and lawful authority to convey said land as aforesaid; that the mortgagee will make such further assurances to perfect the fee simple title to said land in the mortgagor as may reasonably be required; that the mortgagee hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, and that said land is free and clear of all encumbrances.

**PROVIDED ALWAYS**, that if said mortgagee shall pay unto said mortgage the certain promissory note hereinafter substantially copied or identified, to-wit:

**(SEE PROMISSORY NOTE ATTACHED HERETO)**

and shall perform, comply with and abide by each and every agreement, stipulation, condition and covenant thereof, and of this mortgage, then this mortgage and the estate hereby created, shall cease, determine and be null and void.

**AND** the mortgagee hereby further covenants and agrees to pay promptly when due the principal and interest and other sums of money provided for in said note and this mortgage. or either, to

pay all and singular the taxes, assessments, levies, liabilities, obligations, and encumbrances of every nature on said property, to permit, commit or suffer no waste, impairment or deterioration of said land or the improvements thereon at any time; to keep the buildings now or hereafter on said land fully insured in a sum of not less than the full insurable value in a company or companies acceptable to the mortgagor, the policy or policies to be held by, and payable to, said mortgagor, and in the event any sum of money becomes payable by virtue of such insurance the mortgagor shall have the right to receive and apply the same to the indebtedness hereby secured, accounting to the mortgagee for any surplus; to pay all costs, charges, and expenses, including lawyer's fees and title searches, reasonably incurred or paid by the mortgagor because of the failure of the mortgagee to promptly and fully comply with the agreements, stipulations, conditions and covenants of said note and this mortgage, or either; to perform, comply with and abide by each and every agreement, stipulation, condition and covenant set forth in said note and this mortgage or either. In the event the mortgagee fails to pay when due any tax, assessment, insurance premium or other sum of money payable by virtue of said note and this mortgage, or either, the mortgagor may pay the same, without waiving or affecting the option to foreclose or any other right hereunder, and all such payments shall bear interest from date hereof at the highest lawful rate then allowed by the laws of the State of Florida.

IF any sum of money herein referred to be not promptly paid within fifteen (15) days next after the same becomes due, or if each and every agreement, stipulation, condition and covenant of said note and this mortgage, or either, are not fully performed, complied with and abided by, then the entire sum mentioned in said note, and this mortgage, or the entire balance unpaid thereon, shall forthwith or thereafter, at the option of the mortgagor, become and be due and payable, anything in said note or herein to the contrary notwithstanding. Failure by the mortgagor to exercise any of the rights or options herein provided shall not constitute a waiver of any rights or options under said note or this mortgage accrued or thereafter accruing.

IN WITNESS WHEREOF, the said mortgagee has hereunto signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

(Business Name) PIONEER GROWERS COOPERATIVE

By:

Printed Name: Gene Duff

Title: Vice President/General Manager

Corporate Seal

STATE OF FLORIDA  
COUNTY OF PALM BEACH

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Gene Duff, of the \_\_\_\_\_, who is personally known to me known or who has produced as identification and who acknowledged before me that he/she executed the same.

WITNESS my hand and official seal in the County and State aforesaid this day of Sept. 15, A.D. 2005.

(Seal)

Printed Name: Joyce L Hart

Notary Public

State of Florida

My Commission Expires

Commission No:



Joyce L Hart  
MY COMMISSION # DD157957 EXPIRES  
November 29, 2006  
BONDED THRU TROY FAIR INSURANCE, INC

## Promissory Note

Amount \$50,000

West Palm Beach, Florida

September 15, 2005

FOR VALUE RECEIVED, the undersigned, (jointly and severally, if more than one) promises to pay to PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS hereinafter "Holder", or order, in the manner hereinafter specified, the principal sum of fifty thousand dollars (\$50,000) with zero percent interest. The said principal shall be payable in lawful money of the United States of America at 301 N. Olive Avenue, West Palm Beach, Florida 33401, or at such place as may hereafter be designated by written notice from the Holder to the Maker hereof, on the date and in the manner following:

This note shall become due and payable only in the event of a default of the Maker=s/Grantee=s obligations under the Agreement entered into between Palm Beach County and Pioneer Growers Cooperative on June 21, 2005.

In the event the Maker shall fail to comply with the terms of the said Palm Beach County Grant Agreement after having received the required notice of default, as provided for therein, the Holder shall have the right to demand payment of this Note in full without further notice to Maker.

This note is secured by a mortgage on real estate, of even date herewith, made by the Maker hereof in favor of the said Holder, and shall be construed and enforced according to the laws of the State of Florida.

If default be made in the payment of any of the sums herein or in said mortgage, or in the performance of any of the agreements contained herein or in said mortgage, then the entire principal sum shall be collectible without notice, time being of the essence; and said interest at the highest rate allowable under the laws of the State of Florida. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

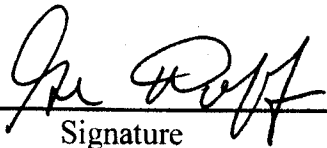
Each person liable hereon whether maker or endorser, hereby waives presentment, protest, notice, notice of protest and notice of dishonor and agrees to pay all costs, including a reasonable attorney=s fee, whether suit be brought or not, if, after maturity of this note or default hereunder, or under said mortgage, counsel shall be employed to collect this note or to protect the security of said mortgage.

Whenever used herein the terms Aholder@ and Amaker@ shall be construed in the singular or plural as the context may require or admit.

Maker=s Address     227 N.W. Avenue L, Belle Glade, FL 33434

Name of Business     Pioneer Growers Cooperative (Maker)

By:

  
\_\_\_\_\_  
Signature

Printed Name: Gene Duff

R 2005 1266

PALM BEACH COUNTY DEVELOPMENT REGIONS  
GRANT AGREEMENT

THIS AGREEMENT is made as of JUN 21 2005, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as COUNTY, and the Pioneer Growers Cooperative, a corporation duly organized and authorized to do business in the State of Florida, having its principal address at 227 N.W. Avenue L, Belle Glade, Florida 33430, hereinafter referred to as GRANTEE, whose Federal I.D. or social security number is 59-0404376.

WITNESSETH:

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

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

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

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

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

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

I. TERM OF AGREEMENT

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

II. MAXIMUM GRANT AMOUNT

In no event shall the reimbursements made to GRANTEE pursuant to this Agreement exceed the maximum total Grant Award of fifty thousand dollars (\$50,000).

III. GRANTEE'S PERFORMANCE OBLIGATIONS

- A. Redevelopment Activities. GRANTEE shall cause that the redevelopment activities contemplated by this Agreement will be completed in accordance with the terms of the Agreement. Such activities as described in Exhibit A shall commence within twelve (12) calendar months of the effective date 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.
- 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 nine (9) full-time or equivalent jobs in Palm Beach County within twenty (20)



months [February 21, 2007] and maintain same for twenty-four (24) months, or through the forty-fourth (44<sup>th</sup>) month [February 21, 2009], which ever shall occur first. The grant award is \$5,555.55 per full-time or equivalent job. The total grant award shall not exceed \$50,000. In the event the GRANTEE fails to create/retain and/or maintain, all of the aforementioned jobs, GRANTEE shall refund to COUNTY the amount equal to the grant award per job, multiplied by the number of positions not created, retained or maintained. GRANTEE shall provide evidence, satisfactory to COUNTY, substantiating the number, dates and salaries of all jobs created and/or retained in Palm Beach County. Such evidence must be provided with the final semi-annual report in the format set forth on **Exhibit C**. For the purposes hereof, a full-time or equivalent job equals one job totaling 2080 hours annually or two or more positions that together total at least 2080 hours per year, and a part time or equivalent job equals one job totaling 1040 hours annually or two or more positions that together total at least 1040 hours per year. A job must pay a salary equal to or better than the minimum wage as determined by the Florida Agency for Workforce Innovation. For the purposes of this Agreement, the term salary means wages, gratuities, salaries, commissions, bonuses, drawing accounts (against future earnings), prizes and awards (if given by an employer for the status of employment), vacation pay, sick pay, and other payments consistent with the Florida Agency for Workforce Innovation definitions, paid to employees.

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

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

- D. **Verification of Terms and Conditions.** As a further condition to retaining any Grant funds from COUNTY, the GRANTEE shall provide to COUNTY written verification, satisfactory to COUNTY in its sole discretion, that GRANTEE has satisfied the terms and conditions of this Agreement, or caused the same to be satisfied. GRANTEE may provide to COUNTY this verification at any time following satisfaction of such terms and conditions, but not later than February 21, 2009, the expiration of the forty-fourth (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.
- 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 discretion during the period of this Agreement. Such requests for budget change must be made in writing by the GRANTEE to the Economic Development Director.

- G. **Lien Covenant** Prior to the disbursement of any grant funds, the GRANTEE hereby agrees to execute a note in favor of COUNTY in an amount equal to the grant and additionally secure such obligations under the note by executing and delivering to the Board of County Commissioners a mortgage encumbering GRANTEE's real property as described in **Exhibit D**. Such mortgage shall be junior only to those permitted senior encumbrances listed in **Exhibit D**. The terms of the note shall only be due and payable in the event of a default of the GRANTEE's obligation under the Grant Agreement. In the event no default shall have occurred and the GRANTEE shall have fully performed under the grant conditions, the note and mortgage shall be released by COUNTY. Prior to disbursement of any grant funds, the COUNTY shall secure a title search at COUNTY's expense. Sufficient collateral shall be available to secure the note and mortgage.

#### IV. PAYMENT PROCEDURES, CONDITIONS

- A. **Reimbursement of Eligible Expenses.** Upon satisfaction of conditions set forth herein, COUNTY shall pay GRANTEE a grant award of **\$50,000** (the Grant Award). GRANTEE shall only be entitled to receive the Grant Award available under this Agreement in reimbursement of expenses related directly to the work as set forth on **Exhibit A**, for the eligible types of expenditures which are identified on **Exhibit B** to this Agreement, which is attached hereto and incorporated herein by reference (the Eligible Expenses). To be eligible for reimbursement, such expenses must be:
1. incurred on or after **June 21, 2005**; and
  2. incurred **not more than eighteen (18) calendar months [ending December 21, 2006]** subsequent to the Effective Date of this Agreement;
- B. **Proper Documentation of Expenses.** Requests for payment of Eligible Expenses incurred after the Effective Date of this Agreement shall be submitted to COUNTY, and shall be accompanied by proper documentation as determined by COUNTY in its sole discretion. For the purposes of this paragraph, originals or copies of invoices, receipts, or other evidence of indebtedness shall be considered proper documentation. In the case of invoices that have not first been paid by GRANTEE, GRANTEE shall certify to the COUNTY that each invoice presented for payment relates directly to work satisfactorily completed in accordance with this Agreement.
- C. **Reimbursement Deadline.** Requests for payment of Eligible Expenses shall not be honored if received by COUNTY later than the expiration date of the **twentieth (20) calendar month [February 21, 2007]**. If GRANTEE fails to submit any requests for payment of Eligible Expenses by the expiration date of this Agreement, then COUNTY'S obligation under this Agreement shall automatically terminate, thereby relieving COUNTY of any future obligations hereunder.
- D. **Failure to Comply.** If the GRANTEE fails to comply with any of the provisions of this Agreement, the COUNTY may withhold, temporarily or permanently, all, or any, unpaid portion of the Grant Award upon giving written notice to the GRANTEE, terminate this Agreement and/or demand a refund of the Grant Award and the COUNTY shall have no further funding obligation to the GRANTEE under this Agreement.
- E. **Repayment of Funds.** The GRANTEE shall repay COUNTY for all unauthorized, illegal or unlawful expenditures of funds, including unlawful and/or unauthorized expenditures discovered after the expiration of this Agreement. The GRANTEE

shall also be liable to reimburse 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 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 '05)	Tuesday, January 31, 2006
2 (January - June '06)	Monday, July 31, 2006
3 (July - December '06)	Wednesday, January 31, 2007
4 (January - June '07)	Tuesday, July 31, 2007
5 (July - December '07)	Thursday, January 31, 2008
6 (January - June '08)	Thursday, July 31, 2008
7 (July - December '08)	Friday, January 30, 2009
8 (January - June '09)	Friday, July 31, 2009

All grant payments made pursuant to this Agreement shall be contingent on the receipt and approval of the semi-annual reports required by this paragraph. Failure of GRANTEE to 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 other of the COUNTY'S rights or remedies, relieve the COUNTY of any obligation under this Agreement.

## IX. INDEMNIFICATION

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 insurance coverages, limits, including endorsements, as described herein. 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 the Agreement.

- A. **Commercial General Liability** GRANTEE shall agree to maintain Commercial General Liability at a limit of liability not less than \$500,000 per occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by County's Risk Management Department.
- B. **Business Automobile Liability** GRANTEE shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 per occurrence for all owned, non-owned and hired automobiles. In the event GRANTEE doesn't 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.
- C. **Worker's Compensation Insurance & Employers Liability** GRANTEE shall agree to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440.
- D. **Additional Insured** GRANTEE shall agree to endorse the COUNTY as Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured shall read Palm Beach County Board of County Commissioners.
- E. **Certificate(s) of Insurance** Immediately following notification of the award of this Agreement, GRANTEE shall agree to deliver COUNTY a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. The certificate(s) of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. Certificate Holder shall be Palm Beach County, Office of Economic Development, Governmental Center, 10th Floor, P.O. Box 1989, West Palm Beach, FL 33402-1989.
- F. **Right to Review** 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 policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the life 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 operating 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 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.

#### **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 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.

#### **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. CONVICTED VENDOR LIST**

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, COMPANY 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 thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

## **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 designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designated 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:

Gene Duff, Vice President/General Manager  
Pioneer Growers Cooperative  
P.O. Box 490, Belle Glade, Florida 33430  
561-996-3259  
Fax 561-996-5703  
gene@pioneergrowers.com

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.

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 COMPANY has hereunto set its hand the day and year above written.

R 2005 1266

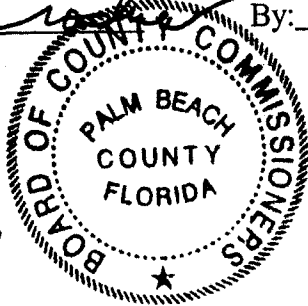
JUN 21 2005

ATTEST:  
SHARON R. BOCK, Clerk & Comptroller

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

By: Judith C...  
Deputy Clerk

By: Tony Masilotti  
Tony Masilotti, Chairman



ATTEST:

By: [Signature]  
Witness:

PIONEER GROWERS COOPERATIVE

By: [Signature]  
Title: Vice Pres. 5/3/05

APPROVED AS TO TERMS  
AND CONDITIONS

By: [Signature]  
Department Director

(Corporate Seal)

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

By: [Signature]  
County Attorney

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## BUSINESS AND PROJECT DESCRIPTION

**Project Name:** Pioneer Growers Cooperative Packaged Bean Line

**Description:** Pioneer Growers Cooperative, a Florida non-profit, is a grower-owned agricultural marketing and processing cooperative. Pioneer was established in 1950 and has 10 member growers. The business will construct a 32,850 s.f. processing building. Approximately 6,000 s.f. will be used for green bean packaging. Distribution will begin in the fall of 2005. Beans will be packaged 12 months a year and distributed to retailers.

**Location:** 227 N.W. Avenue L, Belle Glade, FL 33430

**Performance Goal:** Full-time or equivalent jobs to be created 9  
Full-time or equivalent jobs existing 0

<b>Funding Sources:</b>	Palm Beach County	\$ 50,000
	Private Investment	\$ 716,897 Liquid cash
		<u>\$4,000,000 Bank loan</u>
	<b>Total Project Cost</b>	<b>\$4,766,897</b>

**Contact:** Gene Duff, Vice President/General Manager  
Pioneer Growers Cooperative  
P.O. Box 490  
Belle Glade, Florida 33430  
561-996-3259  
Fax: 561-996-5703  
gene@pioneergrowers.com

## **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

## SEMI-ANNUAL DEVELOPMENT REGIONS REPORT FORM

**Name of Applicant:**

**Name of Business:**

**Semi-Annual Period for this Report:**

**Contract Year:**

County Funds		Private Funds		Total Project Cost	
Funds used during this 6 month period.	Total Funds Used	Funds used during this 6 month period.	Total Funds Used	Funds used during this 6 month period.	Total Funds Used

### Record of Job Creation

	Number of Employees	Range of Hrs/Wk	Range of Hourly Salary
Current Employees Hired Prior the Project			
Current Part-Time Employees Hired Since the Beginning of Project			
Current Full-Time Employees Hired Since the Beginning of Project			

### Current Status of Project

**1. Circle the appropriate current status level of your project:**

- (A) Site Development / Architectural Design  
(B) Land Acquisition

- (C) Rehabilitation/Construction  
(D) Completed

**B. Description of project:**

## EXHIBIT D

### Legal Description of the Grantee's Real Property.

### Permitted Encumbrances

First Mortgage: