

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	October 20, 2015	[X] Consent	[] Regular
		[] Ordinance	[] Public Hearing
Department:	Department of Economic Sustainability		

I. EXECUTIVE BRIEF

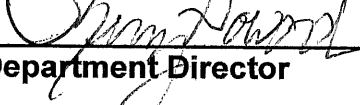
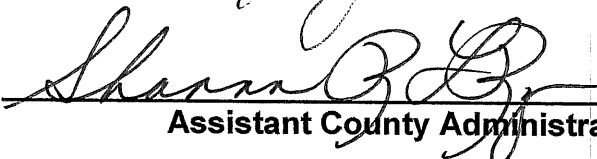
Motion and Title: Staff recommends motion to approve: an Agreement with Enterprise Development Corporation of South Florida (EDC) in the amount of \$51,000 for the period October 1, 2015 to September 30, 2016.

Summary: This Agreement will provide Community Development Block Grant (CDBG) Program funds for operational expenses for the development and expansion of microenterprises (defined as "commercial enterprises" that have five (5) or fewer employees) and small businesses. EDC is required to create a minimum of four (4) full-time equivalent (FTE) jobs countywide of which at least 51% must be held by, or made available to, low and moderate income persons, and of which at least 51% must reside in the Palm Beach County CDBG jurisdiction during the term of the Agreement. EDC is a non-profit organization whose mission is the development of an innovation-based economy through the creation of high skill, high wage jobs in key industries that are driving global commerce. The primary objective of EDC is to facilitate the creation and growth of high technology companies. EDC received \$51,000 in CDBG funds during Fiscal Year 2014-2015 and created 8.5 FTE jobs (based on their August 2015 progress report), which exceeded their four (4) FTE job creation requirement. **This funding is projected to have a five (5) year Economic Sustainability Impact of \$2.9 Million. These are Federal CDBG funds which do not require a local match.** (DES Contract Development) Countywide (JB)

Background and Justification: On July 21, 2015, the Board of County Commissioners approved (R2015-0939) the FY 2015-2016 Action Plan for Palm Beach County (Action Plan). The Action Plan includes an allocation of \$51,000 for EDC.

Attachment:

1. Agreement with Enterprise Development Corporation of South Florida

Recommended By:		<u>10-7-15</u>
	Department Director	Date
Approved By:		<u>10-14-15</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures					
Operating Costs	\$51,000				
External Revenues	(\$51,000)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				


# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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Is Item Included In Current Budget? Yes X No
Budget Account No.:

Fund 1101 Dept 143 Unit 1431 Object 8201 Program Code/Period BG70B/GY15

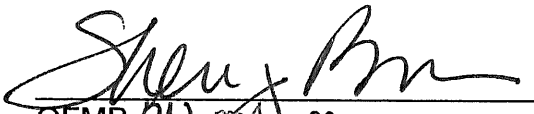
B. Recommended Sources of Funds/Summary of Fiscal Impact:

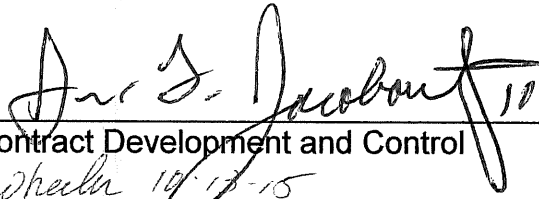
Approval of this Agenda Item will allocate \$51,000 in CDBG funds to the Enterprise Development Corporation.

C. Departmental Fiscal Review: 
Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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


OFMB ^{7/10} _{10/15} ^{10/15} _{10/15} ^{8/2} _{10/15}


Contract Development and Control ^{11/13/15}
B. Wheeler 10/13-15

B. Legal Sufficiency:


Chief Assistant County Attorney

C. Other Department Review:

Department Director

AGREEMENT BETWEEN PALM BEACH COUNTY
AND
ENTERPRISE DEVELOPMENT CORPORATION OF SOUTH FLORIDA

THIS AGREEMENT entered into on _____, by and between **Palm Beach County**, a political subdivision of the State of Florida, (hereinafter referred to as the "**COUNTY**"), and **Enterprise Development Corporation of South Florida**, a not-for-profit corporation duly organized and authorized to do business in the State of Florida, (hereinafter referred to as "**AGENCY**"), having its principal office at **751 Park of Commerce Drive, Suite 128, Boca Raton, FL 33487**, and its Federal Tax Identification Number as **65-0506917**.

WHEREAS, Palm Beach County has entered into an Agreement with the United States Department of Housing and Urban Development for a grant for the execution and implementation of a Community Development Block Grant Program in certain areas of Palm Beach County, pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

WHEREAS, Palm Beach County, in accordance with the Annual Action Plan, and the Enterprise Development Corporation of South Florida, desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage Enterprise Development Corporation of South Florida to implement such undertakings of the Community Development Block Grant Program.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed as follows:

PART I
DEFINITION AND PURPOSE

A. DEFINITIONS

- (1) "COUNTY" means Palm Beach County.
- (2) "CDBG" means the Community Development Block Grant Program.
- (3) "DES" means Palm Beach County Department of Economic Sustainability.
- (4) "AGENCY" means Enterprise Development Corporation of South Florida
- (5) "DES Approval" means the written approval of the DES Director or his designee.
- (6) "U.S. HUD" means the Secretary of the U.S. Department of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "Low and moderate income persons" means the definition set by U.S. HUD.
- (8) "Held by" means the definition set by U.S. HUD.
- (9) "Microenterprises" means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise and as further defined in 24 CFR 570.201(o)(1).

B. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which the AGENCY will implement the Scope of Services set forth within this Agreement. At least fifty-one percent (51%) of the jobs created through this Agreement must be held by low and moderate income persons.

PART II
SCOPE OF SERVICES, ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVE

A. SCOPE OF SERVICES

The AGENCY shall, in a satisfactory and proper manner as determined by DES, perform the tasks outlined in Exhibit "A" (attached hereto and made a part hereof) and shall submit invoices on the Agency's letterhead using the Invoice Cover Sheet in Exhibit "B" (attached hereto and made a part hereof).

B. NATIONAL OBJECTIVE AND ELIGIBLE ACTIVITIES

The project is being carried out as assistance provided to a private non-profit business, **eligible activities determined to be Special Economic Development Activities**, 24 Code of Federal Regulations (CFR) 570.203(b), and **Microenterprise Assistance**, 24 CFR 570.201(o)(1). The AGENCY certifies that the eligible activities carried out under this Agreement will satisfy a **National Objective by creating jobs where at least fifty-one percent (51%) of the jobs must be held by or made available to low- and-moderate income persons**; and at least fifty-one percent (51%) of the jobs must be located within Palm Beach County's Urban County Program Jurisdiction, as described in the scope of work in Exhibit "A", and as defined in 24 CFR 570.208 and 24 CFR 570.209, respectively.

**PART III
COMPENSATION, TIME OF PERFORMANCE, METHOD AND CONDITIONS OF
PAYMENT**

A. MAXIMUM COMPENSATION

The AGENCY agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and DES-approved expenditures and encumbrances made by the AGENCY under this Agreement. Said services shall be performed in a manner satisfactory to DES, and in no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of **Fifty-One Thousand Dollars (\$51,000)**. This Agreement shall commence on **October 1, 2015** and expire on **September 30, 2016**. The grant award shall be payable in accordance with the terms of this Agreement and the eligible expenses outlined in Exhibit "A". Any funds not expended by the expiration date of this Agreement shall automatically revert to the COUNTY.

B. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project under HUD grant number B-15-UC-12-0004. The effective date shall be the **October 1, 2015**, and the services of the AGENCY shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the AGENCY no later than **September 30, 2016**.

C. METHOD OF PAYMENT

The COUNTY agrees to reimburse the AGENCY for all budgeted costs permitted by Federal, State, and COUNTY guidelines. In no event shall the COUNTY provide advance funding to the AGENCY or any subcontractor hereunder.

The AGENCY shall bill the COUNTY on a monthly basis, in twelve (12) equal payments of **Four Thousand Two Hundred Fifty Dollars (\$4,250.00)**. Invoices shall be accompanied by a monthly status report summarizing the activities which were undertaken during the month, and as required by Exhibit "A". This monthly status report shall consist of fully executed copies of Invoice Cover Sheet (Exhibit "B"), Cumulative Job Creation (Exhibit "C"), Economic Development Compliance Table (Exhibit "D"), Record of Employee Hiring (Exhibit "E"), and Activity Summary Form (Exhibit "F"), all attached hereto and made a part hereof.

Invoices received from the AGENCY pursuant to this Agreement shall be reviewed and approved by DES to verify that services have been rendered in conformity with the Agreement. Approved invoices will then be promptly sent by DES to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following DES' approval. When original documents cannot be presented, the AGENCY must adequately justify their absence, in writing, and furnish copies. Invoices will not be honored if received by DES later than forty-five (45) days after the expiration date of this Agreement, nor will any invoices be honored that pre-date the effective date of this Agreement.

D. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The AGENCY shall implement this Agreement in accordance with applicable Federal, State, and COUNTY laws, ordinances and codes, and amendments and additions thereto as may from time to time be made. The Federal, State, and COUNTY laws, ordinances and codes are minimal regulations which may be supplemented by more restrictive guidelines set forth by DES. No reimbursements will be made without evidence of the appropriate insurance required by this Agreement on file with DES. No payments for multi-funded projects will be made until a cost allocation plan has been approved by the DES Director or designee. Should a project receive additional funding after the commencement of this Agreement, the AGENCY shall notify DES in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the DES Director or designee within forty-five (45) days of said notification.

(2) FINANCIAL ACCOUNTABILITY

The COUNTY may have a financial systems analysis and/or an audit of the AGENCY or any of its subcontractors performed by an independent auditing firm employed by the COUNTY or by the County Internal Audit Department at any time the COUNTY deems necessary to determine if the project is being managed in accordance with Federal, State, and COUNTY requirements.

(3) SUBCONTRACTS

Any work or services subcontracted hereunder shall be specifically by written Agreement, written agreement, or purchase order and shall be subject to each provision of this Agreement. Proper documentation in accordance with County, State, and Federal guidelines and regulations must be submitted by the AGENCY to DES and approved by DES prior to execution of any subcontract hereunder. In addition, all subcontracts shall be subject to Federal, State, and COUNTY laws and regulations. This includes ensuring that all AGENCY Agreements and fee schedules meet the minimum standards as established by the County and U.S. HUD. Agreements for architecture, engineering, survey, and planning shall be negotiated fixed fee Agreements. All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Agreement." Reimbursables will be at cost.

None of the work or services covered by this Agreement, including but not limited to, AGENCY work or services, shall be subcontracted or reimbursed without prior written approval of the DES Director or his designee.

(4) PURCHASING

All purchases of goods and services, including capital equipment, shall be made by purchase order or by a written Agreement. The AGENCY shall be required to secure up to three (3) qualified quotes for goods and services (if goods and services include equipment, each piece of equipment will require three separate quotes). The AGENCY must inform DES in writing (and include the purchase order or written agreement) of the vendor selected. The purchase order or written agreement must include the name / type of goods or services purchased and all costs associated with the purchase.

(5) PERSONNEL

The AGENCY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the COUNTY. All of the services required hereinunder shall be performed by the AGENCY or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. The AGENCY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. All of the AGENCY'S personnel (and all Subcontractors), while on County premises, shall comply with all COUNTY requirements governing conduct, safety and security.

(6) REPORTS, AUDITS, AND EVALUATIONS

Payment will be contingent upon receipt of complete and accurate reports required by this Agreement, including the resolution of monitoring or audit findings identified pursuant to this Agreement.

(7) ADDITIONAL COUNTY AND U.S. HUD REQUIREMENTS

The State or Federal funds being provided hereunder cannot be used as a match for other State or Federal grants to the AGENCY and the AGENCY cannot submit requests for the same expenses to more than one funding source or under more than one program. Additionally, DES shall have the right under this Agreement to suspend or terminate payments until the AGENCY complies with any additional conditions that may be imposed by the COUNTY or U.S. HUD.

(8) PRIOR WRITTEN APPROVALS - SUMMARY

The following includes, but is not limited to, activities that require the prior written approval of the DES Director or his designee to be eligible for reimbursement or payment.

- (1) All subcontracts and agreements pursuant to this Agreement; and
- (2) Requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit "A".

PART IV GENERAL CONDITIONS

A. CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY

The Agency acknowledges that it is the express policy of the Board of County Commissioners of Palm Beach County, Florida that the County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. In compliance with the County's requirements, as contained in Resolution R2014-1421, the Agency has either submitted a copy of its written non-discrimination policy which is consistent with the policy detailed above, or has submitted an executed statement affirming that its non-discrimination policy is in conformance with the policy detailed above.

In furtherance of such policy, the Agency shall not, on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information, exclude any person from the benefits of, or subject any person to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

B. OPPORTUNITIES FOR RESIDENTS AND SMALL/MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest extent feasible, eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded Agreements in connection with the project. At a minimum, the AGENCY shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968, as amended.

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the AGENCY shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for Agreements to be performed pursuant to this Agreement. To the maximum extent feasible, these small business and minority/women - owned business enterprises shall be located in or owned by residents of the areas designated by Palm Beach County in the Annual Consolidated Plan approved by U.S. HUD.

C. PROGRAM BENEFICIARIES

At least fifty-one percent (51%) of the jobs created through this project must be held by, or made available to, low and moderate income persons, and must reside in unincorporated Palm Beach County or in Municipalities participating in the COUNTY's Urban County Qualification Program. Upon DES request, the AGENCY shall provide written verification of compliance as described in Exhibit "A" of this Agreement.

D. EVALUATION AND MONITORING

The AGENCY agrees that DES will carry out periodic monitoring and evaluation activities, as determined necessary by DES, during the term of this Agreement. Upon DES request, the AGENCY agrees to furnish and make copies or transcriptions of such records and information, as is determined necessary by DES. Additionally, the AGENCY shall submit information and status reports required by DES or U.S. HUD to enable DES to evaluate said progress and to enable DES to complete reports required by U.S. HUD. The AGENCY shall allow DES or U.S. HUD to monitor the AGENCY on site. Such site visits may be scheduled or unscheduled as determined by DES or U.S. HUD.

E. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as DES, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the AGENCY to DES, the COUNTY, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement. If during the year, the AGENCY expends over \$500,000 of Federal awards, the AGENCY shall comply with the provisions of OMB Circular A-133. The AGENCY shall submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110, A-122, A-133, and other applicable regulations within the earlier of, 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which DES-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the AGENCY's choosing, subject to the COUNTY's approval. In the event the AGENCY anticipates a delay in producing such audit, the AGENCY shall request an extension in advance of the deadline. The cost of said audit shall be borne by the AGENCY.

In the event the AGENCY is exempt from having an audit conducted under A-133, the AGENCY shall submit audited financial statements and/or DES reserves the right to conduct a "limited scope audit" of the AGENCY as defined by A-133. DES will be responsible for providing technical assistance to the AGENCY, as deemed necessary by DES.

F. UNIFORM ADMINISTRATIVE REQUIREMENTS

The AGENCY agrees to comply with the applicable uniform administrative requirements as described in Federal Community Development Block Grant Regulations 24 CFR 570.502.

G. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures purchased, developed, prepared, assembled, or completed by the AGENCY for the purpose of this Agreement shall become the property of DES without restriction, reservation, or limitation of their use and shall be made available by the AGENCY at any time upon request by DES. Upon completion of all work contemplated under this Agreement, copies of all documents and records relating to this Agreement shall be surrendered to DES if requested. In any event, the AGENCY shall keep all documents and records for a period of not less than four (4) years after expiration of this Agreement [24 CFR Parts 570.502(b)(3)(ix)(A) and (B)].

H. INDEMNIFICATION

The AGENCY shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during performance of the terms of this Agreement or due to the acts or omissions of the AGENCY. The AGENCY's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. The AGENCY further agrees to hold the COUNTY harmless and will indemnify the COUNTY for any funds which the COUNTY is obligated to refund the Federal Government arising out of the conduct, any activities and administration of the AGENCY.

I. INSURANCE REQUIREMENT

Unless otherwise specified in this Agreement, the AGENCY shall, at its sole expense, maintain in full force and effect at all times during the life of this Agreement, insurance coverages and limits, including endorsements, as described herein. The requirements contained herein as to types and limits, as well as COUNTY's review or acceptance of insurance maintained by the AGENCY are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the AGENCY under the Agreement.

(1) COMMERCIAL GENERAL LIABILITY

The AGENCY shall agree to maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by COUNTY's Risk Management Department. The AGENCY agrees this coverage shall be provided on a primary basis.

(2) BUSINESS AUTOMOBILE LIABILITY

The AGENCY shall agree to maintain Business Automobile Liability at a limit of liability not less than \$500,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event the AGENCY does not own any automobiles, the

Business Auto Liability requirement shall be amended allowing the AGENCY 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. AGENCY agrees this coverage shall be provided on a primary basis.

(3) WORKERS' COMPENSATION & EMPLOYER'S LIABILITY

The AGENCY shall agree to maintain Workers' Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. The AGENCY agrees this coverage shall be provided on a primary basis.

(4) ADDITIONAL INSURED

The AGENCY shall agree to endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "**Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Economic Sustainability**". The AGENCY shall agree that the Additional Insured endorsements provide coverage on a primary basis.

(5) CERTIFICATE OF INSURANCE

The AGENCY shall agree to deliver to the COUNTY a certificate(s) of insurance evidencing the required insurance is in full force and effect within thirty (30) calendar days prior to the execution of the Agreement and upon renewal or reduction of any required insurance. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be included on the certificate(s).

(6) RIGHT TO REVIEW & ADJUST

The AGENCY shall agree that the COUNTY, by and through its Risk Management Department, in cooperation with DES, reserves the right to periodically 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. The COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

J. CONFLICT OF INTEREST

The AGENCY covenants that no person who presently exercises any functions or responsibilities in connection with the project has any personal financial interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the AGENCY. Any possible conflict of interest on the part of the AGENCY or its employees shall be disclosed in writing to DES provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of low and moderate income residents of the project target area.

K. CITIZEN PARTICIPATION

The AGENCY will cooperate with DES in the implementation of the Citizen Participation Plan by informing project beneficiaries and the community of the activities that the AGENCY is undertaking in carrying out the provisions of this Agreement.

L. RECOGNITION

All property purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The AGENCY will include a reference to the financial support herein provided by DES in all its publicity. In addition, the AGENCY will make a good faith effort to recognize DES support for all activities made possible with funds made available under this Agreement.

M. AGREEMENT DOCUMENTS

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

- (1) This Agreement, including its Exhibits, which the COUNTY may revise;
- (2) 48 CFR Part 31 – Contract Cost Principles and Procedures
- (3) Palm Beach County Purchasing Ordinance

- (4) Palm Beach County's Tangible Property Disposal Ordinance
- (5) Community Development Block Grant Regulations (24 CFR Part 570), as amended
- (6) The AGENCY's Incorporation Certificate
- (7) The AGENCY's Certificates of Insurance and Bonding

The AGENCY shall keep an original of this Agreement, including its Exhibits, and all Amendments thereto, on file at its principal office.

N. DEFAULTS

The occurrence of any one or more of the following events shall constitute a Default hereunder:

- (1) Vacating, abandoning, or closing the AGENCY'S business.
- (2) Relocating the AGENCY'S existing business in Palm Beach County outside Palm Beach County.
- (3) Failure of the AGENCY to create the number of jobs as required in this Agreement.
- (4) Failure of the AGENCY to maintain the required number of jobs for **at least the entire one (1) year period** as required in this Agreement.
- (5) Failure of the AGENCY to submit to the COUNTY the written verification of job creation required in this Agreement.
- (6) Failure of the AGENCY to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the AGENCY where such failure continues for a period of thirty (30) days after written notice thereof from the COUNTY to the AGENCY; provided, however, that if the nature of AGENCY'S default is such that more than thirty (30) days are reasonably required for its cure, then AGENCY shall not be deemed to be in default if the AGENCY commenced such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion.
- (7) The making by the AGENCY of any general assignment, or general arrangement for the benefit of creditors.
- (8) The filing by or against AGENCY of a petition to have the AGENCY adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against AGENCY, the same is dismissed within sixty (60) days).
- (9) The appointment of a trustee or receiver to take possession of substantially all of AGENCY'S assets where possession is not restored to AGENCY within thirty (30) days.
- (10) The attachment, execution or other judicial seizure of substantially all of AGENCY'S assets located within Palm Beach County where such seizure is not discharged within thirty (30) days.

O. REMEDIES

In the event of a Default by the AGENCY, the COUNTY may at any time thereafter terminate this Agreement. In such event, the COUNTY shall be entitled to recover immediately upon demand from the AGENCY or any party joining in or consenting to this Agreement, all sums paid by the COUNTY to the AGENCY, pursuant to this Agreement.

P. TERMINATION

In the event of early termination, the AGENCY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Agreement by the AGENCY, and the COUNTY may withhold any payment to the AGENCY for set-off purposes until such time as the exact amount of damages due to the COUNTY from the AGENCY is determined.

(1) TERMINATION FOR CAUSE

If, through any cause, either party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement early or suspend payments, in whole or part, by giving written notice of such termination or suspension of payments and specifying the effective date of termination or suspension. The AGENCY shall repay the full value of this grant, unless otherwise specified by DES, within thirty (30) days of receiving the termination notice from the COUNTY.

(2) TERMINATION DUE TO CESSATION

In the event the grant to the COUNTY under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date U.S. HUD specifies.

In the event the AGENCY ceases to exist, or ceases or suspends its operation for any reason, this Agreement shall be suspended or terminated on the date the COUNTY specifies. The determination that the AGENCY has ceased or suspended its operation shall be made solely by the COUNTY, and the AGENCY, its successors or assigns in interest agrees to be bound by the

COUNTY's determination. At the COUNTY's sole discretion, pursuant to this Section, the AGENCY shall return all funds received through this Agreement to the COUNTY within sixty (60) days of receiving the termination notice from the County.

(3) TERMINATION FOR CONVENIENCE OF THE COUNTY

The COUNTY may terminate this Agreement at any time by giving at least ten (10) working days notice in writing from the COUNTY to the AGENCY. If this Agreement is terminated early by the COUNTY as provided herein, the AGENCY will be paid for allowable services and allowable expenses under Part II of this Agreement until the effective date of termination.

(4) TERMINATION FOR CONVENIENCE OF THE AGENCY

The AGENCY may terminate this Agreement at any time by giving at least ten (10) working days prior written notice to DES. If the AGENCY has received funds through this Agreement, the AGENCY shall return all funds to the COUNTY prior to the termination of this Agreement.

Q. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

R. AMENDMENTS

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

S. NOTICES

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

Sherry Howrd, Deputy Director
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With a copy to:

James Brako, Assistant County Attorney
County Attorney's Office
301 N. Olive Ave (6th floor)
West Palm Beach, FL 33401

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

Robert Strandberg, President & CEO
Enterprise Development Corporation of South Florida
751 Park of Commerce Drive, Suite 128
Boca Raton, FL 33487

T. INDEPENDENT AGENT AND EMPLOYEES

The AGENCY agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Palm Beach County employees and are not subject to the COUNTY provisions of the law applicable to COUNTY employees relative to employment compensation and employee benefits.

U. NO FORFEITURE

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

V. PUBLIC ENTITY CRIMES

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

W. ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and AGENCY 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.

This Agreement and its provisions merge any prior Agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

X. COUNTY - FUNDED PROGRAMS

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

Y. ANTI - PIRACY PROVISION

The AGENCY hereby certifies that it is in compliance with Section 105H of U.S.C. 5305 and 24 CFR 570.210 and 570.482 and 570.506 in that CDBG grant will not cause the AGENCY to locate a facility, plant or operation, including the expansion of a business that will result in the loss of jobs from one Labor Market Area to another.

Z. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed COUNTY Agreements, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the AGENCY, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

AA. EXCLUSION OF THIRD PARTY BENEFICIARIES

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the Agency.

BB. REGULATIONS: LICENSING REQUIREMENTS

The AGENCY and its subcontractors shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. The AGENCY 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.

CC. SOURCE OF FUNDING

This Agreement and all obligations of County hereunder are subject to and contingent upon receipt of funding from U.S. HUD. Nothing in this Agreement shall obligate the Palm Beach County Board of County Commissioners to provide funding from the County's annual budget and appropriations.

DD. INCORPORATION BY REFERENCE

Exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

EE. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of **seventeen (17)** enumerated pages which include the Exhibits referenced herein, shall be executed in three (3) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument.

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

(CORPORATE SEAL)

**ENTERPRISE DEVELOPMENT
CORPORATION OF SOUTH FLORIDA**

By: _____

Robert Strandberg, President & CEO

(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

BOARD OF COUNTY COMMISSIONERS

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____

Shelley Vana, Mayor
Palm Beach County

By: _____

Deputy Clerk

Document No.: _____

Approved as to Form and Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Economic Sustainability

By: _____

James Brako
Assistant County Attorney

By: _____

Sherry Howard, Deputy Director

EXHIBIT "A"**SCOPE OF SERVICES****1. THE AGENCY AGREES TO:****A. PROJECT SCOPE**

Pursuant to the terms of this Agreement, the AGENCY shall be reimbursed for the following but not limited to, the following tasks: providing technical assistance; advice and business support services for microenterprise (as defined herein) and small business development; assisting in the establishment of businesses; and assisting with the drafting of business and marketing plans. For purposes of this Agreement, small businesses are defined as more than five (5) employees.

The AGENCY further agrees that DES shall be the final arbiter on the AGENCY's compliance with the above.

B. DELIVERABLES**(1) JOB CREATION**

Subsequent to the effective date of this Agreement and within the contract period, the AGENCY shall as a result of its project scope, create a minimum of **four (4) full-time equivalent (FTE) jobs** and at least fifty-one percent (51%) of the jobs created must be held by, or made available to, low and moderate income persons, and at least fifty-one percent (51%) must reside in unincorporated Palm Beach County or in Municipalities participating in the COUNTY's Urban County Program.

A full-time job shall mean employment for a minimum of 2,080 hours per year and for a wage or salary equal to or better than the minimum wage as determined by the U.S. Department of Labor. Low and moderate income status is based on the person's income at the time of hire and is not affected by subsequent raises or promotions. **To be counted towards the job creation requirement, a newly created job must be maintained for a period of no less than one (1) year from the date of the initial hire.** In accordance with this Agreement, the jobs committed for creation cannot be counted or used toward receiving any additional Palm Beach County grants.

If the minimum FTE job requirement has not been met, or falls below the minimum as required by this Agreement, the AGENCY shall be considered by the COUNTY to have breached this Agreement and the Agreement shall terminate. In the event of termination or breach of this Agreement, the AGENCY agrees that it shall, within sixty (60) days of the date of termination or breach of the Agreement, make restitution to the COUNTY the per job grant award (**or \$12,750.00 per job**) paid by the COUNTY to the AGENCY for each position not created and maintained as required by this Agreement.

The provisions of this section shall survive the expiration of this Agreement.

(2) BUSINESS ASSISTANCE

The Agency shall provide assistance to approximately fifteen (15) existing microenterprises, small businesses and/or entrepreneurs. Types of assistance to be provided are listed on the Activity Summary Form (Exhibit "F").

C. REPORTS

The AGENCY shall submit the monthly reports listed below to DES with the AGENCY's invoice requests:

- (1) Written verification of **Cumulative Job Creation** (Exhibit "C") during the Agreement period. This verification shall include company name, full-time or part-time, employee initials, job title, employee address, parcel control number, date of hire, salary at time of hire, family household income, number of household, low-moderate income level base, present salary, presently employed and date of termination.
- (2) An **Economic Development Compliance Table** (Exhibit "D") to be completed for each company provided technical assistance during the Agreement period and certified by the company owner or his designee.
- (3) A **Record of Hiring Form** (Exhibit "E") for each owner/employee hired during the contract period, identifying the family/household number and income prior at the time of hire, and certified by the owner and/or employee.

- (4) An **Activity Summary Form** (Exhibit "F") describing the business and types of assistance including business analysis, counseling, incorporation assistance, management strategies, business plan assistance, loan packaging, technical assistance, graphic and web design and/or other (specify).

D. ENVIRONMENTAL CONDITIONS

The AGENCY shall comply with all requirements resulting from the COUNTY's environmental review(s) of the project, including the incorporation of any applicable mitigation measures, in order to proceed with the project.

2. THE COUNTY AGREES TO:

- A.** Provide funding for the above specified improvements as described above in "Project Scope", during the term of this Agreement, in the amount of **Fifty-One Thousand Dollars (\$51,000)**.
- B.** Provide project administration and inspection to the AGENCY to ensure compliance with U.S. HUD, the Department of Labor, and applicable State, Federal, and County laws and regulations.
- C.** Monitor the AGENCY at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by DES, be conducted by DES staff or its subcontractors, and will serve to ensure that planned activities are conducted in a timely manner, to verify the accuracy of reporting to DES on program activities and compliance with U.S. HUD regulations.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

EXHIBIT “B”

USE AGENCY LETTERHEAD STATIONERY:

DATE: _____

TO: Ed Lowery, Director
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

FROM: Robert Strandberg, President & CEO
Enterprise Development Corporation of South Florida
751 Park of Commerce Drive, Suite 128
Boca Raton, FL 33487

SUBJECT: Enterprise Development Corporation of South Florida
Reimbursement Request No. _____
Agreement No. _____

=====

Attached you will find Invoice # _____ requesting reimbursement for \$ _____. The expenditures for this invoice cover the period of _____ through _____.

Additionally, please find the attached, back-up original documentation relating to the expenditures being involved.

Christine M. Cannon-Burres,
Associate Director of Operations

EXHIBIT "C"

**Enterprise Development Corporation (EDC) of South Florida
Cumulative Job Creation (Oct. 1, 2015 thru Sept. 30, 2016)**

Company		FT or PT	Empl Initials	Job Title	Employee Address	PCN	Date of Hire	Salary at Time of Hire	Family Household Income	No. of Hsehold	Low-Mod. Income Level Base	Present Salary	Present Employ- ment	Date Termin- ated
	1													
	2													
	3													
	4													
	5													
	6													
	7													
	8													
	9													
	19													
	11													
	12													
	13													
	14													
	15													
	16													
	17													
	18													
	19													
	20													
	21													
	22													
	23													
	24													
	25													
	26													

EXHIBIT “D”

Economic Development Compliance Table

Company Name: _____ **Industry Type (NAICS Code)** _____

Address: _____ **PCN:** _____

Please Note the Following: **CENSUS TRACT or BLOCK GROUP:** _____

- A job is considered to be Full Time if it provides 2,080 hours of employment per year (40 hour per week).

Job Title	Employee Initials	Employee Zip Code	Date Hired	Salary at Time of Hire	Specify: Full Time (FT) or Part Time (PT) <u>And</u> number of hours per week	Low-Mod Income Employee (See Attached Chart) (Yes) or (No)	Present Employee (Yes) or (No)	Date Terminated (If Applicable)

I certify this report to be accurate, based upon actual company records, which will be maintained by EDC for monitoring purposes, according to the terms of The TED Center's Agreement with Palm Beach County.

Printed Name

Title

Employer Signature

Date

EXHIBIT "E"

Record of Employee Hiring

For HUD and Economic Development Compliance
Oct. 1, 2015 thru Sept. 30, 2016

(Business Name)

Employee Name:

Employee Home Address and Parcel Control Number:

The first two digits of the 17 digit Parcel Control Number (PCN) xx-xx-xx-xx-xx-xxx-xxxx help to find out if the location is in or outside of the Palm Beach County CDBG Jurisdiction. If the first two digits of the PCN are 06, 08, 12, 30, 52, 73 or 74, then the location is outside the Palm Beach County CDBG Jurisdiction. The first two digits of the PCNs for the following cities are:

Boca Raton: 06 Boynton Beach: 08 Delray Beach: 12 Jupiter: 30 Palm Beach Gardens: 52 Wellington: 73
West Palm Beach: 74

Job Title:

Salary:

Fringe Benefits:

Date of Hire: Date of Termination: Still Employed: YES or NO

Please circle below income status at time of Hire:

FY 2015. Income Limits Documentation System
FY 2015 Income Limits Summary

Palm Beach County, Florida										
FY 2015 Income Limit Area	Median Income	FY 2015 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Palm Beach County	\$64,900	<u>Very Low (50%) Income Limits</u>	\$23,000	\$26,250	\$29,550	\$32,800	\$35,450	\$38,050	\$40,700	\$43,300
		<u>Extremely Low (30%) Income Limits</u>	\$13,800	\$15,930	\$20,090	\$24,250	\$28,410	\$32,570	\$36,730	\$40,890
		<u>Low (80%) Income Limits</u>	\$36,750	\$42,000	\$47,250	\$52,500	\$56,700	\$60,900	\$65,100	\$69,300

Income Limit areas are based on FY 2015 Fair Market Rent (FMR) areas. For a detailed account of how this area is derived please see HUD's associated FY 2015 Fair Market Rent documentation system.

OR

Number of Persons in Household: Family/Household Income: \$

Identify documentation used to establish very-low, low and moderate income status at time of hire. Retain copies of that documentation in AGENCY files for three (3) years for future COUNTY or Federal Audits.

Specify documentation:

Signature of Employer and/or Employee Date

EXHIBIT "F"
Activity Summary Form
Month of _____ 2015

ENTERPRISE DEVELOPMENT CORPORATION OF SOUTH FLORIDA

(Provide businesses assisted and check boxes for types of assistance provided.)

#	Name of Business Assisted	Date	New (N) or Existing (E)	Business Analysis	Counseling	Incorporation Assistance	Management Strategies	Business Plan Assistance	Loan Packaging	Technical Assistance	Graphic & Web Design	Other (Specify)
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												

Total Unduplicated Businesses Served This Month_____

Total Unduplicated Businesses Served Year-To -Date (YTD)_____