

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: **September 13, 2016** **Consent** **Regular**
 Ordinance **Public Hearing**

Department: **Department of Economic Sustainability**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to Receive and File: two (2) Amendments to Agreements as follows:

- A) Amendment No. 001 to the Agreement (R2016-0626) with Habitat for Humanity of Palm Beach County, Inc. and Habitat Housing Solutions, Inc. under the Home Investment Partnership Program (HOME) (Districts 3, 6 and 7); and
- B) Amended Agreement to an Agreement (R2015-1708) with the Florida Atlantic Research and Development Authority (FARDA) under the Regional Innovation Strategies Program of the U.S. Department of Commerce Economic Development Administration (EDA) (District 1).

Summary: In accordance with County PPM CW-0-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The attached documents have been executed on behalf of the Board of County Commissioners (BCC) by the County Administrator, or designee, in accordance with Resolution(s)/Agenda Item(s) 31-3 and 31-6 as approved by the BCC on December 1, 2015, and November 18, 2014. These executed documents are now being submitted to the BCC to receive and file. **HOME Program matching requirement is met from State SHIP funds and grant funds received from EDA do not require a local match.** (JB)

Background and Justification:

A) On March 16, 2016, the County entered into an Agreement (R2016-0626) with Habitat for Humanity of Palm Beach County, Inc. (Habitat) and Habitat Housing Solutions, Inc. The Agreement provided \$940,460 in HOME funding for the construction of five (5) homes on lots owned by Habitat and required that they be sold to households with incomes at or below 80% of Area Median Income. Only \$940,460 of the \$1,033,996 in HOME funds approved by the BCC on December 1, 2015, was allocated through the Agreement pending Habitat's acquisition of an additional lot for the project. Habitat has now acquired the additional lot. Amendment No. 001 increased the funding allocated to the project by \$93,536 for a total of \$1,033,996 and increased the number of homes to be constructed to six (6) homes.

B) On September 16, 2015, the County entered into an Agreement (R2015-1708) with FARDA who operates a Science and Research Park on the campus of Florida Atlantic University in Boca Raton. The Agreement provides FARDA \$155,000 in grant funds received by the County from EDA for a study to evaluate the feasibility of developing the North County Science and Research Park. The Amended Agreement, entered into on June 6, 2016, increases funding for FARDA by \$17,600 for a total of \$172,600 and extends the performance deadline from April 30, 2016 to October 31, 2016. This increase in funding covers the cost of analyzing an additional site as a potential location for the North County Science and Research Park.

Attachments: Documents as listed in A and B above.

Recommended By: Edward W. Young Sr 7/29/2016
 Department Deputy Director Date

Approved By: Sharon G. Ray 8-22-16
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures					
Grant Expenditures	\$111,136				
External Revenues	(\$111,136)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes No

Fund 1103 Dept 143 Unit 1434 Object 8201 Program Code/Period varies
 Fund 1539 Dept 143 Unit 2105 Object 8201 Program Code/Period NA

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

Amendment No. 001 allocates an additional \$93,536 in HOME funds to the Agreement with Habitat for Humanity of Palm Beach County, Inc. and Habitat Housing Solutions, Inc.

The Amended Agreement allocates an additional \$17,600 in Dept. of Commerce EDA grant funds to the Agreement with FARDA.


C. Departmental Fiscal Review:

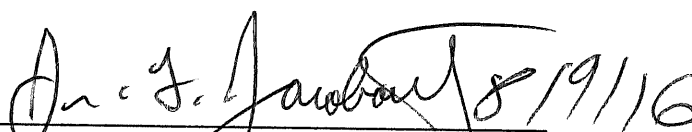


 Shairette Major, Fiscal Manager II
 7/29/16

III. REVIEW COMMENTS

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


 OFMB, Ex 8/01, 8/13, 8/16
 8/13/16


 Contract Development and Control
 8/19/16

B. Legal Sufficiency:



 Assistant County Attorney
 8/11/16

C. Other Department Review:

 Department Director

AMENDMENT 001 TO THE AGREEMENT
WITH
HABITAT FOR HUMANITY OF PALM BEACH COUNTY, INC.
AND
HABITAT HOUSING SOLUTIONS, INC.

Amendment 001 to the Agreement is made and entered into on **JUL 07 2016** by and between **Palm Beach County** ("County") and **Habitat Housing Solutions, Inc.**, (hereinafter "HHS"), and **Habitat for Humanity of Palm Beach County, Inc.**, (hereinafter "Habitat").

WITNESSETH:

WHEREAS, the County entered into an Agreement (R2016-0626), with the HHS and Habitat on March 16, 2016, to provide \$940,460 of HOME Investment Partnerships Program funds to construct five (5) homes and to sell or lease these homes to households having certain income levels as more particularly described in the Agreement; and

WHEREAS, the parties wish to modify the Agreement to increase the funding level to provide for an additional home.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

A. SECTION 1: RECITALS

The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Agreement.

B. SECTION 1(8): DEFINITIONS

Replace "five (5)" with "six (6)".

C. SECTION 4: MAXIMUM COMPENSATION

Replace "\$940,460" with "\$1,033,996".

D. SECTION 5: TIME OF PERFORMANCE

Replace "\$940,460" with "\$1,033,996" in two (2) instances.

E. EXHIBIT A – PART 1 - SECTION A: OVERVIEW OF THE PROJECT

In the first line replace "five (5)" with "six (6)" and add a new subsection (f) as follows:

- (f) 912 7th Street, West Palm Beach, FL 33407
Property Control Number: 74-43-43-21-06-006-0040

F. EXHIBIT A - PART 1 - SECTION B: MAXIMUM PER UNIT SUBSIDY AMOUNT

Replace "\$940,460" with "\$1,033,996".

G. EXHIBIT A - PART 1 - SECTION J(1): CONSTRUCTION CONTRACTOR PROCUREMENT

Replace "five (5)" with "six (6)".

H. EXHIBIT A - PART 2 - SECTION A: THE COUNTY AGREES TO

Replace "\$940,460" with "\$1,033,996".


(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

Except as modified by this Amendment 001, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 001 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.

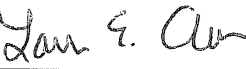
IN WITNESS WHEREOF, the HHS, Habitat and the County have caused this Amendment 001 to be executed on the date first above written.

(SEAL BELOW)

**HABITAT FOR HUMANITY OF
PALM BEACH COUNTY, INC.**

By: 
Brad T. Jankowski, President

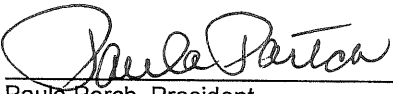
Date: 5/25/16

By: 
Laura E. Clark, Secretary

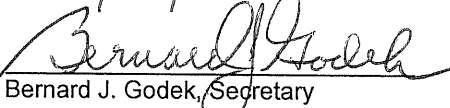
Date: 5/25/16

(SEAL BELOW)

HABITAT HOUSING SOLUTIONS, INC.

By: 
Paula Porch, President

Date: 5/25/2016

By: 
Bernard J. Godek, Secretary

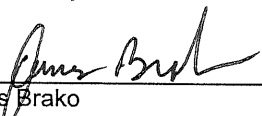
Date: 5/25/16

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida
FOR ITS BOARD OF COUNTY COMMISSIONERS**

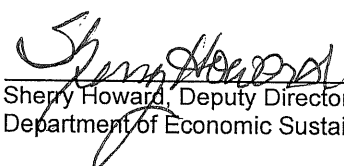
By: 
Shannon R. LaRocque
Assistant County Administrator

Date: 5-7-16

Approved as to Form and
Legal Sufficiency

By: 
James Brako
Assistant County Attorney

Approved as to Terms and Conditions
Department of Economic Sustainability

By: 
Sherry Howard, Deputy Director
Department of Economic Sustainability

**AMENDED AGREEMENT BETWEEN
PALM BEACH COUNTY
AND
FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY
REGARDING REGIONAL INNOVATION STRATEGIES (RIS) GRANT**

DATED:

6th OF June, 2016

**AMENDED AGREEMENT BETWEEN PALM BEACH COUNTY
AND
FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY**

THIS AMENDED AGREEMENT, dated as of this 16th day of June, 2016, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and **FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY**, (**FARDA**) a special district created by Broward and Palm Beach counties whose public purposes includes the development, operation, management and financing of research and development parks, organized under Part V of Chapter 159 of the Florida Statutes, hereinafter "FARDA.")

WHEREAS, the COUNTY and FARDA (as co-applicants) secured \$290,600 ("EDA Grant Funds") under the Regional Innovation Strategies (RIS) Grant Program to assess the feasibility of a Northern Palm Beach County Science and Research Park, via Grant Instrument No. EDA#ED15HDQ0300034 (Grant) with the U.S. Department of Commerce Economic Development Administration (EDA); and

WHEREAS, the study will result in a go/no go determination as to whether a Northern County Science and Research Park is feasible; and

WHEREAS, two (2) entities comprise the core partnership of the Palm Beach County Department of Economic Sustainability (DES) and the Florida Atlantic Research and Development Authority; and

WHEREAS, the COUNTY is satisfied that the FARDA has the capacity and experience to carry out the proposed activities within the work program in conjunction with the COUNTY, executed under the Grant Agreement with EDA for the North County Science and Research Park Feasibility Study; and

WHEREAS, the COUNTY will grant funding not to exceed \$172,600 in the EDA grant funds available to pay for services to be provided by the FARDA for development of the North County Science and Research Park Feasibility Study; and

WHEREAS, the FARDA is amenable to provide the services described herein for the North County Science and Research Park Feasibility Study.

NOW, THEREFORE, in consideration of the mutual promises contained herein and the above WHEREAS clauses which are incorporated herein, the COUNTY and the FARDA agree as follows:

ARTICLE 1 - SERVICES TO BE PROVIDED, SCHEDULE, AND PAYMENTS

The FARDA shall provide and complete all services, reports, materials, and deliverables as set forth in the Scope of Work detailed in Exhibit "A" attached hereto. The FARDA shall commence the services under this Agreement not later than the effective date of this Agreement (FARDA, however, may have started performing services prior to the effective

date, in which case, FARDA shall nonetheless be compensated for those services under this Agreement) and FARDA shall complete all services by **October 31, 2016**.

The FARDA shall, within thirty (30) days of the date of this Agreement, obtain a DUNS number, or update its existing DUNS record (DUNS means Dun and Bradstreet Data Universal Numbering System), register with the Central Contractor Registration (CCR) at www.ccr.gov, and shall provide written evidence to the COUNTY that it has timely done so. The COUNTY'S receipt of such written evidence shall be a prerequisite to the FARDA'S receipt of any payments under this Agreement.

- A. **Total Cost and Payments:** There is attached hereto as part of Exhibit B, the estimated staff and consultant fees. There are twelve estimated fees which comprise the maximum fee total of \$172,600 to FARDA which include FARDA staff as well as consultant staff time and costs, consistent with the Grant Agreement between the COUNTY and EDA.
- B. The FARDA shall bill the COUNTY at least quarterly based upon the percentage (%) complete of each deliverable described in Exhibit "A" and FARDA shall be paid on the basis of that percentage of the RIGP maximum fee allocated to FARDA from the total EDA RIS grant award. Such compensated amount for each deliverable is based on a good-faith determination by the COUNTY that the completed percentage is accurate. The FARDA may bill the COUNTY not more frequently than once per month on the same percentage basis. A bill to the COUNTY will show the percentage completed of each deliverable and include: (i) the percentage and amount of Total FARDA allocation for each of the twelve estimated fees which comprise the FARDA maximum fee total of \$172,600. The foregoing basis for payment would apply in regard to each deliverable.

Notwithstanding that FARDA might provide, at the request of the COUNTY, a back-up spreadsheet which lists Staff Hour/Consultant Hour Estimates--these staff hour/consultant hour estimates shall not be used in any way to determine the percentage completion of a deliverable for the purposes of payments to FARDA. The FARDA shall be paid on the basis of the percentage complete of each deliverable, NOT based on the percentage of staff hours/consultant hours expended to reach that point.

If the FARDA fails to comply with any of the provisions of this Agreement, or the EDA grant agreement terms and conditions, the COUNTY will provide written notice of the alleged non-compliance. FARDA shall, in turn, be afforded no less than thirty (30) days to cure any actual non-compliance. If FARDA fails to cure, the COUNTY may terminate this Agreement but shall pay FARDA for all work properly completed.

- C. **Prerequisite for Payments:** All payments made by the COUNTY under this Agreement shall be contingent on the COUNTY'S receipt of Quarterly Progress Reports required in Exhibit "A" except that payment to SUBRECIPIENT as to any bills submitted to the COUNTY will not be withheld or delayed if the bill is submitted prior to the due date of the 1st Quarterly Progress Report or is submitted after one or more Quarterly Progress Reports have been provided to the COUNTY, provided that, at the time a bill is submitted to the COUNTY no Quarterly Progress Reports are overdue.

- D. Invoices: Invoices received from the FARDA shall be reviewed and approved by the COUNTY'S representative, to verify that the services, reports and materials being requested for payment have been provided by the FARDA in conformity with the Agreement. Approved invoices shall then be sent to the Finance Department for payment.
- E. Final Invoice: The FARDA shall clearly state "Final Invoice" on the FARDA'S last billing to the COUNTY. This shall constitute the FARDA'S certification that all services have been properly performed, all charges and costs have been invoiced to the COUNTY, and any other charges not properly included on this final invoice are waived by the FARDA.

ARTICLE 2 - PERSONNEL

The FARDA 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. The FARDA warrants that all services shall be performed by skilled and competent personnel. All of the FARDA's personnel (and all Subcontractors), while on County premises, shall comply with all COUNTY requirements governing conduct, safety and security.

ARTICLE 3 – DATA BECOMES COUNTY AND EDA PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the FARDA for the purpose of this Agreement shall be made available to the COUNTY and EDA by the FARDA at any time upon request by the COUNTY or EDA. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to the COUNTY or EDA, if requested. In any event, the FARDA shall keep all documents and records for five (5) years after expiration of this Agreement.

ARTICLE 4 – FEDERAL REQUIREMENTS, REGULATIONS, AND AUTHORITY TO PRACTICE

The FARDA shall be bound by the aforesaid Grant Agreement which is incorporated herein by reference and made a part hereof, to the extent applicable to this Agreement. Furthermore, the FARDA shall comply with the requirements contained in Exhibit "C" attached hereto.

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

The FARDA represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY'S representative upon request.

ARTICLE 5 – INSURANCE

Without waiving the right to sovereign immunity as provided by s.768.28 F.S., FARDA acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$200,000 Per Person and \$300,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

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

FARDA agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

When requested, FARDA shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above mentioned coverages.

Compliance with the foregoing requirements shall not relieve FARDA of its liability and obligations under this Agreement.

ARTICLE 6 - AUDITS AND INSPECTIONS

At any time during normal business hours and as often as the COUNTY, EDA, or the Comptroller General of the United States may deem necessary, there shall be made available by the FARDA to the COUNTY, EDA, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

The FARDA shall separately identify its expenditures of Federal awards on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133 (2 CFR Part 180). If during the year, the FARDA expends over \$500,000 of Federal awards, the FARDA shall comply with the provisions of OMB Circular A-133. The FARDA shall submit to the COUNTY 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. The audit shall be delivered to the COUNTY within thirty (30) days after the later of the following: (i) FARDA's receipt of its annual audit from its auditor and (ii) the FARDA's governing board approval of the audit report. Said audit shall be made by a Certified Public Accountant of the FARDA'S choosing, subject to the approval of FARDA's governing board.

In the event the FARDA anticipates a delay in producing such audit, the FARDA shall request an extension in advance of the deadline. The cost of said audit shall be borne by the FARDA. In the event the FARDA is exempt from having an audit conducted under A-133, the FARDA shall submit audited financial statements and/or the COUNTY reserves the right to conduct a "limited scope audit" of the FARDA as defined by A-133.

ARTICLE 7 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the FARDA. The FARDA shall not be exempted from paying sales tax (unless FARDA is exempted by Florida law from paying sales tax) to its suppliers for materials used to fulfill contractual obligations with the

COUNTY, nor is the FARDA authorized to use the COUNTY'S Tax Exemption Number in securing such materials. The FARDA shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement, to the extent FARDA is responsible for same.

ARTICLE 8 - CONFLICT OF INTEREST

The FARDA represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The FARDA further represents that no person having any such conflict of interest shall be employed for said performance of services.

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

ARTICLE 9 - INDEPENDENT CONTRACTOR RELATIONSHIP

The FARDA is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. The FARDA shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the FARDA'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor, not as employees or agents of the COUNTY. The FARDA does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

ARTICLE 10 - CONTINGENT FEES

The FARDA warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the FARDA to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the FARDA, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 11 – CIVIL RIGHTS COMPLIANCE AND NONDISCRIMINATION POLICY

The FARDA 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 not 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 identify and expression or genetic

information. In compliance with the County's requirements, as contained in Resolution R2014-1421, FARDA will execute the Non-Discrimination affidavit attached hereto as Exhibit D.

In furtherance of such policy, the FARDA 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.

ARTICLE 12 - TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the FARDA with funds under this Agreement shall be returned to the COUNTY. In the event of termination, the FARDA 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 FARDA. The COUNTY may withhold any payment to FARDA for set-off purposes until such time as the exact amount of damages due to the COUNTY from the FARDA is determined, provided that the amount withheld is reasonably related to the COUNTY's good-faith estimation of damages.

- A. Termination For Cause: If, through any cause, either party shall fail to fulfill in a 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 in whole or part by giving a fifteen (15) working day written notice of such termination to the other party and specifying therein the effective date of termination.
- B. Termination For Convenience: At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the COUNTY shall pay FARDA for the services, reports, materials, and deliverables set forth in Exhibit A which have been provided through and including the date of termination based upon the percentage complete of each deliverable as provided in Article 1.
- C. Termination Due To Cessation: In the event the Grant to the COUNTY under the aforesaid Grant Agreement with EDA is suspended or terminated, this Agreement shall be suspended or terminated effective on the date that EDA specifies. The COUNTY shall pay the FARDA for the services, reports, materials, and deliverables set forth in Exhibit A which have been provided through and including the date of the date of suspension or termination, as applicable, based upon the percentage complete of each deliverable as provided in Article 1.

ARTICLE 13- SUCCESSORS AND ASSIGNS

The COUNTY and the FARDA each binds itself and its successors, executors, administrators and assigns to the other party and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the FARDA shall assign, sublet,

convey or transfer its interest in this Agreement without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY or FARDA, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the FARDA.

ARTICLE 14- 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.

ARTICLE 15- SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 16- PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the FARDA certifies that it, its affiliates, suppliers, subcontractors and FARDAs 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).

ARTICLE 17- 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 contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the FARDA, and its wholly owned subsidiaries, its officers, agents, employees, and lobbyists in order to ensure compliance with contract 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.

ARTICLE 18- MODIFICATIONS OF WORK

The COUNTY and FARDA acknowledge that the Scope of Work in this matter has been set pursuant to the grant received by both parties as co-applicants. The COUNTY reserves the right to modify the Scope of Work but any such modifications must be consistent with the parameters of the relevant grant. Upon receipt by FARDA of the COUNTY'S notification of a contemplated change, FARDA shall, in writing: (1) provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY

of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect FARDA'S ability to meet the completion dates or schedules of this Agreement. Any proposed modification by the COUNTY must be in writing. If FARDA and the COUNTY cannot agree on the proposed modification and any additional compensation that may be associated with such change, FARDA shall have the option of continuing operating under the original agreement and Scope of Work without any obligation to perform work associated with the proposed modification.

ARTICLE 19 - PERFORMANCE TIME AND LIABILITY

The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

ARTICLE 20- EXCUSABLE DELAYS

The FARDA shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the FARDA or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions. Upon the FARDA'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the FARDA'S failure to perform was without it or its subcontractors fault or negligence, the Agreement schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 21- WAIVER

If the COUNTY OR FARDA shall waive any provisions of the Agreement, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such; and the COUNTY and FARDA shall thereafter have the right to insist upon the enforcement of such conditions or provisions.

ARTICLE 22- 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 Howard, Deputy Director
Department of Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With copy to:

James Brako, Assistant County Attorney
Palm Beach County Attorney's Office
301 North Olive Ave., 6th Floor
West Palm Beach, FL 33401

If sent to the FARDA, notices shall be addressed to:
Andrew Duffell, President and CEO
Research Park at Florida Atlantic University
3651 FAU Boulevard, Suite 400
Boca Raton, FL 33431

With copy to:
J. Freddy Perera, FARDA General Counsel
150 West Flagler Street, Suite 2200
Miami, Florida 33130

Such addresses may be changed by any party by written notice to the other party.

ARTICLE 23- ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the FARDA 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.

ARTICLE 24- COUNTERPARTS

This Agreement may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

ARTICLE 25- EVALUATION AND MONITORING

The FARDA agrees that the COUNTY may carry out periodic monitoring and evaluation activities as determined necessary by the COUNTY, and that the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based upon the terms of this Agreement.

ARTICLE 26- EXCLUSION OF THIRD PARTY BENEFICIARIES

No provision of this agreement is intended to, nor shall be construed to, create any third party beneficiary nor 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 employees of the FARDA.

ARTICLE 27- INDEMNIFICATION

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, COUNTY shall indemnify, defend, and hold harmless FARDA against any actions, claims or damages arising out of COUNTY'S negligence in connection with this Agreement. FARDA shall indemnify, defend, and hold harmless COUNTY against any actions, claims or damages arising out of FARDA'S negligence in connection with this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful, or intentional acts or omissions.

ARTICLE 28- EFFECTIVE DATE 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 (the "Effective Date").

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

FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY, an authority created by the county commissioners of Palm Beach and Broward counties

By: Robert D. Parks
Robert D. Parks, Ed.D., , Chair

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

FOR ITS BOARD OF COUNTY COMMISSIONERS

By: Shannon LaRocque
Shannon LaRocque, P.E.
Assistant County Administrator

Approved as to Form and Legal Sufficiency

By: James Brako
James Brako
Assistant County Attorney

Approved as to Terms and Conditions
Department of Economic Sustainability

By: Sherry Howard
Sherry Howard, Deputy Director
Department of Economic Sustainability

EXHIBIT "A"

SCOPE OF WORK

(A) PROJECT DESCRIPTION

The COUNTY, as a recipient of an EDA Science and Research Park Development Grant under U.S. Economic Development Administration (EDA), in conjunction with the Florida Atlantic Research and Development Authority (FARDA), will prepare a study which determines the feasibility of locating a Science and Research Park in northern Palm Beach County. This study will consider demand, resources (including available land and infrastructure) marketing and timeline that will help shape the project planning process of a possible research part in the northern part of Palm Beach County.

As part of the feasibility study referenced above:

The FARDA and COUNTY have jointly prepared this scope of work to assist the COUNTY in determining the feasibility of a northern County Science and Research Park.

The key elements of the FARDA'S work under this Agreement shall include:

Competitive Landscape:

1. Coordination with the COUNTY and consultants for purposes of infrastructure and governmental approval, market and construction analyses
2. Hiring of any paid consultants via a Request for Proposals (RFP) process, in coordination with the COUNTY
3. Defining the study/market area within which possible sites will be considered for inclusion in the feasibility study
4. Working with real estate and appraisal contacts to create acquisitions analyses on potential sites identified, which maximize return and limit risk

Operating Requirements:

5. Determining on and off-site development costs for Phase 1 construction
6. Determining operations and maintenance cost estimates for Phase 1 for inclusion in pro-forma complement of break-even analysis relative to the Park being able to pay for itself.
7. Infrastructure analysis based on data from consultants for potential land/sites within study/market area
8. Identifying and securing needed capital for Phase 1 (from commitments and/or anticipated revenue from lease prices and land sales)

9. Break-even analysis (e.g., cash-flow analysis, pro-forma and investor exit strategies)

Findings and Recommendations:

10. Review and analysis of all data and analyses provided by the FARDA, the COUNTY and consultants regarding the feasibility of a northern County Science and Research Park
11. Consolidation of data and analysis in conjunction with the COUNTY in the preparation of the feasibility analysis report which includes recommendations as to go/no go determinations for the potential sites which were examined
12. Work with COUNTY in the preparation and completion of the draft and final feasibility analysis report; and any presentations to entities as required

(B) QUARTERLY PROGRESS REPORTS

The FARDA shall submit Quarterly Progress Reports to the COUNTY detailing the FARDA'S progress in accomplishing the Scope of Work during each calendar quarter. The FARDA shall, for the term of this Agreement, submit a Quarterly Progress Reports on each January 15th, April 15th, July 15th and October 15th, where such report covers the calendar quarter preceding each submission date.

(C) PROJECT LIAISONS

The COUNTY'S liaison during the performance of services described in this Agreement shall be:

Carol Thompson, AICP
Special Projects Manager
Department of Economic Sustainability
Phone: 561-233-3674

The FARDA'S liaison during the performance of services described in this Agreement shall be:

Andrew Duffell
President and CEO
Research Park at Florida Atlantic University
Phone: 561-416-6092 Ext.1402

(D) DELIVERABLE #1: COMPETITIVE LANDSCAPE (Estimated time frame of 4-6 months – likely overlap with DELIVERABLE #2)

The FARDA shall complete the following work in connection with Deliverable #1:

Items 1-4 listed in FARDA scope of work under (A) PROJECT DESCRIPTION above

Submissions: The FARDA shall submit the following to the COUNTY:

- Summary report of progress made in completing Items 1-4 and copies of any preliminary reports or partial reports available within in quarterly billing cycle

(E) DELIVERABLE #2: OPERATING REQUIREMENTS (Estimated time frame 6-8 months – likely overlap with DELIVERABLE #1)

The FARDA shall complete the following work in connection with Deliverable #2:

The FARDA shall complete the following work in connection with Deliverable #2:

Items 5-9 listed in FARDA scope of work under (A) PROJECT DESCRIPTION above

(F) DELIVERABLE #3: OPERATING REQUIREMENTS (Estimated time frame 1-2 months)

The FARDA shall complete the following work in connection with Deliverable #3:

Items 10-12 listed in FARDA scope of work under (A) PROJECT DESCRIPTION above

EXHIBIT "B"

SCHEDULE OF PAYMENTS

Payments to the FARDA for the satisfactory completion of deliverables described within this Agreement shall be according to the following schedule:

DELIVERABLE	PAYMENT AMOUNT
Deliverable #1: Upon completion of all work associated with Deliverable #1 as described in Exhibit "A".	\$100,000.00
Deliverable #2: Upon completion of all work associated with Deliverable #2 as described in Exhibit "A".	\$57,000
Deliverable #3: Upon completion of all work associated with Deliverable #3 as described in Exhibit "A".	\$15,600.00
TOTAL:	\$172,600

EXHIBIT "C"

FEDERAL REQUIREMENTS

FARDA represents, warrants, and certifies to the COUNTY that it shall comply with all applicable Federal statutes, regulations, and requirements relating to non-discrimination and equal opportunity.

B. Limitation on Payments to Influence Certain Federal Transactions

The FARDA is subject to the provisions of Section 1352 of Title 31 of the U.S. Code which provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or grant agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any grant agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant agreement.

C. Inspector General Referrals

The FARDA shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

EXHIBIT "D"

NON-DISCRIMINATION POLICY

RFP NO. _____

Pursuant to Palm Beach County Resolution R-2014-1421, as may be amended, it is the policy of the Board of County Commissioners of Palm Beach County that Palm Beach County shall not conduct business with nor appropriate any funds for any organization that practices discrimination on the basis of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information.

All proposers doing business with Palm Beach County are required to submit a copy of its non-discrimination policy which shall be consistent with the policy of Palm Beach County stated above, **prior** to entering into any contract with Palm Beach County. In the event a proposer does not have a written non-discrimination policy or one that conforms to Palm Beach County's policy, such proposer shall be required to check the applicable statement and sign below affirming it will conform to Palm Beach County's policy.

Check one:

Proposer hereby acknowledges that it **does not** have a written non-discrimination policy or one that conforms to Palm Beach County's policy and proposer hereby **acknowledges and affirms by signing below** that it will conform to Palm Beach County's non-discrimination policy as provided in Palm Beach County's Resolution R-2014-1421, as may be amended.

OR

Proposer hereby attaches its non-discrimination policy which is consistent with the policy of Palm Beach County.

OR

Proposer hereby attaches its non-discrimination policy which does not conform to the policy of Palm Beach County; however, Proposer hereby **acknowledges and affirms by signing below** that it will conform to Palm Beach County's non-discrimination policy as provided in Palm Beach County's Resolution R-2014-1421, as may be amended.

NOTE:

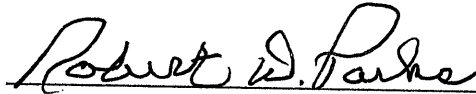
Proposer's failure to either: (i) have a written or non-written non-discrimination policy in conformance with Palm Beach County's policy set forth above; **or** (ii) provide Palm Beach County, with the information set forth above, will render proposer non-responsive.

Proposer shall notify Palm Beach County in the event it no longer maintains a written or non-written non-discrimination policy that is in conformance with Palm Beach County's policy set forth above. Failure to maintain said non-discrimination policy shall be considered a default of contract.

PROPOSER:

FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT

AUTHORITY


Signature

ROBERT PARKS

Name (type or print)

CHAIRMAN

Title



RESEARCH PARK
AT FLORIDA ATLANTIC
UNIVERSITY®

Florida Atlantic Research and Development Authority

Policy No. 15-8

Title: Non-discrimination, non-harassment, non-retaliation policy
Date Adopted: December 9, 2015
Effective Date: January 1, 2016
Expiration Date: December 31, 2020

Purpose – To adopt a new Non-Discrimination, Non-Harassment, and Non-Retaliation Policy (the “Policy”), designated as Policy No. 15-8.

The Policy is hereby adopted, to wit:

Equal Employment Opportunity

It is the policy of the Authority to promote and assure equal opportunity employment for all current and prospective Employees without regard to race, color, religion, sex, age, handicap, disability, marital status, genetic information, sexual orientation, pregnancy, national origin, citizenship status, and any other legally recognized status entitled to protection under federal, state, or local anti-discrimination laws.

Employees who have any questions concerning this policy or feel that they have not been treated in accordance with this policy should contact the President & CEO of the Authority. If the President & CEO of the Authority cannot provide the necessary information, the Employee may contact the Authority Chair. The Authority prohibits retaliation against any Employee who makes a good faith complaint under this policy. Violations of this policy will result in appropriate disciplinary action up to and including termination of employment.

Americans With Disabilities Act

The Authority is committed to complying with all applicable provisions of the Americans with Disabilities Act, as amended (ADA), and applicable state and local laws. It is the Authority's policy not to discriminate against any qualified Employee or applicant with regard to any terms or conditions of employment on the basis of such individual's disability. Consistent

with this policy of non-discrimination, the Authority will provide reasonable accommodations to an individual with a disability, as defined in the ADA or applicable law, who has made the Authority aware of his or her disability, unless doing so constitutes an undue hardship to the Authority.

The Authority also wishes to participate in a timely, good faith, interactive process with a disabled applicant or Employee to determine effective reasonable accommodations, if any, which can be made in response to a request for accommodations. Requests should be made to the President & CEO of the Authority. By working together in good faith, the Authority hopes to implement any reasonable accommodations that are appropriate and consistent with legal obligations. Any Employee or job applicant who has questions regarding this policy or believes that he or she has been discriminated against based on a disability should notify President & CEO of the Authority, or, if necessary, the Authority Chair.

Anti-Harassment/Anti-Discrimination And Retaliation Policy

The Authority believes that each of us should be able to work in an environment free of discrimination and harassment. To this end, the Authority prohibits and will not tolerate discrimination or harassment based on *any* legally protected status, including but not limited to race, color, religion, sex, age, handicap, disability, marital status, genetic information, sexual orientation, pregnancy, national origin, or citizenship status. Although this policy is primarily directed to sexual harassment, it applies equally to any form of discrimination or harassment based on any legally protected status.

Procedure For Reporting Harassment: If you believe (or have direct knowledge of such incidents) that you are being harassed by a supervisor, co-worker, vendor, or patron, you should promptly report the incident or incidents to the President & CEO of the Authority. If you do not feel comfortable reporting this matter to the President & CEO, you may report the matter to the Authority Chair.

If you report the incident(s) in writing, please place the report in a sealed envelope marked "Personal and Confidential." The following information should be included in the written statement: the date(s) of the incident(s), identity of the alleged harasser, identity of any witnesses, and details about the incident(s).

The Authority Investigation: The Authority will investigate all sexual harassment claims (or other types of unlawful harassment and discrimination) irrespective of the identity of the alleged perpetrator.

Sanctions: If the investigation reveals evidence supporting the occurrence of an incident of sexual harassment (or other type of unlawful harassment or discrimination), the Authority will

take prompt remedial action. The Authority's disciplinary action will depend upon the specifics of the case and may range from a warning to termination of employment.

If the investigation fails to disclose unlawful harassment or discrimination conclusively, the Authority reserves the right to nonetheless take action. The Authority will not transfer the alleged victim unless he or she consents to the transfer.

Prohibition Against Retaliation: The Authority does not condone or permit retaliation. No one will suffer any adverse consequences as a result of bringing a complaint of perceived unlawful harassment or discrimination to the Authority's attention. There will be no retaliation for either reporting the harassment/discrimination or for cooperating in the investigation of the report. Any Employee responsible for retaliatory conduct will be subject to discipline, up to and including discharge. If an Employee believes that he or she is being retaliated against, the Employee is encouraged to report the retaliation by using the same procedures discussed above for reporting harassment and discrimination.

Follow-up: Once the matter has been resolved, the Authority will continue to monitor the Employees involved to ensure that no future incidents of harassment or discrimination occur. The Authority is dedicated to maintaining a working environment free of discrimination and based on professionalism. We expect that all Employees will continue to act responsibly to fulfill the Authority's commitment to working in an environment totally free of discrimination. Employees should not hesitate to ask questions regarding harassment or discrimination.

Open Door Policy

It is the Authority's policy to welcome and encourage Employee ideas and suggestions. We know from our experience that our success greatly depends upon the helpful thoughts and suggestions of our Employees. We want our Employees to feel free to express themselves about anything which concerns them. The Authority requires that Employee concerns be given consideration without discrimination or recrimination

Employees are encouraged to openly discuss problems with their direct supervisors or President & CEO of the Authority so that appropriate action can be taken to address such problems. If the direct supervisor or President & CEO of the Authority cannot be of assistance, the Employee is free to discuss the issue with the Authority Chair.

ADOPTED THIS 9th DAY OF DECEMBER, 2015