

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

| | | | |
|----------------------|---------------------------------------|---|---|
| Meeting Date: | October 18, 2016 | <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Regular |
| | | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| Department: | Department of Economic Sustainability | | |

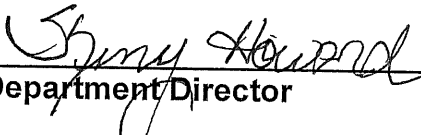
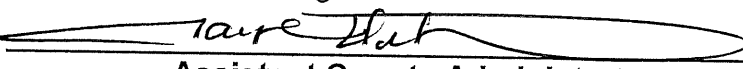
I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Agreement with the City of South Bay in the amount of \$30,372 for the period of October 1, 2016 to September 30, 2017.

Summary: This Agreement provides Community Development Block Grant (CDBG) funding to pay for all or a portion of the salary of one (1) full-time Code Compliance Officer. On July 12, 2016, the Board of County Commissioners approved the Fiscal Year 2016-2017 Action Plan (R2016-0928) which allocated \$30,372 for these code enforcement costs. These are Federal CDBG funds which require no local match. District 6 (JB)

Background and Justification: The City of South Bay has an executed Interlocal Agreement with Palm Beach County to participate in the CDBG Program as funded by the United States Department of Housing and Urban Development.

Attachment:
1. Agreement with the City of South Bay

| | | | |
|------------------------|--|------------------|--|
| Recommended By: |  Department Director | 10-11-16 Date | |
| Approved By: |  Assistant County Administrator | 10/13/16 Date | |

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2017 | 2018 | 2019 | 2020 | 2021 |
|--|------------|------|------|------|------|
| Capital Expenditures | | | | | |
| Operating Costs | \$30,372 | | | | |
| External Revenues | (\$30,372) | | | | |
| Program Income | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | -0- | | | | |
| # ADDITIONAL FTE POSITIONS (Cumulative) | -0- | | | | |

Is Item Included In Current Budget? Yes X No _____

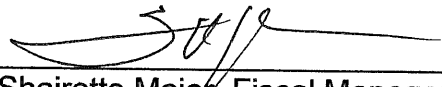
Budget Account No.:

Fund 1101 Dept 143 Unit 1431 Object 8101 Program Code/Period _____

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

Approval of this agenda item will allocate \$30,372 in CDBG funds to the City of South Bay for code enforcement costs.


C. Departmental Fiscal Review:

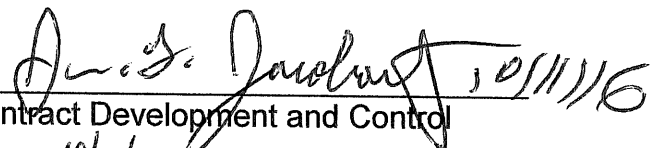


 Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

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


 OFMB 9/29/16
 Et 9/29/16


 Contract Development and Control
 10/11/16

B. Legal Sufficiency:


 Assistant County Attorney

C. Other Department Review:

Department Director

**AGREEMENT BETWEEN PALM BEACH COUNTY
AND
THE CITY OF SOUTH BAY**

THIS AGREEMENT, entered into on _____, by and between **Palm Beach County**, a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant (CDBG) Program and the **City of South Bay**, a Municipality duly organized and existing by virtue of the laws of the State of Florida, having its principal office at **335 S.W. 2ND Avenue, South Bay, FL 33493**

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 CDBG 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** made **\$30,372** in CDBG funds available to the **City of South Bay** to provide services to low and moderate income property owners within its Municipal boundaries by funding code enforcement services to enforce applicable housing and building codes.

WHEREAS, **Palm Beach County** and the **City of South Bay** desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, **Palm Beach County** desires to engage the **City of South Bay** to implement such undertakings of the CDBG Program.

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

1. DEFINITIONS

- (A) "County" means Palm Beach County.
- (B) "CDBG" means Community Development Block Grant Program of Palm Beach County.
- (C) "DES" means Palm Beach County Department of Economic Sustainability.
- (D) "Municipality" means the **City of South Bay**
- (E) "DES Approval" means the written approval of the DES Director or designee.
- (F) "U.S. HUD" means the Secretary of the U. S. Department of Housing and Urban Development or a person authorized to act on U.S. HUD's behalf.
- (G) "Low- and Moderate-Income Persons" means the definition set by U.S. HUD.

2. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which the Municipality will implement the Scope of Services set forth in Exhibit A of this Agreement. At least fifty one percent (51%) of the beneficiaries of a project funded under this Agreement must be low- and moderate-income persons.

3. CDBG ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVE

The Municipality shall provide code enforcement services. These activities are determined to be **Rehabilitation and Preservation Activities – Code Enforcement**, under 24 Code of Federal Regulations (CFR) 570.202(c). The Parties acknowledge that the eligible activities carried out under this Agreement will meet a CDBG Program National Objective by benefitting **Low- and Moderate Income Persons on an Area-Wide Basis**, as described in the scope of work in Exhibit "A", and as defined in 24 CFR 570.208(a)(1)(i).

4. **GENERAL COMPLIANCE**

The Municipality shall comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)), including subpart K of these regulations, except that (1) the Municipality does not assume the County's environmental responsibilities described in 24 CFR 570.604 and (2) the Municipality does not assume the County's responsibility for initiating the review process under the provisions of 24 CFR Part 58. The Municipality also agrees to comply with all other Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Municipality further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

5. **SCOPE OF SERVICES**

The Municipality shall, in a satisfactory and proper manner as determined by DES, perform the tasks outlined in Exhibit "A" and submit invoices printed on the Municipality's letterhead using the format in Exhibit "B", both Exhibits being attached hereto and made a part hereof.

6. **MAXIMUM COMPENSATION**

The Municipality agrees to accept as full payment for eligible services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and DES Director or designee-approved expenditures and encumbrances made by the Municipality under this Agreement. Said services shall be performed in a manner satisfactory to DES. In no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of **THIRTY THOUSAND THREE HUNDRED AND SEVENTY-TWO DOLLARS (\$30,372)** for the period of October 1, 2016 through September 30, 2017. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the County.

7. **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 by U.S. HUD under Grant Number B-16-UC-12-0004. The effective date shall be October 1, 2016 and the services of the Municipality 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 Municipality by September 30, 2017.

8. **METHOD OF PAYMENT**

The County agrees to reimburse the Municipality for all eligible budgeted costs permitted by Federal, State, and County guidelines. The Municipality shall not request reimbursement for payments made by the Municipality before the effective date of this Agreement, nor shall it request reimbursement for payments made after the expiration date of this Agreement. In no event shall the County provide advance funding to the Municipality or any subcontractor hereunder. The Municipality shall request reimbursements from the County by submitting to DES proper documentation. Satisfactory proof of payment by the Municipality shall consist of originals of invoices, receipts, or other evidence of indebtedness. In the event an original document cannot be presented, the Municipality must furnish copies, if deemed satisfactory and acceptable by DES.

Each request for reimbursement submitted by the Municipality shall be accompanied by proper documentation of expenditures and should, to the maximum extent possible, be submitted to DES for approval no later than thirty (30) days after the date of payment by the Municipality. Payment shall be made by the Palm Beach County Finance Department, upon proper presentation of invoices and reports approved by the Municipality and DES. Invoices will not be honored or approved if received by DES later than forty-five (45) days after the expiration date of this Agreement.

9. **CONDITIONS ON WHICH PAYMENT IS CONTINGENT****(A) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES**

The Municipality shall implement this Agreement in accordance with applicable Federal, State, County and Local laws, ordinances, and codes and with the applicable procedures outlined in DES Policies and Procedures Memoranda, and amendments and additions thereto as may from time to time be made. The Federal, State, County and Local 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 appropriate insurance required by this Agreement on file with DES. No payments for projects funded by more than one funding source 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 Municipality shall notify DES in writing within thirty (30) days of receiving notification from the funding source and shall submit a cost allocation plan for approval by the DES Director or designee within forty-five (45) days of said official notification.

(B) FINANCIAL ACCOUNTABILITY

The County may have a financial system analysis or an audit of the Municipality or of any of its subcontractors 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 the capability of the Municipality to fiscally manage the project in accordance with Federal, State and County requirements.

(C) SUBCONTRACTS

None of the work or services covered by this Agreement, including but not limited to, consultant work or services, shall be subcontracted or reimbursed without the prior written approval of the DES Director or designee. Any work or services subcontracted hereunder shall be specifically by written contract, written agreement, or purchase order. All subcontracts shall be submitted by the Municipality to DES and approved by DES prior to execution of any subcontract hereunder. All subcontracts shall be subject to Federal, State and County laws and regulations.

(D) PURCHASING

All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Palm Beach County Purchasing Ordinance, OMB Circulars A-110 and A-122, and 24 CFR 84, which are incorporated herein by reference.

(E) REPORTS, AUDITS, AND EVALUATIONS

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

(F) ADDITIONAL DES, COUNTY, AND U.S. HUD REQUIREMENTS

DES shall have the right under this Agreement to suspend or terminate payments, if after provided written notice, the Municipality does not comply with any additional conditions that may be imposed by DES, the County or U.S. HUD at any time.

(G) PRIOR WRITTEN APPROVALS - SUMMARY

The following, among others, require the prior written approval of the DES Director or designee to be eligible for reimbursement or payment:

- (i) All subcontracts and agreements pursuant to this Agreement;
- (ii) All capital equipment expenditures of \$1,000 or more;
- (iii) All out-of-county travel (travel shall be reimbursed in accordance with the provisions of Florida Statutes, Chapter 112.061);
- (iv) All change orders;
- (v) All requests to utilize uncommitted funds after the expiration of this Agreement for programs described in Exhibit "A"; and
- (vi) All rates of pay and pay increases paid from CDBG funds, whether for merit or cost of living.

(H) PROGRAM-GENERATED INCOME

The Municipality shall comply with the program income requirements imposed by CDBG and other applicable federal regulations. In all cases, accounting and disbursement of such income shall comply with OMB Circular A-110 and other applicable regulations incorporated herein by reference. All income earned by the Municipality from activities financed, in whole or in part, by funds provided hereunder must be reported and returned to DES on a monthly basis.

The Municipality may request program income be used to fund other eligible uses, subject to DES approval, and provided the Municipality is in compliance with its obligations, terms, and conditions as contained within this Agreement (including the attached Exhibits herein). The Municipality shall only use such program income to fund "basic eligible activities" as defined by Federal Community Development Block Grant Regulations (24 CFR Part 570). Furthermore, the Municipality agrees that the provisions of this Agreement shall also apply to these "basic eligible activities" as funded with the Municipality's program income. Such income shall only be used to undertake the activities authorized by a written Agreement.

The requirements of this Paragraph shall survive the expiration or earlier termination of this Agreement.

10. CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY

The Municipality 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 Municipality 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 Municipality 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.

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

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

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Municipality 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 contracts 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 CDBG areas designated by Palm Beach County in the Consolidated Plan approved by U.S. HUD.

12. PROJECT BENEFICIARIES

At least fifty one percent (51%) of the beneficiaries of a project funded through this Agreement must be low and moderate income persons or persons presumed to be low/moderate income. All beneficiaries of this Agreement must be current residents of Palm Beach County. If the project is located in an entitlement city, as defined by U.S. HUD, or serves beneficiaries countywide, more than fifty one percent (51%) of the beneficiaries directly assisted through the use of funds under this Agreement must reside in unincorporated Palm Beach County or in Municipalities participating in the County's Urban County Qualification Program. The Municipality shall provide written verification of compliance to DES upon DES's request.

13. EVALUATION AND MONITORING

The Municipality agrees that DES will carry out periodic monitoring and evaluation activities as determined necessary by DES and that payment, reimbursement, or the continuation of this Agreement is dependent upon satisfactory evaluation conclusions. **Due to the regulatory requirements, performance requirements as detailed in Exhibit "A" will be closely monitored by DES. Substandard performance, as determined by DES, will constitute noncompliance with this Agreement.**

Upon request, the Municipality agrees to furnish copies of transcriptions of such records and information as is determined necessary by DES. The Municipality shall submit status reports required under this Agreement on forms approved by DES to enable DES to evaluate progress. The Municipality shall provide information as requested by DES to enable DES to complete reports required by the County or U.S. HUD. The Municipality shall allow DES or U.S. HUD to monitor the Municipality on site. Such visits may be scheduled or unscheduled as determined by DES or U.S. HUD.

14. 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 Municipality to DES, 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 Municipality expends over \$750,000 of Federal awards, the Municipality shall comply with the Provision of OMB Circular A-133. The Municipality 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 thirty (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 were expended. Said audit shall be made by a Certified Public Accountant of the Municipality's choosing, subject to the County's approval. In the event the Municipality anticipates a delay in producing such audit, the Municipality shall request an extension in advance of the deadline. The cost of said audit shall be borne by the Municipality. In the event the Municipality is exempt from having an audit conducted under A-133, the Municipality will submit audited financial statements and/or the County reserves the right to conduct a "limited scope audit" of the Municipality as defined by A-133. The County will be responsible for providing technical assistance to the Municipality, as deemed necessary by the County.

15. UNIFORM ADMINISTRATIVE REQUIREMENTS

The Municipality agrees to comply with the applicable uniform administrative requirements as described in CDBG Regulations 24 CFR 570.502.

16. REVERSION OF ASSETS

Upon expiration of this Agreement, the Municipality shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Municipality's control upon expiration or early termination which was acquired or improved, in whole or part, with CDBG funds in the excess of \$25,000 must either be used to meet one of the national objectives in Federal Community Development Block Grant Regulations 24 CFR 570.508 for a minimum of five (5) years after expiration of the Agreement, or, the Municipality shall pay the County an amount equal to the current market value attributable to expenditures of non-CDBG funds for the acquisition and/or improvement to the property.

17. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Municipality for the purpose of this Agreement shall become the property of the County without restriction; reservation, or limitation of their use and shall be made available by the Municipality 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 Municipality shall keep all documents and records for five (5) years after expiration of this Agreement.

18. INDEMNIFICATION

The Municipality 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 Municipality. Municipality's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. The Municipality will hold the County harmless and will indemnify the County for funds which the County is obligated to refund the Federal Government arising out of the conduct of activities and administration of Municipality.

19. INSURANCE

Without waiving the right to sovereign immunity as provided by s.768.28 F.S., the Municipality 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 the Municipality maintains third-party Commercial General Liability and Business Auto Liability in lieu of exclusive reliance of self insurance under s.768.28 F.S., the Municipality shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage. The Municipality agrees to maintain, or be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Florida Statute, Chapter 440.

When requested, the Municipality 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 coverage. Compliance with the foregoing requirements shall not relieve the Municipality of its liability and obligations under this Agreement.

Certificate(s) of Insurance Prior to execution of this Agreement, the Municipality shall deliver to the COUNTY via the Insurance Company/Agent a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. During the term of the Agreement and prior to each subsequent renewal thereof, the Municipality shall provide this evidence to ITS at pbcc@instracking.com or fax (562) 435-2999, which is Palm Beach County's insurance management system, prior to the expiration date of each and every insurance required herein. Said Certificate(s) of Insurance shall, to the extent allowable by the insurer, include a minimum thirty (30) day endeavor to notify due to cancellation (10 days for nonpayment of premium) or non-renewal of coverage

Palm Beach County
 c/o Insurance Tracking Services, Inc. (ITS)
 P. O. Box 20270
 Long Beach, CA 90801

In the event COUNTY discontinues its use of the insurance tracking system named herein, the COUNTY shall provide written notice to the Municipality with instructions regarding a substitute delivery address.

20. MAINTENANCE OF EFFORT

The intent and purpose of this Agreement is to increase the availability of the Municipality's services. This Agreement is not to substitute for or replace existing or planned projects or activities of the Municipality. The Municipality agrees to maintain a level of activities and expenditures, planned or existing, for projects similar to those being assisted under this Agreement which is not less than that level existing prior to this Agreement.

21. CONFLICT OF INTEREST

The Municipality shall comply with 24 CFR 570.611 which requires, at a minimum, that no person who presently exercises any functions or responsibilities in connection with the project has any personal financial interest, direct or indirect, in the activities provided under this Agreement 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 Municipality. Any possible conflict of interest on the part of the Municipality or its employees shall be disclosed in writing to DES, provided, however, that this paragraph shall be interpreted in such a manner so as to not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment and participation of low and moderate-income residents of the project target area.

22. CITIZEN PARTICIPATION

The Municipality shall cooperate with DES in the implementation of the Citizen Participation Plan by establishing a citizen participation process to keep residents and/or clients informed of the activities the Municipality is undertaking in carrying out the provisions of this Agreement. Representatives of the Municipality shall attend meetings and assist in the implementation of the Citizen Participation Plan, as requested by DES.

23. RECOGNITION

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

24. AGREEMENT DOCUMENTS

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

- (A) This Agreement, including its Exhibits, which the County may revise from time to time;
- (B) Office of Management and Budget Circulars A-87, A-110, A-122, A-128, and A-133;
- (C) Title VI of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and Title II of the Americans With Disabilities Act of 1990;
- (D) Executive Orders 11246, 11478, 11625, 12372, 12432, the Davis-Bacon Act, Section 3 of the Housing and Urban Development Act of 1968, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;
- (E) Executive Orders 11063, 12259, 12892, the Fair Housing Act, and Section 109 of the Housing and Community Development Act of 1974, as amended;
- (F) The Drug-Free Workplace Act of 1988, as amended;
- (G) Florida Statutes, Chapter 112;
- (H) Palm Beach County Purchasing Ordinance;
- (I) Federal Community Development Block Grant Regulations (24 CFR Part 570), as amended; Consolidated Plan Final Rule (24 CFR Part 91), as amended; 24 CFR Part 6; 24 CFR Part 49; and 24 CFR Part 85;
- (J) The Municipality's Personnel Policies and Job Descriptions;
- (K) The Municipality's Articles of Incorporation and Bylaws;
- (L) The Municipality's Certificate of Insurance.

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

25. REDUCTION IN FUNDING

In the event the grant to the County under Title I of the Housing and Community Development Act of 1974 (as amended) is reduced by HUD, this Agreement will be amended to reflect the funding reductions imposed by HUD and the reduction in the number of beneficiaries commensurate with the revised funding level.

26. TERMINATION AND SUSPENSION

In the event of early termination, the Municipality 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 Municipality, and the County may withhold any payment to the Municipality until such time as the exact amount of damages due to the County from the Municipality is determined.

(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 or suspend payments, in whole or part, by giving written notice to the other party of such termination or suspension and specify the effective date of termination or suspension. Upon early termination, the County shall pay the Municipality for services rendered pursuant to this Agreement, through and including the 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 early termination, the County shall pay the Municipality for services rendered pursuant to this Agreement, through and including the date of termination.

(C) 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 Municipality 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 Municipality has ceased or suspended its operation shall be made solely by the County, and the Municipality, its successors or assigns in interest agrees to be bound by the County's determination. Upon early termination, the County shall pay the Municipality for services rendered pursuant to this Agreement, through and including the date of termination.

27. 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.

28. AMENDMENTS

The County or the Municipality may, at its discretion, amend this Agreement to conform to changes required by Federal, State, County, Local 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.

29. PROJECT REPRESENTATIVE

The Municipality must designate, in writing, its Project Representative who is responsible for administering the Agreement, and who has the authority to bind and obligate the Municipality in the performance of the work. Communication with the Municipality shall be through this Representative. The Municipality shall notify DES immediately if the Project Representative is changed, identify the name of the new Representative, and the effective date of the change.

30. INDEPENDENT AGENT AND EMPLOYEES

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

31. NO FORFEITURE

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

32. PUBLIC ENTITY CRIMES

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

33. DRUG - FREE WORKPLACE

The Municipality shall provide a drug and alcohol free environment by developing policies for and carrying out a drug-free program in compliance with the Drug-Free Workplace Act of 1988.

34. 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 contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Municipality, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 to 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

35. 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 Municipality.

36. 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.

37. 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 a court of competent jurisdiction located in Palm Beach County, Florida. 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.

38. PUBLIC RECORDS

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the MUNICIPALITY: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the MUNICIPALITY shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The MUNICIPALITY is specifically required to:

- A. Keep and maintain public records required by the County to perform services as provided under this Agreement.
- B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The MUNICIPALITY further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the MUNICIPALITY does not transfer the records to the public MUNICIPALITY.
- D. Upon completion of the Agreement the MUNICIPALITY shall transfer, at no cost to the County, all public records in possession of the MUNICIPALITY unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the MUNICIPALITY transfers all public records to the County upon completion of the Agreement, the MUNICIPALITY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the MUNICIPALITY keeps and maintains public records upon completion of the Agreement, the MUNICIPALITY shall meet all applicable requirements for retaining public records. All records stored electronically by the MUNICIPALITY must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the MUNICIPALITY to comply with the requirements of this article shall be a material breach of this Agreement. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. MUNICIPALITY acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE MUNICIPALITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE MUNICIPALITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

39. INCORPORATION BY REFERENCE

Exhibits attached hereto and referenced herein or in Exhibit "A" shall be deemed to be incorporated into this Agreement by reference.

40. COUNTERPARTS OF THIS AGREEMENT

This Agreement, consisting of nineteen (19) enumerated pages including 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.


41. **ENTIRE UNDERSTANDING**

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 representatives, warranties, covenants, or undertakings other than those expressly set forth herein.

WITNESS our Hands and Seals on the _____ day of _____, 20__.

(MUNICIPAL SEAL)

THE CITY OF SOUTH BAY

By: 
Joe Kyles, Mayor

By: 
Leondrae Camel, City Manager

(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: _____
Mary Lou Berger, Mayor
Palm Beach County

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
James Brako
Assistant County Attorney


By: 
Sherry Howard
Deputy Director

EXHIBIT "A"

WORK PROGRAM NARRATIVE

1. THE MUNICIPALITY AGREES TO:

A. **SCOPE OF WORK:** The Municipality shall utilize CDBG funds to carry out code enforcement activities within legal boundaries of the Municipality. Specifically, CDBG funds will be used to pay a portion of the salary and benefits (health insurance only) for one (1) full-time Code Compliance Officer (hereinafter referred to as "Officer") whose duties shall include, among other things:

- Researching and maintaining updated applicable building code;
- Advising citizens and building professionals of zoning and land-use requirements;
- Performing on-site inspection of buildings and properties to ensure compliance with all applicable codes;
- Performing on-site inspections of businesses to ensure that proper licensing are in place;
- Responding to complaints regarding code violations; and
- Taking action, including citations, to ensure code compliance when violations are identified.

B. **CODE COMPLIANCE OFFICER:** As indicated above, the Municipality shall employ an Officer in connection with this Agreement. The Officer must be able to carry out the tasks described within this Agreement, and be able to demonstrate the qualifications that enable them to do so. The Officer shall, at a minimum, evaluate documentation of code violations, package and mail documents to code violators, prepare for hearings before a Special Master, and address public complaints regarding citations received.

As a prerequisite to submitting reimbursement requests to DES, the Municipality shall submit the following documents:

- Documentation documenting that the position of the Officer (if such position were filled as a new position as a result of this Agreement) was competitively solicited prior to the Officer's appointment to the position, and documenting that the opening for the position was advertised in a public forum in order to elicit applications from all prospective applicants.
- Documentation showing the annual or hourly salary paid for the position of the Officer.
- Personnel policy relating to vacation and sick leave (i.e., number of days per year to which the individuals are entitled).
- List of all paid holidays.

C. **REPORTS:** The Municipality shall maintain and submit to DES the following reports:

(1) A **Daily Activity Record** (attached as Exhibit "C" and incorporated by reference) shall be submitted to DES by the 10th day of each month, and shall document the actual number and description of the code enforcement activities performed in the CDBG Target Area. The CDBG Target Area is defined as all lands within the legal boundaries of the Municipality.

(2) A **Detailed Monthly Narrative Report** (attached as Exhibit "D" and incorporated by reference) shall be submitted to DES by the 10th day of each month, outlining the status of specific activities identified in the Scope of Work. The **Detailed Monthly Narrative Report** shall be mainly in the form of a narrative and shall include a summary of activities for the month, including but not limited to, expenditure summary, constraints, and goal comparisons for all indicators referenced above.

- D. **PROJECT BUDGET:** The Municipality shall utilize funds provided under this Agreement to pay for salary and benefits listed under the CDBG Budget, (attached as Exhibit "E" and incorporated by reference). Specifically, funds shall be used for payment of salary and benefits for the Officer. The Municipality attests to the accurate completion of Exhibit "E", especially as it relates to obtaining and using all funds directly and/or indirectly received from Palm Beach County, and shall promptly inform and obtain approval by the County of any changes to this budget.

Further budget changes within the designated contract amount can be approved in writing by the DES Director, at his discretion, up to ten percent (10%) on a cumulative basis of the Agreement amount during the Agreement period. Such requests for changes must be made in writing by the Municipality and submitted to the DES Director. Budget changes in excess of ten percent (10%) must be approved by the Board of County Commissioners.

- E. **PERFORMANCE BENCHMARKS:** In order to timely meet CDBG deadlines, the Municipality shall comply with the following Performance Benchmarks:

- (1) Expend at least 45% (\$13,667.40) of the this allocation by March 30, 2017; and
- (2) Expend the remainder of the funding allocation by September 30, 2017.

This Agreement may be amended to decrease and/or recapture grant funds from the Municipality depending upon the timely completion of the Performance Benchmarks and/or the rate of expenditure of funds, as determined by DES.

The Municipality agrees that it may be subject to decrease and/or recapture of project funds by the County if the Performance Benchmarks herein are not met. Failure by the Municipality to comply with these Performance Benchmarks may negatively impact ability to receive future CDBG funding allocations.

The Municipality further agrees that DES, in consultation with any parties it deems necessary, shall be the final arbiter of the Municipality's compliance with the above.

- F. **INVOICE AND SUBMISSION FOR REIMBURSEMENT:** The Municipality shall submit, no later than the 10th day of each month, consecutively numbered invoices to DES in order to receive reimbursement of CDBG funds made available under this Agreement. Invoices shall be submitted on a monthly basis, to facilitate an even flow of funds throughout the term of the Agreement, and to prevent under-expenditure of allocated funds. All reimbursement requests shall include an original invoice cover sheet (Exhibit "B") which shall be signed by a person authorized by the Municipality to submit invoices.

Additionally, a Daily Activity Record (Exhibit "C") shall be submitted with each request for reimbursement. It shall include all required supporting documentation, including:

- A copy of the daily time sheets which account for all time worked by the Officer. The time sheets must also demonstrate the specific tasks undertaken by the Officer on such properties and the time taken to complete each task.
- Copies of the payrolls and paychecks to the Officer corresponding to the herein referenced time sheets. The payrolls must document the name of individual, amount paid, deductions (F.I.C.A, taxes, insurance, pension contributions, etc.), and satisfactory proof that the Municipality has paid any employer contributions due (e.g., contribution to FICA, health insurance, retirement, etc)
- Copies of documents satisfactorily proving that the Municipality has paid, on behalf of the employee, all contributions which are the responsibility of the employer.

- G. **REPAYMENT:** The Municipality shall repay to the County funds reimbursed under this Agreement if the Municipality fails to comply with any requirements of this Agreement and all applicable program regulations (e.g. national objective compliance) which results in HUD requiring repayment from the County.

2. THE COUNTY AGREES TO:

- A. Reimburse the Municipality an amount not to exceed **\$30,372** for the salary and benefits of the Code Enforcement Officer as delineated in the budget below:

| | |
|---------------------------------------|---------------------|
| <u>Code Compliance Officer</u> | |
| Regular Salary | \$ 24,282.00 |
| Health Insurance | \$ 6,090.00 |
| TOTAL | \$ 30,372.00 |

NOTE: DES may adjust amounts located within the above budget line items, provided that the total amount paid to the Municipality does not exceed **\$30,372.**

- B. Provide overall administration and coordination activities to ensure that planned activities are completed in a timely manner.
- C. Monitor the Municipality at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by DES, may be conducted by DES staff or its contractor, and will ensure compliance with U.S. HUD regulations, that planned activities are conducted in a timely manner, and verify the accuracy of reporting to DES on program activities.
- D. Assume the environmental responsibilities described at 24 CFR 570.604

EXHIBIT "B"

COVER SHEET

LETTERHEAD STATIONERY

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

FROM: City of South Bay
335 SW 2nd Avenue
South Bay, FL 33493

Telephone: _____

SUBJECT: **INVOICE REIMBURSEMENT – R** _____ - _____

Attached you will find Invoice # _____ requesting reimbursement in the amount of \$_____. The expenditures for this invoice cover the period from _____ through _____. You will also find attached supporting documentation relating to the expenditures involved.

Approved for Submission

Date

EXHIBIT "C"
DAILY ACTIVITY RECORD

Period covered by this reimbursement request _____

Page _____ of _____

| DATE | DESCRIPTION OF CODE ENFORCEMENT WORK PERFORMED and HOURS | SITE ADDRESS OF CODE ENFORCEMENT ACTIVITIES | IS ADDRESS WITHIN CDBG TARGET AREA |
|--------------------|--|---|------------------------------------|
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| | _____ Hrs. | | |
| TOTAL HOURS | _____ | | |

I certify that the contents of this record are correct and I hereby submit this report as documentary evidence for reimbursement under terms of our CDBG Agreement with DES. I further acknowledge that all information herein is subject to verification by DES, Palm Beach County, U.S. HUD or their agents.

(Signature)

(Printed Name and Title)

(Date)

EXHIBIT "D"

DETAILED MONTHLY NARRATIVE REPORT

A. AGREEMENT INFORMATION

AGREEMENT NUMBER: R _____ - _____ Month Covered: _____

Municipality: City of South Bay
 Address: 335 SW 2nd Avenue
 South Bay, FL 33493

Person Preparing Report: _____

Signature and Title: _____

Contract Effective Dates:

B.1. CONTRACT FUNDING

| | <u>Budgeted</u> | <u>Expended</u> | <u>Percentage</u> |
|----------------|-----------------|-----------------|-------------------|
| Total Project: | \$ _____ | \$ _____ | _____ % |
| CDBG Funding: | \$ _____ | \$ _____ | _____ % |
| ESGP Funding: | \$ _____ | \$ _____ | _____ % |
| Other Funding: | \$ _____ | \$ _____ | _____ % |

Detailed expenditures for the period:

B.2. DECLARATION OF PROGRAM INCOME: NOT APPLICABLE

All income earned by the Municipality from activities directly financed with CDBG funding must be reported below. When calculating the amount of income earned by the activity, prorate the amount by the percentage of the activity being funded by CDBG. Program income may be retained by the Municipality if the income is treated as additional CDBG funds to further support the activities defined in Exhibit "A", Work Program Narrative Section of the Agreement. However, any program income remaining at the expiration of the Agreement must be remitted to DES.

| | <u>Received This Period</u> | <u>Received To Date</u> |
|-----------------|---------------------------------|-----------------------------|
| Program Income: | \$ _____ | \$ _____ |

Source of Program Income:

B.3. DESCRIBE ANY ATTEMPTS TO SECURE ADDITIONAL FUNDING:

A. HIGHLIGHTS OF THE PERIOD:

| | | | | |
|----|-------------------|-----------------------|----------------------|----------------------|
| B. | <u>ACTIVITIES</u> | <u>#BENEFICIARIES</u> | <u>BENEFICIARIES</u> | <u>CONTRACT GOAL</u> |
| | | <u>THIS PERIOD</u> | <u>YTD</u> | |

C. NEW PROJECTS INITIATED OR SIGNIFICANT CHANGES IN OPERATION:

D. PROBLEMS/CONSTRAINTS:

E. TECHNICAL ASSISTANCE NEEDED AND/OR REQUESTED:

EXHIBIT "E"

| ORGANIZATION: City of South Bay PROGRAM: Code Enforcement FY 2016-17 PALM BEACH COUNTY CDBG | | | | | CONTACT NAME: Leondrae Camel TITLE: City Manager PHONE: 561-996-6751 | | | | | | | | | | | |
|---|---------------------|----------------------|---------------------------|---------------------|--|---------------------|---------------------------|--------------------|---------------------------|--------------------------------|---------------------------|---------------------------------------|---------------------------|--|-----------------|--|
| A. PERSONNEL EXPENSES | | | | | | | | | | | | | | | | |
| Salaries: | | | | | | | | | | | | | | | | |
| | <u>FTE</u> | <u>Annual Salary</u> | <u>% Alloc to Program</u> | <u>CDBG Funding</u> | <u>% Alloc to Program</u> | <u>ESGP Funding</u> | <u>% Alloc to Program</u> | <u>FAA Funding</u> | <u>% Alloc to Program</u> | <u>Indirect County Funding</u> | <u>% Alloc to Program</u> | <u>Other Funding (Please Specify)</u> | <u>% Alloc to Program</u> | <u>Other Funding (City of South Bay)</u> | <u>Totals</u> | |
| Code Compliance Officer | 1 | | 72% | \$24,282 | | \$0 | | \$0 | | \$0 | | \$0 | 28% | \$11,000 | \$35,382 | |
| Fringe Benefits: | | | | | | | | | | | | | | | | |
| FICA | | | | 0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$2,500 | \$2,500 | |
| Retirement | | | | | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$1,675 | \$1,675 | |
| Unemployment | | | | | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | | |
| Health Insurance | | | 69% | 6,090 | | \$0 | | \$0 | | \$0 | | \$0 | 31% | \$2,750 | \$8,640 | |
| Workers Comp | | | | | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$500 | \$500 | |
| Overtime and associated FICA/unemployment | | | | | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | | |
| Sub-Total Personnel | | | 89% | 30,372 | | \$0 | | \$0 | | \$0 | | \$0 | | | \$48,597 | |
| B. OPERATING COSTS | | | | | | | | | | | | | | | | |
| 1 Professional Fees | | | | | | | | | | | | | | | | |
| | | Audit Fees | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | \$0 | |
| | | Gas & Lube | 0% | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$1,100 | \$1,100 | |
| | | Tires | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$1,150 | \$1,150 | |
| 2 Insurance | | | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$555 | \$555 | |
| 3 Supplies | | | 0% | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$750 | \$750 | |
| 4 Communications/Postage/Shipping | | | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$1,470 | \$1,470 | |
| 5 Occupancy | | | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | | |
| Subtotal Operating Costs | | | 0% | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | | \$5,025 | \$5,025 | |
| C. ADMINISTRATIVE COSTS | | | | | | | | | | | | | | | | |
| | | | 0% | \$0 | | \$0 | | \$0 | | \$0 | | \$0 | 100% | \$425 | \$425 | |
| | TOTAL BUDGET | | 56% | \$30,372 | | \$0 | | \$0 | | \$0 | | \$0 | 44% | \$23,875 | \$54,047 | |