

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures					
Operating Costs	\$80,000				
External Revenues	(\$80,000)				
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	-0-				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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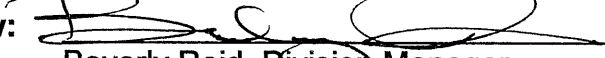
Is Item Included In Current Budget? Yes X No
 Does this Item include the use of Federal funds? Yes X No

Budget Account No.:

Fund 1101 Dept 143 Unit 1431 Object 8201 Program Code/Period BG70C/6419

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

Source of funding is CDBG Economic Development Program funds.

C. Departmental Fiscal Review: 
 Beverly Reid, Division Manager

III. REVIEW COMMENTS

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

 10/2/19
 OFMB DC 10/01

 for Devin Jacobowitz
 Contract Development and Control
 10/18/19 TW

B. Legal Sufficiency:

 10/21/19
 Assistant County Attorney

C. Other Department Review:

 Department Director

AGREEMENT BETWEEN PALM BEACH COUNTY
AND
BUSINESS LOAN FUND OF THE PALM BEACHES, INC.

THIS AGREEMENT with an effective date of **October 1, 2019**, by and between **Palm Beach County**, a political subdivision of the State of Florida, (hereinafter referred to as the “**COUNTY**”), and the **Business Loan Fund of the Palm Beaches, Inc., d/b/a/ the Center for Enterprise Opportunity**, a private, non-profit corporation duly organized and authorized to do business in the State of Florida, (hereinafter referred to as “**AGENCY**”), having its principal office at **2200 North Florida Mango Road, Suite 401, West Palm Beach, FL 33409**.

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

WHEREAS, Palm Beach County, in accordance with its FY 2019/2020 Annual Action Plan, and the **Center for Enterprise Opportunity**, desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage Center for Enterprise Opportunity to implement such undertakings of the Community Development Block Grant Program.

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

PART I
DEFINITION AND PURPOSE

A. DEFINITIONS

- (1) "CDBG" means the Community Development Block Grant Program.
- (2) "HES" means Palm Beach County Department of Housing & Economic Sustainability.
- (3) "HES Approval" means the written approval of the HES Director or his designee.
- (4) "Low and moderate income persons" means the definition set by U.S. HUD.
- (5) "U.S. HUD" means the Secretary of the U.S. Department of Housing and Urban Development or a person authorized to act on its behalf.
- (6) "Held by" means the definition set by U.S. HUD.
- (7) "Microenterprises" means a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise, and as further defined in 24 CFR 570.3.

B. PURPOSE

The purpose of this Agreement is to state the covenants and conditions under which the AGENCY will implement the Scope of Services set forth within this Agreement.

PART II
SCOPE OF SERVICES, ELIGIBLE ACTIVITIES AND NATIONAL OBJECTIVE

A. SCOPE OF SERVICES

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

B. NATIONAL OBJECTIVE AND ELIGIBLE ACTIVITIES

The project is constituted by **activities determined to be Special Economic Development Activities, 24 Code of Federal Regulations (CFR) 570.203(b) and Microenterprise Assistance per 24 CFR 570.201(o)(1)**. The AGENCY certifies that the eligible activities carried out under this Agreement will satisfy a **National Objective per 24 CFR 570.208(a)(4) Job Creation or Retention Activities, by creating jobs where at least fifty-one percent (51%) of the jobs must be held or made available to low and moderate income persons**, and that no less than fifty-one percent (51%) of businesses and persons assisted under this Agreement shall be located within the Palm Beach County's Urban County Program Jurisdiction, as described in the scope of work in Exhibit "A".

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

A. MAXIMUM COMPENSATION

The AGENCY agrees to accept as full payment for services rendered pursuant to this Agreement the actual amount of budgeted, eligible, and HES-approved expenditures and encumbrances made by the AGENCY under this Agreement. Said services shall be performed in a manner satisfactory to HES, and in no event shall the total compensation or reimbursement to be paid hereunder exceed the maximum and total authorized sum of **Eighty Thousand Dollars (\$80,000)**. This Agreement shall commence on **October 1, 2019** and expire on **September 30, 2020**. The grant award shall be payable in accordance with the terms of this Agreement. Any funds not expended by September 30, 2020, shall remain with the COUNTY and shall not be eligible for reimbursement to the AGENCY.

B. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project under HUD grant number B-19-UC-13-0004. The effective date shall be the **October 1, 2019**, and the services of the AGENCY shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the AGENCY no later than **September 30, 2020**.

C. METHOD OF PAYMENT

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

Payments made to the AGENCY shall be contingent on HES's receipt of documentation evidencing the AGENCY's ability to achieve the goals contained herein throughout the term of the Agreement.

The AGENCY shall bill the COUNTY on a monthly basis, in eleven (11) equal payments of **Six Thousand Six Hundred and Sixty-Six Dollars (\$6,666.00)**, and in one (1) final payment of **Six Thousand Six Hundred and Seventy-Four Dollars (\$6,674.00)**. Invoices shall be accompanied by a monthly status report summarizing the activities which were undertaken during the month, and as required by Exhibit "A". This monthly status report shall consist of fully executed copies of Invoice Cover Sheet (Exhibit "B"), Technical Assistance & Business Support Services Record (Exhibit "C"), Business Lending Record (Exhibit "D"), Economic Development Compliance Table (Exhibit "E"), Record of Employee Hiring (Exhibit "F"), and Racial/Ethnic Characteristics Report (Exhibit "G"), all attached hereto and made a part hereof.

Monthly invoices shall demonstrate on-going progress towards meeting deliverables set forth in the Agreement Scope of Work, Exhibit "A". Should monthly reports not demonstrate progress towards meeting deliverables, the COUNTY reserves the right to withhold reimbursement until the COUNTY determines that acceptable progress has been made. The AGENCY further agrees that the COUNTY shall be the final arbiter on the AGENCY's compliance in this regard.

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

D. CONDITIONS ON WHICH PAYMENT IS CONTINGENT

(1) IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The AGENCY shall implement this Agreement in accordance with applicable Federal, State, and COUNTY laws, ordinances and codes, and amendments and additions thereto as may from time to time be made. The Federal, State, and COUNTY laws, ordinances and codes are minimal regulations which may be supplemented by more restrictive guidelines set forth by HES. No reimbursements will be made without evidence of the appropriate insurance required by this Agreement on file with HES. No payments for multi-funded projects will be made

until a cost allocation plan has been approved by the HES Director or designee. Should a project receive additional funding after the commencement of this Agreement, the AGENCY shall notify HES in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HES Director or designee within forty-five (45) days of said notification.

(2) FINANCIAL ACCOUNTABILITY

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

(3) SUBCONTRACTS

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

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

(4) 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 and 2 CFR 200, which are incorporated herein by reference.

(5) PERSONNEL

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

(6) REPORTS, MONITORING, AND EVALUATIONS

- a. Payment will be contingent upon receipt of complete and accurate reports required by this Agreement, including monitoring findings identified pursuant to this Agreement.
- b. The AGENCY agrees that HES shall carry out at least one annual monitoring and evaluation activities, as determined necessary by HES, during the term of this Agreement. Upon HES request, the AGENCY agrees to furnish and make copies or transcriptions of such records and information, as is determined necessary by HES. Additionally, the AGENCY shall submit information and status reports required by HES or U.S. HUD to enable HES to evaluate the AGENCY's progress and to enable HES to complete reports required by U.S. HUD. The AGENCY shall allow HES or U.S. HUD to monitor the AGENCY on site. Such site visits may be scheduled or unscheduled as determined by HES or U.S. HUD

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

The State or Federal funds being provided hereunder cannot be used as a match for other State or Federal grants to the AGENCY and the AGENCY cannot submit

requests for the same expenses to more than one funding source or under more than one program. Additionally, HES shall have the right under this Agreement to suspend or terminate payments until the AGENCY complies with any additional conditions that may be imposed by the COUNTY or U.S. HUD.

(8) PRIOR WRITTEN APPROVALS - SUMMARY

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

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

**PART IV
GENERAL CONDITIONS**

A. CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY

The AGENCY acknowledges that the County is committed to assuring equal opportunity in the award of grants or contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the AGENCY warrants and represents that throughout the term of this Agreement, including any renewals thereof, all of its employees are treated equally during employment with regard to race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. Failure to meet this requirement shall be considered cause for termination of this Agreement.

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

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

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

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

C. PROGRAM BENEFICIARIES

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

D. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HES, U.S. HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the AGENCY to HES, the COUNTY, U.S. HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement. If during the year, the AGENCY expends over \$750,000 of Federal awards, the AGENCY shall comply with the provisions of OMB 2 CFR 200. The AGENCY shall submit a single

audit, including any management letter, made in accordance with the general program requirements of 2 CFR 200, and other applicable regulations within the earlier of, 30 days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period in which HES-administered funds are expended. Said audit shall be made by a Certified Public Accountant of the AGENCY's choosing, subject to the COUNTY's approval. In the event the AGENCY anticipates a delay in producing such audit, the AGENCY shall request an extension in advance of the deadline. The cost of said audit shall be borne by the AGENCY. In the event the AGENCY is exempt from having an audit conducted under 2 CFR 200, the AGENCY shall submit audited financial statements and/or HES reserves the right to conduct a "limited scope audit" of the AGENCY as defined by 2 CFR 200. HES will be responsible for providing technical assistance to the AGENCY, as deemed necessary by HES.

E. UNIFORM ADMINISTRATIVE REQUIREMENTS

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

F. DATA BECOMES COUNTY PROPERTY

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

G. INDEMNIFICATION

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

H. INSURANCE REQUIREMENTS

The AGENCY shall maintain at its sole expense, in full force and effect, at all times during the term of this Agreement, insurance coverage and limits (including endorsements) as described herein. Failure to maintain the required insurance shall be considered default of the Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by the AGENCY, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the AGENCY under the Agreement. The AGENCY agrees to notify the COUNTY at least ten (10) days prior to cancellation, non-renewal or material change to the required insurance coverage. Where applicable, coverage shall apply on a primary basis.

Commercial General Liability: AGENCY shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

Workers' Compensation Insurance & Employer's Liability: AGENCY shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.

Additional Insured Clause: The Commercial General Liability and the Business Automobile liability policies shall be endorsed to include, "Palm Beach County Board of County Commissioners" as an Additional Insured. A copy of the endorsement shall be provided to COUNTY upon request.

Waiver of Subrogation: AGENCY hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then AGENCY shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should AGENCY enter into such an agreement on a pre-loss basis.

Certificates of Insurance: Prior to each subsequent renewal of this Agreement, within forty-eight (48) hours of a request by COUNTY, and subsequently, prior to expiration of any of the required coverage throughout the term of this Agreement, the AGENCY shall deliver to the COUNTY a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. Said Certificate(s) of Insurance shall, to the extent allowable by the insurer, include a minimum thirty (30) days' endeavor to notify due to cancellation (10 days' for nonpayment of premium) or non-renewal of coverage. The Certificate Holder shall read:

Palm Beach County Board of County Commissioners
c/o Department of Housing & Economic Sustainability
100 Australian Avenue – Suite 500
West Palm Beach, FL 33406.

Right to Revise or Reject: COUNTY, by and through its Risk Management Department in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

I. CONFLICT OF INTEREST

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

J. CITIZEN PARTICIPATION

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

K. RECOGNITION

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

L. AGREEMENT DOCUMENTS

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

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

- (4) Palm Beach County's Tangible Property Disposal Ordinance
- (5) CDBG regulations (24 CFR Part 570), as amended
- (6) The AGENCY's Incorporation Certificate
- (7) The AGENCY's Certificates of Insurance and Bonding
- (8) 2 CFR Part 200: Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

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

M. DEFAULTS

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

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

N. REMEDIES

In the event of a Default by the AGENCY, the COUNTY may at any time thereafter terminate this Agreement. In such event, the COUNTY shall be entitled to recover immediately upon demand from the AGENCY or any party joining in or consenting to this Agreement, all sums paid by the COUNTY to the AGENCY, pursuant to this Agreement. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County.

O. TERMINATION

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

- (1) Termination for Cause: If, through any cause, either party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement early or suspend payments, in whole or part, by giving written notice of such termination or suspension of payments and specifying the effective date of termination or suspension. The AGENCY shall repay the full value of this grant, unless otherwise specified by HES, within thirty (30) days of receiving the termination notice from the COUNTY.
- (2) Termination Due To Cessation: In the event the grant to the COUNTY under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date U.S. HUD specifies.

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

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

- (3) Termination for Convenience of the COUNTY: The COUNTY may terminate this Agreement at any time by giving at least ten (10) working days notice in writing from the COUNTY to the AGENCY. If this Agreement is terminated early by the COUNTY as provided herein, the AGENCY will be paid for allowable services and allowable expenses under Part II of this Agreement until the effective date of the early termination.
- (4) Termination for Convenience of the AGENCY: The AGENCY may terminate this Agreement at any time by giving at least ten (10) working days prior written notice to HES. If the AGENCY has received funds through this Agreement, the AGENCY shall return all funds to the COUNTY prior to the termination of this Agreement.

P. 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.

Q. AMENDMENTS

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

R. 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:

Jonathan B. Brown, Director
Department of Housing & Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With a copy to:
David Behar, Assistant County Attorney
County Attorney's Office
301 N. Olive Ave (6th floor)
West Palm Beach, FL 33401

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

Lia T. Gaines, Executive Director
Center for Enterprise Opportunity
2200 North Florida Mango Road, Suite 401
West Palm Beach, FL 33409

S. INDEPENDENT AGENT AND EMPLOYEES

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

T. NO FORFEITURE

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

U. PUBLIC ENTITY CRIMES

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

V. ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and AGENCY agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

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

W. COUNTY - FUNDED PROGRAMS

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

X. ANTI - PIRACY PROVISION

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

Z. EXCLUSION OF THIRD PARTY BENEFICIARIES

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

AA. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

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

BB. REGULATIONS: LICENSING REQUIREMENTS

The AGENCY and its subcontractors shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. The AGENCY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

CC. INCORPORATION BY REFERENCE

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

DD. 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.

EE. PUBLIC RECORDS

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the AGENCY: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the AGENCY shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The AGENCY 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 AGENCY 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 AGENCY does not transfer the records to the County.
- D. Upon completion of the Agreement the AGENCY shall transfer, at no cost to the County, all public records in possession of the AGENCY 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 AGENCY transfers all public records to the County upon completion of the Agreement, the AGENCY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the AGENCY keeps and maintains public records upon completion of the Agreement, the AGENCY shall meet all applicable requirements for retaining public records. All records stored electronically by the AGENCY 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 AGENCY 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. AGENCY 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 AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AGENCY'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.

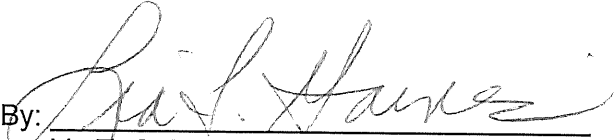
FF. COUNTERPARTS OF THE AGREEMENT

This Agreement, which include the Exhibits referenced herein, may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Agreement on behalf of the COUNTY and the AGENCY has hereunto set its hand and seal the day and year above written.

(CORPORATE SEAL)

BUSINESS LOAN FUND OF THE PALM BEACHES, INC., d/b/a CENTER FOR ENTERPRISE OPPORTUNITY

By: 
Lia T. Gaines, Executive Director

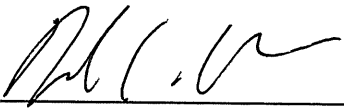
PALM BEACH COUNTY, FLORIDA, a Political Subdivision of the State of Florida

for its BOARD OF COUNTY COMMISSIONERS

By: 
Jonathan B. Brown, Director
Dept. of Housing & Economic Sustainability

Approved as to Form and Legal Sufficiency

Approved as to Terms and Conditions
Dept. of Housing & Economic Sustainability

By: 
Dave Behar
Assistant County Attorney

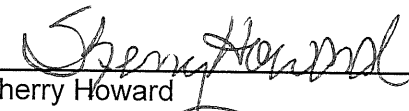
By: 
Sherry Howard
Deputy Director

EXHIBIT "A"

SCOPE OF SERVICES

1. The AGENCY agrees to:

A. PROJECT SCOPE

(1) Pursuant to the terms of this Agreement, the AGENCY shall carry out economic development services to assist private entrepreneurs, start-up and new businesses, existing businesses seeking to expand products and services, and declining businesses seeking to be more profitable. Specifically, the Agency will provide the following:

- One-on-one consulting encompassing feasibility analyses, preparation of business plan, marketing, management, cash flow and financial planning.
- Host comprehensive training seminars on various business aspects
- Offer credit builder/micro loans to businesses

The above activities must cause the assisted businesses to cumulatively create 5.5 full-time equivalent (FTE) jobs.

B. DELIVERABLES

(1) Subsequent to the effective date of this Agreement and within the contract period, the AGENCY shall as a result of its project scope achieve the following deliverables:

- Create a minimum of **five and one-half (5.5) FTE jobs**, of which at least fifty-one (51%) must be held by low and moderate income persons. Also, at least fifty-one percent (51%) of the jobs created must reside in unincorporated Palm Beach County or in Municipalities participating in the COUNTY'S Urban County Program.
- Provide one-on-one business and financial counseling sessions for no less than **forty (40) unduplicated clients**;
- Conduct no less than **four (4) comprehensive business plan trainings**;
- Close **four (4) credit builder loans and/or microloans** to microenterprises and small businesses.

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

If the minimum FTE jobs required has not been met, or falls below the minimum, as required by this Agreement, the AGENCY shall be considered by the COUNTY to have breached this Agreement and the County shall have the right to terminate the Agreement. In the event of termination or breach of this Agreement, the AGENCY agrees that it shall, within sixty (60) days of the date of termination or breach of the Agreement, make restitution to the COUNTY the per job grant award **(or \$14,545.45 per FTE job)** paid by the COUNTY to the AGENCY for each position not created and maintained as required by this Agreement.

In accordance with this Agreement, the deliverables achieved during performance under this Agreement shall not be counted or used toward receiving any additional Palm Beach County grants.

C. GEOGRAPHIC LIMITATIONS

- (1) No less than fifty-one percent (51%) of the businesses and persons assisted through this Agreement shall be located or reside within the Palm Beach County Urban County Program Jurisdiction. The Jurisdiction includes unincorporated Palm Beach County and the municipalities participating in the County's Urban County Program, but excludes the municipalities of Boca Raton, Boynton Beach, Delray Beach, Jupiter, Wellington, Palm Beach Gardens and West Palm Beach.

D. REPORTS: The AGENCY shall submit the monthly reports listed below to HES with the AGENCY's invoice requests:

- (1) **Technical Assistance and Business Support Services Record** (Exhibit "C") documenting the provision of services funded through this Agreement, including initial assessments, financial counseling, and business plan trainings. This verification shall include client identification, parcel control number, address, type of business, NAICS Code, type of assistance provided, date of service.
- (2) **Business Lending Record** (Exhibit "D") providing information on each loan made to businesses receiving assistance through this Agreement.
- (3) An **Economic Development Compliance Table** (Exhibit "E") to be completed for each company provided technical and/or financial assistance, creating jobs during the contract period and certified by the company owner or his/her designee.
- (4) A **Record of Employee Hiring Form** (Exhibit "F") for each owner/employee hired during the contract period, identifying the family/household number and income prior at the time of hire, and certified by the owner and/or employee.
- (5) A **Racial/Ethnicity Characteristics** (Exhibit "G") for jobs created and businesses assisted.

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

2. The COUNTY agrees to:

- A.** Provide funding for the above specified services as described above in "Project Scope", during the term of this Agreement, in the amount of **Eighty Thousand Dollars (\$80,000)**.
- B.** Provide project administration and inspection to the AGENCY to ensure compliance with U.S. HUD, the Department of Labor, and applicable State, Federal, and County laws and regulations.
- C.** Monitor the AGENCY at any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HES, be conducted by HES staff or its subcontractors, and will serve to ensure that planned activities are conducted in a timely manner, to verify the accuracy of reporting to HES on program activities and compliance with U.S. HUD regulations.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

EXHIBIT "B"

USE AGENCY LETTERHEAD STATIONERY:

DATE: _____

TO: Jonathan B. Brown
Department of Housing and Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

FROM: Lia T. Gaines, Executive Director
Center for Enterprise Opportunity
2200 North Florida Mango Road, Suite 401
West Palm Beach, FL 33409

SUBJECT: Business Loan Fund of the Palm Beaches, Inc. d/b/a Center for Enterprise
Opportunity
Reimbursement Request No. _____
Agreement No. _____ - _____

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

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

Lia T. Gaines, Executive Director

EXHIBIT "C"
Technical Assistance and Business Support Services Record

Center for Enterprise Opportunity
 Month of _____ 20

Instructions: List all businesses or persons provided with CDBG-supported technical assistance or business support services during the reporting month. Use additional pages if necessary.

	Client ID#	PCN	Address	Type of Business	NAICS Code	Type of Assistance/Service Provided	Date(s) of Service	Demo-graphics
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								

I certify that CEO provided that above-listed businesses and persons with technical assistance or business support services during the reporting month.

Printed Name & Title: _____

Signature & Date: _____

EXHIBIT "D"
Business Lending Record
 _____, 20____

Instructions: For loans resulting from lending services supported by the CDBG grant, complete a copy of this form for each loan which closes during the reporting month.

Business Name:
Business Address/Location:
Type of Business:
NAICS Code:
Business Loan Amount Closed:
Use(s) of Loan:
Dollar amount of new capital investment:
Dollar amount of new equipment investment:

NAICS Code and Industry Title
<http://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2017>

<u>11</u>	Agriculture, Forestry, Fishing and Hunting	<u>53</u>	Real Estate and Rental and Leasing
<u>21</u>	Mining, Quarrying, and Oil and Gas Extraction	<u>54</u>	Professional, Scientific, and Technical Services
<u>22</u>	Utilities	<u>55</u>	Management of Companies and Enterprises
<u>23</u>	Construction	<u>56</u>	Administrative and Support and Waste Management and Remediation Services
<u>31-33</u>	Manufacturing	<u>61</u>	Educational Services
<u>42</u>	Wholesale Trade	<u>62</u>	Health Care and Social Assistance
<u>44-45</u>	Retail Trade	<u>71</u>	Arts, Entertainment, and Recreation
<u>48-49</u>	Transportation and Warehousing	<u>72</u>	Accommodation and Food Services
<u>51</u>	Information	<u>81</u>	Other Services (except Public Administration)
<u>52</u>	Finance and Insurance	<u>92</u>	Public Administration

EXHIBIT "F"

Record of Employee Hiring

**For HUD and Economic Development Compliance
Oct. 1, 2019 thru Sept. 30, 2020**

(Business Name)

Employee Name: _____

Employee Home Address and Parcel Control Number: _____

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

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

Job Title: _____

Salary: _____

Fringe Benefits: _____

Date of Hire: _____ Date of Termination: _____ Still Employed: [] YES or [] NO

Please circle below income status at time of Hire:

FY 2019 Income Limits Documentation System
FY 2019 Income Limits Summary

Palm Beach County, Florida										
FY 2019 Income Limit Area	Median Income	FY 2019 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Palm Beach County	\$75,400	<u>Very Low (50%) Income Limits</u>	29,300	33,450	37,650	41,800	45,150	48,500	51,850	55,200
		<u>Extremely Low (30%) Income Limits</u>	17,600	20,100	22,600	25,750	30,170	34,590	39,010	43,430
		<u>Low (80%) Income Limits</u>	46,850	53,550	60,250	66,900	72,300	77,650	83,000	88,350

Income Limit areas are based on FY 2019 Fair Market Rent (FMR) areas. For information on FMRs, please see our associated FY 2019 [Fair Market Rent documentation system](#).

OR

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

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

Specify documentation: _____

Signature of Employer and/or Employee _____ Date _____

