

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

Meeting Date: April 14, 2020 Consent Regular
 Ordinance Public Hearing

Submitted By: Housing and Economic Sustainability

Submitted For: Administration

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for a public hearing on May 5, 2020 at 9:30 a.m.: an ordinance of the Board of County Commissioners of Palm Beach County, Florida, establishing an exemption from certain ad valorem taxation to encourage economic development in the County for Tellus Products, LLC, a new business; providing for a finding that requirements have been met; providing for the amount of revenue available from ad valorem tax sources for the current fiscal year; providing for the amount of revenue lost by virtue of the economic development ad valorem tax exemptions currently in effect; providing for the estimated revenue lost attributable to the exemption granted to Tellus Products, LLC; providing for the period of time for which the exemption will remain in effect and the expiration date of the exemption; providing for annual reporting requirement; providing for applicability; providing for inclusion in the Code of Laws and Ordinances; providing for severability; providing for repeal of laws in conflict; and providing for an effective date.

Summary: This item seeks Board of County Commissioners (BCC) approval of an ad valorem tax exemption ordinance on preliminary reading and permission to advertise for a public hearing on May 5, 2020. On June 20, 2017 (R2017-0837, Agenda Item 5C-2), the BCC approved Economic Development Incentive Agreement (Agreement) with Tellus Products, LLC (Company) to provide an Ad Valorem Tax Exemption in an amount not to exceed \$850,000 over a ten (10) year period. The Company, which is a new business unit of Sugar Cane Growers Corporation of Florida, uses a proprietary process to produce molded packaging products from by-products from the sugar milling process. Tellus runs partially on renewable biomass power provided from the mill and solar energy making it extremely efficient and environmentally sustainable manufacturing facility of its kind. The State is not participating in the incentive due to limited funding. However, the BCC approved the Ad Valorem Tax Exemption in an amount not to exceed \$850,000 because the plant will be located in the Glades region of Palm Beach County where dire economic conditions persist and where poverty rates and unemployment rates are, respectively, double and quadruple the national averages. The Agreement requires the Company to make a minimum of \$40 Million capital investment, create 71 new jobs over a five (5) year period at an annualized average wage of \$50,000 excluding benefits and a median wage of \$40,000. The Company is required to maintain the new jobs for five (5) years from the date of creation. This project is estimated to have a \$162 Million economic impact over a five year period. As required under Palm Beach County's Economic Development Ad Valorem Tax Exemption Program implemented by the BCC through adoption of Ordinance 2013-022, the Company has filed an application with the Property Appraiser's (PA) office (attached as Exhibit A), and the PA has issued a determination that the project meets the requirements under Florida Statute 196.012 for an Ad Valorem Tax Exemption (attached as Exhibit B to the proposed Ordinance). This Ordinance is being presented to the BCC as required by Florida Statute. The Ad Valorem Tax Exemption is for real property and tangible personal property improvements undertaken as the Company develops and equips its facility in Belle Glade. District 6 (DB)

Background and Policy Issues: The County's Economic Development Ad Valorem Tax Exemption Program may be used as local participation for the State QTI program and is designed to motivate businesses by providing funding assistance to either relocate to or establish a facility in Palm Beach County, or to help an existing local business with an expansion project which creates full time jobs, increases the County's tax base, and strengthens and diversifies the local economy.

Attachment(s):

1. Proposed Ordinance for Economic Development Ad Valorem Tax Exemption for Tellus Products, LLC
2. Economic Development Incentive Grant Agreement with Tellus Products, LLC

Recommended By: Jonathan Brown 4/8/2020
Department Director Date

Approved By: Donna L. Smith 4/10/2020
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2020 | 2021 | 2022 | 2023 | 2024 |
|--------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Grant Expenditures | | | | | |
| Operating Costs | | | | | |
| External Revenues | \$85,000 | \$85,000 | \$85,000 | \$85,000 | \$85,000 |
| Program Income | | | | | |
| In-Kind Match (County) | | | | | |
| NET FISCAL IMPACT | \$85,000 | \$85,000 | \$85,000 | \$85,000 | \$85,000 |

| | | | | | |
|---|--|--|--|--|--|
| # ADDITIONAL FTE POSITIONS (Cumulative) | | | | | |
|---|--|--|--|--|--|

Is Item Included In Current Budget? Yes No X
 Does this Item include use of Federal funds? Yes No X

Budget Account No.:

Fund Dept Unit Object Program Code/Period

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

The source of the County's financial support is an ad valorem tax exemption of \$850,000 for a ten (10) year period. The tax exemption calculation is based on a valuation assessment of \$226,583. When the current millage rate is applied, the PBC tax revenue which would be lost for 2020 is estimated to be \$85,000 if so approved by the Board of County Commissioners (Exhibit B).

In addition to the allocations above, FY 2025 thru FY 2029 = \$425,000 for tax exemption.

C. Departmental Fiscal Review: for [Signature]
 Beverley Reid, Division Manager

III. REVIEW COMMENTS

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

[Signature] 4/16/2020 OFMB [Signature] 4/18/2020 Contract Development and Control [Signature] 4/18/2020
 4-8-2020TW

B. Legal Sufficiency:

[Signature] for Dave Behar 4/8/20
 Assistant County Attorney

C. Other Department Review:

 Department Director

ORDINANCE NO. 2020-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ESTABLISHING AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION TO ENCOURAGE ECONOMIC DEVELOPMENT IN THE COUNTY FOR **TELLUS PRODUCTS, LLC**, A NEW BUSINESS; PROVIDING FOR A FINDING THAT REQUIREMENTS HAVE BEEN MET; PROVIDING FOR THE AMOUNT OF REVENUE AVAILABLE FROM AD VALOREM TAX SOURCES FOR THE CURRENT FISCAL YEAR; PROVIDING FOR THE AMOUNT OF REVENUE LOST BY VIRTUE OF THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS CURRENTLY IN EFFECT; PROVIDING FOR THE ESTIMATED REVENUE LOST ATTRIBUTABLE TO THE EXEMPTION GRANTED TO **TELLUS PRODUCTS, LLC**; PROVIDING FOR THE PERIOD OF TIME FOR WHICH THE EXEMPTION WILL REMAIN IN EFFECT AND THE EXPIRATION DATE OF THE EXEMPTION; PROVIDING FOR ANNUAL REPORTING REQUIREMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 3, of the Constitution of the State of Florida, and Section 196.1995, Florida Statutes, authorizes the granting of economic development ad valorem tax exemptions to new businesses and expansions of existing businesses upon the successful passage of a referendum; and

WHEREAS, a successful referendum was held on November 6, 2012, resulting in the enactment of Ordinance No. 2013-022, known as the "Economic Development Ad Valorem Tax Exemption Ordinance of Palm Beach County, Florida"; and

WHEREAS, such Ordinance establishes the requirements for exemption consideration, including the submission of an application; and

WHEREAS, **Tellus Products, LLC** has submitted an application for an exemption; and

WHEREAS, all affected and interested agencies representative of the business and general community have reviewed said application, and provided comments on the granting of same; and

WHEREAS, all statutory and Ordinance requirements have been satisfied.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. Title

This Ordinance shall be known as the "Economic Development Ad Valorem Tax Exemption Ordinance – **Tellus Products, LLC**."

SECTION 2. Finding That Requirements Have Been Met

The Board of County Commissioners of Palm Beach County, Florida, based on the application submitted by **Tellus Products, LLC** and the report of the Property Appraiser, finds that **Tellus Products, LLC** has met all the requirements of Ordinance No. 2013-022, and meets the requirements of Section 196.012(14), Florida Statutes and that granting the exemption will result in an economic benefit to Palm Beach County.

SECTION 3. Ad Valorem Tax Revenues

The revenues available to Palm Beach County for the current fiscal year from ad valorem tax sources are **\$950,811,544 (operating)**. The revenues lost to Palm Beach County for the current fiscal year by virtue of the ad valorem tax exemptions currently in effect are **\$774,388**.

1 The estimated revenues to be lost for the current year by granting this exemption are
2 **\$226,583.**

3 **SECTION 4. Term of Exemption; Expiration Date**

4 The Economic Development Ad Valorem Tax Exemption granted to **Tellus Products, LLC** for
5 a new business shall be for a period of ten (10) tax years commencing on January 1, 2020 and
6 expiring on December 31, 2029. The ability to receive an exemption for the period granted is
7 conditioned upon **Tellus Products, LLC's** ability to maintain the new business as defined in
8 Ordinance No. 2013-022, throughout the ten (10) year exemption period and in accordance
9 with the terms of the Economic Development Incentive Agreement entered with Palm Beach
10 County. **Tellus Products, LLC** shall submit an annual report to the Board of County
11 Commissioners evidencing satisfaction of this condition along with a completed Annual
12 Exemption Renewal Application (DR-418) in such forms as are attached hereto and made a
13 part hereof as Exhibit "A." **Tellus Products, LLC** shall furnish any and all information as the
14 Board of County Commissioners or its designee deems necessary for the purpose of
15 determining continued performance of the imposed conditions. Should **Tellus Products, LLC**
16 fail to satisfy the conditions set forth herein, the Board of County Commissioners may revoke
17 the exemption and recover any taxes waived pursuant to Section 9 of Ordinance No. 2013-
18 022.

19 **SECTION 5. Grant of Exemption**

20 After consideration of the application submitted by **Tellus Products, LLC**, a copy of which is
21 attached hereto and made a part hereof as Exhibit "B" which includes the report of the
22 Property Appraiser, in accordance with the procedure set forth in Ordinance No. 2013-022,
23 the Board of County Commissioners hereby grants and establishes an exemption from ad
24 valorem taxation of one hundred percent (100%) of the assessed value of the net increase in
25 qualifying tangible personal property acquired and added improvements to real property by
26 **Tellus Products, LLC**, provided such net increase in qualifying tangible personal property and
27 real property improvements facilitate **Tellus Products, LLC's** new business located at 1500
28 West Sugar House Road, Belle Glade, FL 33430. **Tellus Products, LLC** agrees to abide by
29 the terms and conditions set forth in Ordinance No. 2013-022, and any and all amendments
30 thereto, as well as any policies and procedures related to the Economic Development Ad
31 Valorem Tax Exemption Program as may be adopted from time to time, and, in accordance
32 with the terms of the Economic Development Incentive Agreement between Palm Beach
33 County and **Tellus Products, LLC**. Failure to abide by same may result in a revocation of the
34 exemption and the recovery of any taxes waived pursuant to Section 9 of Ordinance No. 2013-
35 022, and pursuant to the terms and conditions of the Economic Development Incentive
36 Agreement between Palm Beach County and **Tellus Products, LLC**. No exemption shall be
37 granted on the land on which improvements for the expansion of the new business are made
38 by **Tellus Products, LLC**.

39 **SECTION 6. Applicability**

40 The exemption applies only to taxes levied by Palm Beach County. The exemption does not
41 apply to taxes levied by a municipality, school district, or special taxing district, or to taxes
42 levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to
43 Section 9 and Section 12, Article VII of the State Constitution.

44 **SECTION 7. Inclusion in the Code of Laws and Ordinances**

45 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
46 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be

1 renumbered or relettered to accomplish such, and the word "Ordinance" may be changed to
2 "section", "article", or any other appropriate word.

3 **SECTION 8. Severability**

4 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
5 reason held by a Court to be unconstitutional, inoperative or void, such holding shall not affect
6 the remainder of this Ordinance.

7 **SECTION 9. Repeal of Laws in Conflict**

8 All local ordinances in conflict with any provision of this Ordinance are hereby repealed to the
9 extent of such conflict.

10 **SECTION 10. Effective Date**

11 The provisions of this Ordinance shall become effective upon filing with the Secretary of State.

12 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm Beach County,
13 Florida on the _____ day of _____, 2020.

14 ATTEST:
15 CLERK & COMPTROLLER PALM BEACH COUNTY, FLORIDA
16 SHARON R. BOCK BY ITS BOARD OF COUNTY COMMISSIONERS
17

18

19 By: _____ By: _____
20 Deputy Clerk Dave Kerner, Mayor

21

22
23 APPROVED AS TO TERMS AND CONDITIONS: APPROVED AS TO FORM
24 AND LEGAL SUFFICIENCY:

25

26
27 By: _____ By: _____
28 Sherry Howard, Deputy Director David C. Behar
29 Department of Housing & Assistant County Attorney
30 Economic Sustainability
31

32

33 **EFFECTIVE DATE:** Filed with the Department of State on the ____ day of _____, 2020.

General Information

Ad Valorem property tax exemptions can be granted to new and expanding businesses only after the voters of a city and/or county vote in a referendum to allow that city or county to grant exemptions. Section 196.1995, Florida Statutes, requires that a referendum be held if: (1) The Board of County Commissioners or governing authority of a municipality (city or county commission) votes to hold such a referendum, or (2) If the county or city commission receives a petition signed by ten percent of the registered voters of the county or city. This referendum question can then be placed before the voters of a city or county at any regular election or special election called for voting on the tax incentive referendum or for any other purpose.

If the voters authorize exemptions, a company must first meet the definitions of a new or expanding business as stated in s. 196.012 (15) and (16), F.S. The expansion must be on the same or a collocated site of the business current operations.

If a business meets one of the above definitions as a new or expanding business, it must then file this application with the county or city commission or both.

After the city or county commission receives this application, it must submit the application to the county property appraiser for review. After the property appraiser makes the report as to the fiscal impact of granting the exemption, the county or city commission shall then adopt an ordinance in the usual manner-granting the exemption, if it chooses to do so.

A business cannot receive exemption from school taxes or water management district taxes. Also a business must pay taxes that were voted by the voters of a city or county to pay for bond issues and other special tax levies authorized by the voters of a city or county.

The exemption can only be for the improvements to the real property and for tangible personal property. The land on which the new or expanding business is to be located will still be taxed and taxes must be paid on it.

The action taken by a city or county commission can only exempt the taxes paid to that governmental body. A city can only exempt its taxes; a county can only exempt its taxes. All other taxes must be paid.

Statutory Definitions

Section 196.011 Annual application required for exemption —

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

Section 196.012(15) and (16), Florida Statutes (15) "New business" means:

(a) 1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant;

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(b) Any business located in an enterprise zone that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(c) A new business that is situated on property annexed into a municipality and that, at the time of annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(16) "Expansion of an existing business" means:

(a) 1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible

personal property at a fixed location and which comprises an industrial or manufacturing plant; or

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operation on a site collocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.

(b) Any business located in an enterprise zone that increases operations on a site collocated with a commercial or industrial operation owned by the same business.

Section 196.1995 Economic development ad valorem tax exemption.-

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

Section 220.15(5), Florida Statutes.

(5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:

1. Rental income is included in the term if a significant portion of the taxpayer's business consists of leasing or renting real or tangible personal property; and

2. Royalty income is included in the term if a significant portion of the taxpayer's business consists of dealing in or with the production, exploration, or development of minerals.

(b) 1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier.

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.

(c) Sales of a financial organization, including, but not limited to, banking and savings institutions, investment companies, real estate investment trust, and brokerage companies, occur in this state if derived from:

1. Fees, commissions, or other compensation for financial services rendered within this state;

2. Gross profits from trading in stocks, bonds, or other securities managed within this state;

3. Interest received within this state, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located in this state, and dividends received within this state;

4. Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts;

5. Interest, fees, commissions, or other charges or gains from loans secured by mortgages, deeds of trust or other liens upon real or tangible personal property located in this state or from installment sale agreements originally executed by a taxpayer or the taxpayer's agent to sell real or tangible personal property located in this state;

6. Rents from real or tangible personal property located in this state; or

7. Any other gross income, including other interest, resulting from the operation as a financial organization within this state.

In computing the amounts under this paragraph, any amount received by a member of an affiliated group (determined under s. 1504(a) of the Internal Revenue code, but without reference to whether any such corporation is an "includable corporation" under s. 1504(b) of the Internal Revenue code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

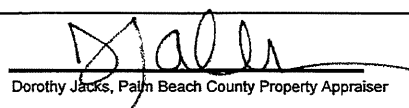
TELLUS PRODUCTS, INC.
 PALM BEACH COUNTY - DR-418 ATTACHMENT
 FOR THE 1/1/2020 ASSESSMENT PERIOD

| Description | Age | Date of Purchase | Cost or Other Basis | Condition | Fair Market Rent | Life | Index Factor | Present Worth |
|--|-----|------------------|---------------------|-----------|------------------|------|--------------|---------------|
| TELEPHONE EQUIPMENT | 2 | 04/12/18 | 33,686.00 | GOOD | 21,370.40 | C06 | 1.04 | 0.61 |
| ELECTRICAL TO COMPUTER EQUIPMENT (100% Bonus) | 2 | 04/12/18 | 14,447.00 | GOOD | 7,963.19 | U04 | 1.04 | 0.53 |
| ELECTRICAL TO TELEPHONE AND DATA EQUIPMENT | 2 | 04/12/18 | 7,382.00 | GOOD | 4,068.96 | U04 | 1.04 | 0.53 |
| LABORATORY EQUIPMENT | 2 | 04/12/18 | 143,812.00 | GOOD | 91,234.33 | C06 | 1.04 | 0.61 |
| SOLAR PANELS (100% BONUS) | 2 | 04/12/18 | 10,495.00 | GOOD | 8,950.14 | C20 | 1.04 | 0.82 |
| OFFICE FURNITURE (100% BONUS) | 2 | 04/12/18 | 15,379.00 | GOOD | 10,396.20 | C08 | 1.04 | 0.65 |
| WINDOW TREATMENTS | 2 | 04/12/18 | 6,806.00 | GOOD | 4,600.86 | C08 | 1.04 | 0.65 |
| AUDIO AND VISUAL EQUIPMENT (100% BONUS) | 2 | 04/12/18 | 12,936.00 | GOOD | 8,206.60 | C06 | 1.04 | 0.61 |
| BAGASSE HANDLING EQUIPMENT (100% BONUS) | 2 | 04/12/18 | 259,300.00 | GOOD | 201,651.84 | I12 | 1.04 | 0.72 |
| PULP AND MOLDING PROCESS EQUIPMENT (100% BONUS) | 2 | 04/12/18 | 2,858,918.00 | GOOD | 2,140,757.80 | I12 | 1.04 | 0.72 |
| EQUIPMENT EXHAUST | 2 | 04/12/18 | 879,599.00 | GOOD | 658,643.73 | I12 | 1.04 | 0.72 |
| INFORMATION SYSTEM | 2 | 04/12/18 | 33,748.00 | GOOD | 21,409.73 | C06 | 1.04 | 0.61 |
| ELECTRICAL TO COMPUTER EQUIPMENT | 2 | 04/12/18 | 21,941.00 | GOOD | 13,919.37 | C06 | 1.04 | 0.61 |
| OFFICE FURNITURE | 2 | 04/12/18 | 108,736.00 | GOOD | 73,505.54 | C08 | 1.04 | 0.65 |
| SOLAR PANEL | 2 | 04/12/18 | 140,386.00 | GOOD | 119,721.18 | C20 | 1.04 | 0.82 |
| AUDIO AND VISUAL EQUIPMENT | 2 | 04/12/18 | 16,976.00 | GOOD | 10,769.57 | C06 | 1.04 | 0.61 |
| BAGASSE HANDLING EQUIPMENT | 2 | 04/12/18 | 605,617.00 | GOOD | 453,486.01 | I12 | 1.04 | 0.72 |
| PULP AND MOLDING PROCESS EQUIPMENT | 2 | 04/12/18 | 21,707,551.00 | GOOD | 16,254,814.19 | I12 | 1.04 | 0.72 |
| ELECTRICAL TO PROCESS EQUIPMENT | 2 | 04/12/18 | 5,387,859.00 | GOOD | 4,034,428.82 | I12 | 1.04 | 0.72 |
| Video System | 1 | 9/19/19 | 23,080.94 | GOOD | 16,387.47 | C06 | 1 | 0.71 |
| TFX Networking | 1 | 5/19/19 | 69,517.58 | GOOD | 47,967.13 | U04 | 1 | 0.69 |
| ELECTRICAL TO AUDIO / VISUAL EQUIPMENT | 2 | 04/12/18 | 12,775.00 | GOOD | 8,104.46 | C06 | 1.04 | 0.61 |
| ELECTRICAL TO BREAKROOM EQUIPMENT | 2 | 04/12/18 | 22,904.00 | GOOD | 14,530.30 | C06 | 1.04 | 0.61 |
| ELECTRICAL TO PROCESS EQUIPMENT (100% BONUS) | 2 | 04/12/18 | 1,866,096.00 | GOOD | 1,397,332.68 | I12 | 1.04 | 0.72 |
| ELECTRICAL TO TELEVISION EQUIPMENT | 2 | 04/12/18 | 3,650.00 | GOOD | 2,315.56 | C06 | 1.04 | 0.61 |
| EMERGENCY GENERATOR | 2 | 04/12/18 | 165,953.00 | GOOD | 119,087.87 | I10 | 1.04 | 0.69 |
| MACHINERY & EQUIPMENT | 2 | 04/12/18 | 661,200.00 | GOOD | 495,106.56 | I12 | 1.04 | 0.72 |
| MACHINERY & EQUIPMENT | 2 | 04/12/18 | 679,647.00 | GOOD | 508,919.67 | I12 | 1.04 | 0.72 |
| Misc. October/November 2018 | 2 | 11/18/18 | 3,720.00 | GOOD | 2,785.54 | I12 | 1.04 | 0.72 |
| Retention Tank Pump | 1 | 7/1/19 | 64,054.92 | GOOD | 49,322.29 | I12 | 1 | 0.77 |
| RO Booster Pump | 1 | 3/1/19 | 8,663.92 | GOOD | 6,671.22 | I12 | 1 | 0.77 |
| Bagasse Batch Bin Agitator | 1 | 3/1/19 | 29,299.50 | GOOD | 22,560.62 | I12 | 1 | 0.77 |
| Pulp Sump Pump | 1 | 5/19/19 | 19,540.00 | GOOD | 15,045.80 | I12 | 1 | 0.77 |
| TFX Table, Pressure washer | 1 | 3/1/19 | 34,663.00 | GOOD | 26,690.51 | I12 | 1 | 0.77 |
| Freight shipment | 1 | 5/19/19 | 51,734.08 | GOOD | 39,835.24 | I12 | 1 | 0.77 |
| Omron PLC Upgrades | 1 | 12/18/19 | 37,884.00 | GOOD | 29,170.68 | I12 | 1 | 0.77 |
| RENT TO OWN MICROWAVE CONSISTENCY RENT TO OWN LOOP OPTICAL CONSISTENCY | 1 | 7/19/19 | 41,712.00 | GOOD | 32,118.24 | I12 | 1 | 0.77 |
| TFX Stacker Side Plates | 1 | 1/19/19 | 3,404.00 | GOOD | 2,621.08 | I12 | 1 | 0.77 |
| 9in" AL coated plate test | 1 | 12/18/18 | 6,303.00 | GOOD | 4,412.10 | I05 | 1 | 0.70 |
| TFX Machine Tub Update | 1 | 5/19/19 | 317,737.83 | GOOD | 244,658.13 | I12 | 1 | 0.77 |
| Machine Shop Miscellaneous | 1 | 2/19/19 | 11,443.41 | GOOD | 8,010.39 | I05 | 1 | 0.70 |
| Miscellaneous Capital Items | 1 | 11/18/19 | 33,800.00 | GOOD | 26,026.00 | I12 | 1 | 0.77 |
| Tank Coatings | 1 | 5/19/19 | 157,508.00 | GOOD | 121,358.16 | I12 | 1 | 0.77 |
| Conductivity Meters | 1 | 3/1/19 | 17,202.00 | GOOD | 13,245.54 | I12 | 1 | 0.77 |
| Bagasse Residue Filter | 1 | 4/19/19 | 4,970.00 | GOOD | 3,826.80 | I12 | 1 | 0.77 |
| Dewatering Press Repipe | 1 | 4/19/19 | 6,800.00 | GOOD | 5,236.00 | I12 | 1 | 0.77 |
| SS HF Transfer Line | 1 | 3/1/19 | 21,500.00 | GOOD | 16,555.00 | I12 | 1 | 0.77 |
| Quality control boards / ergonomic tables / visual manufacturing | 1 | 4/19/19 | 12,040.80 | GOOD | 8,187.74 | U03 | 1 | 0.68 |
| Vacuum System Upgrade | 1 | 5/19/19 | 40,517.00 | GOOD | 31,198.09 | I12 | 1 | 0.77 |
| Misc. Maint capital | 1 | 4/19/19 | 43,872.38 | GOOD | 33,781.73 | I12 | 1 | 0.77 |
| Connecting Air Compressors | 1 | 5/19/19 | 4,000.00 | GOOD | 3,000.00 | I10 | 1 | 0.75 |
| SME Miscellaneous Projects | 1 | 5/19/19 | 5,900.00 | GOOD | 4,543.00 | I12 | 1 | 0.77 |

| | | | | | | | | |
|---|---|---------|------------|------|------------|-----|---|------|
| stacker sensor mounts | 1 | 5/19/19 | 7,620.00 | GOOD | 5,867.40 | I12 | 1 | 0.77 |
| TFX outfeed safety rail | 1 | 5/19/19 | 7,585.00 | GOOD | 5,840.45 | I12 | 1 | 0.77 |
| TFX stacker safety rail | 1 | 5/19/19 | 24,042.00 | GOOD | 18,512.34 | I12 | 1 | 0.77 |
| Vac flow data acquisition | 1 | 4/19/19 | 2,344.00 | GOOD | 1,804.88 | I12 | 1 | 0.77 |
| 6-9-10 AL mold tools | 1 | 3/1/19 | 787,190.28 | GOOD | 551,033.20 | I05 | 1 | 0.70 |
| AL 10inP Inverted Mold | 1 | 7/19/19 | 4,648.50 | GOOD | 3,253.95 | I05 | 1 | 0.70 |
| AL 32ozB Inverted Mold | 1 | 7/19/19 | 225,613.80 | GOOD | 173,722.63 | I12 | 1 | 0.77 |
| Miscellaneous Capital Items - Motus | 1 | 8/19/19 | 132,770.55 | GOOD | 102,233.32 | I12 | 1 | 0.77 |
| Aluminum Clam Shell Inserts | 1 | 5/19/19 | 72,913.17 | GOOD | 51,039.22 | I05 | 1 | 0.70 |
| Solenis Equipment Chemical Skids | 1 | 1/19/19 | 232,926.60 | GOOD | 179,353.48 | I12 | 1 | 0.77 |
| 12oz Bowl inverted tooling set | 1 | 7/19/19 | 162,344.20 | GOOD | 125,005.03 | I12 | 1 | 0.77 |
| Fiber Classification System | 1 | 7/19/19 | 9,900.00 | GOOD | 7,623.00 | I12 | 1 | 0.77 |
| valve and flow meter assembly TF3 tank | 1 | 9/19/19 | 2,770.00 | GOOD | 2,132.90 | I12 | 1 | 0.77 |
| 8in Aluminum Clam Shell Mold / Tool | 1 | 8/19/19 | 179,275.40 | GOOD | 125,492.78 | I05 | 1 | 0.70 |
| Generator for Fire Pump building | 1 | 6/19/19 | 4,740.00 | GOOD | 3,460.20 | I08 | 1 | 0.73 |
| filtration unit | 1 | 9/19/19 | 19,919.99 | GOOD | 15,338.39 | I12 | 1 | 0.77 |
| Spare Top Press 9" and 10" Aluminum Tools | 1 | 7/19/19 | 134,703.60 | GOOD | 103,721.77 | I12 | 1 | 0.77 |
| UPS Office | 1 | 5/19/19 | 13,058.30 | GOOD | 9,271.39 | C06 | 1 | 0.71 |

TOTAL 38,783,132.75 28,985,016.49

EXHIBIT "B"
ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION
 Chapter 196.1995, Florida Statutes

| | | | | | | | |
|--|---|--------------------------------|--------------------|--------------------|-----------------------|--------------|-----------------------------------|
| Business Name: Sugar Cane Growers Cooperative of FL (Tellus- Project Tiger) | | | | | | | |
| PCN 00-37-43-28-00-000-1010 | Tangible Account No. 221345 | | | | | | |
| Property Appraiser's Use Only | | | | | | | |
| I. Total revenue available to the county or municipality for the current fiscal year from ad valorem sources: <u>\$950,811,544</u> \$198,852,147,603 x 0.0047815 (2019 millage) | | | | | | | |
| II. Revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section: <u>\$774,388</u> \$161,955,127 x 0.0047815 (2019 millage) | | | | | | | |
| III. Estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted and the property for which the exemption is requested would otherwise have been subject to taxation: <u>\$226,583</u> \$47,387,330 x 0.0047815 (2019 millage) | | | | | | | |
| IV. Estimate of the taxable value lost to the county or municipality if the exemption applied for were granted: <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="padding-right: 20px;">Improvements to Real Property:</td> <td align="right">\$7,404,704</td> </tr> <tr> <td>Personal Property:</td> <td align="right">+ \$39,982,626</td> </tr> <tr> <td>TOTAL</td> <td align="right"><u><u>\$47,387,330</u></u></td> </tr> </table> | | Improvements to Real Property: | \$7,404,704 | Personal Property: | + \$39,982,626 | TOTAL | <u><u>\$47,387,330</u></u> |
| Improvements to Real Property: | \$7,404,704 | | | | | | |
| Personal Property: | + \$39,982,626 | | | | | | |
| TOTAL | <u><u>\$47,387,330</u></u> | | | | | | |
| V. I have determined that the property listed above meets the definition, as defined by Section 196.012 (15) or (16), Florida Statutes, as a <input checked="" type="checkbox"/> New Business <input type="checkbox"/> Expansion of an Existing Business <input type="checkbox"/> Neither | | | | | | | |
| VI. Last year for which exemption may be applied: <u>2029</u> | | | | | | | |
| DATE <u>Apr 3, 2020</u> | SIGNATURE  Dorothy Jacks, Palm Beach County Property Appraiser | | | | | | |

APPLICATION TO BE FILED NOT LATER THAN MARCH 1st

R 2017-0837

Economic Development Incentive Agreement

THIS AGREEMENT, dated as of this _____ day of JUN 20 2017, 2017, ("Effective Date") by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and **TELLUS PRODUCTS, LLC** a Florida limited liability company, whose Federal I.D. Number is 47-2324075 (hereinafter the "COMPANY").

**PART I
RECITALS**

WHEREAS, it is the policy of the COUNTY to encourage and stimulate economic growth in Palm Beach County by either attracting new businesses to Palm Beach County or by assisting local expanding businesses within Palm Beach County that would otherwise expand elsewhere; and

WHEREAS, the creation of new full time employment opportunities for residents of Palm Beach County and the tax revenues resulting from business relocation or expansion within Palm Beach County is beneficial to the local economy; and

WHEREAS, the State of Florida has determined that counties may expend funds to attract and retain business enterprises, and that the use of public funds toward the achievement of such economic development goals constitutes a public purpose; and

WHEREAS, the COUNTY has determined that offering an Economic Development Incentive encourages either existing businesses to remain and/or expand, or new businesses to establish a facility in Palm Beach County and thereby create employment opportunities for the residents of Palm Beach County; and

WHEREAS, the COMPANY is locating a new manufacturing facility in the unincorporated Glades region of Palm Beach County and will make approximately a forty million dollar (\$40,000,000) capital investment for the construction of a plant and equipment (personal property), create seventy-one (71) new permanent full time (or the equivalent as set forth herein) jobs over five (5) years at an annualized average wage of fifty thousand dollars (\$50,000) and a median wage of forty thousand dollars (\$40,000), and retain the new jobs for five (5) years from the date each job is created ("Project"); and

WHEREAS, the Board of County Commissioners on September 22, 2015, conceptually approved an Economic Development Incentive in the form of an Ad Valorem Tax Exemption Grant to COMPANY in an amount not to exceed eight hundred and fifty thousand dollars (\$850,000) over a ten (10) year period.

WHEREAS, the incentive recommendation is based on the fact that the Project will be located in the Glades region of Palm Beach County where dire economic conditions persist with poverty rates and unemployment rates are, respectively, double and quadruple the national averages; and

WHEREAS, the COUNTY finds and declares that it is in the public interest to award an Economic Development Incentive to the COMPANY pursuant to the terms of this Agreement.

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

**PART II
DEFINITIONS**

1. **Definitions:** The below terms as used in this Agreement shall mean:
 - A. **New Job:** Shall include an employee in a full time job working a minimum of one-thousand eight hundred and twenty (1,820) hours annualized (inclusive of vacation, holidays, sick leave, disability leave, leave provided pursuant to the Family and Medical Leave Act, and other

paid activities or leave), a Full Time Equivalent Job, and/or a Relocated Employee. Notwithstanding the foregoing, the one-thousand eight hundred and twenty (1,820) hours annualized shall be determined pursuant to the job requirement of the employees, and not the actual number of hours clocked at work. Employees of the COMPANY shall include persons working full-time exclusively for the benefit of the COMPANY, who are hired after the Effective Date of this Agreement by Sugar Cane Growers Cooperative of Florida, an affiliate of the COMPANY, for administrative efficiency, such as payroll and other employee benefits; provided that all expenses of such persons shall be separately allocated to the COMPANY and paid by the COMPANY. Each New Job shall also:

- (1) Result in a net increase in the number of the COMPANY'S Palm Beach County employees; and
- (2) Involve only an employee working on-site or based out of the COMPANY'S Palm Beach County facility at the address shown in Exhibit A attached hereto and made a part hereof.

B. Full Time Equivalent Job: Shall mean any two (2) or more part-time employees whose sum total work hours (inclusive of vacation, holidays, sick leave, disability leave, leave provided pursuant to the Family and Medical Leave Act, and other paid activities or leave) equals one-thousand eight hundred and twenty (1,820) hours annualized. Notwithstanding the foregoing, the 1,820 hours annualized shall be determined pursuant to the job requirement of the employees, and not the actual number of hours clocked at work, allowing for vacation.

C. Relocated Employee: Shall mean either an employee in a full time job working a minimum of 1,820 hours annualized (inclusive of vacation, holidays, sick leave, disability leave, leave provided pursuant to the Family and Medical Leave Act, and other paid activities or leave) equals one-thousand eight hundred and twenty), or a Full Time Equivalent Job that is identified on the COMPANY'S payroll or otherwise indirectly paid by COMPANY through an affiliate of COMPANY, who transferred to the COMPANY'S facility in Palm Beach County from a COMPANY facility in a location other than one located in a county adjacent to the borders of Palm Beach County. Notwithstanding any provision in this Agreement to the contrary, for all purposes under this Agreement it shall be deemed that any employee in a full time job working a minimum of 1,820 hours annualized (inclusive of vacation and holidays or other leave), or a Full Time Equivalent Job that is identified on the COMPANY'S payroll, or is otherwise indirectly paid by COMPANY through an affiliate of COMPANY, who transferred to the COMPANY'S facility in a location other than one located in a county adjacent to the borders of Palm Beach County prior to the Effective Date for the purpose of effectuating COMPANY'S facility in Palm Beach County is a Relocated Employee deemed to have transferred to Palm Beach County after the Effective Date and shall constitute a New Job.

D. Annualized Average Wage: Actual annual wage, salaries, and other payments for New Jobs to be created under this Agreement as follows:

Wages; salaries; commissions; bonuses; drawing accounts (advances to employees against future earnings); prizes and awards (if given by employer for employment); vacation pay; payment to employees of difference between regular pay and jury pay; payments to employees temporarily absent while in military service; wages earned before death but paid after death; dismissal pay; sick pay (not made under a plan or system); and supplemental payments (difference between workers' compensation and employee's salary); disability leave or Family Medical Leave Act where required to hold a position; retirement benefits.

- E. **Median Wage:** Shall mean the annual wage that is the exact middle of all annual wages. It shall be determined by taking the middle annual wage on the list if an odd number of annual wages and if an even number, taking the higher of the middle numbers and considering the median.

**PART III
WHOLLY OWNED SUBSIDIARIES**

1. **Establishment of Wholly Owned Subsidiaries:** The COMPANY may create or purchase wholly owned subsidiaries, in connection with activities undertaken by the COMPANY pursuant to this Agreement. All wholly owned subsidiaries, thus created or purchased, shall be under the full control of the COMPANY, and the COMPANY shall oblige all such wholly owned subsidiaries to comply with the requirements of this Agreement as provided for herein in the event COMPANY will include any New Jobs of such subsidiary as part of the calculation for New Jobs created to meet its requirements hereunder.
2. **Notification of Wholly Owned Subsidiaries:** The COMPANY shall, within thirty (30) days of its creation or purchase of a wholly owned subsidiary in connection with this Agreement, notify the COUNTY in writing of such wholly owned subsidiaries by divulging to the COUNTY the name of such entity and the location of the entity's facilities, and the COMPANY shall provide the COUNTY, to the COUNTY'S satisfaction, documentation evidencing the COMPANY'S full control of such wholly owned subsidiaries in the event COMPANY intends to include any New Jobs of such subsidiary as part of the calculation for New Jobs created to meet its requirements hereunder.
3. **Acceptance of Jobs Created by Subsidiaries:** Notwithstanding that COUNTY is allowing COMPANY and the wholly owned subsidiaries of COMPANY to create and maintain said jobs, COMPANY agrees that this Agreement is solely between COMPANY and COUNTY and COUNTY has the right, in its sole and absolute discretion to reject or accept any or all New Jobs created by COMPANY'S wholly owned subsidiaries. If COUNTY rejects the acceptance of all New Jobs created by a COMPANY's wholly owned subsidiary, joint venture partner, and/or consultant that COUNTY has been notified of, then COUNTY shall provide COMPANY written notice of this rejection within thirty (30) days of receipt of the notice of the COMPANY.

**PART IV
COMPANY OBLIGATIONS**

1. **New Job Creation:** The COMPANY shall create seventy-one (71) New Jobs within five (5) years of March 1, 2017.
2. **New Job Maintenance:** The COMPANY shall maintain the required New Jobs for a period of five (5) years from the date each New Job was created.
3. **Salaries:** The COMPANY shall pay an Annualized Average Wage per annum equal to or greater than fifty thousand dollars (\$50,000), excluding healthcare benefits, for each New Job created under this Agreement. The COMPANY shall pay a Median Wage per annum for the New Jobs equal to or greater than forty thousand dollars (\$40,000) excluding healthcare benefits.
4. **Capital Investment:** The COMPANY shall make a minimum Capital Investment of forty million dollars (\$40,000,000), at the address shown on Exhibit A attached hereto and made a part hereof.

**PART V
PERFORMANCE PERIOD**

1. **Effective Date:** This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners ("Board") and the execution by all parties, and shall be effective on the date set forth on the first

page of this Agreement.

2. **Termination Date:** Unless earlier terminated according to the terms of this Agreement, this Agreement shall terminate sixty-six (66) months after the creation of the seventy first (71st) New Job.

PART VI INCENTIVE AMOUNTS

1. **Ad Valorem Tax Exemption:** The COMPANY has been conceptually approved to receive an Ad Valorem Tax Exemption not to exceed eight-hundred fifty thousand dollars (\$850,000) over a ten (10) year period in consideration of the capital investments, new jobs created and maintained and Annualized Average Wage memorialized under this Agreement. This conceptual approval was contingent upon the determination that the project meets the requirements under Chapter 196, Florida Statutes for an Ad Valorem Tax Exemption.

The COMPANY will be required to submit a Formal Application for Ad Valorem Tax Exemption on the application entitled "Economic Development Ad Valorem Property Tax Exemption, Chapter 196.1995, Florida Statutes Form 418" by March 1st in the year that the Ad Valorem Tax Exemption is desired to take effect. This application will be reviewed by the Palm Beach County Property Appraiser ("Property Appraiser") for eligibility as outlined in the County's Ordinance No. 2012-042.

The COMPANY, if eligible, will be granted an Ad Valorem Tax Exemption over (10) years in an amount not to exceed \$850,000 for the assessed value of all qualifying tangible personal property acquired and added improvements to real property excluding land taxes levied by COUNTY, where COUNTY is the taxing authority. The Ad Valorem Tax Exemption does not apply to taxes levied by a municipality, school district, or water management district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors.

2. **Revocation of Ad Valorem Tax Exemption:** Should the COMPANY fail to file the annual report on or before March 1st of each year the Ad Valorem Tax Exemption has been granted as required by the Ad Valorem Tax Exemption Ordinance, or fail to continue to meet the definition of a new business or an expansion of an existing business, and/or fail to fulfill any other representation made to the Board during the application process, including the creation and maintenance of the total number of New Jobs identified by the COMPANY in Part IV, Section 1 hereof, the Board may adopt an ordinance revoking the Ad Valorem Tax Exemption

The revocation of the Ad Valorem Tax Exemption may occur if the COMPANY fails to fulfill its obligations as provided for under the ordinance granting the COMPANY an Ad Valorem Tax Exemption. The effective date for revocation of the Ad Valorem Tax Exemption will be identified in the ordinance.

Upon revocation, the Board shall immediately notify the Property Appraiser.

For any year that taxes may have been exempted and the Palm Beach County Property Appraiser finds that the COMPANY was not entitled to the Ad Valorem Tax Exemption, such taxes may be recovered and the Palm Beach County Property Appraiser will assist the Board to recover any taxes exempted. The Board may recover taxes exempted throughout the term of the Agreement.

Should the COMPANY fail to file the annual Ad Valorem Tax Exemption renewal application with the Property Appraiser on or before March 1st of each year the Ad Valorem Tax Exemption has been granted as required in the Ad Valorem Tax Exemption Ordinance and in accordance with Chapter 196.011(1) (a), Florida Statutes, or fail to continue to meet the definition of a new business or an expansion of an existing business, the Property Appraiser may deny the Ad Valorem Tax Exemption in accordance with Chapter 196.193(3), Florida Statutes, for that year.

**PART VII
ADVERTISING, RECRUITING AND JOB INFORMATION**

1. **Job Advertising:** The COMPANY shall make commercially reasonable efforts to undertake advertising of the job openings in Palm Beach County to provide sufficient notice to Palm Beach County's residents concerning the availability of COMPANY'S New Jobs. The advertising regarding the New Jobs at COMPANY'S facility in Palm Beach County must be countywide, include Hispanic and Minority news venues, and not limited to a single advertisement.
2. **Job Availability:** The COMPANY shall make commercially reasonable efforts to coordinate with the following agencies regarding new job opportunities:
 - A. CareerSource Palm Beach County
3400 Belvedere Road
West Palm Beach, FL 33406
Attention: Executive Director
 - B. West Career Center
1085 S Main Street
Belle Glade, FL 33430
Attention: Chairperson
3. **Low-income Residents:** The COMPANY shall make reasonable efforts to provide low-income residents opportunities for training and employment at the COMPANY.
4. **Resident Preference:** The COMPANY shall, without risk of violating any laws, make best efforts to develop and implement hiring policies that provide Palm Beach County residents preference in the hiring process.
5. **Local Businesses:** The COMPANY shall, without risk of violating any laws, make reasonable efforts to award contracts in connection with this Agreement to eligible business concerns located in or owned in substantial part by persons residing in Palm Beach County.
6. **Veterans Preference:** The COMPANY shall, without risk of violating any laws, make reasonable efforts to develop and implement hiring policies that provide qualified Veterans preference in the hiring process.
7. **Transportation To And From Job Location:** The COMPANY shall provide the following information to employees it hires by posting such information on its web site or by providing in written form:
 - A. The bus stop location closest to COMPANY'S office;
 - B. The name and location of Tri-Rail train station closest to COMPANY'S office;
 - C. Information about COMPANY'S car pool program (if one exists); and
 - D. Directions to COMPANY'S office from Interstate 95.

**PART VIII
SUBCONTRACTING**

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The COMPANY is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If the COMPANY uses any subcontractors on this project the following provisions of this Article shall apply:

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the COMPANY shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

The Palm Beach County Board of County Commissioners has established a minimum goal for SBE participation of 15% on all County solicitations.

The COMPANY agrees to abide by all provisions of the Palm Beach County Code establishing the SBE Program, as amended, and understands that failure to comply with any of the requirements will be considered a breach of contract.

The COMPANY understands that each SBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the SBE participation goal.

The COMPANY shall provide the COUNTY with a copy of the COMPANY'S contract with any SBE subcontractor or any other related documentation upon request.

The COMPANY understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of this Contract as it relates to the use of SBE firms.

The COMPANY will only be permitted to replace a certified SBE subcontractor who is unwilling or unable to perform. Such substitutions must be done with another certified SBE in order to maintain the SBE percentages established in this Contract. Requests for substitutions of SBE's must be submitted to the COUNTY's representative and to the Office of Small Business Assistance.

The COMPANY shall be required to submit to the COUNTY Schedule 1 (Participation of SBE- M/WBE Contractors) and Schedule 2 (Letter of Intent) to further indicate the specific participation anticipated, where applicable.

The COMPANY agrees to maintain all relevant records and information necessary to document compliance with the Palm Beach County Code and will allow the COUNTY to inspect such records.

PART IX AUDITS AND REPORTS

1. **Annual Job Creation and Maintenance Reports:** The COMPANY shall provide the COUNTY'S Department of Economic Sustainability with an Annual Job Creation and Maintenance Report, satisfactory to the COUNTY in its discretion, acting reasonably, verifying the COMPANY'S compliance with the requirements of PART IV of this Agreement. Such Annual Job Creation and Maintenance Report shall comply with the following:
 - A. Identify each New Job created and the date it was created.
 - B. Identify each New Job created and the duration of its maintenance period to date.
 - C. Identify each existing job retained and the duration of its maintenance period to date.
 - D. Report on the Annualized Average Wage for New Jobs that were created and maintained.
 - E. Report on the Annualized Median Wage for New Jobs that were created.
 - F. Report on the number of Palm Beach County residents hired to date.

- G. Report on the number of employees of Sugar Cane Growers Cooperative of Florida excluding employees exclusively performing work for the COMPANY for the previous year, evidencing that the New Jobs only include employees exclusively performing work for the COMPANY.
 - H. The Annual Job Creation and Maintenance Report shall be submitted to the COUNTY'S Department of Economic Sustainability by March 31st, with the first Annual Job Creation and Maintenance Report due March 31st, 2018.
2. **Final Job Creation and Maintenance Performance Audit:** The COMPANY shall provide the COUNTY'S Department of Economic Sustainability a written Final Job Creation and Maintenance Performance Audit (hereinafter "Audit") satisfactory to the COUNTY in its sole discretion, acting reasonably, verifying the COMPANY'S compliance with the requirements of PART IV of this Agreement. Such Audit, which shall be prepared at the COMPANY'S sole cost and expense, shall comply with the following:
- A. The Audit shall be conducted and prepared by a Certified Public Accountant (CPA) according to standards established by the American Institute of Certified Public Accountants and shall be submitted on the CPA's letterhead.
 - B. The CPA shall "examine" the COMPANY'S records, statements, and schedules and those of all applicable wholly owned subsidiaries created or purchased by the COMPANY in connection with this Agreement, to verify the accuracy of the number of New Jobs created and maintained as required in Part IV of this Agreement as reported pursuant to Part IX (1), and to verify the Annualized Average Wage for these New Jobs. The CPA shall express a written "opinion in the audit regarding the number of New Jobs created in compliance with this Agreement and the Annualized Average Wage and Median Wage for these New Jobs.
 - C. The CPA's Report shall attest to examining evidence supporting the COMPANY'S schedules of New Jobs and the Annualized Average Wage of the New Jobs and those of the wholly owned subsidiaries stated immediately above.
 - D. The CPA's Report must provide the Annualized Average Wage **and** the Median Wage for the category below:
 - (1) All New Jobs: Identify the Annualized Average Wage **and** Median Wage of all New Jobs including all exempt and non-exempt employees and all officers and senior corporate executives that are included in the number of New Jobs to be created as required by this Agreement.
 - (2) New Jobs Only: Identify the Annualized Average Wage **and** Median Wage of all New Jobs as stated above.
 - E. The accuracy of the number, hire dates and Annualized Average Wage **and** Median Wage of all New Jobs as represented by the COMPANY shall be verified in the Report by the CPA to the COUNTY'S reasonable satisfaction.
 - F. The Audit may be performed in conjunction with other auditing services.
 - G. The Audit shall be submitted to the COUNTY'S Department of Economic Sustainability within sixty-three (63) months from the date the last New Job was created.

**PART X
GENERAL CONDITIONS**

1. **Obligation and Annual Appropriation:** N/A

2. **Non-Discrimination:** The COMPANY 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, the COMPANY has either submitted a copy of its written non-discrimination policy which is consistent with Resolution No. R-2014-1421 and the policy detailed above, or has submitted an executed statement affirming that its non-discrimination policy is in conformance with Resolution No. R-2014-1421 and the policy detailed above.

In furtherance of such policy, the COMPANY 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.

3. **Workers' Compensation and Employers' Liability:** The COMPANY, directly or through an affiliate, shall maintain Workers' Compensation Insurance & Employers' Liability in accord with Florida Statutes Chapter 440 for all jobs set forth in this Agreement. Coverage shall be provided on a primary basis.

4. **Convicted Vendor List:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the COMPANY certifies that it, and its affiliates who will perform hereunder, have not been placed on the Convicted Vendor List maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date of execution of this Agreement by the COUNTY. This notice is required by F.S. 287.133(3)(a).

5. **Successors and Assigns:** The COUNTY and the COMPANY each binds itself and its partners, wholly owned subsidiaries, successors, executors, administrators and assigns to the other party and to the partners, wholly owned subsidiaries, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the COMPANY shall assign, sublet, convey or transfer its interest in this Agreement without the prior written consent of the other. Neither the COUNTY nor the COMPANY shall unreasonably withhold consent to the assignment, subletting, conveyance, or transfer of its interest in this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the COMPANY. In the event that the COUNTY reasonably determines that the COMPANY is in violation of this paragraph, the COUNTY shall have the right to terminate this Agreement and to seek restitution of the Ad Valorem Taxes exempted by the COUNTY to the COMPANY.

6. **Name Change:** Within fifteen (15) calendar days of COMPANY changing the name of the COMPANY, the COMPANY shall provide the COUNTY written notice regarding this change to COMPANY'S name.

7. **Material Change of Circumstances:** The COMPANY shall immediately notify the COUNTY of any material change of circumstances for the COMPANY'S business operations in Palm Beach County. For the purposes hereof, material change of circumstance shall include, but not be limited to, the failure of the COMPANY to diligently and actively pursue fulfillment of the terms hereof, the

sale or transfer of all or substantially all of COMPANY'S assets for the benefit of creditors, COMPANY'S relocation, but not expansion, of the Project outside of Palm Beach County, the suspension, closing or cessation of operation of the COMPANY'S Project in Palm Beach County, voluntary or involuntary bankruptcy or an assignment for the benefit of the COMPANY'S creditors. In the event of a material change of circumstances, the COUNTY shall have the right to terminate this Agreement, whereupon the COUNTY shall have no further obligation to the COMPANY under this Agreement.

8. **Entire Agreement between Parties:** The COUNTY and the COMPANY 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. 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 COMPANY.
9. **Waiver:** If the COUNTY shall waive any provisions of the Agreement, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such; and the COUNTY shall thereafter have the right to insist upon the enforcement of such conditions or provisions.
10. **Invalid or Unenforceable Terms:** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
11. **Performance Time and Liability:** The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.
12. **Defaults:** The occurrence of any one or more of the following events shall constitute a Default hereunder:
 - A. Vacating, abandoning, or closing the COMPANY'S business identified in this Agreement.
 - B. Relocating the COMPANY'S Palm Beach County business location as identified in this Agreement to outside Palm Beach County.
 - C. Failure of the COMPANY to create the number of New Jobs as required in this Agreement.
 - D. Failure of the COMPANY to maintain the required number of New Jobs for each job's required maintenance period in this Agreement.
 - E. Failure of the COMPANY to make the capital investments required.
 - F. Failure of the COMPANY to submit to the COUNTY the Annual Job Creation and Maintenance Report and/or the Audit as required in this Agreement.
 - G. Failure of the COMPANY to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the COMPANY where such failure continues for a period of thirty (30) days after written notice thereof from the COUNTY to the COMPANY; provided, however, that if the nature of COMPANY'S

default is such that more than thirty (30) days are reasonably required for its cure, then COMPANY shall not be deemed to be in default if the COMPANY commenced such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion.

- H. The making by the COMPANY of any general assignment, or general arrangement for the benefit of creditors.
 - I. The filing by or against COMPANY of a petition to have the COMPANY adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against COMPANY, the same is dismissed within sixty (60) days.
 - J. The appointment of a trustee or receiver to take possession of substantially all of COMPANY'S assets where possession is not restored to COMPANY within forty-five (45) days.
 - K. The attachment, execution or other judicial seizure of substantially all of COMPANY'S assets located within Palm Beach County where such seizure is not discharged within forty-five (45) days.
 - L. The discovery by the COUNTY that any information relating to this Agreement given to the COUNTY was materially false.
13. **Remedies:** In the event of a Default by the COMPANY, 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 COMPANY or any party joining in or consenting to this Agreement, all taxes exempted by the COUNTY, as applicable, pursuant to this Agreement. Except as set forth in Part X Subpart 12, Subsections I, J, and K, COMPANY shall be granted thirty (30) days from notification of default to cure any deficiency that triggered said default.
14. **Law and Remedy:** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement shall be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or 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.
15. **Regulations:** The COMPANY shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include conflict of interest and collusion. The COMPANY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may affect the services offered.
16. **Headings:** The headings of the sections, paragraphs, divisions, subdivisions, part and subparts of this Agreement are for the convenience of reference only, and shall not limit or otherwise affect any of the terms hereof.
17. **Number and Gender:** Whenever the singular or plural number, masculine or feminine or neutral gender is used herein, it shall equally include the others and shall apply jointly and severally.
18. **Access to Records:** Upon thirty (30) business days' notice and at any time during normal business hours and as the COUNTY deems reasonably necessary, there shall be made available by the COMPANY to the COUNTY for examination, its records with respect to all requested matters related covered by this Agreement hereunder. In making any request for records, the COUNTY shall construct the request as narrowly as possible so as to avoid any undue burden on the COMPANY. COUNTY shall keep COMPANY'S "Proprietary, Confidential Business Information" and "Trade Secrets" (both as defined in F.S. 288.075 (2016) confidential. Any material submitted to COUNTY by COMPANY that the COMPANY represents, constitutes or contains trade secrets or is otherwise

exempt from production under Florida public records laws ("Trade Secret Materials") must be segregated and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCT - TRADE SECRET." In the event that a third party submits a request to the COUNTY for records designated by COMPANY as Trade Secret Materials, the COUNTY shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by the COMPANY. COMPANY shall indemnify and defend COUNTY and its officers, employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including reasonable attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of any Trade Secret Materials in response to a records request by a third party.

19. **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 COMPANY, and its wholly owned subsidiaries, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.
20. **Indemnification And Hold Harmless:** The COMPANY agrees to protect, defend, reimburse, indemnify and hold the COUNTY, its agents, its employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including reasonable attorney's fees, and causes of action of every kind and character against the COUNTY which arise out of this Agreement due to COMPANY'S negligent or willful acts or omissions. The COMPANY recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the COUNTY in support of this clause in accordance with the laws of the State of Florida. This paragraph shall survive the termination of the Agreement.
21. **Notices:** All notices from the COMPANY to the COUNTY and the COUNTY to COMPANY required or permitted by any provision of this Agreement shall be in writing and sent by registered or certified mail and addressed as follows:

TO COUNTY: Department of Economic Sustainability
100 Australian Avenue, 5th Floor
West Palm Beach, FL 33406
Attn: Sherry Howard, Deputy Director

With a copy to: Board of County Commissioners
C/o Palm Beach County Attorney's Office
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401
Attn: James Brako, Assistant County Attorney

TO COMPANY: Tellus Products, LLC
1500 West Sugar House Road
Belle Glade, FL 33430
Attn: Matthew Hoffman, Manager

With a copy to: Tellus Products, LLC
P.O. Box 666
Belle Glade, FL 33430
Attn: Matthew Hoffman, Manager

With a copy to: Tellus Products, LLC
1500 West Sugar House Road
Belle Glade, FL33430
Attn: Legal Department

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

22. **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 resident or employees of the COUNTY and/or COMPANY.
23. **Scrutinized Companies (when contract value is greater than \$1 million):** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the COMPANY certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725, or is engaged in business operations in Cuba or Syria.

If the County determines, using credible information available to the public, that a false certification has been submitted by COMPANY, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S.287.135.

24. **Public Records:** Notwithstanding anything contained herein, as provided under Section 119.070 I, F.S., if the COMPANY: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the COMPANY shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time the COMPANY is specifically required to:
- A. Keep and maintain public records required by the County to perform services as provided under this Contract.
 - 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 COMPANY 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 contract term and following completion of the Contract, if the COMPANY does not transfer the records to the public agency.
 - D. Upon completion of the Contract the COMPANY shall transfer, at no cost to the County, all public records in possession of the Consultant 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 COMPANY transfers all public records to the County upon completion of the Contract, the COMPANY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the COMPANY keeps and maintains public records upon completion of the Contract, the COMPANY shall meet all applicable requirements for retaining public records. All records stored electronically by the COMPANY 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 COMPANY to comply with the requirements of this article shall be a material breach of this Contract. 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. COMPANY 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 COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'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 NORTH OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT (561) 355-6680.

25. **Counterparts:** This Agreement, consisting of fifteen (15) enumerated pages, which include the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

**PART XI
REQUIREMENTS APPLICABLE TO WHOLLY OWNED AFFILIATES**

In addition to instances where the requirements of this Agreement are expressly set forth to be applicable to wholly owned affiliates of the COMPANY, the requirements of the below listed Parts and Subparts shall also apply to all such wholly owned affiliates:

- A. PART IV: Subparts 1, 2, 3 and 4.
- B. PART VII: Subparts 1, 2, 3, 4, 5, 6 and 7.
- C. PART X: Subparts 2, 3, 4, 6, 7, 15, 18, 19, 20 and 22.

[signatures on following page]

IN WITNESS WHEREOF, the COMPANY and the COUNTY have caused this Agreement to be executed on the date first above written.

Signed, sealed and delivered in the presence of:

Tellus Products, LLC

Witnesses:

Marisela P. Tellechea
Witness Signature

By: [Signature]
Matthew Hoffman, Manager

Marisela P. Tellechea
Print Witness Name

Witnesses:

Zoi R. Lezawa
Witness Signature

Zoi R. Lezawa
Print Witness Name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 6th day of June, 2017, by Matthew Hoffman, who is personally known to me, or who produced _____ as identification and who did/did not take an oath.



(NOTARY SEAL ABOVE)

Signature: Sharon L. Roberts

Notary Name: Sharon L. Roberts
Notary Public - State of Florida

(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: Paulette Burdick
Paulette Burdick, Mayor

By: [Signature]
Deputy Clerk

Document No.: R2017-0837
JUN 20 2017

Approved as to Form
And Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: [Signature]
James Brako,
Assistant County Attorney

By: [Signature]
Sherry Howard,
Deputy Director

EXHIBIT A

**ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT BETWEEN
PALM BEACH COUNTY AND TELLUS PRODUCTS, LLC**

COMPANY IDENTIFICATION AND INFORMATION

QACF application date: 4/10/2015

Company Name: Tellus Products, LLC

Existing Headquarters: N/A

Address of the company's facility in Palm Beach
County: 1500 West Sugar House Rd.
Belle Glade, FL 33430

Products/services to be provided from the company's facility in Palm Beach County:
The Company will be producing products from an annually renewable agriculture
byproduct.

Business Type: Agriculture

State of Florida Status: Active

State of Florida Filing Date: 11/12/2014

Federal ID Number: 47-2324075