

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date:	October 6, 2020	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing

Department: **Housing and Economic Sustainability**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to Receive and File: an Agreement with the Center for Technology, Enterprise and Development, Inc. (TED Center) for \$226,000 under the Fiscal Year 2020-2021 Community Development Block Grant (CDBG) Program.

Summary: The attached document has been executed on behalf of the BCC by the Director of the Department of Housing and Economic Sustainability in accordance with Agenda Item 6D-1 as approved by the BCC on July 14, 2020.

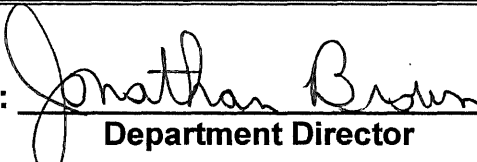
The Agreement with TED Center provides \$226,000 in Fiscal Year 2020-2021 CDBG funds to assist with operational expenses for the development and expansion of small businesses and microenterprises (defined as “commercial enterprises” that have five (5) or fewer employees). The TED Center is required to create a minimum of 15 full-time equivalent jobs countywide, with a minimum of four (4) of the newly created jobs being held by persons residing in the Glades area. Additionally, at least 51% of the jobs must be held by, or made available to, Low and Moderate Income persons who must reside in the Palm Beach County CDBG jurisdiction during the term of the Agreement. The TED Center, a non-profit organization, is a business incubator with associated programs and services designed to improve the viability and strength of microenterprises and small businesses.

In accordance with County PPM CW-0-051, all delegated contracts, agreements and grants must be submitted by the initiating Department as a receive and file agenda item. The TED Center is currently on target to meet 2019/2020 Contract deliverables. **These are Federal CDBG funds which do not require a local match.** Countywide (DB)

Background and Justification: The TED Center received \$226,000 in CDBG funds during Fiscal Year 2019-2020.

Attachment(s):

- Agreement with the Center for Technology, Enterprise and Development, Inc.
- Agenda Item 6D-1
- Delegation of Signatory Authority Memo

Recommended By:		<u>9/18/2020</u>
	Department Director	Date

Approved By:		<u>10/1/2020</u>
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures					
Operating Costs	\$226,000				
External Revenues	(\$226,000)				
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 BG70A

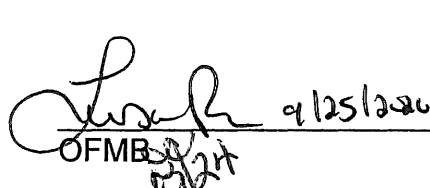
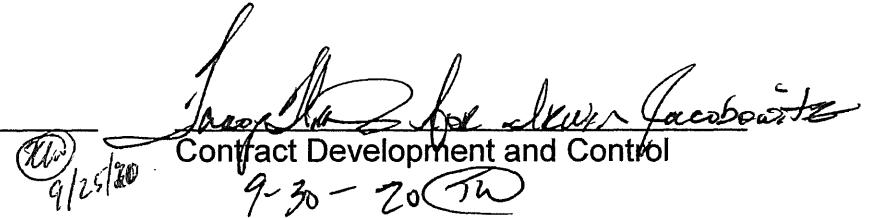
B. Recommended Sources of Funds/Summary of Fiscal Impact:

Source of funding is CDBG Economic Development Program funds.

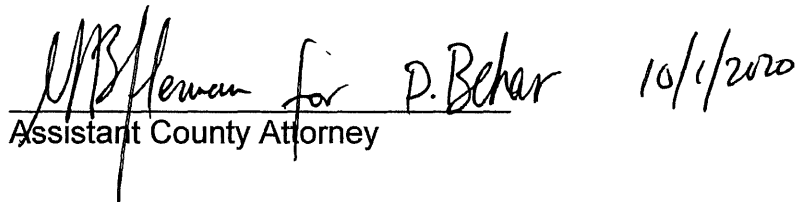
C. Departmental Fiscal Review: 
 Beverly Reid, Division Manager

III. REVIEW COMMENTS

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

 9/25/2020
 OFMB
 9/25/20
 Contract Development and Control
 9-30-20 (TW)

B. Legal Sufficiency:

 for P. Behar 10/1/2020
 Assistant County Attorney

C. Other Department Review:

 Department Director

AGREEMENT
PALM BEACH COUNTY
AND
THE CENTER FOR TECHNOLOGY, ENTERPRISE AND DEVELOPMENT, INC.

THIS AGREEMENT, with an effective date of **October 1, 2020**, is between **Palm Beach County** (hereinafter referred to as "**COUNTY**"), a political subdivision of the State of Florida, for the use and benefit of its Community Development Block Grant Program and **The Center for Technology, Enterprise and Development, Inc. (TED Center)**.

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 2020/2021 CDBG Action Plan, and The Center for Technology, Enterprise and Development, Inc., desire to provide the activities specified in Part II of this Agreement; and

WHEREAS, Palm Beach County desires to engage The Center for Technology, Enterprise and Development, Inc., 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:

Recitals. The foregoing recitals are true and correct and are incorporated herein as if fully set forth.

PART I
DEFINITION AND PURPOSE

A. **DEFINITIONS**

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

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. At least fifty-one percent (51%) of the jobs created through this Agreement must be held by low and moderate income persons.

PART II
SCOPE OF SERVICES, ELIGIBLE ACTIVITIES, AND NATIONAL OBJECTIVE

A. **SCOPE OF SERVICES**

The AGENCY shall, in a satisfactory and proper manner as determined by 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 determined to be **Special Economic Development Activities**, per 24 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 the National Objective of benefitting low and moderate income persons 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 by or made available to low- and-moderate income persons, and at least fifty-one percent (51%) of the jobs must be located within Palm Beach County's Urban County Program Jurisdiction, as described in the scope of work in Exhibit "A"

**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 pursuant to this Agreement. The services that AGENCY renders shall be performed in a manner satisfactory to HES, and, in no event shall the total compensation or reimbursement to be paid hereunder exceed **Two Hundred Twenty Six Thousand Dollars (\$226,000)**. This Agreement shall commence on **October 1, 2020**, and expire on **September 30, 2021**. The grant award shall be payable in accordance with the terms of this Agreement and the eligible expenses outlined in Exhibit "A." Any funds not expended by the expiration date of this Agreement shall automatically revert to the COUNTY.

B. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the timely release of funds for this project under HUD's CDBG Program. The effective date shall be **October 1, 2020**, and the services of the AGENCY shall be undertaken and completed no later than **September 30, 2021**.

C. METHOD OF PAYMENT

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

The AGENCY shall bill the COUNTY on a monthly basis, in eleven (11) equal payments of **Eighteen Thousand Eight Hundred and Thirty-Three Dollars (\$18,833)** and one (1) final payment of **Eighteen Thousand Eight Hundred Thirty-Seven Dollars (\$18,837)**. Invoices shall be accompanied by a monthly status report summarizing the activities which were undertaken during the month, and as required by Exhibit "A". This monthly status report shall consist of fully executed copies of Invoice Cover Sheet (Exhibit "B"), Cumulative Job Creation (Exhibit "C"), Economic Development Compliance Table (Exhibit "D"), Record of Employee Hiring (Exhibit "E"), Activity Summary Form (Exhibit "F") and Racial/Ethnicity Characteristics (Exhibit "G"), all attached hereto and made a part hereof.

As a condition precedent to payment, invoices received from the AGENCY will be reviewed and approved by HES to verify that services have been rendered in conformity with the Agreement. Approved invoices shall then be sent by HES to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the 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 predate 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 contract, written agreement, or purchase order and shall be subject to each provision of this Agreement. While all subcontractors are subject to all of the duties provided herein, they shall not have standing to enforce any term 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 Code, as well as 2 CFR 200 which are incorporated herein by reference. The AGENCY must inform HES in writing (and include the purchase order or written agreement) of the vendor selected. The purchase order or written agreement must include the name/type of goods or services purchased and all costs associated with the purchase.

(5) PERSONNEL

The AGENCY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the County. All of the services required hereunder shall be performed by the AGENCY or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized under applicable 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 EVALUATION

- 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 NONDISCRIMINATION 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, as approved by 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, 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 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 HES' 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 in 2 CFR 200. HES shall be responsible for providing technical assistance to the AGENCY, as deemed necessary by HES.

E. UNIFORM ADMINISTRATIVE REQUIREMENTS

The AGENCY agrees to comply with all applicable laws, including but not limited to, the applicable 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.

- (1) Commercial General Liability: AGENCY shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** each occurrence.

- (2) Workers' Compensation Insurance & Employer's Liability: AGENCY shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.
- (3) Additional Insured Clause: The Commercial General Liability policy 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.
- (4) 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.
- (5) 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

- (6) 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 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 shall 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 from time;
- (2) 48 CFR Part 31 – Contract Cost Principles and Procedures;
- (3) Palm Beach County Purchasing Ordinance;
- (4) Palm Beach County's Tangible Property Disposal Ordinance;
- (5) Community Development Block Grant Regulations (24 CFR Part 570), as amended;
- (6) The AGENCY's Incorporation Certificate;
- (7) The AGENCY's Certificates of Insurance and Bonding; and
- (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 create the number of jobs as required in this Agreement.
- (4) Failure of the AGENCY to maintain the required number of jobs for **at least the entire one (1) year period** as required in this Agreement.
- (5) Failure of the AGENCY to submit to the COUNTY the written verification of job creation required in this Agreement.
- (6) Failure of the AGENCY to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the AGENCY where such failure continues for a period of thirty (30) days after written notice thereof from the COUNTY to the AGENCY; provided, however, that if the nature of AGENCY'S default is such that more than thirty (30) days are reasonably required for its cure, then AGENCY shall not be deemed to be in default if the AGENCY commenced such cure within said thirty (30) day period and thereafter diligently pursues such cure to completion.
- (7) The making by the AGENCY of any general assignment, or general arrangement for the benefit of creditors.
- (8) The filing by or against AGENCY of a petition to have the AGENCY adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against AGENCY, the same is dismissed within sixty (60) days.
- (9) The appointment of a trustee or receiver to take possession of substantially all of AGENCY'S assets where possession is not restored to AGENCY within thirty (30) days.
- (10) The attachment, execution or other judicial seizure of substantially all of AGENCY'S assets located within Palm Beach County where such seizure is not discharged within thirty (30) days.

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.

THE TED CENTER

Any legal action necessary to enforce the Agreement shall be governed by the laws of the State of Florida and 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. In addition, upon AGENCY's breach, the COUNTY may withhold any payment owed 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 may be paid for allowable services and allowable expenses under Part II of this Agreement until the effective date of termination.
- (4) Termination for Convenience of the AGENCY: The AGENCY may terminate this Agreement at any time by giving at least ten (10) working days prior written notice to 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:

THE TED CENTER

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

With a copy to:

David C. 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:

Seabron Smith, Executive Director
The Center for Technology, Enterprise and Development, Inc.
401 W. Atlantic Avenue, Suite O9
Delray Beach, FL 33444

S. INDEPENDENT AGENT AND EMPLOYEES

The AGENCY is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the AGENCY'S sole direction, supervision, and control. The AGENCY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the AGENCY'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor, not as employees or agents of the COUNTY. The AGENCY does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

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 agents 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 the 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 the CDBG grant will not cause the AGENCY to locate a facility, plant or operation, including the expansion of a business that will result in the loss of jobs from one Labor Market Area to another.

Z. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed COUNTY contracts, 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 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.

AA. EXCLUSION OF THIRD PARTY BENEFICIARIES

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

BB. REGULATIONS: LICENSING REQUIREMENTS

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

CC. SOURCE OF FUNDING

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

DD. INCORPORATION BY REFERENCE

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

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

THE TED CENTER

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. NO ASSIGNABILITY: Neither this Agreement nor any obligation hereunder shall be assigned, subcontracted, transferred or otherwise encumbered by the AGENCY without the prior written consent of the COUNTY.
- GG. CONTINUING OBLIGATIONS: Duties or obligations that are of a continuing nature, extending beyond the Agreement's expiration or termination, shall survive the Agreement's termination or expiration.
- HH. 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.
- II. JOINT PREPARATION: The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not be construed more severely against one of the parties than the other.
- JJ. 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.

THE TED CENTER

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)

**THE CENTER FOR TECHNOLOGY,
ENTERPRISE AND DEVELOPMENT, INC.**

By: Seabron Smith
Seabron Smith, Executive Director

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

for its BOARD OF COUNTY COMMISSIONERS

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

Approved as to Form and
Legal Sufficiency

By: David Behar
David Behar
Assistant County Attorney

Approved as to Terms and Conditions
Department of Housing and Economic Sustainability

By: Sherry Howard
Sherry Howard
Deputy Director

EXHIBIT "A"

SCOPE OF SERVICES

1. The AGENCY agrees to:

A. PROJECT SCOPE

Pursuant to the terms of this Agreement, the AGENCY shall be reimbursed for services to existing and start-up microenterprises and small businesses. Services include providing technical assistance, instruction, training and support services in the following areas: accounting, taxes, legal and payroll, information technology support, industry trends analysis, consultation with experienced professionals, drafting of marketing plans and securing reasonable rental space. AGENCY will also conduct business related workshops.

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

B. DELIVERABLES

1. Job Creation

Subsequent to the effective date of this Agreement and within the contract period, the AGENCY shall as a result of its project scope, **create a minimum of fifteen (15) full-time equivalent (FTE) jobs with a minimum of four (4) of the newly created jobs being held by people residing in the Glades area** and at least fifty-one percent (51%) of the jobs created must be held by, or made available to, low and moderate income persons, and at least fifty-one percent (51%) must reside in unincorporated Palm Beach County or in municipalities participating in the COUNTY's Urban County Program.

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

If the minimum FTE job requirement has not been met, or falls below the minimum, as required by this Agreement, the AGENCY shall be considered by the COUNTY to have breached this Agreement and the 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 (**\$15,066.67 per job**) paid by the COUNTY to the AGENCY for each position not created and maintained as required by this Agreement.

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

2. Business Assistance

The AGENCY shall provide assistance to **sixty-two (62) unduplicated microenterprises, other businesses and/or entrepreneurs.** Types of assistance to be provided are listed on the Activity Sheet Form (Exhibit F).

The AGENCY shall plan and conduct **forty (40) training/workshops for microenterprises, other businesses and/or entrepreneurs.**

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

- 1) Written verification of **Cumulative Job Creation** (Exhibit "C") during the contract period. This verification shall include company name, full-time or part-time, employee initials, job title, employee address, parcel control number, date of hire, salary at time of hire, family household income, number of household, low-moderate income level base, present salary, presently employed and date of termination.

- 2) An **Economic Development Compliance Table** (Exhibit "D") to be completed for each company provided technical assistance during the contract period and certified by the company owner or his designee.
- 3) A **Record of Employee Hiring Form** (Exhibit "E") for each owner/employee hired during the contract period, identifying the family/household number and income prior at the time of hire, and certified by the owner and/or employee.
- 4) An **Activity Summary Form** (Exhibit "F") describing the business and type of assistance, including business analysis, counseling, incorporation assistance management strategies, business plan assistance, loan packaging, technical assistance, graphic and web design and any other (specify).
- 5) A **Racial/Ethnicity Characteristics Form** (Exhibit "G") for jobs created and businesses assisted.
- 6) A monthly cumulative report listing the name of the workshop conducted including the date, location and number of attendees with a copy of the agenda and sign-in sheet.

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

In accordance and in exchange for the above terms, and in accordance with all other terms of this Agreement, the COUNTY agrees to provide funding for the services described above in "Project Scope", during the term of this Agreement, in an amount not to exceed **Two Hundred Twenty Six Thousand Dollars (\$226,000)**.

EXHIBIT "B"

INVOICE COVER SHEET

USE AGENCY LETTERHEAD STATIONERY:

DATE: _____

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

FROM: Seabron Smith, Executive Director
The Center for Technology, Enterprise and Development, Inc.
401 W. Atlantic Avenue, Ste. 09
Delray Beach, FL 33444

SUBJECT: The Center of Technical, Enterprise and Development, Inc.
Reimbursement Request No. _____
Contract No. _____

=====

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

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

Seabron Smith, Executive Director

THE TED CENTER

EXHIBIT "C"

Cumulative Job Creation (Oct. 1, 2020 thru Sept. 30, 2021)
 The Center for Technology, Enterprise and Development, Inc. (TED Center)

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

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EXHIBIT "D"

Economic Development Compliance Table

Company Name: _____ Industry Type (NAICS Code) _____
 Address: _____ PCN: _____

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

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

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

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

 Printed Name Title Employer Signature Date

EXHIBIT "E"

Record of Employee Hiring

**For HUD and Economic Development Compliance
Oct. 1, 2020 thru Sept. 30, 2021**

(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:

Annual Income Limits for Palm Beach County, Florida
FY 2020 Income Limits Summary

Palm Beach County, Florida										
FY 2020 Income Limit Area	Median Family Income	FY 2020 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Palm Beach County (WPB – Boca Raton, FL HUD Metro FMR Area)	\$79,100	<u>Extremely Low (30%) Income Limits</u>	\$18,450	\$21,100	\$23,750	\$26,350	\$28,500	\$30,600	\$32,700	\$34,800
		<u>Very Low (50%) Income Limits</u>	\$30,750	\$35,150	\$39,550	\$43,900	\$47,450	\$50,950	\$54,450	\$57,950
		<u>Low (80%) Income Limits</u>	\$49,200	\$56,200	\$63,250	\$70,250	\$75,900	\$81,500	\$87,150	\$92,750

Income Limit areas are based on FY 2020 Fair Market Rent (FMR) areas. For information on FMRs, please see our associated FY 2020 [Fair Market Rent documentation system](#).

OR

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

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

Specify documentation: _____

Signature of Employer and/or Employee _____ Date _____

EXHIBIT "F"
Activity Summary Form
 Month of _____ 20 _____

The Center for Technology, Enterprise and Development, Inc. (TED Center)

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

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

Total Unduplicated Businesses Served This Month _____

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

EXHIBIT "G"

The Center for Technology, Enterprise and Development, Inc.

Racial/Ethnicity Characteristics

Jobs Created	White	Black/African American	Asian	American Indian/Alaskan Native	Native Hawaiiin/Other Island Pacific	American Indian/Alaskan Native & White	Asian & White	Black/African American & White	Other Multi-Racial	Some Other Race Alone	Gender	Hispanic	Not Hispanic
Businesses Assisted													