



BOARD OF COUNTY COMMISSIONERS

DATE: October 21, 2014

AGENDA ITEM NO. 26

Consent Agenda ☐

Regular Agenda ☒

Public Hearing ☐

 **County Administrator's Signature:**

Subject:

First Amendment to the Economic Development Funding Agreement with STAR-TEC Enterprises, Inc.

Department:

Economic Development
Real Estate Management

Staff Member Responsible:

Mike Meidel, Director
Paul Sacco, Director

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) SITTING AS THE ECONOMIC DEVELOPMENT AUTHORITY (EDA) APPROVE, AND AUTHORIZE THE CHAIRMAN TO EXECUTE, THE ECONOMIC DEVELOPMENT AUTHORITY FIRST AMENDMENT TO THE FUNDING AGREEMENT BETWEEN THE EDA AND STAR-TEC ENTERPRISES, INC.

Summary Explanation/Background:

On June 15, 2010, the Board, sitting as the EDA, approved the Economic Development Funding Agreement between the EDA and STAR-TEC Enterprises, Inc. (STAR-TEC), a Florida nonprofit corporation, to provide economic development incubation and acceleration services for \$500,000.00 annually in funding and in-kind support as per Section 4 of the Agreement. The Agreement term was for one-year with provision for four (4) one-year renewals. Performance goals were established and included in the Agreement. Annually, the EDA reviewed STAR-TEC performance against these goals to assist with annual renewal decisions. Currently, the parties have entered the fourth and final renewal term.

In conjunction with the Agreement, STAR-TEC entered into a lease agreement for space at the Young-Rainey STAR Center for up to 50,000 sq. ft. for \$1.00 per year. The Agreement required STAR-TEC to reimburse the STAR Center for revenues generated by subletting space up to \$500,000.00 plus utility expenses.

With the Board's direction to surplus and sell the Young-Rainey STAR Center, STAR-TEC has relocated from the STAR Center to downtown St. Petersburg. These actions, by both parties, require the First Amendment to the Agreement. The Amendment stipulates the following:

- a. An extension of three (3) additional one-year successive terms with a 90-day termination clause by either party,
- b. Elimination of the condition precedent that STAR-TEC leases space at the STAR Center,
- c. Transfer of sponsorship recognition from STAR Center to Pinellas County Economic Development,
- d. Removal of STAR-TEC obligations to reimburse the STAR Center for space generated revenues, and
- e. Revised Performance Metrics through the final renewal term.

STAR-TEC is dedicated to support the relocation of as many clients as possible and has confirmed that all existing clients are relocating to STAR-TEC's new location or remaining as virtual clients of the STAR-TEC program. The STAR Center is agreeable to lease space to STAR-TEC clients wishing to remain on-site, at market rates.

Fiscal Impact/Cost/Revenue Summary:

The annual agreement obligation of \$500,000.00 will come from the STAR Center Enterprise Fund. The STAR Center has adequate funds to support this agreement until the property is sold. When the property is sold, the Board, acting as the EDA, may be asked to consider funding using proceeds from the sale.

For the term of this Agreement, the EDA requests continued Board support to offset annual allocated costs (not including Fleet Management and Risk Management) up to \$500,000.00. Cost offsets include allocated costs for Purchasing, Business Technology Services and the Office of the County Attorney.




Exhibits/Attachments Attached:

1. Contract Review
2. Economic Development Funding Agreement, dated June 15, 2010
3. Five First Amendment to Economic Development Funding Agreement signed by STAR-TEC

NON-PURCHASING CONTRACT REVIEW TRANSMITTAL SLIP

PROJECT: STAR-TEC Enterprises, Inc. – Amendment to Funding Agreement	
CONTRACT NO.: N/A	ESTIMATED <u>EXPENDITURE</u>/ REVENUE: \$500,000.00 annually (Circle or underline appropriate choice above.)

In accordance with Contract Administration and its Review Process, the attached documents are submitted for your review and comment. Please complete this Non-Purchasing Contract Review Transmittal Slip below with your assessment, and **forward to the next Review Authority on the list, skipping any authority marked "N/A."** Indicate suggested changes by noting those in "Comments" column, or by revising, in RED, the appropriate section(s) of the document(s) to reflect the exact wording of the desired change(s).

REVIEW SEQUENCE	DATE	INITIAL/ SIGNATURE	COMMENTS (IF ANY)	COMMENTS REVIEWED & ADDRESSED OR INCORPORATED
Originator: Real Property Division Sean Griffin	9/15/14			
Real Estate Management: Paul Sacco	9/15/14			
Pinellas County Economic Dev. Authority: Mike Meidel	9/15/14	please see CATS		
Finance: Cassandra Williams	9/17/14	please see CATS		
Legal: Michael Zas	9/18/14	n20	see comments	
Interim Assistant County Administrator Or Executive Director: Joe Lauro	9/18/14			

Please return to Robin Giove as soon as possible. All inquiries should be made to Robin Giove ext. 43947.

** See Contract Review Process

Revised 2.27.14

FIRST AMENDMENT TO
ECONOMIC DEVELOPMENT FUNDING AGREEMENT

This First (1st) Amendment to Economic Development Funding Agreement entered into on the _____ day of _____, 2014, by and between the Pinellas County Industrial Development Authority d/b/a the Pinellas County Economic Development Authority, a political subdivision of the State of Florida ("Authority"), and STAR-TEC Enterprises, Inc., a Florida nonprofit corporation ("STAR-TEC") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Parties previously entered into an Economic Development Funding Agreement (EDFA) on June 15, 2010; and

WHEREAS, as required in the EDFA, STAR-TEC operates its program at the Young-Rainey Star Center; and

WHEREAS, Pinellas County has now decided to surplus and sell the Young-Rainey Star Center; and

WHEREAS, notwithstanding the sale of the Young-Rainey Star Center, the Parties desire to continue their agreement with modifications as set forth below.

NOW, THEREFORE,

- 1) The Whereas clauses cited above are incorporated herein.
- 2) Section 1 of the EDFA, "TERM," is hereby replaced in its entirety as follows:

The term of this Agreement shall commence on the date this First Amendment is executed by the Pinellas County IDA, d/b/a the Economic Development Agency (EDA) and shall remain in full force and effect from date of execution through June 30, 2015, unless it is terminated earlier per Section 13 of the EDFA or renewed as provided below.

This Agreement may be renewed for up to three (3) additional one-year successive terms which may be terminated per Section 13 of the EDFA.

3) Section 2 of the EDFA, "CONDITION PRECEDENT," is hereby deleted in its entirety.

4) Section 3 of the EDFA, "STAR-TEC RESPONSIBILITIES AND OBLIGATIONS," subsection (H) is hereby deleted in its entirety.

5) Section 3 of the EDFA, "STAR-TEC Responsibilities and Obligations," subsection (I) is hereby replaced as follows:

I. List Pinellas County Economic Development as sponsor on TBIC website and all TBIC-hosted events.

6) Section 3 of the EDFA, "OBLIGATIONS," is hereby deleted in its entirety.

7) Exhibit A of the EDFA is hereby deleted in its entirety and replaced with the "revised" Exhibit A attached hereto.

8) Except to the extent specifically modified herein, all other terms of the Economic Development Funding Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date first above written.

PINELLAS COUNTY, FLORIDA, by and through STAR-TEC ENTERPRISES, INC.
its Board of County Commissioners

By: _____
Chairman

By: _____
President & Chief Executive Officer

APPROVED AS TO FORM
OFFICE OF THE COUNTY ATTORNEY

By: _____
Senior Assistant County Attorney

EXHIBIT A

	2014	2015	2015	2017
Number of New Jobs	14	14	16	16
Economic Impact (Earnings)	\$8.0M	\$8.0M	\$8.0M	\$8.5M
Program Graduates	2	3	3	3
Average Salary	1.5x local avg.	1.5x local avg.	1.5x local avg.	1.5x local avg.

ECONOMIC DEVELOPMENT FUNDING AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into on the 15 day of June 2010, by and between the Pinellas County Industrial Development Authority d/b/a the Pinellas County Economic Development Authority, a political subdivision of the State of Florida ("Authority"), and STAR-TEC ENTERPRISES, INC., a Florida nonprofit corporation ("STAR-TEC") (collectively, the "Parties").

W I T N E S S E T H

WHEREAS, the Authority owns and operates the Young-Rainey STAR CENTER, a 96-acre industrial manufacturing and office complex which serves as catalysts for evolving technology and defense economic development clusters supporting the expansion of the economic base of Pinellas County and the State of Florida; and

WHEREAS, STAR-TEC is a nonprofit corporation that was established to support business development in the form of business incubation and business acceleration services; and

WHEREAS, the Authority recognizes that the presence of STAR-TEC at the Young-Rainey STAR CENTER would facilitate the attraction of the high-wage primary jobs envisioned by the County's "Vision Pinellas," and "Pinellas by Design" plans, while helping to facilitate growth in economic development clusters already targeted by Pinellas County; and

WHEREAS, pursuant to the authority granted in Sections 125.045 and Chapter 159, Parts II and III, Florida Statutes, the Authority agrees to provide STAR-TEC with funding and in-kind support to provide the economic development program services described herein.

NOW, THEREFORE, for and in consideration of the foregoing recitals (all of which are hereby adopted as an integral part of this Agreement), the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **TERM.** The term of this Agreement shall commence on July 1, 2010, and shall remain in full force and effect until June 30, 2011 unless it is terminated earlier per Section 13 of this Agreement or renewed as provided below.

This Agreement may be renewed automatically for up to four (4) additional successive one year terms and may be terminated at any time by either party with 90 days written notice.

2. **CONDITION PRECEDENT.** The continued funding and support from the Authority is conditioned upon the satisfaction of the condition precedent that the Parties enter into a lease for space in the Young-Rainey STAR CENTER to provide the economic development services and program described in Section 3 herein and Exhibit A attached hereto, and the lease remains in full force and effect during the Term, including any renewal terms described herein.

3. STAR-TEC RESPONSIBILITIES AND OBLIGATIONS. During the term hereof, STAR-TEC shall provide the following economic development incubation and acceleration services (the "Program") for the funding and in-kind support set out in Section 4 herein:

RESPONSIBILITIES:

- A. Create and maintain a pipeline for entrepreneurs to enter the Program;
- B. Establish and implement a process to screen and vet potential clients to maximize effective use of resources and maximize client success rate;
- C. Foster early-stage companies to become market ready faster and more effectively, commercialize innovative technologies, recognize and penetrate new markets, refine their model, establish a strong scalable business infrastructure, identify sources of financing and surmount early stage growth issues;
- D. Complement and leverage minimal staffing and resources with volunteers, grants and regional partnerships;
- E. Attain performance goals set out in Exhibit A attached to this Agreement;
- F. Annually report on the STAR-TEC Program to the Authority;
- G. Monitor and report on clients post-graduation;
- H. Facilitate and coordinate the annual Pinellas Technology Business and Innovation Expo;
- I. List STAR CENTER as sponsor on STAR-TEC website and any STAR-TEC hosted events;
- J. Recognize one Authority appointed representative to serve on the STAR-TEC Board of Directors.

Additionally, STAR-TEC further agrees to provide such economic development incubation and acceleration services and Program Performance Goals as further described and outlined in Exhibit A hereto.

OBLIGATIONS:

STAR-TEC agrees to reimburse the Authority for any revenue generated by subletting its leased space to clients in an amount up to, but not more than the annual funding agreement amount herein (\$500,000.00). Beginning September 30, 2010, STAR-TEC agrees to make four (4) aforementioned reimbursement payments to the Authority quarterly. Authority reserves the right to audit STAR-TEC records applicable to or relating to this agreement within ten (10) business days notice.

4. AUTHORITY RESPONSIBILITIES AND FUNDING OBLIGATIONS. During the term hereof, the Authority agrees to provide the following funding and in-kind support for the Program:

RESPONSIBILITIES:

- A. Provide in-kind support in the areas of business networking, marketing, partnering and assisting with grant applications and writing, and advocacy at federal, state, and local levels;
- B. Participate on STAR-TEC committees, as appropriate, to maximize program success;
- C. Appoint one Authority representative to sit on the STAR-TEC Board of Directors.

OBLIGATIONS:

Pay a total sum of Five Hundred Thousand Dollars (\$500,000.00) to STAR-TEC for the services as stated herein and in Exhibit A attached hereto, payable in equal quarterly installments of One Hundred and Twenty Five Thousand Dollars (\$125,000.00), due and payable quarterly commencing on the 1st day of July 2010.

5. COMPLIANCE WITH LAWS. The Parties shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations, the federal and state constitutions, and the orders and decrees of any lawful authorities having jurisdiction over the matter at issue (collectively, "Laws"), including but not limited to public records laws.

6. LIABILITY AND INDEMNIFICATION.

- A. Neither the Authority nor STAR-TEC shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other party. Neither the Authority nor STAR-TEC shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The Authority shall have no liability or obligation for any damages to any person or property directly or indirectly arising out of the operation by STAR-TEC of its business, whether caused by STAR-TEC's negligence or willful action or failure to act.
- B. STAR-TEC shall indemnify, pay the cost of defense, including attorney's fees, and hold harmless the Authority and Pinellas County, their officials, officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the Authority or County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of the STAR-TEC; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; except only such injury or damage as shall have been occasioned by the negligence of the County.

7. **DUE AUTHORITY.** Each party to this Agreement represents and warrants to the other party that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the party is authorized to do so; and (iii) this Agreement constitutes a valid and legally binding obligation of the party, enforceable in accordance with its terms.

8. **ASSIGNMENT.** No party to this Agreement may assign any rights or delegate any duties under this Agreement without the prior written consent of the other party.

9. **NOTICES.**

A. Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approvals and other communications which are required to be given by either party shall be in writing and shall be deemed given and delivered on the date delivered in person to the authorized representative of the recipient provided below, upon the expiration of five (5) days following the date mailed by registered or certified mail, postage prepaid, return receipt requested, to the authorized representative of the recipient provided below, or upon the date delivered by overnight courier (signature required) to the authorized representative of the recipient provided below:

TO THE AUTHORITY:

Mike Meidel, Director
13805 58th Street North, Suite 1-200
Clearwater, FL 33760

TO STAR-TEC:

Tonya Elmore, President
7887 Bryan Dairy Road, Suite 220
Largo, FL 33777

B. Either party may change its authorized representative or address for receipt of notices by providing the other party with written notice of such change. The change shall become effective ten (10) days after receipt by the non-changing party of the written notice of change.

10. **WAIVER.** No act of omission or commission of either party, including without limitation, any failure to exercise any right, remedy, or recourse, shall be deemed to be a waiver, release, or modification of the same. Such a waiver, release, or modification is to be effected only through a duly executed written modification to this Agreement.

11. **GOVERNING LAW.** This Agreement shall be construed in accordance with the Laws of the State of Florida.

12. **JURISDICTION AND VENUE.** Venue for any action brought in state court shall be in Pinellas County, Florida. Venue for any action brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. Each party waives any defense, whether asserted by motion or pleading, that the aforementioned courts are an improper or inconvenient venue. Moreover, the Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.

13. TERMINATION OF AGREEMENT.

- A. The parties hereto reserve the right to terminate this Agreement at any time, without cause, by giving ninety (90) days advance written notice via U.S. Mail to the other party of its election to terminate pursuant to this provision.
- B. The failure of either party to comply with any material provisions of this Agreement shall be considered a breach thereof, and shall be cause for immediate termination of the Agreement upon written notice to the defaulting party.
- C. The funds to be used for this Agreement are subject to periodic appropriation of funds by the Authority. Further, any and all obligations under this Agreement are contingent upon the availability of funds. If funds are not appropriated by the Authority for any or all of the obligations in this Agreement, the Authority shall not be obligated to pay for any Program Services provided pursuant to this Agreement beyond the portion for which funds are appropriated. The Authority agrees to promptly notify STAR-TEC in writing of such failure of appropriation, and upon such notice, this Agreement shall terminate without penalty to the County.

14. AUDIT OF RECORDS. STAR-TEC shall, upon request, permit the Authority to examine or audit all records and documents related to the Agreement. STAR-TEC shall maintain all such records and documents for at least three (3) years following termination of this Agreement.

15. BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the Parties' respective successors and assigns.

16. NO THIRD PARTY BENEFICIARY. Persons not a party to this Agreement may not claim any benefit hereunder or as third party beneficiaries hereto.

17. HEADINGS. The paragraph headings are inserted herein for convenience and reference only and in no way define, limit, or otherwise describe the scope or intent of any provisions hereof.

18. NO CONSTRUCTION AGAINST PREPARER OF AGREEMENT. This Agreement has been prepared by the Authority and reviewed by the STAR-TEC and its professional advisors. STAR-TEC, and the Authority believe that this Agreement expresses their understanding and that it should not be interpreted in favor of either STAR-TEC or the Authority or against STAR-TEC or the Authority merely because of their efforts in preparing it.

19. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties and no change will be valid unless made by supplemental written agreement executed by the Parties.

20. SEVERABILITY. Should any paragraph or portion of any paragraph of this Agreement be rendered void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other paragraph or portion of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date first above written.

STAR-TEC ENTERPRISES, INC.

WITNESSES:

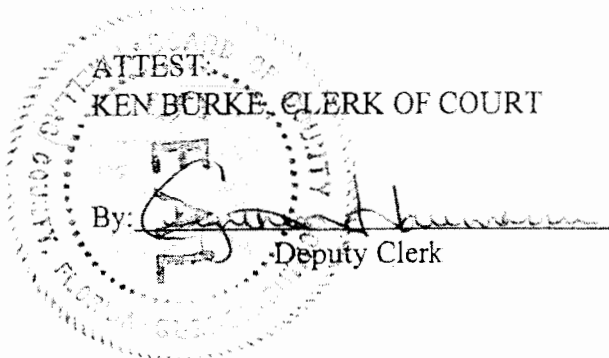
Jennifer Olsen
Print Name: Jennifer Olsen

By: Tony Clmore
President

Date: 6-17-10

Theresa Williams
Print Name: Theresa Williams

PINELLAS COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY d/b/a THE
ECONOMIC DEVELOPMENT AUTHORITY



By: Theresa Williams
Chairman

Date: June 15, 2010

APPROVED AS TO FORM
OFFICE OF THE COUNTY ATTORNEY

By: M2as
Senior Assistant County Attorney

EXHIBIT A

The STAR-TEC program is a regional, national and international known success story that has been in operation for seven years that continues to build momentum and recognition for Pinellas County, Florida. STAR-TEC will continue providing clients with access to funding, mentoring, shared services and dedicated building space with flexible lease terms. Due to its independence, STAR-TEC has a unique model that incorporates a network of services through its partnerships with the local business community, academic institutions and defense labs that lead to successful outcomes with its clients. These services foster early stage companies to become market ready faster and more effectively, commercialize innovative technologies, recognize and penetrate new markets, refine their economic model, establish a strong scalable business infrastructure, identify sources of financing and surmount early stage growth issues.

To complement and leverage minimal staffing and resources, STAR-TEC has created a regional professional network of more than 50 volunteers that is truly the heart of the program and unique to the region. STAR-TEC's advisory board, vetting, marketing, recruitment, education and outreach committees are mostly comprised of volunteers. Additionally, these volunteers serve as advisors, mentors and act as an informal board of directors for the start-up companies. The services provided by this group of highly qualified and internationally experienced experts and entrepreneurs include general business advice, pitfall avoidance, network access, and legal, marketing, accounting, technical and financing guidance.

Under this Agreement, STAR-TEC clients will remain at their STAR Center location without any business interruption.

STAR-TEC Performance Goals

PERFORMANCE GOAL	2010	2011	2012	2013
Number of New Jobs	10	10	12	15
Average Salary	1.5X local average	1.5X local average	1.5X local average	1.5X local average
Economic Impact (Earnings)	\$6.5M	\$7.0M	\$7.5M	\$8.0M
Occupancy Rate	52%	60%	70%	80%
Program Graduates	1	2	3	3