Contract No.:**C000037188**

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

CONTRACT FOR REGIONAL ECONOMIC DEVELOPMENT DISTRICT INITIATIVE PROGRAM

This Contract, entered into by and between the Commonwealth of Pennsylvania, hereinafter referred to as the "Commonwealth", acting through the Department of Community and Economic Development, hereinafter referred to as the "Department", and the

NU-JUICE FOUNDATION
258 Parker Ave
Philadelphia, PA 19128-4441

hereinafter referred to as the "Contractor".

BACKGROUND:

Section 3 of the Act of May 10, 1939 (P.L. 111, No. 51), known as the Commerce Law authorizes the Department to undertake ways and means of promoting and encouraging the prosperous development of Pennsylvania business, industry and commerce, of expanding markets and promoting and developing new markets for Pennsylvania products, to encourage the location and development of new business, industry and commerce within the Commonwealth, to aid in restoring employment in communities affected by unemployment, and to assist persons, firms, associations, political subdivisions, corporations, cooperative associations and other organizations in the execution of its duties and functions under the Act; and

Section 670.101 of the Act of April 9, 1929 (P.L. 177, No. ___), as amended, known as the Administrative Code of 1929, authorizes the Department to make direct grants or provide other forms of technical assistance to various public safety, recreation, senior citizens or other community service organizations; and

The General Assembly of the Commonwealth has appropriated funds to the Department to carry out the provisions of the above referenced Acts.

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions contained herein, the parties hereto intending to be legally bound hereby, do covenant and agree for themselves, their respective successors and assignees as follows:

ARTICLE I
AMOUNT OF THE CONTRACT

Subject to the terms of this Contract, the Department hereby makes available to the Contractor out of funds appropriated a grant in the sum of **TWO HUNDRED THOUSAND DOLLARS ($200,000.00) AND NO CENTS------** or such portion thereof as may be required by the Contractor and authorized by the Department, subject to the condition that it shall be used by the Contractor to carry out the activities described in the application submitted by the Contractor and as approved by the Department, and which is incorporated herein by reference. In addition, this Contract shall be subject to Appendix A, Project Description and Special Conditions, and Appendix B, Budget Summary, which are attached hereto and incorporated herein.

ARTICLE II
EFFECTIVE DATES

The term of this Contract shall commence on the Effective Date (as defined below) and shall end on **JUNE 30, 2011**, subject to the other provisions of this Contract.

The Effective Date shall be the date the fully executed Contract is sent to the Contractor. A fully executed contract is one that has been signed by the Contractor and by the Department and contains all approvals required by Commonwealth contracting procedures.

This Contract is not binding in any way, nor will the Commonwealth be bound, until this document has been fully executed and sent to the Contractor. Any cost incurred by the Contractor prior thereto are incurred at the Contractor's risk.

ARTICLE III
PAYMENT PROVISIONS AND FISCAL RESPONSIBILITIES

(a) The Department agrees to pay the Contractor for eligible project costs incurred under this Contract between **JULY 1, 2008** and **JUNE 30, 2011** (the "Contract Activity Period") as follows:

(1) Subject to the availability of state funds and other terms and conditions of this Contract, the Department will reimburse the Contractor based upon the Department's determination of the Contractor's needs and in accordance with the proposed budget as set forth in Appendix B.

The Department may pay the Contractor for eligible project costs at intervals to be determined by the Department. Under no circumstances shall the Commonwealth or the Department be liable for any expenditure exceeding the amount stated in this Contract or amendments hereto.

The Department shall have the right to disapprove any expenditure made by the Contractor which is not in accordance with the terms of this Contract and the Department may adjust payment to the Contractor accordingly.

(2) Initial payments to the Contractor to perform the activities under this Contract and all other payments shall be made on invoice forms and in accordance with instructions provided by the Department.

(3) Pennsylvania Electronic Payment Program

(A) The Commonwealth will make payments to the Contractor through the Automated Clearing House (ACH). Within 10 days of grant award, the Contractor must submit or must have already submitted their ACH information to the Commonwealth's Central Vendor Management Unit at 717-214-0140 (FAX) or by mail to the Central Vendor Management Unit, Bureau of Financial Management, Verizon Tower – 6th Floor, 303 Walnut Street, Harrisburg, PA 17101-1830.

(B) The Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Contractor to properly apply the Department's payment to the respective invoice or program.

(C) It is the responsibility of the Contractor to ensure that the ACH information contained in the Commonwealth's Central Vendor Master File is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

To receive reimbursement under this Contract, the Contractor shall submit requests for payment based on the Contractor's estimate of expenditures, at intervals as determined by the Contractor to meet disbursement needs. Unless otherwise instructed by the Department, this estimate may not exceed the current disbursement needs of the Contractor in order that the amount of cash on hand and available to the Contractor is as close to daily needs as administratively feasible. The Department may, however, set a minimum payment level or amount for each request for payment.

(b) Conditions for Payment:

(1) Grant payments under this Contract shall be conditioned upon the completion of any Special Conditions set forth in Appendix A or otherwise incorporated into this Contract.

(2) Costs allocated to program administration shall be limited to those set forth in the project budget or as otherwise revised in accordance with the amendment provisions of this Contract set forth in the Article entitled Amendments and Modifications.

(3) Payment by the Commonwealth and all other terms of this Contract are subject to the effect of any federal deficit reduction legislation upon the availability of funds awarded by this Contract.

(c) The Contractor shall charge to the project account all approved costs of the project. All such costs, including activities contributed by the Contractor or others and charged to the project account, shall be supported by properly executed vouchers or other records indicating in proper detail the nature and propriety of the charge.

(d) Requirement to Invest Grant Funds:

The funds paid to the Contractor in accordance with this Contract shall be deposited by the Contractor in a bank or other financial institution in a separate and special expenditures account, to be maintained within its existing accounting system or set up independently; identifiable by reference to the Department, proposal name or contract number. Said account shall be insured by the FDIC.

Subject to applicable rules and regulations and to the provisions of this article, funds hereunder shall be continuously invested and reinvested and/or deposited and redeposited by the Contractor, in accordance with applicable state laws, with a view toward maximizing yield and minimizing the instances of uninvested funds.

Interest or any other income or accumulations earned on funds awarded pursuant to this Contract and totaling more than $50.00 in any calendar year shall be repaid to the Department on an annual calendar year basis unless otherwise directed by the Department.

(e) Conditions for Repayment of Grant Funds:

(1) Misuse or Failure to Use Funds.

(A) The Contractor agrees that it will use the funds granted hereunder, or as much as may be necessary, to carry out the aforesaid project in accordance with the terms of this Contract. If after all or any part of the funds has been paid to the Contractor and the Contractor shall fail to carry out the activities, the Contractor shall repay the Department the funds theretofore paid.

(B) If the Contractor does not use all or a portion of the funds paid under the terms of this Contract for purposes of and in accordance with this Contract, the Contractor shall be liable to the Department for the amount of funds unused or improperly used and shall return said funds to the Department.

(C) In the event the Department shall be entitled to repayment of all or a portion of the funds granted herein, the repayment shall include all interest, income, accumulations and the monetary equivalent of any appreciation in value of any property (real, personal or mixed) purchased with the funds granted them. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Department for: (1) the principal and (2) the total of any such interest, income, accumulations or appreciation in value.

(2) Violation of the Prohibition of Illegal Alien Labor on Assisted Projects Act.

In the event that the Contractor

(i) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on

activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and

(ii) the Contractor or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Contractor shall repay to the Department all grant funds received by the Contractor from the Department pursuant to this Contract. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Department.

ARTICLE IV
BONDING, INSURANCE AND TAX LIABILITY REQUIREMENTS

(a) Fidelity Bonding:

Unless otherwise authorized by the Department, the Contractor shall procure fidelity bonding for anyone authorized to sign checks, certify vouchers and/or handle or control funds, checks, securities or property. If a check signing machine is used which is not operated under the direct supervision of the authorized signer or counter signer, the machine operator shall be bonded in the same amount as the check signer. The amount of the bond required shall be adequate to insure the security of all funds received under this Contract as determined by the Department and such bond must be maintained until the Contract is closed out by the Department.

(b) Hold Harmless:

The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based or arising out of any activities performed by the Contractor and its employees and agents under this Contract; and shall defend any and all actions brought against the Commonwealth based upon any such claims or demands. It is understood and agreed that the Contractor's standard liability insurance policies shall protect, or shall be endorsed to protect, the Commonwealth from claims of bodily injury and/or property damage arising out of any activities performed by the Contractor or its employees or agents under this Contract, including business and non business invitees, and their property and all other property sustaining damage as a direct or indirect result of the execution of this project when validly present on Contractor's premises whether or not actually engaged in the project at the time the claim inures. Such policies shall not include any provision limiting then existing sovereign immunity of the Commonwealth or of its agents or employees. Upon request, the Contractor shall furnish to the Department proof of insurance as required by this paragraph.

(c) Other Liability Requirements:

The Contractor shall provide workmen's compensation insurance where the same is required and shall accept full responsibility for the payment of premiums for workmen's

compensation and social security and any other taxes or payroll deductions required by law for its employees who are performing activities specified by this Contract.

ARTICLE V
COMPLIANCE WITH APPLICABLE STATUTES AND DEPARTMENT REGULATIONS

All activities authorized by this Contract shall be performed in accordance with applicable statutes, regulations, conditions, directives, guidelines and such additional requirements as may be attached hereto as Appendix C or are otherwise provided by the Department. The Contractor acknowledges that this Contract is subject to all requirements set forth herein and further agrees that it will comply with future requirements determined by the Department as necessary.

(a) Compliance with State Statutes and Regulations:

The Contractor also agrees to comply with all applicable state statutes and regulations.

(b) Nondiscrimination/Sexual Harassment Provisions:

During the term of this Contract, the Contractor agrees as follows:

(1) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

(2) Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Contract on account of gender, race, creed, or color.

(3) The Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

(4) The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the Contract relates.

(5) The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the Department and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the Contractor or subcontractor shall furnish such information on reporting forms supplied by the Department or the Bureau of Contract Administration and Business Development.

(6) The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

(7) The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Department may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

(c) Compliance with the State Contractor Responsibility Program:

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

(1) The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.

(2) The Contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.

(3) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Department if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

(4) The failure of the Contractor to notify the Department of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

(5) The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

(6) The contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at http://www.dgsweb.state.pa.us/DebarmentList_portlet/ or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

(d) Compliance with the Offset Provision for Commonwealth Contracts:

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Contractor or its subsidiaries that is owed to the Commonwealth and is not being contested on appeal, against any payments due the Contractor under this or any other contract with the Commonwealth.

(e) Compliance with The Americans with Disabilities Act:

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. §35.101 et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth through contracts with outside contractors.

The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth as a result of the Contractor's failure to comply with the provisions of the above paragraph.

(f) Reimbursement for Travel and Per Diem:

Reimbursement to the Contractor for any travel, lodging or meals under this Contract shall be at or below state rates, unless the Contractor has higher rates which have been approved by its officers/officials, and published prior to entering into contract

negotiations with the Commonwealth. Documentation in support of travel and per diem will be the same as required of state employees. Higher rates must be supported by a copy of the minutes or other official documents, and submitted to the Department.

(g) Compliance with Anti-Pollution Regulations:

The Contractor and its subcontractors agree that in the performance of their obligations under this Contract they shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

(h) Contractor Integrity Provisions:

(1) Definitions:

Confidential Information means information that is not public knowledge or available to the public on request, disclosure of which would give an unfair, unethical or illegal advantage to another desiring to contract with the Commonwealth.

Consent means written permission signed by a duly authorized officer or employe of the Commonwealth, provided that where the material facts have been disclosed in writing by pre-qualification, bid, proposal or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Contract.

Contractor means the individual or entity that has entered into this Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a 5% interest.

Financial Interest means:

Ownership of more than a 5% interest in any business; or

Holding a position as an officer, director, trustee, partner, employe, or the like, or holding any position of management.

Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or contracts of any kind.

(2) The Contractor shall maintain the highest standards of integrity in the performance of this Contract and shall take no action in violation of state or federal laws, regulations or other requirements that govern contracting with the Commonwealth.

(3) The Contractor shall not disclose to others any confidential information gained by virtue of this Contract.

(4) The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly offer, confer or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion,

recommendation, vote, other exercise of discretion or violation of a known legal duty by any officer or employe of the Commonwealth.

(5) The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly offer, give, or agree or promise to give to anyone any gratuity for the benefit of, or at the direction or request of, any officer or employe of the Commonwealth.

(6) Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Contract except as provided therein.

(7) Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor or supplier providing services, labor or material on this project.

(8) The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.

(9) The Contractor, by execution of this Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.

(10) The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection and copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business and financial records, documents or files of any type or form which refer to or concern this Contract. Such information shall be retained by the Contractor for a period of three (3) years beyond the termination of the Contract unless otherwise provided by law.

(11) For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

(I) Compliance with the Prohibition of Illegal Alien Labor on Assisted Projects Act.

Pursuant to the Act of May 11, 2006 (P.L. ___, No. 43), known as the Prohibition of Illegal Alien Labor on Assisted Projects Act, the Contractor shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of

an illegal alien on activities funded in whole or in part by a grant or loan issued by an executive agency of the Commonwealth of Pennsylvania.

In the event that the Contractor

(a) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and

(b) the Contractor or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Contractor shall:

(a) repay to the Department all grant funds received by the Contractor from the Department pursuant to this Contract, and

(b) be ineligible to apply for any Commonwealth grant or loan for a period of two years.

ARTICLE VI
ASSIGNMENT, TRANSFER, COLLATERAL USE

This Contract shall be binding upon and inure to the benefit of the Department, the Contractor, and their respective successors and assigns, except that the Contractor may not assign or transfer its rights hereunder without the prior written consent of the Department. Approval of an assignment does not establish any legal relationship between the Commonwealth or the Department and any other third party, and under no circumstances shall the Commonwealth be held liable for any act or omission committed pursuant to such an assignment.

ARTICLE VII
INDEPENDENT CONTRACTOR

Notwithstanding anything contained herein to the contrary, the rights and duties hereby granted to and assumed by the Contractor are those of an independent contractor only. Nothing contained herein shall be so construed as to create an employment, agency or partnership relationship between the Department and the Contractor.

ARTICLE VIII
INTEREST OF PARTIES AND OTHERS

No officer, member, employee, independent contractor or elected official of the Commonwealth and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this Contract shall participate in any decision relating to this Contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested. Nor shall any such officer, member, elected official or employee of the

Commonwealth or any member of its governing body have any interest direct or indirect in this Contract or the proceeds thereof.

The Contractor covenants that the Contractor (including directors, officers, members and employees of the Contractor) presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of activities required to be performed under this Contract. The Contractor further covenants that no person having any such interest shall be employed in the performance of activities for this Contract.

ARTICLE IX
SUBCONTRACTS

The Contractor shall not execute or concur in any subcontract with any person or entity in any respect concerning the activities herein without prior written approval of the Department. Such prior written approval shall not be required for the purchase by the Contractor of articles, supplies, equipment and activities which are both necessary for and merely incidental to the performance of the work required under this Contract. The Contractor shall not execute or concur in any subcontract declared disapproved by the Department. A subcontractor shall be automatically disapproved, without a declaration from the Department, if the subcontractor is currently or becomes suspended or debarred by the Commonwealth or the federal government. In any event, the Contractor shall be responsible for the quantity and quality of the performance of any of its subcontracts.

All subcontracts must contain provisions of nondiscrimination/sexual harassment as specified in the Article entitled Compliance with Applicable Statutes and Department Regulations, subsection (b). In addition, all subcontracts involving the pass through of Contract funds to subrecipients must include the audit requirements contained in the Article entitled Contract Audit and Closeout Requirements. The Contractor is responsible for ensuring that all required audits of subcontractors are performed, and for resolving any findings contained in the audit reports. All costs deemed unallowable in the subcontract audit report are required to be returned to the Department, through the Contractor.

ARTICLE X
BIDDING REQUIREMENTS

If the Contractor is a political subdivision or other entity for which open and competitive bidding procedures have been established by law, the Contractor shall comply with those procedures if they are applicable to the project being funded with the grant funds. Otherwise, the Contractor shall comply with open and competitive bidding procedures in awarding any and all grants, subgrants, contracts, subcontracts or other agreements in excess of $10,000.00 for construction, reconstruction, demolition, alteration and/or repair, for acquisition of machinery and equipment, or for engagement of the services of a professional consultant, when said grants, subgrants, contracts, subcontracts or other agreements are funded in whole or at least 50% in part with funds made available under this Contract. The Department may require the Contractor to submit proof of compliance with said procedures, and failure to provide such proof to the satisfaction of the Department may result in termination of the Contract and repayment of all or a portion of the funds available under this Contract. Upon written request and for good cause shown, the Department may, at the Department's sole discretion, permit the Contractor to use an alternative procedure for solicitation of bids not inconsistent with law.

ARTICLE XI
RECORDS

The Contractor, using accepted procedures, shall maintain at its principal office or place of business complete and accurate records and accounts including documents, correspondence and other evidence pertaining to costs and expenses of this Contract, and reflecting all matters and activities covered by this Contract.

At any time during normal business hours and as often as the Department deems necessary, the Contractor shall make available for inspection by the Department, the Commonwealth Auditor General, the Commonwealth Attorney General, or the Comptroller General of the United States, or their duly authorized representative, all of its records with respect to all matters covered by this Contract and will permit the Department to audit, examine and make copies of such records.

All required records shall be maintained by the Contractor for a period of three (3) years from the date of final audit or close out of this Contract by the Department, except in those cases where unresolved audit questions may require maintaining some or all records for a longer period. In such event, records shall be maintained until all pending matters are resolved.

ARTICLE XII
PROGRESS REPORTS

The Contractor and its subcontractors shall furnish to the Department such progress reports in such form and quantity as the Department may from time to time require, including, but not limited to, status reports of the project, project account statements, certificates, approvals, proposed budgets, invoices, copies of all contracts executed and proposed, employment placements, follow up reports and any and all other information relative to the Contract as may be requested. The Department or its representative shall have the right to make reasonable inspections to monitor the Contractor's performance under this Contract.

In the event that the Department determines that the Contractor or its subcontractor(s) has not furnished such reports as required by the Department, the Department, by giving written notice to the Contractor, may suspend payments under this Contract until such time as the required reports are submitted.

ARTICLE XIII
ACKNOWLEDGMENT OF COMMONWEALTH ASSISTANCE

Any publication concerning a project financed by the Department will acknowledge Commonwealth financial assistance as follows:

"This Project was financed [*in part*] by a grant
from the Commonwealth of Pennsylvania,
Department of Community and Economic Development"

Signs acknowledging said Commonwealth financial assistance or administrative participation will be erected in the project area as soon as possible after the effective date of this Contract. Acknowledgment of Commonwealth financial assistance may be combined with acknowledgment of other funding sources on project signs or in project publications.

ARTICLE XIV
CONTRACT AUDIT AND CLOSEOUT REQUIREMENTS

This Contract is funded entirely with state funds. If the amount of the Contract is less than $100,000.00 the Contractor is exempt from all audit requirements and should refer to the procedures issued by the Department for instructions on closeout of this Contract.

If the amount of the Contract is $100,000.00 or more, a final audit of the entire Contract (Project Audit) is required by the Department within 120 days after the termination of project activities but no later than 120 days after the Contract termination date. This audit is the responsibility of the Contractor. Audits performed under the Single Audit Act of 1984 will not be accepted in lieu of a Project Audit required under this Contract.

The Project Audit must be performed by a certified public accountant. The Contractor is responsible for securing a qualified auditor, however, the Department reserves the right of selection or prior approval of the independent auditor to perform the audit. The Project Audit must be a financial audit conducted in accordance with the provisions of the U.S. General Accounting Office's Government Auditing Standards, current revision, and contain all the requirements detailed in the Department's "Procedures for Closeout of Contracts." Unless otherwise authorized by the Department, the audit must include those funds received under this Contract as well as any required private match funds and encompass the entire Contract Activity Period. Other grant periods may also be specified at the discretion of the Department and the Department reserves the right to designate additional compliance factors for state financial assistance programs.

The Department will determine any overpayment or underpayment and any additional auditing deemed necessary and inform the Contractor of the settlement amount.

The Contractor agrees that if the final audit of the Contract as accepted by the Department or any duly authorized representative discloses that the full amount of the Contract was not required to complete the project or that funds were improperly used, then the funds unused, improperly used or expended but not required to complete the project, shall be repaid to the Department with interest unless otherwise directed in writing by the Department.

The Commonwealth reserves the right for state agencies or their authorized representative to perform additional audits of a financial or performance nature if deemed necessary. Any such additional audit work will rely on work already performed by the Contractor's auditor, and the costs for any additional work performed by the state or federal agencies will be borne by those agencies at no additional expense to the Contractor.

All terms and conditions of this Contract will remain in effect and be binding upon the parties thereto until a final audit is submitted and accepted by the Department.

None of the above provisions under this article exempts the Contractor from maintaining records of state financial assistance programs or providing upon request, access to such records to the Department or its authorized representatives.

The submission of a Single Audit in accordance with the Single Audit Act and related Circulars does not exempt the Contractor from complying with all Project Audit and any closeout procedures as may be issued by the Department, including, but not limited to, the submission of a financial statement of the project after termination of project activities.

For additional information on audit and general closeout requirements, the Contractor should refer to the procedures for closeout of contracts issued by the Department.

ARTICLE XV
TEMPORARY SUSPENSION OF THE CONTRACT

Upon written notice and at any time during the period covered under this Contract, the Department may suspend payments and/or request suspension of all or any part of the Contract activities. The Department may give such notice to suspend for the following reasons:

(a) Violations of laws and regulations, audit exceptions, misuse of funds, failure to submit required reports or when responsible public officials or private citizens make allegations of mismanagement, malfeasance or criminal activity.

(b) When, in the opinion of the Department, the activities cannot be continued in such manner as to adequately fulfill the intent of statutes or regulations due to an act of God, strike or disaster.

During the term of suspension, the Department and Contractor shall retain and hold available any and all funds previously approved for application to the activities. During this period all such funds held by the Contractor shall be placed in an interest bearing program expenditures account. The Contractor may not expend any such funds during the period that the Contract is suspended except pursuant to order of a court of competent jurisdiction. The Contractor shall have the right to cure any default or other circumstance that is the basis for suspension of this Contract within a reasonable period of time.

This Contract is also conditioned upon complete performance by the Contractor of past agreements or contracts between the Department and the Contractor. Complete performance includes the Contractor's timely submission of the required final audit of past agreements or contracts to the Department. In the event that the Department determines that there has been incomplete performance of past agreements or contracts by the Contractor, the Department, by giving written notice to the Contractor, will suspend payments under this Contract until such time as the Contractor has fulfilled its obligations under past agreements or contracts to the satisfaction of the Department. When the Contractor has fulfilled its obligation under past agreements or contracts to the Department's satisfaction, the Department will resume payments under this Contract.

ARTICLE XVI
TERMINATION OF THE CONTRACT

The Department may terminate this Contract at any time for its convenience or for any other reason if it determines that termination is in its best interests, or is otherwise appropriate, by giving written notice to the Contractor of such termination and specifying the effective date thereof. Termination pursuant to this section shall not be applicable to funds that the Contractor is legally or contractually obligated to pay as a result of project activities entered into prior to the date that it receives written notice of termination. All grant monies not legally or contractually obligated, plus accrued interest, shall be returned to the Department on or before the effective date of termination and all project records shall be made available to the Department.

ARTICLE XVII
ENTIRE AGREEMENT

This Contract, when signed by all the parties hereto, constitutes the full and complete understanding and agreement of the parties of its express terms as provided above.

No provision of this Contract shall be construed in any manner so as to create any rights in third parties not party to this Contract. It shall be interpreted solely to define specific duties and responsibilities between the Department and the Contractor and shall not provide any basis for claims of any other individual, partnership, corporation, organization or municipal entity.

ARTICLE XVIII
AMENDMENTS AND MODIFICATIONS

A properly executed Contract amendment is required to change the termination date of this Contract, to change the Contract Activity Period, to amend the grant amount or to make major changes in the approved program scope, objectives or methods. Such an amendment must be executed if there is a significant change in the activities to be conducted under this Contract. Other revisions to the project or Contract budget may be made upon written approval from the Department after prior written request of the Contractor.

ARTICLE XIX
SEVERABILITY

Should any section or any part of any section of this Contract be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or part of any section of this Contract.

ARTICLE XX
CONSTRUCTION

This Contract shall be interpreted and construed in accordance with federal law, where applicable, and with the laws of the Commonwealth. All of the terms and conditions of this Contract are expressly intended to be construed as covenants as well as conditions. The titles of the sections and subsections herein have been inserted as a matter of convenience and reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein.

ARTICLE XXI
NONWAIVER OF REMEDIES

No delay or failure on the part of the Department in exercising any right, power or privilege hereunder shall affect such right, power or privilege; nor shall any single or partial exercise thereof or any abandonment, waiver, or discontinuance of steps to enforce such a right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies of the Department hereunder are cumulative and concurrent and not exclusive of any rights or remedies which it might otherwise have. The Department shall have the right at all times to enforce the provisions of this Contract in accordance with the terms hereof notwithstanding any conduct or custom on the part of the Department in refraining from so doing at any time or times. The failure of the Department at any time or times to enforce its rights under such provisions, in accordance with the same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Contract or as having in any way or manner modified or waived the same.

IN WITNESS WHEREOF the parties hereunto have set their hands and seals on:

WITNESS:

NU-JUICE FOUNDATION

SAP Vendor Number
Federal Identification Number

For Commonwealth signatures only

↓

Commonwealth of Pennsylvania
Acting through the
Department of Community and
Economic Development

GRANTEE: Please sign & complete at "X's" only

↓

X By _____ (Seal)

X Title Chairman / CEO

X Date 12/22/08

Secretary/Deputy Secretary

12-30-08

Date

X By _____ (Seal)

X Title Board Treasurer

X Date 12/22/08

Approved:

I hereby certify that funds in the amount of $200,000 are available under Appropriations Symbol:

1085508000 2434001000-6600800-$200,000

Program **Regional Economic Development District Initiative Program**
Contract # **C000037188**
Form # **4-K-2100.01**
OAG/OGC Approved **07-10-01/07-20-01**

For Commonwealth signatures only

↓

Approved as to Legality and Form

Office of Chief Counsel 12/30/08 Date

Comptroller approved as to fiscal responsibility, budgetary appropriateness and availability of funds

Department of Community & Economic Development Comptroller 2/10/09 Date

SW

Appendix A/B
C000037188

NU-JUICE FOUNDATION
Project: Education To Work/Activities & Programs
Amount: $200,000

Nu-Juice Foundation (Nu-Juice) is a Philadelphia based non-profit organization that has been in existence for over six (6) years working with low income and disadvantaged youth between the ages of eleven (11) and eighteen (18). We are seeking a grant of $200,000 to continue fulfilling our mission, which is to engage elementary and high school students in positive educational programs and activities that lead to successful careers. By utilizing our mantra of Opportunity, Education, Focus, & Commitment we effectively focus on raising the academic bar, and modifying behavior for urban youth by challenging them to think out of the box. Nu-Juice has put together a series of programs in cooperation with the School District of Philadelphia, our goal is to provide youth with other viable options for their future by offering programs that address motivation, critical thinking, and problem-solving skills built around their interest. The requested $200,000 grant monies will accomplish the following:

MACHINERY & EQUIPMENT: Nu-Juice Foundation will purchase state of the art multimedia equipment and visual aids to provide high quality educational & entertaining programs that will engage students, family's, and teaching staffs in many elementary and high schools.

OPERATING COST/WORKING CAPITAL: Nu-Juice Foundation staff salaries will be paid in order to correctly administer the day to day operations of the tour, in & after-school programs in entrepreneurship, leadership, technology, sports, summer camps, and the arts, as well as in school educational training for students selected to assist in productions at their school. This is done in the form of camera operation crews, engineering, hospitality, choir, and/or special guest entertainment (they will be compensated accordingly). Travel for the entire 2008/09 "Keepin' It Real' Tour staff and production equipment will be paid to assure the tour itinerary will flow according to plan.

RELATED COST: A blanket insurance policy will be acquired to cover any and all liabilities that could arise from the facilitation of the entire 2008/09 "Keepin' It Real Tour and associated after school programs. Professional services/consultants suggest television production services in the form of a Director, who will insure the correct look, message, and flow of the show. Line producer, will oversee every aspect of the show, including but not limited to all talent, crew, and administration. Sound & lighting engineers will ensure the application of quality visual and acoustic dynamics throughout the entire tour.

MACHINERY & EQUIPMENT	
New Equipment Purchase	$10,000.00
Used Equipment Purchase	$5,000.00
Installation/Building Modification	$5,000.00
Subtotal	$20,000.00
OPERATING COSTS/ WORKING CAPITAL	
Salaries & Fringes	$100,000.00
Training & Technical Assistance	$20,000.00
Travel	$2,000.00
Office Equipment	$4,000.00
Space Costs	$30,000.00
Subtotal	$156,000.00
RELATED COSTS	
Professional Services/Consultants	$20,000.00
Insurance	$4,000.00
Subtotal	$24,000.00
TOTAL	$200,000.00

DEC 10 2008