

Meeting Date: September 12, 2006 **[X] Consent** **[] Regular**
[] Public Hearing

Department

Submitted By: COUNTY ATTORNEY

**Submitted For: TOURIST DEVELOPMENT COUNCIL / DISCOVER
PALM BEACH COUNTY**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: and authorize the Chairman to execute the “Combined Declaration of Use and Incontestability” for Service Mark/slogan: “We’re Florida’s Golf Capital” for filing with the U.S. Patent and Trademark Office.

Summary: The filing of this document is necessary to extend for an additional five-year period the registration of the slogan “We’re Florida’s Golf Capital” for use in the promotion of Palm Beach County tourism. Countywide (MC)

Background and Justification: The Service Mark, “We’re Florida’s Golf Capital” has been used on brochures and other advertising literature to promote Palm Beach County tourism since November 1997. This filing with the U.S. Patent and Trademark Office seeks to protect and preserve its use for the County.

Attachments:

1. Combined Declaration of Use and Incontestability Under §§ 8 and 15 of the Act
2. Letter from James A. Stuber

Recommended by:

County Attorney

Date _____

Approved by:

N/A

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	—	—	—	—	—
Operating Costs	—	—	—	—	—
External Revenues	—	—	—	—	—
Program Income (County)	—	—	—	—	—
In-Kind Match (County)	—	—	—	—	—
NET FISCAL IMPACT	—	—	—	—	—
# ADDITIONAL FTE POSITIONS (Cumulative)	—	—	—	—	—

Is Item Included in Current Budget? Yes___ No___

Budget Account No.: Fund___ Department___ Unit___ Object___

Reporting Category___

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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

Elizabeth Blessy 8/14/06
OFMB
8/11/06
8/14/06
8/11/06
Jim J. Jacobson 8/16/06
Contract Dev. and Control

B. Legal Sufficiency:

Maureen Cullen
Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

**COMBINED DECLARATION OF USE AND INCONTESTABILITY
UNDER §§ 8 AND 15 OF THE ACT**

Mark: WE'RE FLORIDA'S GOLF CAPITAL

Registration No.: 2,388,813

International Class No. 35

Registration Date: September 19, 2000

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Registrant: The County of Palm Beach, Florida
 301 North Olive Avenue
 West Palm Beach, Florida 33401

Board of County Commissioners

The Registrant is the owner of the above-identified mark and Registration, as shown by the records of the Patent and Trademark Office. The Registrant is now using the mark in commerce on or in connection with all of the services identified in the Registration, namely, "providing promotional services for others, namely, providing promotional services for the golf resort industry" in International Class 35. One (1) specimen showing the mark as it is currently used in commerce is submitted herewith.

The mark has been in continuous use in commerce for five consecutive years after the date of registration, or the date of publication under § 12(c) of the Act, and is still in use in commerce on or in connection with the above services. There has been no final decision adverse to Registrant's claim of ownership of the above-identified mark or to Registrant's right to

register the same or to keep the same on the Register. There is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

The Registrant hereby appoints J. Rodman Steele, Jr., Registration No. 25,931; Gregory A. Nelson, Registration No. 30,577; Mark D. Passler, Registration No. 40,764; Neil Jetter, Registration No. 46,803; Jennifer Rabin; Pablo Meles, Registration No. 33,739; Michael Dixon, Registration No. 46,665; Peter Chiabotti, Registration No. 54,603; Mark Zylka, Registration No. 48,518; and Joseph W. Bain, Registration No. 34,290; all members of the Bar of the State of Florida, with offices at Akerman Senterfitt, 222 Lakeview Avenue, Fourth Floor, West Palm Beach, Florida 33401-6183, as its attorneys, with full power of substitution and revocation, to file this Combined Declaration of Use and Incontestability under Sections 8 and 15 of the Act and to transact all business in and to receive all documents from the Patent and Trademark Office in connection herewith.

DECLARATION

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the Registrant; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Please direct all communications to:

J. Rodman Steele, Jr.
Akerman Senterfitt
222 Lakeview Avenue, Fourth Floor
West Palm Beach, FL 33401-6183
Telephone: (561) 653-5000
Facsimile: (561) 659-6313

Attest: Sharon R. Bock
Clerk & Comptroller

THE COUNTY OF PALM BEACH, FLORIDA

By: _____
Deputy Clerk

Date: _____

By: _____

Print/Type Name: _____

Print/Type Title: _____

Palm Beach County Board of County Commissioners

5013-17

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



COUNTY ATTORNEY

RECEIVED

AUG 01 2006

P.B. COUNTY ATTORNEY

**Law Offices of
James A. Stuber**
222 Lakeview Avenue
Suite 160 #311
West Palm Beach, FL 33401
Tel (561) 820-9438
Fax (561) 833-1534

July 31, 2006

Maureen Cullen, Esq.
Office of the County Attorney
301 North Olive Avenue
6th Floor
West Palm Beach, FL 33401

Re: Renewal of "We're Florida's Golf Capital" Tourism Trademark
DEADLINE: SEPTEMBER 19, 2006

Dear Maureen:

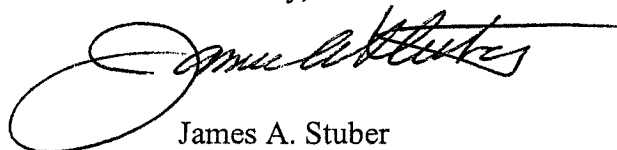
I apologize for the last-minute nature of this request, but can you please arrange for the execution on behalf of the County of the enclosed Combined Declaration of Use in connection with the captioned trademark?

The CVB arranged for this mark to be registered on behalf of the County on September 19, 2000, on the Supplemental Register at the U.S. Trademark Office. In order to maintain the mark, it is necessary to file a Declaration of Use and Incontestability, averring that the Mark remains in use and has been in continuous use since the initial registration. It is and has been so used, and I am forwarding the enclosed Declaration to that effect.

When the Declaration has been executed, will you be so kind as to notify me by telephone at 561-820-9438, so that I may arrange to have it picked up and filed by our trademark attorneys?

Thank you very much for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Stuber", with a large, stylized loop at the beginning.

James A. Stuber

Enclosures