

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 12, 2006

Consent  
 Ordinance

Regular  
 Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Agreement with the Leonard Marshall Foundation, Inc. for the period September 12, 2006, through December 30, 2006, in an amount not-to-exceed \$8,000 for funding of Leonard Marshall Football Academy and Mike Jarvis Basketball Academy Summer Camps.

**Summary:** This funding is to assist with expenses incurred by the Leonard Marshall Foundation, Inc. for sponsorship of Leonard Marshall Football Academy and Mike Jarvis Basketball Academy summer camps held during the summer of 2006. The camps served 212 participants from age 8- 18, including underprivileged children and youth. The Agreement allows for the reimbursement of eligible pre-Agreement expenses incurred subsequent to December 26, 2005. Funding is from the Recreation Assistance Program (RAP) District 4 (\$3,000) and District 5 (\$5,000). **Countywide (AH)**

**Background and Justification:** The Leonard Marshall Foundation, Inc. is a not-for-profit corporation which advances charitable and educational opportunities for underprivileged children and youth, provides scholarships for underprivileged children to the Leonard Marshall Football Academy and Mike Jarvis Basketball Academy summer camps, and assists the Leonard Marshall Football Academy and Mike Jarvis Basketball Academy with costs for the camps. The summer camp programs utilize professional athletes to provide football and basketball instruction to camp participants. The summer camp programs were held at West Boca Community High School.

The summer camp program cost approximately \$13,800 for camp clothing items, airline travel expenses for athletes, athlete stipends, camp scholarship costs, and other miscellaneous expenses related to the summer camp program. The RAP funding from Districts 4 and 5 will offset \$8,000 of that amount. The Agreement has been executed on behalf of the Leonard Marshall Foundation, Inc., and now needs to be approved by the Board of County Commissioners.

**Attachment:**

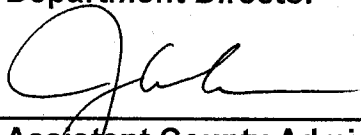
- 1. Agreement

Recommended by:

  
Department Director

8/16/06  
Date

Approved by:

  
Assistant County Administrator

8/23/06  
Date



**AGREEMENT BETWEEN PALM BEACH COUNTY AND THE LEONARD MARSHALL FOUNDATION, INC. FOR LEONARD MARSHALL FOOTBALL ACADEMY AND MIKE JARVIS BASKETBALL ACADEMY SUMMER CAMPS**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County" and The Leonard Marshall Foundation, Inc., a Florida not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "Foundation".

**WITNESSETH:**

**WHEREAS**, Foundation is a not-for-profit corporation which advances charitable and educational opportunities for underprivileged children and youth, provides scholarships for underprivileged children to the Leonard Marshall Football Academy and Mike Jarvis Basketball Academy summer camps, and assists the Leonard Marshall Football Academy and Mike Jarvis Basketball Academy with other costs for the summer camps; and

**WHEREAS**, the Leonard Marshall Football Academy and Mike Jarvis Basketball Academy summer camp programs (summer camp programs) sponsored by Foundation utilize professional athletes to provide football and basketball instruction to summer camp participants; and

**WHEREAS**, the summer camp programs were held from June 4 through June 19, 2006, at West Boca Community High School; and

**WHEREAS**, the summer camp programs served two hundred and twelve (212) participants from age eight (8) through eighteen (18), including underprivileged children and youth; and

**WHEREAS**, said summer camp programs cost approximately \$13,800 for camp clothing items, airline travel expenses for athletes, athlete stipends, camp scholarship costs, and other miscellaneous expenses related to the summer camp program; and

**WHEREAS**, Foundation has requested that County provide \$8,000 to help offset costs for the summer camp programs; and

**WHEREAS**, funding for Foundation in an amount not to exceed \$8,000 is available from the Recreation Assistance Program (RAP) District 4 (\$3,000) and District 5 (\$5,000); and

**WHEREAS**, summer athletic camp programs for youth serve a public benefit; and

**WHEREAS**, both parties desire to enter into this Agreement.

**NOW THEREFORE**, in consideration of the covenants and promises contained herein,

the parties hereby agree to the following terms and conditions:

1. County agrees to fund an amount not to exceed \$8,000 to Foundation for camp clothing items, airline travel expenses for athletes, athlete stipends, camp scholarship costs, and other miscellaneous expenses related to the summer camp program, as set forth in Exhibit "A", attached hereto and incorporated herein, hereinafter referred to as the "Project".

2. County will use its best efforts to provide said funds to Foundation on a reimbursement basis within forty-five (45) days of receipt of the following information:

a. A written statement that the Project, as specified herein, was carried out in accordance with this Agreement; and

b. A Contract Payment Request Form and a Contractual Services Purchases Schedule Form attached hereto and made a part hereof as Exhibit "B", which are required for each and every reimbursement requested by Foundation. Said information shall list each invoice paid by Foundation and shall include the vendor invoice number; invoice date; and the amount paid by Foundation along with the number and date of the respective check or proof of payment for said payment. Foundation shall attach a copy of each vendor invoice paid by Foundation along with a copy of the respective check or proof of payment and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule.

Further, Foundation's Program Administrator and Project Financial Officer shall certify the total funds spent by Foundation on the Project and shall also certify that each vendor invoice, as listed on the Contractual Services Purchases Schedule was paid by Foundation and approved by Foundation as indicated.

3. Foundation incurred expenses for the Project beginning on December 26, 2005. Those costs incurred by Foundation for the Project, approved and submitted accordingly by Foundation subsequent to December 26, 2005, are eligible for reimbursement by County pursuant to the terms and conditions hereof.

4. RAP funds may be used as a match for other local, state, or federal grant programs, but Foundation may not submit reimbursement requests for the same expenses to the County as other fund sources to receive duplicate reimbursement for the same expenses.

5. Foundation warrants that it is an active not-for-profit corporation, duly chartered and registered with the Florida Department of State, Division of Corporations.

6. Foundation agrees, warrants, and represents that all of the employees and participants in the Project were treated equally during employment and for the provision of

services without regard to residency, race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

7. Foundation shall be responsible for all costs of operation and maintenance of the Project.

8. The term of this Agreement shall be until December 30, 2006, commencing upon the date of execution by the parties hereto.

9. The parties agree that, in the event Foundation is in default of its obligations under this Agreement, the County shall provide Foundation thirty (30) days written notice to cure the default. In the event Foundation fails to cure the default within the thirty (30) day cure period, the County shall have no further obligation to honor reimbursement requests submitted by Foundation for the Project deemed to be in default and Foundation shall return any County RAP funds already collected by Foundation for that Project.

10. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by the County, without cause, upon thirty (30) days prior written notice to the other party. This Agreement may be terminated by the County with cause, upon expiration of the thirty (30) day cure period provided for in Section 9 above.

11. Foundation shall complete the Project by September 30, 2006, and invoices and checks submitted for reimbursement must be dated within the project time frame of December 26, 2005, and September 30, 2006. Foundation shall provide its final reimbursement request(s), including a project completion statement and reimbursement documentation as indicated in Section 2 above on or before December 30, 2006. Upon written notification to County at least ninety (90) days prior to that date Foundation may request an extension beyond this period for the purpose of completing the Project. County shall not unreasonably deny Foundation's request for said extension.

12. In the event Foundation ceases to exist, or ceases or suspends the Project for any reason, any remaining unpaid portion of this Agreement shall be retained by County, and County shall have no further obligation to honor reimbursement requests submitted by Foundation. The determination that Foundation has ceased or suspended the Project shall be made by County and Foundation agrees to be bound by County's determination.

13. Foundation agrees to abide by, and be governed by, all applicable federal, state, county, and municipal laws, including but not limited to, Palm Beach County's ordinances, as said laws and ordinances exist and are amended from time to time. In entering into this

Agreement, Palm Beach County does not waive the requirements of any County or local ordinance or the requirements of obtaining any permits or licenses normally required to conduct business or activity conducted by Foundation. Failure to comply may result in County's refusal to honor reimbursement requests for the Project.

14. County reserves the right to withhold reimbursement if the Project is not completed as specified in Exhibit "A".

15. It is understood and agreed that Foundation is merely a recipient of County funding and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. It is further acknowledged that the County only contributes funding under this Agreement and operates no control over the Project. In the event a claim or lawsuit is brought against County or any of its officers, agents or employees, Foundation shall indemnify, save and hold harmless and defend the County, its officers, agents, and/or employees from and against any and all claims, liabilities, losses, judgments, and/or causes of action of any type arising out of or relating to any act or omission of Foundation, its agents, servants and/or employees in the performance of this Agreement. The foregoing indemnification shall survive termination of this Agreement.

In consideration for reimbursement of costs incurred prior to the term of this Agreement, the foregoing indemnification shall apply not only during the term of this Agreement but also for the period prior to the Agreement for which Foundation is eligible to receive reimbursement from the County.

16. Foundation shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as County's review and acceptance of insurance maintained by Foundation are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Foundation under this Agreement.

**Commercial General Liability.** Foundation shall maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. Foundation shall provide this coverage on a primary basis.

**Worker's Compensation Insurance & Employer's Liability.** Foundation shall maintain

Worker's Compensation & Employers Liability in accordance with Florida Statutes Chapter 440. Foundation shall provide this coverage on a primary basis.

**Additional Insured.** Foundation shall endorse the County as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." Foundation shall provide the Additional Insured endorsements coverage on a primary basis.

**Waiver of Subrogation.** Foundation 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 Foundation shall agree to 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 when a condition to the policy specifically prohibits such an endorsement, or voids coverage should Foundation enter into such an agreement on a pre-loss basis.

**Certificate(s) of Insurance.** Prior to execution of this Agreement by the County, Foundation shall deliver to the County a Certificate(s) of coverage evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. Certificate holder's address shall read Palm Beach County, c/o Parks and Recreation Department, 2700 Sixth Avenue South, Lake Worth, FL 33461, Attention: Administrative Support Manager.

**Right to Review.** 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, coverages, 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.

17. Upon request by County, Foundation shall demonstrate financial accountability

through the submission of acceptable financial audits performed by an independent auditor.

18. Foundation shall maintain books, records, documents and other evidence that sufficiently and properly reflect all costs of any nature expended in the performance of this Agreement for a period of not less than five (5) years. Upon advance notice to Foundation, County shall have the right to inspect and audit said books, records, documents and other evidence during normal business hours.

19. The County and Foundation may pursue any and all actions available under law to enforce this Agreement including, but not limited to, actions arising from the breach of any provision set forth herein.

20. This Agreement shall be governed by the laws of the State of Florida and any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County.

21. As provided in Section 287.132-133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, Foundation certifies that it, its affiliates, suppliers, subcontractors and consultants 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 Section 287.133 (3) (a), Florida Statutes.

22. This Agreement represents the entire agreement between the parties and supersedes all other negotiations, representations, or agreement, written or oral, relating to this Agreement. This Agreement may be modified and amended only by written instrument executed by the parties hereto.

23. Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by U.S. mail. All notices shall be addressed to the following:

As to the County:

Director of Parks and Recreation  
Palm Beach County Parks and Recreation Department  
2700 Sixth Avenue South  
Lake Worth, Florida 33461

As to Foundation:

President  
7301-A W. Palmetto Park Road, Suite 305-C  
Boca Raton, FL 33433

24. This Agreement is made solely and specifically among and for the benefit of the parties hereto, and no other person shall have any rights, interest, or claims hereunder or be

entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

IN WITNESS WHEREOF, the undersigned parties have signed this Agreement on the date first above written.

**ATTEST:**  
**SHARON R. BOCK, Clerk & Comptroller**

**PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Tony Masilotti, Chairman

**WITNESSES:**  
Rochelle Mendonca

**LEONARD MARSHALL FOUNDATION, INC.**  
**FEI Number: 01-0842589**

by reg legat

By: BRIAN K McMAHON  
Name (Type or Print)  
Title: DIRECTOR

By: [Signature]  
Signature

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS AND CONDITIONS**

By: \_\_\_\_\_  
County Attorney

By: [Signature]  
Dennis L. Eshleman, Director  
Parks and Recreation Department