

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 3, 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 Friends of Sandoway House Nature Center, Inc., for the period October 3, 2006, through February 22, 2008, in an amount not-to-exceed \$10,000 for funding of the Shell Gallery Room addition.

Summary: This funding is to assist with costs for the Shell Gallery Room addition at the Sandoway House Nature Center. This Nature Center serves approximately 10,000 guests annually from local schools, youth organizations, and public visitors of all ages from Palm Beach, Broward, and Martin counties. The Agreement allows for the reimbursement of eligible pre-Agreement expenses incurred subsequent to November 11, 2005. Funding is from the Recreation Assistance Program (RAP).
District 4 (AH)

Background and Justification: The Friends of Sandoway House Nature Center, Inc., is a not-for-profit organization that supports the Sandoway House Nature Center, located in a historic beachfront setting in Delray Beach. The Friends of Sandoway House Nature Center is a federally designated historic site owned by Palm Beach County and leased by the Friends of Sandoway House Nature Center, Inc. The Shell Gallery, when complete, will be used to display a portion of the Sandoway House Nature Center's 10,000 specimen shell collection. The Shell Gallery addition project includes improving existing shell cases with new graphics and user friendly cabinetry for storage and display, development of new cases to display a larger portion of the collection in themed exhibits, creation and installation of live marine invertebrate touch tanks for educational programs, and installation of new graphic displays and hands-on learning stations to enhance educational experiences.

The cost of the additions to the Shell Gallery is anticipated to be \$10,000, and the District 4 RAP funding will offset the cost of this capital project. The Agreement has been executed on behalf of the Friends of Sandoway House Nature Center, Inc., and now needs to be approved by the Board of County Commissioners.

Attachment: Agreement

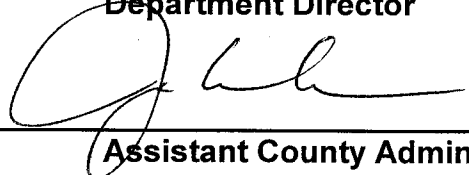
Recommended by:


Department Director

Date

9/18/06

Approved by:


Assistant County Administrator

Date

9/18/06

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>10,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>10,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____
 Budget Account No.: Fund 3600 Department 583 Unit R904
 Object 8201 Program N/A

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

Recreation Assistance Program
 District 4 3600-583-R904-061-8201 \$10,000

C. Departmental Fiscal Review: *Committed*

III. REVIEW COMMENTS

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

The item above is included in the 2007 proposed budget.

Am. Ord 9-13-06
 OFMB *ms* *9/12/06*
John J. Jacobs *9/14/06*
 Contract Development and Control
9/13/06

B. Legal Sufficiency:

This Contract complies with our contract review requirements.

Anne Delgent 9/18/06
 Assistant County Attorney

C. Other Department Review:

 Department Director

AGREEMENT BETWEEN PALM BEACH COUNTY AND THE FRIENDS OF SANDOWAY HOUSE NATURE CENTER, INC. FOR THE SHELL GALLERY ROOM ADDITION

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 Friends of Sandoway House Nature Center, Inc., a Florida not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "Friends of Sandoway".

WITNESSETH:

WHEREAS, the mission of Friends of Sandoway is to support a nature center in a historic beachfront setting as a community resource; and

WHEREAS, the Sandoway house is a federally designated historic site owned by Palm Beach County, which is leased by the Friends of Sandoway and operated as the Sandoway House Nature Center; and

WHEREAS, Friends of Sandoway desires to complete the construction of an addition to the Sandoway house to be called the Shell Gallery, which will be used to display a portion of its 10,000 specimen collection; and

WHEREAS, construction of the Shell Gallery addition includes improving existing shell cases with new graphics and user friendly cabinetry for storage and display, development of new cases to display a larger portion of the collection in themed exhibits, creation and installation of live marine invertebrate touch tanks for educational programs, and installation of new graphic displays and hands on learning stations to enhance educational experiences; and

WHEREAS, the Shell Gallery will enhance the Sandoway House Nature Center's guest experiences by offering new and enhanced programs, exhibits, and resources to connect guests to nature and inspire them to care for wildlife; and

WHEREAS, construction costs for the Shell Gallery addition are anticipated to cost approximately \$10,000; and

WHEREAS, Friends of Sandoway has requested \$10,000 from County to assist with expenses for the Shell Gallery addition to include contractual services, cabinetry displays, security system expenses, the purchase and installation of equipment, operational and personnel costs, miscellaneous program expenses for equipment and set up costs, and other miscellaneous expenses for materials, furniture, and computer terminals, software, etc.; and

WHEREAS, County desires to provide funding for the Shell Gallery Room addition; and

WHEREAS, funding for the Shell Gallery addition in an amount not-to-exceed \$10,000 is

available from the Recreation Assistance Program (RAP) – District 4; and

WHEREAS, the Sandoway House Nature Center is visited by approximately 10,000 guests annually from local schools, youth organizations, and public visitors of all ages; and

WHEREAS, nature centers and environmental education programs are deemed to serve a public purpose; 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 \$10,000 to Friends of Sandoway for the Shell Gallery addition for contractual services, cabinetry displays, security system expenses, the purchase and installation of equipment, operational and personnel costs, miscellaneous program expenses for equipment and set up costs, and other miscellaneous expenses for materials, furniture, and computer terminals, software, etc.; 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 Friends of Sandoway on a reimbursement basis within forty-five (45) days of receipt of the following information:

a. A written statement that the Project is complete, as specified herein; 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 Friends of Sandoway. Said information shall list each invoice paid by Friends of Sandoway and shall include the vendor invoice number; invoice date; and the amount paid by Friends of Sandoway along with the number and date of the respective check or proof of payment for said payment. Friends of Sandoway shall attach a copy of each vendor invoice paid by Friends of Sandoway 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, Friends of Sandoway's Program Administrator and Project Financial Officer shall certify the total funds spent by Friends of Sandoway on the Project and shall also certify that each vendor invoice, as listed on the Contractual Services Purchases Schedule was paid by Friends of Sandoway and approved by Friends of Sandoway as indicated.

3. Friends of Sandoway incurred expenses for the Project beginning on November 11, 2005. Those costs incurred by Friends of Sandoway for the Project, approved and submitted accordingly by Friends of Sandoway subsequent to November 11, 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 Friends of Sandoway 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. Friends of Sandoway warrants that it is an active not-for-profit corporation, duly chartered and registered with the Florida Department of State, Division of Corporations.

6. Friends of Sandoway agrees, warrants, and represents that all of the employees and participants in the Project will be 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. Friends of Sandoway shall be responsible for all costs of operation and maintenance of the Project.

8. The term of this Agreement shall be for five (5) years, commencing upon the date of execution by the parties hereto.

9. The parties agree that, in the event Friends of Sandoway is in default of its obligations under this Agreement, the County shall provide Friends of Sandoway thirty (30) days written notice to cure the default. In the event Friends of Sandoway 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 Friends of Sandoway for the Project deemed to be in default and Friends of Sandoway shall return any County RAP funds already collected by Friends of Sandoway 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. Friends of Sandoway shall complete the Project by November 22, 2007, and invoices and checks submitted for reimbursement must be dated within the project time frame of November 22, 2005, and November 22, 2007. Friends of Sandoway shall provide its final reimbursement request(s), including a project completion statement and reimbursement documentation as indicated in Section 2 above on or before February 22, 2008. Upon written notification to County at least ninety (90) days prior to that date Friends of Sandoway may request an extension beyond this period for the purpose of completing the Project. County shall not unreasonably deny Friends of Sandoway's request for said extension.

12. In the event Friends of Sandoway 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 Friends of

Sandoway. The determination that Friends of Sandoway has ceased or suspended the Project shall be made by County and Friends of Sandoway agrees to be bound by County's determination.

13. Friends of Sandoway 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 Friends of Sandoway. 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 Friends of Sandoway 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, Friends of Sandoway 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 Friends of Sandoway, 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 Friends of Sandoway is eligible to receive reimbursement from the County.

16. Friends of Sandoway 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 Friends of Sandoway are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Friends of Sandoway under this Agreement.

Commercial General Liability. Friends of Sandoway 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. Friends of Sandoway shall provide this coverage on a primary basis.

Worker's Compensation Insurance & Employer's Liability. Friends of Sandoway shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. Friends of Sandoway shall provide this coverage on a primary basis.

Additional Insured. Friends of Sandoway 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." Friends of Sandoway shall provide the Additional Insured endorsements coverage on a primary basis.

Waiver of Subrogation. Friends of Sandoway 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 Friends of Sandoway 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 Friends of Sandoway enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance. Prior to execution of this Agreement by the County, Friends of Sandoway 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, Friends of Sandoway shall demonstrate financial accountability through the submission of acceptable financial audits performed by an independent auditor.

18. Friends of Sandoway 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 Friends of Sandoway, County shall have the right to inspect and audit said books, records, documents and other evidence during normal business hours.

19. The County and Friends of Sandoway 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, Friends of Sandoway 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 Friends of Sandoway:

Executive Director
Friends of Sandoway House Nature Center, Inc.
142 South Ocean Boulevard
Delray Beach, FL 33483

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.