Agenda Item #: 3.M.6.

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 5, 2007	[X] Consent [] Ordinance	[] Regular [] Public Hearing
Department: Parks and Recrea	<u>on</u>	
Submitted By: Parks and Recrea	on Department	
Submitted For: Parks and Recrea	on Department	
	I. EXECUTIVE BRIEF	
Motion and Title: Staff recommer Company, Inc. for the period June 5, \$10,000 for the performance of "Nor	007, through September 30, 2007	ent with South Florida Opera ', in an amount not-to-exceed
Summary: This funding is to help off Opera) production of "Norma" on Man performance was viewed by approximal of eligible project costs incurred by a from the Recreation Assistance Programmer.	n 28 and 30, 2007, at Wellington (Itely 250 people. The Agreement Buth Florida Opera subsequent to	Community High School. The allows for the reimbursement o March 1, 2007. Funding is
Background and Justification: Supports the performing arts, including the performance of the Bellini opera	opera, within the community. So	outh Florida Opera presented
The total cost of the performance was and sets, theatre/rehearsal reprinting/advertising/publicity costs. To Costs. The Agreement has been exert needs to be approved by the Board	tal, subtitle costs, travel e \$10,000 from RAP - District 6 wi uted on behalf of South Florida O _l	and hotel costs, and Il help offset a portion of those
Attachment: Agreement		
Recommended by: Departm	nt Director	5/14/07 Date

Assistant County Administrator

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of	Fiscal Impact				
Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County)	-0- 10,000 -0- -0- -0-	-0- -0- -0- -0-	-0- -0- -0- -0-	-0- -0- -0- -0-	-0- -0- -0- -0- -0-
NET FISCAL IMPACT	<u>10,000</u>	0-	0	0	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	·	· .			i
Is Item Included in Currer Budget Account No.:		Department		<u>R906</u>	
B. Recommended Source	es of Funds/S	ummary of F	iscal Impact:		
Recreation Assistan	ce Program				
District 6	3600-583-R90	06-142-8201		\$10,000	·
C. Departmental Fiscal F	Review:	ckopela	kis		
	III. RE	EVIEW COMN	<u>IENTS</u>		
A. OFMB Fiscal and/or C	Contract Devel	opment and (Control Comm	ents:	
B. Legal Sufficiency:	8.07 mg (N/S/15/ 116/07 5/15/	1 0	This Contract contract revi	ment and Control of Science of Sc	<u> </u>
Assistant County Attorn	•				
C. Other Department Re	view:				
Donortmont Director	***************************************				
Department Director					

REVISED 10/95 ADM FORM 01

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AGREEMENT BETWEEN PALM BEACH COUNTY AND SOUTH FLORIDA OPERA COMPANY, INC.FOR FUNDING OF "NORMA"

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 South Florida Opera Company, Inc., a not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "South Florida Opera".

WITNESSETH:

WHEREAS, South Florida Opera is a not-for-profit opera company which supports the performing arts, including opera, within the community; and

WHEREAS, South Florida Opera presented the performance of the Bellini opera "Norma" (The Performance) on March 28 and 30, 2007, at Wellington Community High School; and

WHEREAS, the total cost of the Performance was approximately \$25,000 for artists fees, costume rental, props and sets, theatre/rehearsal rental, subtitle costs, travel and hotel costs, and printing/advertising/publicity; and

WHEREAS, South Florida Opera has requested that County provide \$10,000 to help offset costs for the Performance; and

WHEREAS, funding for the Performance in an amount not to exceed \$10,000 is available from the Recreation Assistance Program (RAP) – District 6; and

WHEREAS, educational, recreational, and cultural programs benefiting citizens of Palm Beach County are deemed 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 South Florida Opera for the Performance for artists fees, costume rental, props and sets, theatre/rehearsal rental, subtitle costs, travel and hotel costs, and printing/advertising/publicity, as specifically 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 South Florida Opera 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 South Florida Opera. Said information shall list each invoice paid by South Florida Opera and shall include the vendor invoice number; invoice date; and the amount paid by South Florida Opera along with the number and date of the respective check and/or proof of payment for said payment. South Florida Opera shall attach a copy of each vendor invoice paid by South Florida Opera along with a copy of the respective check and/or proof of payment, and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule. Further, South Florida Opera's Program Administrator and Project Financial Officer shall certify the total funds spent by South Florida Opera on the Project and shall also certify that each vendor invoice, as listed on the Contractual Services Purchases Schedule was paid by South Florida Opera and approved by South Florida Opera as indicated.
- 3. South Florida Opera incurred expenses for the Project beginning on March 1, 2007. Those costs incurred by South Florida Opera for the Project, approved and submitted accordingly by South Florida Opera subsequent to March 1, 2007, 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 South Florida Opera 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. South Florida Opera warrants that it is an active not-for-profit corporation, duly chartered and registered with the Florida Department of State, Division of Corporations.
- 6. South Florida Opera agrees, warrants, and represents that all of the employees and participants in the Project were 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. South Florida Opera shall be responsible for all costs of operation and maintenance of the Project.
- 8. The term of this Agreement shall be until September 30, 2007, commencing upon the date of execution by the parties hereto.
- 9. The parties agree that, in the event South Florida Opera is in default of its obligations under this Agreement, the County shall provide South Florida Opera thirty (30) days written notice to cure the default. In the event South Florida Opera 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 South Florida Opera for the Project deemed to be in default and South Florida Opera shall return any County RAP funds already collected by South Florida Opera 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. South Florida Opera shall complete the Project by June 30, 2007 and invoices and checks submitted for reimbursement must be dated within the project time frame of March 1, 2007, through June 30, 2007. South Florida Opera shall provide its final reimbursement request(s), including a project completion statement and reimbursement documentation as indicated in Section 2 above on or before September 30, 2007. Upon written notification to County at least ninety (90) days prior to that date South Florida Opera may request an extension beyond this period for the purpose of completing the Project. County shall not unreasonably deny South Florida Opera's request for said extension.
- 12. In the event South Florida Opera ceases to exist, or ceases or suspends the Project for any reason, any remaining unpaid portion of the Agreement shall be retained by County, and County shall have no further obligation to honor reimbursement requests submitted by South Florida Opera. The determination that South Florida Opera has ceased or suspended the Project shall be made by County and South Florida Opera agrees to be bound by County's determination.
 - 13. South Florida Opera 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 South Florida Opera. 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 South Florida Opera 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, South Florida Opera 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 South Florida Opera, 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 South Florida Opera is eligible to receive reimbursement from the County.

16. South Florida Opera 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 of acceptance of insurance maintained by South Florida Opera are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by South Florida Opera under the Agreement.

Commercial General Liability. South Florida Opera 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. South Florida Opera shall provide this coverage on a primary basis.

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

Additional Insured. South Florida Opera 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." South Florida Opera shall provide the Additional Insured endorsements coverage on a primary basis.

Waiver of Subrogation. South Florida Opera 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 South Florida Opera 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 South Florida Opera enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance. Prior to execution of this Agreement by the County, South Florida Opera 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, South Florida Opera shall demonstrate financial accountability through the submission of acceptable financial audits performed by an independent auditor.
- 18. South Florida Opera 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 South Florida Opera, County shall have the right to inspect and audit said books, records, documents and other evidence during normal business hours.
- 19. The County and South Florida Opera 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, South Florida Opera 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, either written or oral, relating to this Agreement. The 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:

ATTEST:

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

As to South Florida Opera:

President South Florida Opera Company, Inc. 1234 Barnstable Circle Wellington, Fl 33414

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.

SHARON R. BOCK, Clerk & Comptroller	BOARD OF COUNTY COMMISSIONERS
By:	By
Deputy Clerk	Commissioner Addie L. Greene, Chairperson
WITNESSES:	SOUTH FLORIDA OPERA COMPANY, INC.
	FEI Number +011/0+00 Plat
$\mathcal{O}(1)$ $\mathcal{O}(1)$	By: <u>65-0707422 FRANCESO-PACE</u>
Misan W. / Wyger	Name General Director
Derouca Junett	Title frances co face
	Signature
APROVED AS TO FORM AND	APPROVED AS TO TERMS AND
LEGAL SUFFICIENCY	CONDITIONS
Ву:	By: Many Jollan
County Attorney	Dennis L. Eshleman, Director
	Parks and Recreation Department

PALM BEACH COUNTY, FLORIDA, BY ITS

Recreation Assistance Program (RAP) Exhibit "A" to Agreement

Name of Agency:

South Florida Opera Company, Inc.

Mailing Address:

1234 Barnstaple Circle, Wellington, FL 33414

Federal Employer Identification Number: 650707422

Name of President:

Mark Sparer

Name of Executive Dir.:

Francesco Pace

Project Liaison Information:

Name:

Francesco Pace

Telephone #:

798-5152

Fax #:

- None -

E-mail:

samiam39@bellsouth.net

Purpose/Mission of Agency:

Our goal is to introduce the vitality and beauty of opera and classical music to new audiences and to nurture young performers in achieving recognition of their talents by providing professional musical productions chosen from the world's best-loved works.

PROJECT/PROGRAM INFORMATION

- 1. Name of Project/Program: Production of the opera Norma
- 2. Project/ Program Description
 - General: 2 full-length public performances of Bellini's opera Norma, sung by professional cast, in Italian with projected English translation, fully staged and costumed, with chorus and chamber orchestra.
 - Public Purpose: 1) to bring professional classical performing arts to our growing community and 2) to introduce new audiences to opera and classical music. The latter includes two Binks Forest Elementary School students who have non-singing roles in the opera. Area high school students are invited to attend the dress rehearsal at no charge.
 - Location: Wellington Community High School,
 2101 Greenview Shores Blvd., Wellington, FL
 - Date: March 28 and March 30, 2007
 - Anticipated Number of Participants/Users: 250

3. Project /Program Elements: List anticipated broad categories of Expenditure Items such as capital outlay, contractual services, personnel costs, operations expenses, equipment, and "Other Miscellaneous Project/program expenses". Do not include expenditure line item budget amounts.

Artists' Fees	\$14,000
Costume Rental	2,500
Props/Sets/Theatre Rental/Subtitles	3,600
Travel/Hotel	3,000
Printing/Advertising/Publicity	1,900
Total	\$25,000

- 4. Estimated Lump Sum Total for Project/Program \$25,000
- 5. Project/Program Initiation date (date of first invoice for which reimbursement will be requested) and End date (date which project/program will be completed and all invoices paid). This will become the project time frame.

March 1, 2007 to June 30, 2007

(Note: Invoices and copies of proof of payment documents are required for Project/program reimbursement. All invoices and checks must be dated within the stated project/program time frame AND Categories for Project/Program Elements must be listed in Section 3 above in order to be eligible for RAP reimbursement.

- 6. Required Attachments: Certificate of Insurance requested from carrier; will be forwarded upon receipt.
- 7. Additional Comments if desired:

Amount of Recreation Assistance Program Funding awarded

\$10,000 District 6



PALM BEACH COUNTY PARKS AND RECREATION DEPARTMENT

CONTRACT PAYMENT REQUEST

Date

Grantee			Project Name:	
Submission #:			Reimbursement Period:	
tem		Key_	Project Costs This Submission	Cumulative Project Costs
Contractual Servi	ces	(C)		
Salary & Wages ((% of salaries)	(S)	en e	
Materials, Supplie	es, Direct Purchases	(M)		-
Equipment		(E)		
Γravel		(T)		
ndirect Costs		(1)		
	TOTAL PROJECT COSTS	3		
Key Legend	C = Contractual Services S = Salary & Wages M = Materials, Supplies, Direct F E = Equipment T = Travel I = Indirect Costs	Purchases		
expenses were i	ereby certify that the above ncurred for the work identifie hed in the attached progress		been maintained as required	y that the documentation has d to support the project nd is available for audit upon
Administrator	Date		Financial Officer	Date

		PBC USE (ONLY			
	County Funding Participation	\$.				
	Total Project Costs To Date:	\$ <u>_</u>				
	County Obligation To Date	\$				
	County Retainage (%)	\$.				**************************************
	County Funds Previously Disbursed	d \$				
	County Funds Due this Billing	\$				
	Reviewed and Approved By:				· · · · · · · · · · · · · · · · · · ·	
.•		PBC Project Administ	rator	Date		
			A			
		Department Director		Date		

Key Legend

C = Contractual Services

S = Salary & Wages

M = Materials, Supplies, Direct Purchases

E = Equipment

T = Travel

I = Indirect C

		Indirect	A
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PALM BEACH COUNTY
PARKS AND RECREATION DEPARTMENT
CONTRACTUAL SERVICES PURCHASE SCHEDULE

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Key Legend

C = Contractual Services

S = Salary & Wages
M = Materials, Supplies, Direct Purchases
E = Equipment

T = Travel

I = Indirect Costs

PALM BEACH COUNTY PARKS AND RECREATION DEPARTMENT CONTRACTUAL SERVICES PURCHASE SCHEDULE

EXHIBIT B (cont'd.)

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	Certification: I hereby certify that the p	ourchases no	nted above were	used in	Certification: 11	hereby certify the	t hid tabulations o	xecuted contract, cancelled checks, and other
	accomplishing this project.			4004 111	purchasing doc	umentation have	been maintained a	as required to support the costs reported above
					and are availab	le for audit upon	request.	
				 _				
	Administrator		Date			Financial Officer		Date



The South Florida Opera Company

FRANCESCO PACE, General Director

April 30, 2007

Mr. Dennis L. Eshleman Dept. of Parks and Recreation 2700 6th Avenue South Lake Worth, FL 33461

RE: Palm Beach County Recreation Assistance Program - Recreation Assistance Program Agreement for South Florida Opera "Norma"

Dear Mr. Eshleman:

In response to your letter of April 23, please be advised that The South Florida Opera Company does not have any employees, nor has it had any employees at any time during its existance. Therefore the Company is not required by the State of Florida to carry workers' compensation insurance.

If you have additional questions please call me at 798-5152.

Sincerely,

AMEUSCO Pace

Francesco Pace

Artistic Director

1234 Barnstaple Circle 🌈 Wellington, Florida 33414 Tel. (561) 798-5152

AC	:01	RD. CERTIFIC	ATE OF LIABILI	TY INSU	RANCE	CSR K2 -SOUFL1	DATE (MM/DD/YYYY) 04/25/07
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		South Florida Oper	a Co., Inc.	INSURER C:	· · · · · · · · · · · · · · · · · · ·		-
		Ms. Sarah Merrill 1234 Barnstaple Ci	rcle	INSURER D:			
		Wellington FL 3341	4				
OVER	AGE	ė ·		INSURER E:			
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		HIRED AUTOS NON-OWNED AUTOS				BODILY INJURY (Per accident)	\$
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			ES / EXCLUSIONS ADDED BY ENDORSEM				• .
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		Sixth Avenue South				OF ANY KIND UPON THE INSUI	KER, ITS AGENTS OR
		Lake Worth FL 3346		REPRESENTATI	IVES.		

ACORD 25 (2001/08)

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