

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 9/25/2007 [ ] Consent [X] Regular  
[ ] Workshop [ ] Public Hearing

Department

Submitted By: TOURIST DEVELOPMENT COUNCIL

Submitted For: \_\_\_\_\_

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: An agreement with Global Spectrum, L.P., which is an assumption of the Agreement between Global and Discover Palm Beach County, Inc., dba the Palm Beach County Convention and Visitors Bureau (CVB), for the operation of the Palm Beach County Convention Center for a period beginning October 1, 2007 to September 30, 2008, with one (1) additional two (2) year renewal option, in the amount of \$169,674.72, plus 5% of the net food and beverage sales.

**Summary:** This Agreement provides for the County's assumption of the rights and obligations of the CVB under the CVB's existing agreement with Global Spectrum for the operation and management of the Convention Center. In addition, Global will assume responsibility for the management of the parking and audio-visual contract previously held by the CVB. Global will be paid a management fee of \$169,674.72 for FY2008 plus 5% of the net food and beverage sales (which was \$34,611.00 in 2006). Countywide (MC)

**Background and Policy Issues:** In 2001 the County entered into an Agreement with the CVB for the management of the Convention Center. Pursuant to the terms of that agreement, the CVB selected Global Spectrum, through a Request for Proposal process which included representatives of the County and the Tourist Development Council, to provide the day-to-day operations at the Center. Thereafter the CVB entered into a contract with Global which provided that, in the event the CVB Convention Center Management Agreement was terminated, the County would have the right to assume the rights and obligations of the CVB in its operating agreement with Global.

Earlier this year, the BCC voted to terminate the CVB's Convention Center Management Agreement and directed staff to provide for the County to assume the CVB/Global agreement. Staff met with representatives of Global and reviewed the CVB/Global contract. This agreement represents the County's assumption of that contract with certain necessary changes made to reflect how Global will work directly with the County in managing the operations of the Convention Center, as well as manage the parking and audio-visual service at the center.

Global's compensation will be an annual management fee of \$169,674.72 for FY 2008 plus 5% of the net food and beverage sales. Global's annual management fee will increase in future years based upon any percentage increase in the CPI.

D. Attachments:  
(1) Global Contract

Recommended by: \_\_\_\_\_  
Department Director Date

Approved By: JCBaker 9/21/07  
Deputy County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	_____	_____	_____		
Operating Costs	\$5,127,238	_____	_____		
External Revenues	< \$2,344,745 >	_____	_____		
Program Income (County)	_____	_____	_____		
In-Kind Match (County)	_____	_____	_____		
	\$2,782,493	_____	_____		
<b>NET FISCAL IMPACT</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>		
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____		

*County Attorney's office is working on getting contracts signed.*

**RECEIVED**

SEP 20 2007

P.B. COUNTY ATTORNEY

Is Item Included In Current Budget? Yes  No

Budget Account No.: Fund 1450 Agency 710 Org. 7420 Object 3401  
Reporting Category \_\_\_\_\_

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

**C. Department Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Administration Comments:**

*John Smith 9-21-07*  
OFMB  
*9/20/07*

*Contract Dev. and Control 9/24/07*  
*This contract reflects the negotiations with the County Attorney of Administration. At the time of our review the insurance & Fidelity Bond were not available. The Agreement was not executed.*

**B. Legal Sufficiency:**  
*Sharon Culla*  
Assistant County Attorney

**C. Other Department Review:**  
\_\_\_\_\_  
Department Director

This summary is not to be used as a basis for payment.

## CONVENTION CENTER OPERATING AGREEMENT

This Convention Center Operating Agreement (the "Agreement") is made as of October 1, 2007, (the "Effective Date") by and between the Board of County Commissioners of Palm Beach County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "County," and Global Spectrum, LP, a Delaware limited partnership, hereinafter referred to as "Operator," whose Federal Employer Identification Number is 59-3599248.

### RECITALS

**WHEREAS**, in July 2001, Palm Beach County entered into an agreement with Discover Palm Beach County, Inc., hereinafter "Discover," whereby Discover would oversee, promote, operate, manage and maintain the Palm Beach County Convention Center, hereinafter "Facility"; and

**WHEREAS**, said agreement provided that Discover could hire various firms to perform services for the operations of the Facility; and

**WHEREAS**, pursuant to that authority, Discover solicited proposals from qualified firms to provide day-to-day operations of the facility; and

**WHEREAS**, a committee, comprised of representatives of the County, Discover, and the Palm Beach County Tourist Development Council, selected Global Spectrum (hereafter referred to as "Operator") through that Request for Proposals process to provide the day-to-day operating services at the Facility; and

**WHEREAS**, on July 1, 2001, Discover entered into an Agreement with Operator ("Operator Agreement") for the provision of such services, which Agreement further provided that in the event the County-Discover Agreement was terminated, the County would have the right to assume the rights and obligations of Discover in the Operator Agreement; and

**WHEREAS**, the County has served notice that it will terminate the County-Discover Agreement and that it intends to exercise its right to assume the rights and obligations of Discover under the Operator Agreement; and

**WHEREAS**, the County and Global have jointly reviewed the terms and conditions of the Operator Agreement, which had just completed one year of its first two-year renewal period; and

**WHEREAS**, the County and Global have mutually agreed to enter into this Agreement whereby the County will assume the rights and obligations of Discover in the Operator Agreement with certain changes reflecting the County's direct role in the management and operation of the Facility; and

WHEREAS, this Agreement between the County and Operator, as a restated assumption of the Operator Agreement, is meant to replace that Agreement which is recorded in the Records of Palm Beach County as R-2001-1109, as amended.

NOW, THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby recognized, the parties agree as follows:

### **SECTION 1** **DEFINITIONS**

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are considered to be correct and true and are agreed upon by the parties.

1. Bureau: Discover Palm Beach County, Inc., doing business as the Palm Beach County Convention & Visitors Bureau.
2. Capital Expenditures: All expenditures for building additions, alterations, or improvements and for purchases of additional or replacement furniture, machinery, or equipment, the depreciable life of which, according to generally accepted accounting principles, is in excess of one (1) year and any other item of expense that, according to generally accepted accounting principles, is not properly deducted as a current expense on the books of the Operator, but rather should be capitalized.
3. County: Palm Beach County, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners or its designee.
4. County Administrator: County Administrator of Palm Beach County and his or her designee.
5. CPI Index: "CPI Index" or "Index" means the monthly Consumer Price Index – All Items – All Urban Consumers (base year 1982-1984 - 100) for the Miami- Fort Lauderdale, Florida area of the United States, published by the United States Department of Labor. If the CPI Index increases so that the base year differs from that in effect on the Opening Date, the CPI Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI Index is discontinued or revised during the Operating Term, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI Index had not been discontinued or revised.

6. Event Operating Account: The account by that name established pursuant to Section 12 of this Agreement.
7. Facility or Center: The Palm Beach County Convention Center located in the City of West Palm Beach, Florida, including entrances, ground, sidewalks, and parking areas surrounding it and adjacent thereto. The Convention Center includes meeting rooms, common areas, lobby areas, offices, storage and utility facilities and other spaces. A diagram of the Facility is attached hereto as Exhibit A.
- 8.. Facility Operating Account(s): The account(s) by that name established pursuant to Section 12 of this Agreement.
9. Food & Beverage Contractor: the entity which the County contracts with to provide food and beverage services for the Facility.
10. General Escrow Account(s): The account(s) by that name established pursuant to Section 12 of this Agreement.
11. General Manager: An individual employed by Operator who is qualified and has experience in the management of a convention center.
12. Operating Term: The period commencing October 1, 2007, and expiring at 11:59 p.m. on the 30th day of September, 2008, unless the term is extended for two additional years upon County providing one-hundred and eight (180) days notice to Operator pursuant to the terms of this Agreement.
13. Operating Year: The period of time beginning on the first day of October and ending on the 30th day of the month of September.
14. Operator: Global Spectrum, L.P.
15. Revenues: "Revenues" has the meaning set forth in Section 13.10 of this Agreement.
16. TDC: Tourist Development Council of Palm Beach County, Florida.

## SECTION 2

2.1 County hereby engages Operator as an independent contractor to perform the services hereinafter described.

2.2 County has engaged the services of Discover to manage the long term sales for the Center and the services of Aramark to provide food and beverage services at the Facility. Operator shall have no responsibility for performing such functions.

**SECTION 3**  
**SCOPE OF SERVICES**

3.1 Operator agrees to perform and furnish services, systems and materials needed to operate and maintain the Facility in the most efficient manner consistent with standards of the industry for similar first-class convention center facilities. It is the intent of the parties that the Operator will be delegated authority by County over the day-to-day operation of the Facility, and all activities therein, but subject to existing contracts and subject to policies, procedures, budgets and guidelines established by County. The Operator's authority shall be subject to the terms of this Agreement and County policies and procedures, as they relate to the Facility and are consistent with the terms of the Agreement, which policies and procedures may, from time to time, hereafter may be established or modified by County.

3.2 The Operator's obligations shall include, but shall not be limited to, the performance of the following obligations, subject to controls and restrictions as stated elsewhere in the Agreement and in an Operations Manual as the same may thereafter be amended (the "Operations Manual"). The Operations Manual, and any amendment thereto, shall be deemed to be a part of this Agreement and is incorporated herein by reference. Operator shall maintain the Operations Manual and shall present an updated manual on an annual basis for review and approval by the TDC and County Administrator. In the event a substantive change is proposed for the manual during the year, the revised manual shall be presented to the TDC and County Administration within a reasonable time thereafter.

3.3 Prepare an Annual Operating Plan and Capital Budget for approval by the TDC and County.

3.4 Operate the Facility in accordance with the Annual Operating Plan, the Operations Manual and the terms of this Agreement, including, but not limited to, purchasing, payroll, fire prevention, routine repairs, preventive maintenance, janitorial services, promotions, advertising, energy conservation, security, admission procedures, accounting, grounds maintenance and general user services. Means and methods of operation will effectively accommodate the needs of the mobility impaired and handicapped patrons in accordance with applicable laws.

3.5 Advise County concerning operational issues for Facility.

3.6 In accordance with procurement policies and procedures established by County solicit, negotiate, execute, administer, and assure compliance with, service contracts, vendor agreements, user/rental agreements, booking commitments, licenses, and all other documents required in the ordinary course of business in operating the Facility.

3.7 Review annually and propose modifications, as necessary, to policies and procedures, rate schedules, services pricing and lease agreement terms and conditions, as necessary, and submit proposed modifications and/or recommendations to the County Administrator for consideration by TDC.

3.8 Assure that any contract between the Operator and its subsidiary and/or affiliate or related entity in connection with the Facility shall be entered into in accordance with County's procurement policies and procedures and shall be at terms and for prices customarily charged by such parent, affiliate or subsidiary company for comparable goods and services elsewhere and which are competitive within the industry. Documentation shall be submitted in a timely manner to the County Administrator evidencing the foregoing and the competitive nature of the goods or services obtained.

3.9 Require that all users of the Facility, unless otherwise approved by the County Administrator, execute rental/user agreements in accordance with the requirements of Section 18 herein.

3.10 Cause such acts and things to be done in and about the Facility as shall be necessary to its operation and maintenance, all in compliance with all statutes, ordinances, laws, rules, regulations and requirements under Federal, State, and other local governmental authority.

3.11 Operate and maintain the Facility, including the equipment and security and any improvements made during the term of this Agreement, in a manner consistent with standards of the industry for similar first-class convention center facilities. At the conclusion of the term of this Agreement, or any extensions thereto, the County shall retain ownership of the Facility, including all equipment and any improvements made during the term of the Agreement. All losses in inventory of County-owned equipment shall be documented by the Operator as soon as such losses are discovered by the Operator and County shall be promptly notified.

3.12 Maintain the Facility in the condition received, excepting normal wear and tear. At all times equipment maintenance shall meet or exceed manufacturer's recommendations. The Operator shall provide the County Administrator an annual preventive maintenance schedule for the Facility. In addition, the Operator shall provide the County Administrator a report of all Facility maintenance that was performed during the preceding month and all Facility maintenance scheduled for the following month by the fifteenth (15<sup>th</sup>) day of the following month. This report shall include a list of breakdowns of all major pieces of installed and portable equipment for that month. The Operator shall provide the County with access to the Facility for routine maintenance inspections.

3.13 Develop, subject to the approval of the County Administrator, prices, rates and rate schedules for user and occupancy agreements.

3.14 Provide advice and consultation to Bureau for use by Bureau in scheduling long-term events at the Facility in accordance with a priority booking policy to be established by Bureau and Operator and approved by the County.

3.15 Hire, supervise and direct all of the Operator's employees and personnel.

3.16 Maintain detailed, accurate and complete financial and other records of all its activities under this Agreement in accordance with generally accepted accounting principles and any additional County requirements as they relate to the Facility, provided they are consistent with the terms of the Agreement. The County shall have access to such records. In furtherance of its services to be provided, pursuant to this subparagraph and elsewhere in this Agreement, the Operator, with permission of County, may use its own proprietary computer software, which, in such event, shall remain the sole property of the Operator.

3.17 Include in gross revenues for the Facility all revenues that are generated from the operation of Facility within the term of this Agreement and in a mutually agreed-upon format.

3.18 Submit a written financial report to the County Administrator and the TDC at least monthly, or as otherwise agreed to between the parties, no later than the close of the following month concerning its activities in the operation of the Facility. Such report shall, among other things, set forth receipts from all sources, expenditures and such other and further information as the County Administrator may require or request; provided Operator shall not be legally responsible for financial information provided by the Food & Beverage Contractor or the Tourist Development Office.

3.19 Prepare a proposed annual operating budget and submit it to County, in accordance with an established County schedule for approval by TDC and the County.

3.20 Comply with spending limitations imposed in such budget, including any amendment(s) thereto as authorized. However, if extraordinary events occur which could not reasonably have been contemplated at the time the budget was prepared, the Operator may submit an amendment to the budget to the TDC for review and recommendation and then to County for review and approval or denial.

3.21 Pay all operating and related expenses for the Facility from Operator's accounts established under this Agreement-by Operator on behalf of County and maintained within Palm Beach County.

3.22 Initiate with approval of the County Administrator, and at the reasonable expense of County, legal actions or proceedings to collect charges, rentals or other income generated, or to cancel or terminate any license, use or concession agreement for the breach thereof or default thereunder by any licensee, user, advertiser, or concessionaire of County. With prior