

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 20, 2007

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: A) Tri-Party Agreement with the City of Delray Beach and Delray Beach Historical Society, Inc. for the period November 20, 2007, through November 19, 2009, in an amount not-to-exceed \$200,000 for funding of the Delray Beach Historical Society Learning Center and Archival Storage Facility; and B) Budget Transfer of \$200,000 within the \$25M GO Parks and Cultural Improvements Bond Fund - 2003 from Reserves to Delray Beach Historical Society Learning Center and Archival Storage Facility.

**Summary:** This Agreement provides funding for moving and restoration of a historical home by Delray Beach Historical Society (DBHS) to be relocated at Delray Beach's Cason Cottage site and renovated. The Agreement also provides funding for the construction of an archival storage annex adjacent to the historical home. The Agreement allows for the reimbursement of eligible pre-Agreement expenses incurred subsequent to August 1, 2007. Funding is from the 2002 \$50 Million Recreational and Cultural Facilities Bond referendum, as amended – District 4. District 7 (PK)

**Background and Justification:** On November 5, 2002, a bond referendum, as amended, was passed by the voters of Palm Beach County in the amount of \$50 Million for the issuance of general obligation bonds for the purpose of financing the acquisition, construction of, and/or improvements to certain recreation and cultural facilities. This project represents one such recreational/cultural project.

Funding is to assist DBHS with costs to move the Hunt Farmhouse historic home to a new location at 111 N.E. Swinton Avenue in Delray Beach, which is owned by the City of Delray Beach and called the Cason Cottage campus. DBHS has deeded the Hunt Farmhouse to the City of Delray Beach, and has subsequently leased back the Hunt Farmhouse from the City under a long term lease. DBHS will restore the Hunt Farmhouse and construct an attached environmentally secure storage annex, and will operate the historic home and storage annex as a historical learning center and archival storage facility.

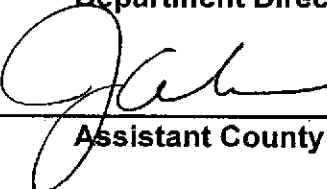
The specified completion date for construction of the renovations and submission of reimbursement documentation for the project is November 19, 2009. The term of the Agreement is until November 19, 2037, which is the standard 30 year term for Bond Agreements. The Agreement has been executed by the City of Delray Beach and Delray Beach Historical Society, Inc., and now needs to be approved by the Board of County Commissioners.

**Attachments:**

1. Tri-Party Agreement
2. Budget Transfer

Recommended by:   
Department Director

10/29/07  
Date

Approved by:   
Assistant County Administrator

11-9-07  
Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2008	2009	2010	2011	2012
Grant Expenditures	<u>200,000</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</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>
<b>NET FISCAL IMPACT</b>	<b><u>200,000</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>	<b><u>-0-</u></b>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_ No X  
 Budget Account No.: Fund \_\_\_ Department \_\_\_ Unit \_\_\_  
 Object \_\_\_ Program \_\_\_

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

\$25M GO 03, Parks & Cultural Facilities                      3019-581-9900-9908                      \$200,000

**C. Departmental Fiscal Review:** ckopelakis

**III. REVIEW COMMENTS**

**A. OFMB Fiscal And/Or Contract Development and Control Comments:**

Jim Bond 11-1-07  
 OFMB  
 11/1/07  
 CN 10/18/07

Jim J. [Signature] 11/8/07  
 Contract Development & Control  
 11/8/07

**B. Legal Sufficiency:**

This Contract complies with our contract review requirements.

Paul F. [Signature] 11/9/07  
 Assistant County Attorney

**C. Other Departmental Review:**

\_\_\_\_\_

REVISED 09/2003  
 ADM FORM 01

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

G:\SYINGER\Bond2002\Delray Beach Historical Society, Inc. - Moving of historic home to Cason Cottage Campus\agd.doc

**AGREEMENT BETWEEN PALM BEACH COUNTY, THE CITY OF DELRAY BEACH, AND DELRAY BEACH HISTORICAL SOCIETY, INC. FOR FUNDING OF A LEARNING CENTER AND ARCHIVAL STORAGE FACILITY**

**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", the City of Delray Beach, a Florida Municipal Corporation, hereinafter referred to as "MUNICIPALITY", and Delray Beach Historical Society, Inc., a Florida not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "AGENCY".

**WITNESSETH:**

**WHEREAS**, AGENCY previously owned a historic dwelling ("Hunt House"), which was formerly located at 124 N.E. 5<sup>th</sup> Avenue in Delray Beach; and

**WHEREAS**, AGENCY moved Hunt House to a new location at 111 N.E. Swinton Avenue in Delray Beach, which is owned by the MUNICIPALITY; and

**WHEREAS**, AGENCY then donated the Hunt House to MUNICIPALITY and leased it back from MUNICIPALITY through a long term lease; and

**WHEREAS**, AGENCY desires to restore the Hunt House dwelling and construct an attached environmentally secure storage annex, also leased to AGENCY by MUNICIPALITY, and to operate the combined facility as a Learning Center and Archival Storage Facility, hereinafter referred to as "the Project" at said location; and

**WHEREAS**, AGENCY and MUNICIPALITY have asked COUNTY to financially participate in the relocation and construction of the Project; and

**WHEREAS**, on November 5, 2002, a bond referendum was passed by the voters of Palm Beach County for the issuance of general obligation bonds for the purpose of financing the acquisition, construction, and/or improvements to certain recreation and cultural facilities, in the principal amount of \$50 Million "the \$50 Million Recreation and Cultural Facilities Bond"; and

**WHEREAS**, COUNTY has approved a recreation and cultural facilities project list and proposed funding allocations for the \$50 Million Recreation and Cultural Facilities Bond, as amended; and

**WHEREAS**, the Project represents one such recreation/cultural project; and

**WHEREAS**, AGENCY desires to operate and maintain the Project upon its completion; and

**WHEREAS**, the Project shall be open to and benefit all residents of Palm Beach County; and

**WHEREAS**, all parties desire to increase the recreational and cultural opportunities for residents of Palm Beach County and to enter into this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

## ARTICLE 1: GENERAL

Section 1.01 The foregoing recitals are true and correct and are incorporated herein as if fully set forth.

Section 1.02 The purpose of this Agreement is to enhance recreational and cultural opportunities for use by the public and thereby provide a mechanism for COUNTY to assist AGENCY in the funding of the Project.

Section 1.03 COUNTY will pay to AGENCY a total amount not-to-exceed \$200,000 for the construction of the Project as more fully described in the Project Description and Cost Estimate attached hereto and made a part hereof as Exhibit "A".

AGENCY recognizes that COUNTY's funding of the Project is being paid from the proceeds of tax-exempt bonds issued by COUNTY. AGENCY agrees to provide COUNTY with a certification, in a form acceptable to COUNTY, from AGENCY's chief financial officer or independent accountant that each cost item for which COUNTY funding is requested under Article 3 of this Agreement constitutes a capital expenditure. In that regard, an item is considered a capital expenditure where the item has a useful life and benefit beyond one year or extends the Project's use beyond one year.

Section 1.04 AGENCY agrees to provide funding in an amount of \$300,000 or greater to complete the Project. The parties agree that COUNTY shall provide its portion of the funding only after AGENCY has expended \$300,000.

Section 1.05 COUNTY's representative during the design and construction of the Project shall be the Director of Parks and Recreation, Palm Beach County Parks and Recreation Department, telephone no. (561) 966-6685. AGENCY's representative during the construction of the Project shall be Robert W. Ganger, President, Delray Beach Historical Society, Inc., at telephone no. 561-243-2577, or Stephanie Shipley at the same office number.

Section 1.06 AGENCY shall design and construct the Project upon property owned by MUNICIPALITY, as more fully described in Exhibit "B" attached hereto and made a part hereof.

Section 1.07 AGENCY shall utilize its procurement process for all design and construction services required for the Project. Said procurement process shall be consistent with all federal, state and local laws, rules and regulations. COUNTY shall have no contractual obligation to any person retained by AGENCY with regard to the Project. Any dispute, claim, or liability that may arise as a result of AGENCY's procurement is solely the responsibility of AGENCY and AGENCY hereby holds COUNTY harmless for same to the extent permitted by law.

## ARTICLE 2: DESIGN AND CONSTRUCTION

Section 2.01 AGENCY shall be responsible for the design and construction of the Project. AGENCY shall design and construct the Project in accordance with Exhibit "A", attached hereto and made a part hereof, and with all applicable federal, state and local laws, rules and regulations.

Section 2.02 Prior to or upon execution of this Agreement by the parties hereto, AGENCY shall initiate its procurement process to select the necessary professional engineer and/or architect to perform all engineering and/or architectural design work, including, but not limited to, the preparation of plans, permits and specifications necessary for the design and construction of the Project.

Section 2.03 AGENCY shall provide a copy of the engineer's and/or architect's programming phase documents (i.e., site plan, floor plan, elevations, etc.) to COUNTY's Representative for review. COUNTY's Representative shall review said programming phase documents to ensure consistency with the intent of this Agreement.

Section 2.04 AGENCY shall be responsible for securing all permits and approvals necessary to construct the Project.

Section 2.05 Prior to AGENCY commencing construction of the Project, AGENCY shall provide a copy of all plans and specifications, along with the associated costs thereof, to COUNTY's Representative for review to ensure consistency with the intent of this Agreement.

Section 2.06 AGENCY agrees to totally complete the Project and open same to the public for its intended use within twenty four (24) months from the date of execution of this Agreement by the parties hereto. Upon notification to COUNTY at least ninety (90) days prior to that date, AGENCY may request an extension beyond this period for the purpose of completing the Project. COUNTY shall not unreasonably deny AGENCY's request for said extension.

Section 2.07 AGENCY shall submit quarterly project status reports to COUNTY's Representative on or before January 10, April 10, July 10, and October 10 during the design and construction of the Project. These Quarterly reports shall include, but not be limited to, a summary of the work accomplished, problems encountered, percentage of completion, and other information as deemed appropriate by COUNTY's Representative.

### **ARTICLE 3: FUNDING**

Section 3.01 The total not-to-exceed amount as set forth in Section 1.03 hereinabove shall be paid by COUNTY to AGENCY on a reimbursable basis. Any costs incurred in connection with the Project in excess of that amount shall be the sole responsibility of AGENCY. Should the total cost of the Project exceed the amount as projected by AGENCY, AGENCY shall obtain and expend the excess funds required for completion of the Project. COUNTY shall not dispense any funds to AGENCY for the Project until AGENCY has obtained and expended said excess funds for the Project.

Section 3.02 COUNTY shall reimburse project costs under the terms of this Agreement to AGENCY on a quarterly basis from the date of execution of this Agreement; however, should the need arise for AGENCY to be reimbursed on a more frequent basis, then COUNTY will, at AGENCY's specific request for each instance, make its best efforts to reimburse AGENCY within forty five (45) days of such special request. For each requested payment, AGENCY shall provide to COUNTY's Representative a fully completed and executed Contract Payment Request Form and a Contractual Services Purchase Schedule Form, attached hereto and made a part hereof as Exhibit "C". Said forms shall include information listing each invoice as paid by AGENCY and shall include the vendor invoice number; invoice date; and the amount paid by AGENCY along with the number and date of the respective check or proof of payment for said payment. AGENCY shall attach a copy of each vendor invoice paid by AGENCY along with a copy of each respective check or proof of payment and shall make reference thereof to the applicable item listed on the Contractual Services Purchase Schedule Form. Further, AGENCY's Project Administrator and Project Financial Officer shall certify the total funds spent by AGENCY on the Project and shall also certify that each vendor invoice as listed on the Contractual Services Purchase Schedule Form was paid by AGENCY as indicated.

Section 3.03 COUNTY shall retain not less than ten percent (10%) of the total amount allocated to AGENCY for the Project until AGENCY completes the Project and provides COUNTY with either a

Certificate of Occupancy or a Project Completion Certification as determined by COUNTY, and COUNTY receives and approves all documentation as required in accordance with this Agreement.

COUNTY's representative shall visit the Project site to verify and approve said final reimbursement.

Section 3.04 AGENCY shall provide a request for final reimbursement to COUNTY no later than ninety (90) days following completion of the Project and provision of either a Certificate of Occupancy or Project Completion Certification to COUNTY.

Section 3.05 COUNTY agrees to reimburse AGENCY an amount not to exceed \$200,000 for those approved pre-agreement costs accruing to the Project subsequent to August 1, 2007, as more fully described in Exhibit "D", Pre-Agreement Cost List.

Section 3.06 For construction projects fully funded by COUNTY, no more than 10% of COUNTY's funding for the project shall be used for design and engineering costs for the project and be eligible for reimbursement under this Agreement. For construction projects not fully funded by COUNTY, all design and engineering costs associated with the project shall be borne by AGENCY, and will not be eligible for reimbursement from COUNTY.

Section 3.07 COUNTY shall reimburse project costs only after AGENCY has expended its share of project funding in its entirety. AGENCY shall provide COUNTY with a certification, in a form acceptable to COUNTY, from AGENCY's President, CEO, Chairman of the Board, Chief Financial Officer, or independent auditor that AGENCY has complied with this Project funding provision. COUNTY will be entitled to rely on that certification in reimbursing Project costs to AGENCY under this Agreement.

#### **ARTICLE 4: OWNERSHIP, OPERATION AND MAINTENANCE OF THE PROJECT**

Section 4.01 Upon completion, the Project shall remain the property of MUNICIPALITY. COUNTY shall not be required to pay AGENCY any additional funds for any other capital improvement required by or of AGENCY or MUNICIPALITY.

Section 4.02 AGENCY hereby warrants and represents that it has full legal authority and financial ability to operate and maintain said Project. AGENCY shall be responsible for all costs, expenses, fees and charges, and liability related to the operation and maintenance of the Project.

Section 4.03 AGENCY and or MUNICIPALITY shall operate and maintain the Project for its intended use by the general public for a term of thirty (30) years from the execution of this Agreement by the parties hereto. AGENCY and or MUNICIPALITY shall maintain the Project in accordance with industry standards for such facilities to prevent undue deterioration and to encourage public use.

Section 4.04 The rights and duties arising under this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. AGENCY and MUNICIPALITY may not assign this Agreement or any interest hereunder without the express prior written consent of COUNTY.

Section 4.05 It is the intent of COUNTY to issue this funding assistance to AGENCY for the purpose set forth hereinabove. In the event AGENCY or MUNICIPALITY transfer ownership of the Project to a party or parties not now a part of this Agreement, other than another governmental entity

that agrees to assume, in writing, AGENCY and or MUNICIPALITY's obligations hereunder, COUNTY retains the right to reimbursement from AGENCY or MUNICIPALITY for its participation to the full extent of the funding assistance awarded to accomplish the Project. Should AGENCY or MUNICIPALITY transfer management of the project to a party or parties not now a part of this Agreement, AGENCY or MUNICIPALITY shall continue to be responsible for the liabilities and obligations as set forth herein. Further, AGENCY or MUNICIPALITY shall not transfer management of the Project to a third party without the written consent of COUNTY.

#### **ARTICLE 5: USE OF THE PROJECT**

Section 5.01 AGENCY and MUNICIPALITY warrant that the Project shall serve a public recreational or cultural purpose and be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis. AGENCY and MUNICIPALITY shall not discriminate on the basis of race, color, sex, national origin, age, disability, religion, ancestry, marital status or sexual orientation with respect to use of the Project.

Section 5.02 The term of this Agreement shall be for a period of thirty (30) years commencing upon the date of execution of this Agreement by the parties hereto. AGENCY and or MUNICIPALITY shall restrict its use of the Project to recreational, cultural, civic, community and social purposes only unless otherwise agreed to in writing by the parties hereto.

Section 5.03 AGENCY shall affix a permanent plaque or marker in a prominent location at the completed Project indicating that COUNTY was a contributor to the development of the Project. Said plaque or marker shall include the COUNTY seal and a list of County Commissioners, unless otherwise directed by COUNTY's Representative.

#### **ARTICLE 6: ACCESS AND AUDITS**

AGENCY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the acquisition/design/construction of the Project for at least five (5) years after the end of the fiscal year in which the final payment is released by COUNTY, except that such records shall be retained by AGENCY until final resolution of matters resulting from any litigation, claim, or special audit that starts prior to the expiration of the five (5) year period. COUNTY reserves the right, upon reasonable request and during normal business hours, to inspect said Project and shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit.

#### **ARTICLE 7: NOTICES**

Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by Certified Mail, Return Receipt Requested. All notices shall be addressed to the following:

As to COUNTY:

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

With a Copy to:

County Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401

As to MUNICIPALITY:  
City Manager  
City of Delray Beach  
100 N.W. First Avenue  
Delray Beach, FL 33444

With a Copy to:  
City Attorney  
100 N.W. First Avenue  
Delray Beach, FL 33444

As to AGENCY:  
President  
Delray Beach Historical Society, Inc.  
3 N.E. 1st Street  
Delray Beach, FL 33444

#### **ARTICLE 8: TERMINATION FOR NON-COMPLIANCE**

COUNTY may terminate this Agreement upon written notice to AGENCY for non-compliance by AGENCY in the performance of any of the terms and conditions as set forth herein and where AGENCY does not cure said non-compliance within ninety (90) days of receipt of written notice from COUNTY to do so. Further, if AGENCY does not cure said non-compliance within the time frame specified above, then upon written notice, COUNTY may require AGENCY to reimburse any funds provided to AGENCY pursuant to this Agreement either in whole or in part once COUNTY has reasonably determined that no other remedy is available.

#### **ARTICLE 9: REMEDIES**

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. The parties hereto 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.

#### **ARTICLE 10: INDEMNIFICATION**

It is understood and agreed that AGENCY 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. In the event a claim or lawsuit is brought against COUNTY or any of its officers, agents or employees AGENCY shall indemnify, save and hold harmless and defend 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 intentional or negligent act or omission of AGENCY, its agents, servants and or employees in the performance of this Agreement.

#### **ARTICLE 11: INSURANCE**

A. AGENCY or MUNICIPALITY, as specified below, at their sole expense, agree to maintain in full force and effect at all times during the life of this Contract, 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 AGENCY and MUNICIPALITY are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by AGENCY under the contract.

- B. **Commercial General Liability.** AGENCY 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. AGENCY shall provide this coverage on a primary basis.
- C. **Worker's Compensation Insurance & Employers Liability.** AGENCY shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. AGENCY shall provide this coverage on a primary basis.
- D. **Additional Insured.** AGENCY shall endorse 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." AGENCY shall provide the Additional Insured endorsements coverage on a primary basis.
- E. **Builder's Risk and Property Insurance.** AGENCY or MUNICIPALITY agrees to maintain property insurance, which would include builder's risk insurance while the Project is in the course of construction in an amount at least equal to the estimated completed project value as well as subsequent modifications of that sum; thereafter, AGENCY or MUNICIPALITY agree to maintain All-Risk property insurance for adequate limits based on AGENCY's replacement cost or probable maximum loss estimates for the perils of either fire, wind, or flood. AGENCY or MUNICIPALITY shall agree to be fully responsible for any deductible or self-insured retention.
- F. **Umbrella or Excess Liability.** If necessary, AGENCY may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- G. **Waiver of Subrogation.** AGENCY hereby waives any and all rights of Subrogation against 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 AGENCY 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, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should AGENCY enter into such an agreement on a pre-loss basis.
- H. **Certificate(s) of Insurance.** Prior to execution of this Agreement by COUNTY, AGENCY shall deliver to COUNTY a Certificate(s) of coverage evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. Certificate holder's address shall read

- I. Palm Beach County, c/o Parks and Recreation Department, 2700 Sixth Avenue South, Lake Worth, FL 33461, Attention: Administrative Support Manager.
- J. **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 Contract. 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.
- K. AGENCY shall require each Contractor engaged by AGENCY for work associated with this Agreement to maintain:
1. Workers' Compensation coverage in accordance with Florida Statutes including endorsements for U.S. Longshore and Harbor Workers Compensation Act and the Merchant Marine Act (Jones Act) in the event any portion of the scope of services/work occurs over, near, or contiguous to any navigable bodies of water.
  2. Commercial General Liability Insurance at not less than \$1,000,000 Each Occurrence. COUNTY shall be named in the coverage as an additional insured.
  3. Business Auto Insurance with limits of not less than \$1,000,000 each accident.
  4. If the construction work being performed exceeds \$200,000, a payment and performance bond for the total amount of their construction contract, in accordance with Florida Statute 255.05.

#### **ARTICLE 12: PUBLIC ENTITY CRIMES**

As provided in Section 287.132-133, Florida Statutes, by entering into this contract or performing any work in furtherance hereof, AGENCY 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 36 months immediately preceding the date hereof. This notice is required by Section 287.133 (3)(a), Florida Statutes.

#### **ARTICLE 13: CAPTIONS**

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

#### **ARTICLE 14: SEVERABILITY**

If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 15: ENTIRETY OF AGREEMENT**

This Agreement represents the entire understanding between COUNTY, MUNICIPALITY, and AGENCY, and supersedes all other negotiations, representations or agreements, either written or

oral, relating to this Agreement. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**ARTICLE 16: THIRD PARTY BENEFICIARIES**

This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, 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 parties have caused this Agreement to be executed on the day and year first above written.

**ATTEST:**  
**SHARON R. BOCK**  
**CLERK & COMPTROLLER**

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

**ATTEST:**  
**MUNICIPALITY CLERK**

By: James Whipple  
Acting City Clerk 10/04/2007

**WITNESSES:**

Approved as to form and  
legal sufficiency:

By: Jerrill Barts  
Asst. City Attorney 10/3/07

**APPROVED AS TO TERMS AND  
CONDITIONS**

By: Dennis L. Eshleman  
Dennis L. Eshleman, Director  
Parks and recreation Department

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

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

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

By: \_\_\_\_\_  
Commissioner Addie L. Greene,  
Chairperson

**MUNICIPALITY OF DELRAY BEACH**

By: Rita Ellis  
Mayor

**DELRAY BEACH HISTORICAL SOCIETY, INC.**  
FEI # 59652974

By: ROBERT W. GANGER  
Name (Type or Print)

Title: President

By: Robert W. Ganger  
Signature

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By: \_\_\_\_\_  
Agency Attorney

**LIST OF EXHIBITS**

- EXHIBIT A            Project Description and Cost Estimate
  
- EXHIBIT B            Legal Description of Property
  
- EXHIBIT C            Contract Payment Request Form (Page 1 of 2)and  
Contractual Services Purchase Schedule Form) (Page 2 of 2)
  
- EXHIBIT D            Pre-Agreement Costs List

EXHIBIT A

PROJECT DESCRIPTION AND COST ESTIMATE

EXHIBIT A

**Project Description**

**Delray Beach Historical Society Learning Center and Archival Storage Facility**

The Project involves the creation of a **Learning Center and Archival Storage Facility** for the Delray Beach Historical Society (hereafter "DBHS"). The Learning Center will be open to the public on weekdays, free of charge. It will be a place to explore the rich history of Delray Beach and environs. Principal visitors will be school age children, local "walk-in" residents and tourists, organized tours, scholars and the media.

The Project involves three components:

1. **Moving an historic Hunt family 1908 farmhouse** from 124 NE 5<sup>th</sup> Ave (Federal Highway) to the "Cason Cottage Complex", a City of Delray Beach property located next to Old School Square. DBHS currently occupies two historic bungalows on the property. Cason Cottage is maintained as a house museum, reflecting the lifestyle of local citizens in the early 1900s. Were it not for the Project, "Hunt House" would be demolished to make room for a new townhouse construction project. DBHS acquired the farmhouse from the developer in March, 2007, on the condition that it would be moved as soon as practical.
2. **Constructing a prefabricated concrete archival storage "bunker"** that will be attached to the historic farmhouse, and then framed and roofed to appear as a natural extension of the original building. The bunker is designed to be impervious to hurricane damage. It will include equipment to maintain sensitive temperature and humidity control, meeting Museum standards for storage of documents, photographs, maps, artwork, and the like. The DBHS was founded in 1964, and much of its collection dates to settlement of the community in the late 1890s and early 20<sup>th</sup> Century. By definition, DBHS archival materials are fragile and must be well protected from the elements.
3. **Restoring the farmhouse to retain its original appearance**, consistent with strict historic preservation standards. The interior of the building will be designed to function as a Learning Center, with space and equipment for research, lectures, exhibits and conferences. The building will be staffed by a full-time archivist, and part time educational programming director. Access into, and within the Learning Center will meet ADA requirements.

The current plan is to open the Learning Center to the public on or about November 1, 2008. Several factors drive the timetable: (1) the historic farmhouse must be moved soon to accommodate the developer/landowner's construction schedule, and hopefully to avoid the peak hurricane season; (2) funding commitments are in place to complete the project, but a State of Florida Preservation Grant is conditional upon restoration work occurring between July 1, 2007 and June 30, 2008; (3) DBHS Archives Room lease in the Cornell Museum of Art and History (Old School Square) has expired and the space is desired for expansion of the Museum's art exhibitions.

**EXHIBIT A**  
**Capital Cost Estimate**  
**Delray Beach Historical Society Learning Center and Archival Storage Facility**

**Hunt House Moving Expenses**

Pre Move preparation at existing site  
Foundation and below grade utilities (new site)  
Move from existing to new site  
Below grade repair; final placement on piers

**Archival Storage Annex**

Pre-cast concrete module construction and delivery  
Construction of connecting frame, roof, siding, faux windows  
Installation of modular archival storage shelving

**Restoration of Hunt House for adaptive use as a Learning Center**

Repair/recreate original exterior features  
Restore interior walls, floors, ceilings, fixtures  
Install wiring, plumbing, A/C, dehumidification systems  
to code, and to meet ADA public access requirements  
Install information  
systems for research and teaching

**Total Estimated Costs**

---

**\$500,000**

**EXHIBIT B**

**LEGAL DESCRIPTION OF PROPERTY**



**Exhibit B**

**Legal Description of Property**

**At new and permanent location**

THE SOUTH 32 FEET OF LOT 5 AND ALL LOTS 6, 7, AND 8 BLOCK 67, TOWN OF DELRAY (PLAT BOOK 1, PAGE 3) CITY OF DELRAY BEACH, PALM BEACH COUNTY, FLORIDA

The mailing address of the Delray Beach Historical Society is 3 NE 1<sup>st</sup> Street

The street address for Hunt House in its new location is 111 North Swinton Avenue

EXHIBIT C

CONTRACT PAYMENT REQUEST FORM AND CONTRACTUAL SERVICES PURCHASE  
SCHEDULE FORM



CONTRACT PAYMENT REQUEST

\_\_\_\_\_ Date

Grantee: \_\_\_\_\_ Project Name: \_\_\_\_\_

Submission #: \_\_\_\_\_ Reimbursement Period: \_\_\_\_\_

Item	Key	Project Costs This Submission	Cumulative Project Costs
Consulting Services	(CS)	_____	_____
Contractual Services	(C)	_____	_____
Materials, Supplies, Direct Purchases	(M)	_____	_____
Equipment, Furniture	(E)	_____	_____
<b>TOTAL PROJECT COSTS</b>		=====	=====

Key Legend

CS = Consulting Services
C = Contractual Services
M = Materials, Supplies, Direct Purchases
E = Equipment, Furniture

Certification: I hereby certify that the above expenses were incurred for the work identified as being accomplished in the attached progress reports.

Certification: I hereby certify that the documentation has been maintained as required to support the project expenses reported above and is available for audit upon request.

\_\_\_\_\_  
Administrator Date

\_\_\_\_\_  
Financial Officer Date

PBC USE ONLY

County Funding Participation	\$	_____
Total Project Costs To Date:	\$	_____
County Obligation To Date	\$	_____
County Retainage ( _____ %)	\$	_____
County Funds Previously Disbursed	\$	_____
County Funds Due this Billing	\$	_____

Reviewed and Approved By:

\_\_\_\_\_  
PBC Project Administrator Date

\_\_\_\_\_  
Department Director Date



**Key Legend**  
 CS = Consulting Services  
 C = Contractual Services  
 M = Materials, Supplies, Direct Purchases  
 E = Equipment, Furniture

**PALM BEACH COUNTY  
 PARKS AND RECREATION DEPARTMENT  
 CONTRACTUAL SERVICES PURCHASE SCHEDULE**

**EXHIBIT C**

Grantee: \_\_\_\_\_  
 Submittal #: \_\_\_\_\_

Date \_\_\_\_\_  
 Project Name: \_\_\_\_\_  
 Reimbursement Period: \_\_\_\_\_

Ln	Payee (Vendor/Contractor)	Key	Check or Voucher		Invoice		Amount	Expense Description
			Number	Date	Number	Date		
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
						<b>TOTAL \$</b>		

Certification: I hereby certify that the purchases noted above were used in accomplishing this project.

Certification: I hereby certify that bid tabulations, executed contract, cancelled checks, and other purchasing documentation have been maintained as required to support the costs reported above and are available for audit upon request.

\_\_\_\_\_  
 Administrator Date

\_\_\_\_\_  
 Financial Officer Date



EXHIBIT D

PRE-AGREEMENT COST LIST

Note: Costs must be for eligible project expenses incurred subsequent to August 1, 2007.

**EXHIBIT D**  
**Pre-Agreement Cost Estimate**  
**Delray Beach Historical Society Learning Center and Archival Storage Facility**

**Hunt House Moving Expenses**

Pre Move preparation at existing site  
Foundation and below grade utilities (new site)  
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**Archival Storage Annex**

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Install wiring, plumbing, A/C, dehumidification systems  
to code, and to meet ADA public access requirements  
Install information  
systems for research and teaching

**Total Estimated Costs**

---

**\$500,000**

**PRODUCER**  
  
Arthur J. Gallagher & Co.  
2255 Glades Road  
Suite 400 E.  
Boca Raton, FL 33431

**INSURED**  
  
City of Delray Beach  
100 Northwest 1<sup>st</sup> Ave.  
Delray Beach, FL 33444

This certificate is issued as a matter of *information* only and confers no rights upon the certificate holder. This certificate *DOES NOT* amend, extend or alter the coverage afforded by the policies below.

*COMPANIES AFFORDING COVERAGE*

COMPANY (A) STAR INSURANCE COMPANY

COMPANY (B) \_\_\_\_\_

COMPANY (C) \_\_\_\_\_

COMPANY (D) \_\_\_\_\_

**COVERAGES**  
This is to certify that the policies of Insurance listed below have been issued to the Insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT	CP 02677 20	10/1/2007	4/1/2009	GENERAL AGGREGATE PRODUCTS-COMP/OP AGG EACH OCCURRENCE FIRE DAMAGE (any one fire) MED. EXPENSE (any one person)  <b>SEE BELOW</b>
A	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY	CP 02677 20	10/1/2007	4/1/2009	COMBINED SINGLE LIMIT BODILY INJURY (per person) BODILY INJURY (per accident) PROPERTY DAMAGE  <b>SEE BELOW</b>
A	<input type="checkbox"/> UMBRELLA FORM <input checked="" type="checkbox"/> OTHER THAN UMBRELLA FORM	CP 02677 20	10/1/2007	4/1/2009	EACH OCCURRENCE AGGREGATE  \$1,000,000 <b>\$3,000,000</b>
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY	CP 02677 20	10/1/2007	4/1/2009	STATUTORY LIMITS  EACH ACCIDENT DISEASE-POLICE LIMIT DISEASE-EACH EMPLOYEE  <b>Statutory</b>

Company A - Policy subject to a \$500,000. S.L.R. per occurrence.

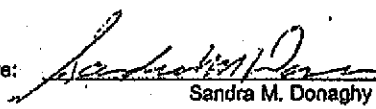
**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS** - All operations usual to a normal City Government including the Certificate Holder as additional insured but only with respects to the negligent acts of the Named Insured and only to the extent allowed by FS 768.28 and the Florida Constitution for the use of Palm Beach County Parking Garage during Christmas Tree Lighting to be held on 11/29/07.

All other terms and conditions of this policy remain unchanged.

**CERTIFICATE HOLDER**

Palm Beach County  
2700 6<sup>th</sup> Ave. South  
Lake Worth, FL 33461  
Attention: Susan Yinger

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

Authorized Signature:   
Sandra M. Donaghy



<b>ACORD, CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 10/26/2007
<b>PRODUCER</b> GRACEY - BACKER, INC. 275 George Bush Blvd Delray Beach, FL 33444	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> Delray Beach Historical Society 3 Ne 1st Street Delray Beach, FL 33444	<b>INSURERS AFFORDING COVERAGE</b> INSURER A: COLONY INSURANCE COMPANY INSURER B: INSURER C: INSURER D: INSURER E:	NAIC#

INSR ADD'L LTR. RECD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <b>Owners &amp; Contractors</b>  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	GL3535300A	5/11/2007	5/11/2008	EACH OCCURRENCE \$ 7,000,000. DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000. MED EXP (Any one person) \$ 5,000. PERSONAL & ADV INJURY \$ EXCLUDED GENERAL AGGREGATE \$ 2,000,000. PRODUCTS - COMP/OP AGG \$ EXCLUDED
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$  BODILY INJURY (Per person) \$  BODILY INJURY (Per accident) \$  PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$  OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 PALM BEACH COUNTY IS NAMED AS AN ADDITIONAL INSURED TO THIS POLICY.  
 30 DAYS CANCELLATION EXCEPT NON PAYMENT IS 10 DAYS.

<b>CERTIFICATE HOLDER</b> PALM BEACH COUNTY C/O PARKS & RECREATION DEPARTMENT 2700 SIXTH AVE. SOUTH LAKE WORTH, FL, 33461-  is named as additional insured	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>Richard J. Hill</i>
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**BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA  
BUDGET TRANSFER**

**FUND 3019 - \$25M GO Park and Cultural Improv 03**

ACCOUNT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 10/19/07	REMAINING BALANCE
<b><u>Delray Beach Historical Society Learning Center</u></b>								
3019-581-P653-8201	Contributions-Non-Govts Agncs	0	0	200,000		200,000	0	200,000
<b><u>Reserves</u></b>								
3019-581-9900-9908	Reserves - New Projects	4,760,887	3,263,717		200,000	3,063,717	0	3,063,717
<b>TOTAL</b>				200,000	200,000			


Parks and Recreation Department  
**INITIATING DEPARTMENT/DIVISION**

Administration/Budget Department Approval

OFMB Department - Posted

Signatures

Date

 10/29/07  
\_\_\_\_\_  
\_\_\_\_\_

By Board of County Commissioners  
At Meeting of  
**November 20, 2007**  
\_\_\_\_\_  
Deputy Clerk to the Court