Agenda Item #: 3.M.4.

## PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

# AGENDA ITEM SUMMARY

Meeting Date: May 6, 2008

[X] Consent [] Ordinance [] Regular [] Public Hearing

Department: <u>Parks and Recreation</u>

Submitted By: Parks and Recreation Department

# Submitted For: Parks and Recreation Department

#### I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Agreement with The Lake Worth Playhouse, Inc. for the period May 6, 2008, through September 30, 2008, in an amount not-to-exceed \$5,000 for funding of 2008 children's programming.

**Summary:** This funding is to help offset costs for children's programming at The Lake Worth Playhouse for at-risk children. The children's programming serves approximately 35 at-risk children who attend the Lake Worth Empowerment Center. The Agreement allows for the reimbursement of eligible expenses incurred subsequent to October 1, 2007. Funding is from the Recreation Assistance Program (RAP) District 7 Funds. <u>District 7</u> (AH)

**Background and Justification:** The Lake Worth Playhouse, Inc. is a not-for-profit theatre organization that offers children's programming to introduce at-risk children to musical theatre. The Lake Worth Playhouse has been working with For the Children, Inc. to provide cultural arts classes to teach specific routines or numbers from a musical to children. The classes will culminate with a performance on the main stage of the Lake Worth Playhouse. Participants in the children's programs are also given the opportunity to attend a musical at the theatre to give them insight into what they are learning and to attend other performances of either comedies or dramas at the Lake Worth Playhouse to expose them to other elements of the arts.

The total cost of 2008 children's programming is approximately \$24,000 for teachers, supplies, and other miscellaneous children's programming expenses. The \$5,000 from District 7 RAP funding will help offset a portion of the costs for the programs. The Agreement has been executed on behalf of The Lake Worth Playhouse, Inc., and now needs to be approved by the Board of County Commissioners.

Attachment: Agreement

	$\sim$	
Recommended by:	Pennin Menun	4/16/08
	Department Director	Date
Approved by:	Auc	4/30/08
	Assistant 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 External Revenues Program Income (County In-Kind Match (County)	 5,000  ) 	-0- -0- -0- -0-	-0- -0- -0- -0- -0-	-0- -0- -0- -0- -0-	-0- -0- -0- -0- -0-
NET FISCAL IMPACT	5,000	0	-0-	0	0
# ADDITIONAL FTE POSITIONS (Cumulative)			·		
ls Item Included in Currei Budget Account No.:	nt Budget? Y Fund <u>3600</u> Object <u>8201</u>	Departme		<u>R907</u>	
B. Recommended Source	es of Funds/	Summary of	Fiscal Impact:	·	
Recreation Assistan District 7 360	<u>ce Program</u> )0-583-R907-1	50-8201	\$5,000		
C. Departmental Fiscal I	Review:	Cko	pelakis		<u>.</u>
	<u>III. R</u>		IMENTS		
A OFMB Fiscal and/or 0	Contract Deve	lopment and	d Control Com	ments:	

OFMB \$3 4/05/08 5/ 1/25/08 (14/2308

**B. Legal Sufficiency:** 

Assistant County Attorney

C. Other Department Review:

**Department Director** 

REVISED 10/95 ADM FORM 01

G:\SYINGER\RAP07-08\District 7\Lake Worth Playhouse, Inc\Agenda.doc

Contract Develo

This Contract complies with our contract review requirements.

#### AGREEMENT BETWEEN PALM BEACH COUNTY AND THE LAKE WORTH PLAYHOUSE, INC. FOR FUNDING OF 2008 CHILDREN'S PROGRAMMING

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

#### WITNESSETH:

WHEREAS, Lake Worth Playhouse is a not-for-profit organization that offers children's programming to introduce at-risk children to musical theatre; and

WHEREAS, Lake Worth Playhouse has been working with For the Children, Inc. to provide cultural arts children's programming for at-risk children attending the Lake Worth Empowerment Center; and

WHEREAS, Lake Worth Playhouse has developed classes to teach specific routines or numbers from a musical to approximately thirty (30) through forty (40) children, which will culminate with a performance on the main stage of the Lake Worth Playhouse; and

WHEREAS, participants in the children's program are given the opportunity to attend the musical currently playing at the theatre to give them insight into what they are learning and to attend other performances of either comedies or dramas at the Lake Worth Playhouse to expose them to other elements of the arts; and

WHEREAS, the total annual cost of the children's programming is approximately \$24,000 for teachers, supplies, and other miscellaneous children's programming expenses; and

WHEREAS, Lake Worth Playhouse has requested that County provide \$5,000 to help offset expenses for children's programming; and

WHEREAS, funding for the children's programming in an amount not-to-exceed \$5,000 is available from the Recreation Assistance Program (RAP) District 7; and

WHEREAS, cultural programs benefiting children 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 \$5,000 to Lake Worth Playhouse for children's programming for personnel costs, supplies, and other miscellaneous expenses for the

children's programming, as set forth in Exhibit "A", attached hereto and incorporated herein, hereinafter referred to as the "Project".

2. County will use its best efforts to provide said funds to Lake Worth Playhouse 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 Lake Worth Playhouse. Said information shall list each invoice paid by Lake Worth Playhouse and shall include the vendor invoice number; invoice date; and the amount paid by Lake Worth Playhouse along with the number and date of the respective check or proof of payment for said payment. Lake Worth Playhouse shall attach a copy of each vendor invoice paid by Lake Worth Playhouse along with a copy of the respective check or proof of payment and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule. Further, Lake Worth Playhouse's Program Administrator and Project Financial Officer shall certify the total funds spent by Lake Worth Playhouse on the Project and shall also certify that each vendor invoice, as listed on the Contractual Services Purchases Schedule was paid by Lake Worth Playhouse and approved by Lake Worth Playhouse as indicated.

3. Lake Worth Playhouse incurred expenses for the Project beginning on October 1, 2007. Those costs incurred by Lake Worth Playhouse for the Project, approved and submitted accordingly by Lake Worth Playhouse subsequent to October 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 Lake Worth Playhouse 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. Lake Worth Playhouse warrants that it is an active not-for-profit corporation, duly chartered and registered with the Florida Department of State, Division of Corporations.

6. Lake Worth Playhouse agrees, warrants, and represents that all of the employees and participants in the Project will be treated equally during employment and for the provision of services without regard to residency, race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

7. Lake Worth Playhouse shall be responsible for the operation and maintenance of the Project, including all associated costs.

8. The term of this Agreement shall be until September 30, 2008, commencing upon the date of execution by the parties hereto.

9. The parties agree that, in the event Lake Worth Playhouse is in default of its obligations under this Agreement, the County shall provide Lake Worth Playhouse thirty (30) days written notice to cure the default. In the event Lake Worth Playhouse 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 Lake Worth Playhouse for the Project deemed to be in default and Lake Worth Playhouse shall return any County RAP funds already collected by Lake Worth Playhouse 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. Lake Worth Playhouse shall complete the Project by June 30, 2008, and invoices and checks submitted for reimbursement must be dated within the project time frame of October 1, 2007, through June 30, 2008. Lake Worth Playhouse 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, 2008. Upon written notification to County at least ninety (90) days prior to that date Lake Worth Playhouse may request an extension beyond this period for the purpose of completing the Project. County shall not unreasonably deny Lake Worth Playhouse's request for said extension.

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

13. Lake Worth Playhouse 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 Lake Worth Playhouse. 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 Lake Worth Playhouse 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, Lake Worth Playhouse 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 Lake Worth Playhouse, 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 Lake Worth Playhouse is eligible to receive reimbursement from the County.

16. Lake Worth Playhouse 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. Lake Worth Playhouse shall agree to provide the County with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as County's review and acceptance of insurance maintained by Lake Worth Playhouse are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Lake Worth Playhouse under this Agreement.

**Commercial General Liability**. Lake Worth Playhouse 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. Lake Worth

Playhouse shall provide this coverage on a primary basis.

**Worker's Compensation Insurance & Employer's Liability**. Lake Worth Playhouse shall maintain Worker's Compensation & Employer's Liability in accordance with Florida Statutes Chapter 440. Lake Worth Playhouse shall provide this coverage on a primary basis.

Waiver of Subrogation. Lake Worth Playhouse 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 Lake Worth Playhouse 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 Lake Worth Playhouse enter into such an agreement on a pre-loss basis.

**Certificate(s) of Insurance**. Prior to execution of this Agreement by the County, Lake Worth Playhouse 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 ten (10) 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, Lake Worth Playhouse shall demonstrate financial accountability through the submission of acceptable financial audits performed by an independent auditor.

18. Lake Worth Playhouse 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 Lake Worth Playhouse, County shall have the right to inspect and audit said books, records, documents and other evidence during normal business hours.

19. The County and Lake Worth Playhouse 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, Lake Worth Playhouse certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

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

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

As to the County:

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

As to Lake Worth Playhouse:

Executive Director The Lake Worth Playhouse, Inc. 713 Lake Avenue Lake Worth, FL 33460

24. This Agreement is made solely and specifically among and for the benefit of the parties hereto, and no other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

IN WITNESS WHEREOF, the undersigned parties have signed this Agreement on the

date first above written.

## ATTEST:

WITNESSES:

By:

SHARON R. BOCK, Clerk & Comptroller

**Deputy Clerk** 

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

\_ By:

Commissioner Addie L. Greene, Chairperson

THE LAKE WORTH PLAYHOUSE, INC. EIN Number: 59-6138280

By: <u>STEPHAWIE SMTH</u> Name (Type or Print) Title: <u>GENERAL</u> MANAGER

By: Signature

#### APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: \_

County Attorney

#### APPROVED AS TO TERMS AND CONDITIONS

By: A Dennis L. Eshleman, Director Parks and Recreation Department

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

Name of Agency: Lake Worth Playhouse Address: 713 Lake Avenue, Lake Worth FL 33460

Federal Employer Identification Number: 59-6138280

Name of President: Diane Freaney Name of Executive Director: Stephanie Smith, (General Manager) Project Liaison Information: Name: Stephanie Smith Telephone # 561-586-6169 Ext 205 Fax # 561-586-8832 E-mail <u>ssmith@lakeworthplayhouse.org</u>

# **Project Information**

- 1. Name of Project: 2008 Childrens Programming
- 2. Project Description
  - General (Project Scop)

The musical theatre program is designed to introduce children to musical theatre. The Lake Worth Playhouse has been working with "For the Children Inc" to provide a cultural arts program for the children of the Lake Worth Empowerment Center.

Each class is set up to learn specific routines or numbers from a musical and end with a performance on the main stage of the Lake Worth Playhouse. Musical numbers are frequently chosen to coincide with a current or upcoming main stage musical produced by the Playhouse. The students are taught what the show is about, and choreographers teach them to perform these songs just like the actors and dancers do during rehearsal.

The children are also given the opportunity to attend the musical currently playing at the theatre to give them more insight into what they are learning. This proved quite successful during the program last summer. The children, while they were learning the specific numbers from the musical "Chicago", were given an opportunity to watch the movie. Each student then understood more of the feel and the intent of the songs. It translated beautifully in their performance. Students are also invited to attend other performances of either comedies or drama's at the Lake Worth Playhouse, when content is appropriate, to expose them to the other elements of the arts.

#### Public Purpose:

The public purpose of the program is to introduce children to musical theatre. These children may not have the opportunity to be exposed to the arts due to monetary, cultural or societal issues. Additionally, it is the intent of the program to provide these possibly high risk children with an empowering alternative.

# • Location

Lake Worth, Florida

#### • Anticipated Number of Participants/Users: 30 - 40

#### 3. Project Elements:

The budget for this program is set on an hourly rate of \$50.00 per hour, including teachers, supplies, etc.

- 4. Estimated Lump Sun Total for Project: \$24,000.00
- 5. Project Initiation date and end date

October 1 2007 - May 31, 2008 June 30, 2008

6. Required Attachments: Certificate Of Insurance

Amount of Recreation Assistance Program Funding awarded

\$ 5,000 District 7



#### PALM BEACH COUNTY PARKS AND RECREATION DEPARTMENT

## CONTRACT PAYMENT REQUEST

EXHIBIT B

Grantee:	·		Project Name:		
Submission #:			Reimbursement Period:		
tem		Key	Project Costs This Submission	Cumulative Project Costs	
Contractual Servi	ces	(C)			
Salary & Wages (% of salaries)		(S)			
Materials, Supplies, Direct Purchases		(M)			
quipment		(E)			
ravel		(T)		<u></u>	
ndirect Costs		(i)		* *****	
	TOTAL PROJECT COSTS	5			
Key Legend	C = Contractual Services S = Salary & Wages M = Materials, Supplies, Direct   E = Equipment T = Travel I = Indirect Costs				

being accomplished in the attached progress reports.

expenses reported above and is available for audit upon . request.

	PBC USE	ONLY		
County Funding Participation	\$	· ·		
Total Project Costs To Date:	\$		. · · · · · · · · · · · · · · · · · · ·	
County Obligation To Date	\$	<u></u>		
County Retainage ( %)	\$			
County Funds Previously Disburse	d \$			
County Funds Due this Billing	\$			
Reviewed and Approved By:	. ·			
	PBC Project Admini	strator	Date	
	Department Director		Date	

Page <u>1 of</u>

		Key Legend   C = Contractual Services   S = Salary & Wages   M = Materials, Supplies, Direct Purchases   E = Equipment   T = Travel   I = Indirect Costs			PALM BEACH ( AND RECREATIO UAL SERVICES P	ON DEPARTME		EXHIBIT B		
						Date	<del>)</del>	· -		
		Grantee:				Projec	ct Name:			
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16										
	· ·						TOTAL \$	<u> </u>		

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

Date

Page <u>2 of</u>

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.)

			Check or	Voucher	Invoi	ice	• •	
· #	Payee (Vendor/Contractor)	Key	Number	Date	Number	Date	Amount	Expense Description
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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.

Financial Officer

Date

Page <u>3 of</u>

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	Lake Worth Playhou	80	INSURER B: E	ederal Ins	urance Company	20281		
	Diane M. Freanev		INSURER C:	INSURER C:				
	713 Lake Avenue Lake Worth FL 3346	0	INSURER D:		· · · · · · · · · · · · · · · · · · ·			
VED	AGES		INSURER E:					
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ADD		POLICY NUMBER	DATE (MM/DD/YY)		LIMITS	 }		
1	GENERAL LIABILITY				EACH OCCURRENCE	\$ 1000000		
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					PERSONAL & ADV INJURY	\$ 1000000		
					GENERAL AGGREGATE	\$ 2000000		
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	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$		
	ALL OWNED AUTOS				BODILY INJURY (Per person)	\$		
	HIRED AUTOS				BODILY INJURY (Per accident)	's		
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OT	HER							
	roperty	35367377	12/29/07	12/29/08	Building	\$477,500		
11	ncl cnts & edp				Contents	\$20,000		
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