

5E-1

Agenda Item #: _____

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 9/23/ 08 ☐ Consent ☒ Regular
 ☐ Ordinance ☐ Public Hearing
Department

Submitted By: TOURIST DEVELOPMENT COUNCIL

Submitted For: PALM BEACH COUNTY CULTURAL COUNCIL, INC.

I. EXECUTIVE BRIEF

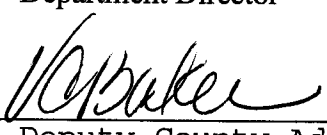
Motion and Title: STAFF RECOMMENDS MOTION TO APPROVE: An amended and restated agreement (R2007-1622) with the Palm Beach County Cultural Council, Inc. (the "Cultural Council") for the provision of services under the County's Tourist Development Plan during the period of October 1, 2008 through September 30, 2012 in the amount of \$877,716.

Summary: The amended and restated agreement updates for the Fiscal Year 2009 Exhibit "A" – Annual Budget; Exhibit "E" – Performance Measures; revises Exhibit "G" – Salary Ranges; Exhibit "H" – Organizational Chart and revisions to conflict of interest procedures. Contract changes have been reviewed and approved by the TDC. This will be the second year of the five year agreement between the Cultural Council and the County in the amount of \$877,716. Cultural Council will continue to administer category B grants of \$2.4 million, and category C grants of \$150,000 for the County and indirect costs of \$287,613 for a total of \$3,715,329. (TDC) Countywide (MC)

Background and Justification: Under the current Agreement, the Cultural Council develops and implements an Annual Marketing Plan to promote cultural activities and administer the Category "B" TDC grants, as well as, Category "C" grants from ad valorem funding. All expenditures by the Cultural Council under the Contract must be in accordance with an Operating Budget included as Exhibit "A" to the Contract, from funds appropriated annually by the County. The amended and restated agreement adopts a new Exhibit "A", as well as a new Exhibit, "E" Performance Measures, to apply during the Fiscal Year 2009. The amended and restated agreement also includes revisions to Exhibit "G" Salary Ranges to reflect current market changes to the ranges, and to Exhibit "H" Organizational Chart to conform to the Cultural Council's budget for Fiscal Year 2009 and revisions to conflict of interest procedures.

Attachments: Amended and restated agreement

Recommended by: _____ **Date** _____
Department Director

Approved By:  **Date** 9/22/08
Deputy County Administrator

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	\$ 877,716	<u>tbd</u>	<u>tbd</u>	<u>tbd</u>	<u>tbd</u>
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
	\$ 877,716	tbd	tbd	tbd	tbd
NET FISCAL IMPACT	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

ADDITIONAL FTE

POSITIONS (Cumulative) - 0- 0- 0- 0- 0-

Is Item Included In Current Budget? *Proposed* Yes ☒ No.

Budget Account No.: Fund 1455 Dept 710 Unit 7014 Object 3401
Reporting Category _____

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

The Cultural Council receives 22.51% of the 2nd, 3rd and 5th cent of the local option bed tax.

C. Department Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

9/18/2008 *9/18/08* *9/18/08* *9/19/08*
OFMB *9/18/08* Contract Dev. and Control *9/19/08*

B. Approved as to form and Legal Sufficiency:

Maureen Cullen
Assistant County Attorney

This Contract complies with our contract review requirements.

At the time of our review, the Fidelity Bank was not available, and the insurance certificate needed to be revised

C. Approved as to Terms and Conditions:

Department Director

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

AMENDED AND RESTATED

AGREEMENT

Between

PALM BEACH COUNTY
A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA

And

PALM BEACH COUNTY CULTURAL COUNCIL

On behalf of the

TOURIST DEVELOPMENT COUNCIL

SUMMARY OF AGREEMENT

This summary is included for convenience and only and shall not be taken into consideration in any construction or interpretation of the Agreement attached hereto or any of its provisions.

Term of Agreement: 2nd of 5 years

Contract Amount: \$877,716

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AMENDED AND RESTATED AGREEMENT
WITH PALM BEACH COUNTY CULTURAL COUNCIL, INC.

This AMENDED AND RESTATED AGREEMENT to that AGREEMENT dated September 25, 2007, is made and entered into this _____ day of _____, 2008, by and between the PALM BEACH COUNTY CULTURAL COUNCIL, INC., a Florida not-for-profit corporation, (hereinafter referred to as "CULTURAL COUNCIL") whose Federal I.D. Number is 59-1862336, and PALM BEACH COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, (Hereinafter referred to as "County").

WHEREAS, the COUNTY has established a Tourist Development Plan for the use of revenues derived from the Tourist Development Tax as set forth in Ordinance No. 95-30 as amended; and

WHEREAS, a portion of the Tourist Development Tax revenues are reserved for cultural and fine art entertainment, festivals, programs and activities which directly promote Palm Beach County tourism (hereinafter referred to as Category "B" funds) and

WHEREAS, in order to effectively provide for the use of the Tourist Development Tax revenues allocated for cultural activities, it is necessary to contract with an organization to review applications for the use of these funds; to help implement the Tourist Development Plan; and to coordinate cultural activities undertaken with Tourist Development Tax funds; and

WHEREAS, the Cultural Council is recognized by the COUNTY as the designated cultural organization to provide certain necessary assistance and services needed to effectively implement the Tourist Development Plan; and

WHEREAS, on September 25, 2007, the Board of County Commissioners entered into a five year agreement (Original Agreement) with the CULTURAL COUNCIL for the provision of said assistance and service ; and

WHEREAS, the parties wish to make certain revisions to the Original Agreement, including the provision of a new budget for FY '09, as set forth herein in this Amended and Restated Agreement.

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

1. Guidelines, Policies and Procedures. Upon request of the Tourist Development Council of Palm Beach County, Florida (hereinafter referred to as "TDC") or its Executive Director, the Cultural Council shall propose specific revisions of the currently implemented guidelines, policies and procedures prescribed by the TDC which may be utilized by COUNTY as criteria for evaluation, administering and monitoring applications for Category "B" funds.
2. Review of Grant Applications. Upon completion of the proposed revisions to guidelines, policies and procedures prepared pursuant to Paragraph 1 of this Agreement, the CULTURAL COUNCIL shall deliver same to the Executive Director of the TDC to provide to the TDC for its review, modification and approval. Upon the TDC's approval of the guidelines, policies and procedures, the CULTURAL COUNCIL shall be charged with the responsibility of receiving grant applications from organizations and preliminarily evaluating these applications to determine whether the applications have met the guidelines, policies and procedures established by the TDC and COUNTY. Following its review of an application, the CULTURAL

COUNCIL shall recommend to the TDC whether such application should be considered for funding. The final determination of funding shall be the sole responsibility of COUNTY.

3. Annual Review of Guidelines, Policies and Procedures. The guidelines, policies and procedures established by the TDC and COUNTY pertaining to the provision of cultural and/or non-fine arts and fine arts entertainment, including festivals, programs and other activities which directly promote tourism to Palm Beach County, in accordance with Category "B" of the COUNTY's Tourist Development Plan may be revised upon approval of the parties. At least once a year, the CULTURAL COUNCIL and the TDC shall review the guidelines, policies and procedures to determine if they are consistent with the COUNTY's objective and will accomplish their intended purpose. The CULTURAL COUNCIL shall strive to enhance Palm Beach County's reputation by recommending for funding quality events with long-term impact.
4. Annual Marketing Plan. The CULTURAL COUNCIL, in cooperation and consultation with the TDC's Executive Director, with persons providing contractual services for the COUNTY's Tourist Development Plan as provided in this Agreement and with other interested persons, shall develop a specific and detailed annual marketing and advertising plan (referred to herein as the "Annual Marketing Plan") for accomplishing the marketing purposes of Category "B" of the Tourist Development Plan, as set forth in the Palm Beach County Code. The CULTURAL COUNCIL shall present such Annual Marketing Plan to the TDC through its Executive Director for

review, modification and approval, and shall implement the Annual Marketing Plan as provided in this Agreement.

5. Marketing and Advertising. The CULTURAL COUNCIL shall oversee the strategic development of all marketing functions, including but not limited to the following: research, marketing and public relations strategy in the public and private sectors, publications, broadcast and display advertising, special promotional campaigns and programs, media relations and releases, Palm Beach International Airport Tourist Information Center, festival marketing and cooperative media buys, programs with the TDC, and the South Florida Cultural Consortium, and Cultural Executives and other marketing committees, all being subject to the overall direction and guidance of the TDC through its Executive Director. In addition, the CULTURAL COUNCIL shall, to the extent possible, establish cooperative ventures with the other funded TDC agencies.
6. Preparation of Grant Application Form. The CULTURAL COUNCIL shall develop, prepare and update an application form (or forms) to be used by organizations and/or individuals applying for Category "B" funding as provided for herein. The application(s) shall be drafted to enable one to readily determine if the applicant meets the requirements of the Tourist Development Plan and is worthy of funding pursuant to the guidelines, policies and procedures established by the TDC and COUNTY. The CULTURAL COUNCIL shall also assist the COUNTY with the preparation of Grant Agreements to be utilized by COUNTY and the Category "B" grantees and shall perform other related duties upon the request of the Executive Director of the TDC.

7. Monitoring and Evaluation of Grantees. Upon the COUNTY's approval of an application (or applications) for Category "B" funding, the CULTURAL COUNCIL shall monitor and evaluate the activities of the applicant during the time the funded activity is conducted. This monitoring and evaluation shall be conducted in such a manner so as to determine the activities' impact on tourist development while taking into consideration artistic quality and administrative efficiency. The results of this monitoring and evaluation shall be reported to the TDC's Executive Director. The CULTURAL COUNCIL shall cooperate with the TDC and its Executive Director in all matters pertaining to such monitoring and evaluation and shall provide any further data requested by the TDC or its Executive Director.
8. Performance Measures. The CULTURAL COUNCIL shall provide semi – annual reports to the Executive Director of the TDC or his/her designee on attainment of the performance measures, attached hereto and incorporated herein as Exhibit E. The CULTURAL COUNCIL agrees to make all good faith efforts to achieve and to provide written justification acceptable to TDC in the event a performance measure is not achieved.
9. Audit Requirements
 - A. The CULTURAL COUNCIL shall have an audit of its finances conducted annually by a qualified independent auditor in accordance with generally accepted accounting principles. The report of such audit shall be available for inspection pursuant to Paragraphs 36 and 37 of this Agreement. The CULTURAL COUNCIL shall provide a copy of the audit report along with the accompanying management letter to each member of the TDC. The auditor and the Chairman of the CULTURAL

COUNCIL's Board of Directors shall present the audit to the TDC Audit Committee and the TDC.

B. The CULTURAL COUNCIL shall establish and continue in effect during the term of this Agreement an audit committee composed of members of its Board of Directors and such others as needed to properly review expenditures and accounting procedures and verification of assets. The Audit Committee will oversee the engagement of the auditing firm and review any audit findings. However, the same auditing firm may not conduct the annual audit for more than five (5) consecutive years.

10. Other Duties.

The CULTURAL COUNCIL shall provide any assistance and services requested by the TDC or its Executive Director, which the TDC or its Executive Director deem necessary to facilitate the performance of the CULTURAL COUNCIL as they relate to the use of Category "B" funds including but not limited to the following:

A. South Florida Cultural Consortium. Specifically, the CULTURAL COUNCIL shall serve as COUNTY's designated member of the South Florida Cultural Consortium (hereinafter "Consortium"). In accordance with the direction of COUNTY, the CULTURAL COUNCIL shall perform the duties and functions ascribed to the COUNTY in the Amended Interlocal Agreement Among Broward County, Martin County and Miami-Dade County relating to the South Florida Cultural Consortium approved by the Board of County Commissioners on or about September 22, 1992; provided, however, that the CULTURAL COUNCIL shall not have the authority to amend or terminate said Interlocal Agreement. In the event the COUNTY shall withdraw or terminate said Interlocal Agreement, any property due to the parties as a

result of such withdrawal or termination shall be returned to COUNTY. The CULTURAL COUNCIL shall also provide the cash and in-kind matching requirements, which are the responsibility of each party or its designated cultural council and are described in said Interlocal Agreement.

11. Qualification, Performance and Monitoring of Contractors. Any parties with which the COUNTY or the CULTURAL COUNCIL enters into contracts for services or goods pursuant to this Agreement shall be specifically experienced in, and qualified for, the provision of such services. As contract administrator, the CULTURAL COUNCIL, in consultation with the Executive Director of the TDC, shall develop criteria to be used to monitor and evaluate the performance of all contractors, including applicants receiving Category "B" funds (i.e. grantees). The grantees will provide no less than an annual report setting forth the duties the grantees have performed and the services they have provided. Each grantee's annual report shall be received within thirty (30) days of the expiration of the grant period identified in the grant agreement. The CULTURAL COUNCIL shall provide to the TDC, through its Executive Director, said reports and the results of such monitoring and evaluation. The CULTURAL COUNCIL shall take reasonable measures to assure the continued satisfactory performance of all contractors including grantees. Should the CULTURAL COUNCIL, after taking such reasonable measures, determine after consultant with the Executive Director of the TDC, that any contractor has failed to perform in accordance with its contract, the CULTURAL COUNCIL shall, as the case may be, either terminate its agreement with such contractor with notice to and the concurrence of the Executive Director of the TDC, or recommend to the

COUNTY to terminate the COUNTY's agreement with such contractor. The CULTURAL COUNCIL shall keep the Executive Director of the TDC fully informed as to all activities of the CULTURAL COUNCIL and all contractors who have received or expended revenues derived from the Tourist Development Tax or who have expended COUNTY funds, so as to enable the TDC's Executive Director to effectively assess overall direction and guidance of COUNTY's Tourist Development Plan. The TDC's Executive Director shall serve as an ex-officio member of all committees and subcommittees of the CULTURAL COUNCIL whose functions are in any way related to the expenditure of COUNTY or Tourist Development Tax funds.

12. Surveys. The CULTURAL COUNCIL shall conduct or cause to be conducted audience surveys of those events held in Palm Beach County receiving Category "B" funds. The CULTURAL COUNCIL shall submit reports on the results of such research to the Executive Director of the TDC.
13. Research. The CULTURAL COUNCIL may conduct a tourism marketing research program in accordance with the objective established by the CULTURAL COUNCIL and approved by the Executive Director of the TDC, including, but not limited to, surveys of tourism attendance (tourist is defined by the Tourist Development Council as those persons using overnight paid accommodations) related to Palm Beach County attractions and special events receiving Category "B" funds, and submit reports of the results of such research to the Executive Director of the TDC. The CULTURAL COUNCIL may retain an independent research firm to conduct these surveys. The Council may also retain an independent research firm to conduct

audience development surveys and focus groups. These efforts will include research on ways to attract visitors from outside Palm Beach County to enjoy the arts and culture of the County.

14. Personnel. The CULTURAL COUNCIL shall employ subject to the availability of funds as set forth in the attached Exhibit "A" (Budget), sufficient staff and support personnel to perform on behalf of the CULTURAL COUNCIL the duties and services provided in this Agreement. The salary ranges and organizational chart for such staff positions are set forth in Exhibits "G" and "H" respectively and shall remain in full force and effect until the County's budget process at which time the salary ranges and organizational chart shall be established as part of the CULTURAL COUNCIL's policies and procedure after approval by the TDC and the County Administrator or his/her designee. Any changes to the salary ranges and/or organization chart during the year shall be made only upon approval of the TDC and the County Administrator or his/her designee. Employees whose salaries are underwritten by Tourist Development Tax funds must work for that portion of their time so underwritten, only on tourist development-related projects as specified in the Annual Marketing Plan and activities that support organizations involved in tourism development efforts. No personnel employed by the Cultural Council shall be officers, employees, servants or agents of the COUNTY nor have any contractual relationship with the COUNTY.

EMPLOYEE PENSION PLAN. The CULTURAL COUNCIL may offer to its employees a qualified defined contribution pension plan. Contributions to such plan shall not exceed ten percent (10%) of the employees' actual salaries. The CULTURAL COUNCIL shall incorporate the provisions of such plan into the

policies and procedures of the CULTURAL COUNCIL, and shall notify the Executive Director of the TDC of any proposed revision to the plan prior to implementation in accordance with this agreement

15. Cooperation and Coordination of Activities. The CULTURAL COUNCIL's employees shall cooperate and work with the Executive Director of the TDC to insure that the activities of the CULTURAL COUNCIL and the contractors provided herein are in conformity with the Annual Marketing Plan. The Executive Director of the TDC or his/her designee shall participate in the interview process for CULTURAL COUNCIL's selection of a President/CEO as a voting member of any committee appointed to make recommendations for this position to its Board of Directors. The Executive Director of the TDC may, at his/her option, participate in the CULTURAL COUNCIL's interview process for the selection of Vice President of Marketing and Government Affairs. The CULTURAL COUNCIL shall through the Vice President of Marketing and Government Affairs, coordinate activities with those of the Executive Director of the TDC to insure that their activities complement those of the TDC and to minimize duplication of effort between the other TDC funded agencies and the CULTURAL COUNCIL. The Executive Director of the TDC will prepare and submit to the TDC and the Chair of the CULTURAL COUNCIL an evaluation of the CULTURAL COUNCIL's performance of its duties under this Agreement.

16. Other Policies. The CULTURAL COUNCIL shall, in the performance of its duties, adhere to and act in conformity with the policies set forth in the following attachments:

- Exhibit "A" - TDC FY '09 Expense Budget
- Exhibit "B" - Moving Expense Reimbursement Policy for Employees Hired in Selected Positions
- Exhibit "C" - Employment of Student Interns Polity
- Exhibit "D" - SBE Policy
- Exhibit "E" - Performance Measurements
- Exhibit "F" - Travel Policy
- Exhibit "G" - Salary Ranges
- Exhibit "H" - Organizational Chart
- Exhibit "I" - Conflict of Interest Policy

The provision of this Agreement, including the policies set forth in Exhibits "A" "B", "C", "D", "E", "F", "G", "H" and "I" shall control over any other guideline, policy or procedure which may conflict with the provisions contained herein; provided, however, that the provisions of Paragraph 14 herein shall govern with respect to Exhibits "G" and "H".

17. Compensation and Method of Payment. Costs incurred by the CULTURAL

COUNCIL in performing the duties and providing the goods and services described in this agreement will be paid by the COUNTY solely from Tourist Development Tax revenues designated for Category "B" of the Tourist Development Plan. Payment to the CULTURAL COUNCIL shall be consistent with the Annual Marketing Plan adopted by the TDC and the Annual Budget adopted by the COUNTY, and shall be made for expenditures, which are specifically authorized by the COUNTY. The CULTURAL COUNCIL'S Annual Budget as set forth in the attached Exhibit "A", as

it may be amended by the COUNTY from time to time, shall constitute, as between the COUNTY and the CULTURAL COUNCIL, authorization of the expenditures provided for therein, provided that such expenditures are made in accordance with this agreement.

Payments by the COUNTY shall be made to the CULTURAL COUNCIL in accordance with the fiscal procedures of the COUNTY as payment for authorized expenditures or provisions of goods and services, following the CULTURAL COUNCIL's determination that goods and services have been properly provided, and upon submission of invoices by the CULTURAL COUNCIL to the Executive Director of the TDC or his/her designee, and a determination by the Executive Director of the TDC or his/her designee that the invoiced payments are authorized above and that the goods or services covered by such invoice have been provided or performed in accordance with such authorization.

Each invoice submitted by the CULTURAL COUNCIL shall include a reference to its previous authorization, shall be itemized in sufficient detail for audit thereof, and shall be supported by copies of the corresponding vendor and proof of receipt or performance of the goods or services invoiced. It is mutually agreed that the CULTURAL COUNCIL shall promptly review and submit to the COUNTY invoices received in good order, and that the COUNTY shall promptly pay to the CULTURAL COUNCIL amounts properly payable under this agreement and supported by receipted invoices submitted by the CULTURAL COUNCIL. Any travel and entertainment expenses incurred by the CULTURAL COUNCIL may be paid to the CULTURAL COUNCIL only upon the approval of the Executive Director

of the TDC or his/her designee and within the limitations imposed by law upon COUNTY. Moreover, COUNTY shall not pay the CULTURAL COUNCIL on any invoice of the CULTURAL COUNCIL unless and until the Clerk of the Board of County Commissioners pre-audits payment invoices in accordance with law, and subject to the conditions, if any, attached to said approval.

The CULTURAL COUNCIL shall be paid for its actual costs not to exceed the total amount for various items, and up to the maximum amounts budgeted therefore, as set forth in the CULTURAL COUNCIL'S Annual Budget, included in the attached Exhibit "A". The amounts applicable to the various line items of Exhibit "A" can, subject to the maximum total amount, be increased or decreased by up to 10% at the discretion of the CULTURAL COUNCIL; adjustment in excess of 10% of any line item must be authorized by the Executive Director of the TDC. Under no circumstances shall the adjusted amount for FY '09 exceed or cause the total to exceed the amount of Eight Hundred and Seventy-Seven Thousand Dollars (\$877,716.).

In the event the CULTURAL COUNCIL encounters unanticipated necessary expenses in performing services to be provided by the CULTURAL COUNCIL under this Agreement, the CULTURAL COUNCIL may request said expenses to be included on an amended Exhibit "A" for payment by COUNTY. COUNTY shall consider, but shall not be obligated to grant, said request.

18. Performance and Obligation to Pay. Regardless of anything contained herein to the contrary, the COUNTY's performance and obligation to pay under this Agreement are contingent upon the allocation of Tourist Development funds for the purposes and

uses provided in this Agreement, the availability of the Tourist Development Tax funds designated in COUNTY's Tourist Development Plan for Category "B" uses, and an annual appropriation by the COUNTY for the purposes set forth in this Agreement and the attached Exhibit "A".

19. Contract Administrator. The COUNTY shall be the primary contracting party for the provision of any goods and /or services necessary hereunder, except as expressly provided in paragraphs 20 and 21 of this Agreement in which case the CULTURAL COUNCIL shall serve as contract administrator and shall manage the operation of such contracts on the COUNTY's behalf.
20. Third Party Contracts. The CULTURAL COUNCIL may enter into contracts with firms and individuals subject to the purchasing guidelines and requirements set forth herein. All contracts entered into by the CULTURAL COUNCIL shall be in writing and shall state that the CULTURAL COUNCIL is an independent service contractor of the COUNTY and does not have the authority to enter into any contract on the COUNTY's behalf or to bind the COUNTY to any such contract and shall further state that COUNTY shall not be liable for any services rendered or goods delivered under said contracts regardless of the receipt by COUNTY of any benefits there under. No such contract shall obligate the COUNTY in any manner to any third party.
21. Purchasing Guidelines. The CULTURAL COUNCIL shall be subject to and shall comply with the following purchasing guidelines and requirements set forth in this paragraph 21, in paragraphs 22 and 23 of this Agreement and subject to the terms of the SBE Policy as set forth in Exhibit D:

A. Purchases Between \$1,000.00 and \$5,000.00. The CULTURAL COUNCIL may purchase goods or services between \$1,000.00 and \$5,000.00 upon obtaining oral quotations for the goods or services. The CULTURAL COUNCIL will make every effort to obtain a minimum of three (3) oral quotations if appropriate for the goods and/or services.

B. Purchases Between \$5,001.00 and \$10,000.00. The CULTURAL COUNCIL shall request written quotations for all purchases between \$5,001.00 and \$10,000.00. The CULTURAL COUNCIL shall make every effort to receive a minimum of three (3) written quotations for each item or group of items needed, if appropriate. In such cases requests for quotations will be secured from all prospective bidders. All purchases and contracts must be consistent with the approved Annual Marketing Plan. In the event the Executive Director of the TDC shall question the recommended contract, the CULTURAL COUNCIL shall establish the appropriateness of the contract.

C. Purchases Exceeding \$10,000.00. The CULTURAL COUNCIL shall request written proposals for all purchases over \$10,000.00. The CULTURAL COUNCIL shall make every effort to secure at least three (3) written proposals of each item group of item or group of items needed. Advertising for written requests for proposals will be published no less than one time in a newspaper daily circulation distributed in Palm Beach County or the locale where the service will be provided, as appropriate. Request for proposals will be sent to all prospective bidders, as feasible. Any contract

that exceeds \$10,000.00 shall require the prior approval of the Executive Director of the TDC as evidenced by a TDC signature line on the contract signature page

D. Professional and Consulting Services. Contracts for professional or consulting services shall be subject to the provisions of paragraphs 20, 21, 22 and 23 of this Agreement and shall be evidenced by a written agreement which shall specify the services to be performed, the time period during which services will be performed, the form or method of compensation (e.g. retainer, expense reimbursement, direct cost, hourly or fixed fee, etc.), the method of cancellation or termination, remedies for non-performance, identification of ownership of project, and other standard contract language. Contracts for auditing and legal services shall be rebid no less than every five (5) years. All contracts under this subsection D in excess of \$30,000 shall require the prior approval of the Request for Proposals from the Executive Director of the TDC. The Executive Director of the TDC must approve the form and content of such agreement prior to execution by the vendor and the CULTURAL COUNCIL.

E. Reorders of Printing Items. Reorders of printing items may be purchased from the original vendor at the previously established price.

F. Sole Source Purchases. The Executive Director of the TDC may authorize the purchase of goods and/or services including but not limited to, advertising, printing, or delivery without request for quotes or proposals when the CULTURAL COUNCIL has established in writing that such goods

and/or service is the only item that meets the need and is available through only one source. The vendor shall provide, in writing, certification that they are the sole source provider of the good and/or service.

G. Prohibition of Subdivision of Services. No contract or purchase shall be subdivided to avoid purchasing guidelines and requirements provided for in this Agreement.

22. Vendor List. The CULTURAL COUNCIL shall maintain a "vendor list" of those providers of goods and/or services that desire to be placed on the list. Such list shall include small business enterprises certified by COUNTY. The CULTURAL COUNCIL will solicit quotes or proposals from responsible prospective suppliers obtained from the CULTURAL COUNCIL's and the COUNTY's vendor list, publications, catalogues, suggestions from the TDC or its staff, or previous suppliers.
23. Evaluation of Offers and Contracts. The CULTURAL COUNCIL may only enter into contracts with the lowest, responsive, responsible bidder whose offer is determined to be the most advantageous to COUNTY and the CULTURAL COUNCIL in the performance of the activities or functions provided for in this Agreement. Evaluation of offers shall be based upon the criteria established by the CULTURAL COUNCIL and approved by the Executive Director of the TDC, and any other relevant information obtained through the evaluation process. Such criteria may include but need not be limited to price. Upon the approval of the Executive Director of the TDC, discussions or negotiations with the most qualified vendor based upon offer, may be conducted for the purpose of obtaining a contract which is in the best interests of the COUNTY and the CULTURAL COUNCIL in the performance of

the CULTURAL COUNCIL's duties, obligations and functions as provided for in this Agreement.

24. Certification of Conduct. The CULTURAL COUNCIL hereby certifies that it will not attempt in any manner to improperly influence any specification, or be unlawfully restrictive regarding any purchase of service or commodities by the COUNTY.
25. Furniture and Equipment. All furniture or equipment acquired by the CULTURAL COUNCIL which has or will be paid for by or reimbursed from Tourist Development Tax funds shall be purchased in accordance with the COUNTY's purchasing guidelines and shall be subject to the tagging and inventory requirements of Chapter 274, Florida Statutes, and applicable property control procedures of the COUNTY. Said furniture and equipment shall be and remain the property of the COUNTY. The CULTURAL COUNCIL shall use the furniture and equipment in a careful and prudent manner and shall maintain it in good repair and condition, ordinary wear and tear excepted.
26. Findings Proprietary. Any reports, information, data, etc., given to, prepared or assembled for or by the CULTURAL COUNCIL using Tourist Development Tax funds which the COUNTY requests shall be kept as proprietary and shall not be made available to any individual or organization without the prior written approval of the COUNTY unless otherwise required by law. No material produced in whole or in part hereunder shall be subject to copyright in the United States or in any other country by any party other than by the COUNTY or the CULTURAL COUNCIL as specifically provided herein. The COUNTY shall have the unrestricted authority to

publish, disclose, distribute and otherwise use any reports, data, or other materials prepared under this Agreement.

27. Intellectual Property. All logos, slogans, trademarks, trade names, written copy, layout, production materials, formulas, recipes and other intellectual property created by or on behalf of the CULTURAL COUNCIL or the COUNTY using Tourist Development Tax funds shall be the property of COUNTY and the CULTURAL COUNCIL hereby assigns to COUNTY any and all rights the CULTURAL COUNCIL has or may acquire in such intellectual property. Any and all revenues derived from such use by the CULTURAL COUNCIL shall be applied solely to the performance of the CULTURAL COUNCIL's duties specified in this Agreement and any such revenue not so applied shall be remitted by the CULTURAL COUNCIL to the COUNTY. The CULTURAL COUNCIL shall take no action inconsistent with the COUNTY's rights in such intellectual property and will take all reasonable actions, including registration of trademarks and trade names, as necessary and appropriate to protect the COUNTY's rights in such property.

The CULTURAL COUNCIL is authorized and directed to include the County's name, log and the names of the current members of the County's Board of Commissioners in any publication of the Cultural Council for distribution such as newsletters, annual reports and the like as feasible and appropriate.

28. Insurance. The CULTURAL COUNCIL shall not commence work under this Agreement until it has obtained the types of insurance required in this paragraph and such insurance has been approved by the COUNTY.

A. Certificate of Insurance. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The CULTURAL COUNCIL shall furnish Certificates of Insurance to the COUNTY prior to the commencement of operations. The certifications shall name the COUNTY as an additional insured and shall clearly indicate that the CULTURAL COUNCIL has obtained insurance of the type, amount and classification as required for strict compliance with this paragraph and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY. Compliance with the foregoing requirements shall not relieve the CULTURAL COUNCIL of its liability and obligations under this Agreement.

B. Comprehensive General Liability Insurance. The CULTURAL COUNCIL shall maintain during the life of this Agreement, comprehensive general liability insurance, including contractual liability insurance, employee fidelity insurance, in an amount no less than \$1,000,000.00 per occurrence to protect the CULTURAL COUNCIL from claims for damages for bodily and personal injury, including death, as well as from claims for property damage which may arise from any operations by the CULTURAL COUNCIL or by anyone directly employed by or contracting with the CULTURAL COUNCIL.

C. Comprehensive Automobile Liability Insurance. The CULTURAL COUNCIL shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000.00

combined single limit for bodily injury, death and property damage liability to protect the CULTURAL COUNCIL from claims for damages, for property damage, death and for bodily and personal injury, which may arise from the ownership use, or maintenance of owned and non-owned automobiles, including rented automobiles by the CULTURAL COUNCIL or by anyone directly or indirectly employed or retained by the CULTURAL COUNCIL.

D. Worker's Compensation Insurance. The CULTURAL COUNCIL shall maintain during the life of this Agreement, adequate workers' compensation insurance and employers' liability insurance in at least such amounts as are required by law for all of its employees in accordance with Chapter 440, Florida Statutes.

E. Fidelity Bond. The CULTURAL COUNCIL shall maintain during the term of this Agreement, and any renewal thereof, a Third Party Commercial Fidelity Bond in the amount of \$ 1,000,000 written on a blanket basis covering all officers, employees and agents who have custody of or access to any revenues, monies, finances. Such bonds shall include or be endorsed to cover "third party" liability and name Palm Beach County as an additional insured.

F. Directors and Officers. The CULTURAL COUNCIL will maintain during the terms of this Agreement, and any renewal thereof, Directors and Officers insurance in an amount of \$ 1,000,000.

29. Indemnification For Intentional or Negligent Acts or Omissions. The CULTURAL COUNCIL shall indemnify, save and hold harmless the Palm Beach County Tourist

Development Council, and the COUNTY, its officers, servants and agents from and against any and all claims, liabilities, losses and/or causes or actions which may arise from any intentional or negligent act or omission of the CULTURAL COUNCIL, its officers, employees, servants and agents in the performance of services under this agreement, and regardless of whether such negligent act or omission of the CULTURAL COUNCIL was caused, occasioned or contributed to in whole or in part by the negligence of the Palm Beach County Tourist Development Council, the COUNTY or its officers, employees, servants or agents.

30. Additional Indemnification. The CULTURAL COUNCIL further agrees to indemnify, save, hold harmless and defend the COUNTY, its officers, employees, servants and agents from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CULTURAL COUNCIL not included in the paragraph above and for which the COUNTY, its officers, employees, servants and agents from and against any claim, demand or cause of action or whatsoever kind or nature arising out of any conduct or misconduct of the CULTURAL COUNCIL not included in the paragraph above and for which the COUNTY, its officers, employees, servants and agents are alleged to be liable.

31. Non-Discrimination. During the performance of this Agreement, the CULTURAL COUNCIL agrees as follows:

- A. It will not discriminate against any employee or applicant for employment upon the grounds of race, religion, color, marital status, national origin, sex, sexual orientation, age, handicap or disability with respect to, but not limited

to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. CULTURAL COUNCIL will provide to TDC an annual report which will then be submitted to the BCC at its request on the ethnic/racial composition of the CULTURAL COUNCIL'S staff. Such report shall be based on a survey in which each employee's participation is voluntary, and shall include the categories of white, black, Asian, Hispanic, Native American and "other".

C. It will not discriminate against any subcontractor, contractor, potential contractor or participant hereunder, upon any of the above prohibited grounds.

32. Amendment of Ordinance No. 95-30. Nothing in the Agreement shall impair or prohibit the COUNTY from amending the Palm Beach County Tourist Development, Ordinance No. 95-30, (Palm Beach County Code 17-111 through 17-116) as the COUNTY may from time to time deem appropriate.

33. Certificate of Authority and No Conflict . The CULTURAL COUNCIL hereby certifies that it is legally entitled to enter into this Agreement with the COUNTY, and that it will not now, and at no time, violate either directly or indirectly any provision of Chapter 112, Florida Statutes, or any other conflict of interest statute or other applicable statute.

34. Conflict of Interest. Neither the CULTURAL COUNCIL, nor its officers, directors, agents or employees shall acquire any interest, either directly or indirectly, which would conflict in any manner with the duties, responsibilities, or obligations in the performance of services required under this Agreement. Further the CULTURAL

COUNCIL shall comply with and enforce its Conflict of Interest Policy, attached hereto and made a part hereof as Exhibit I. The CULTURAL COUNCIL shall provide semi-annual reports to the TDC, through its Executive Director, relating to the enforcement of the Policy established in Exhibit I in a form and as detailed as required by the TDC.

35. Independent Contractor. The CULTURAL COUNCIL is, and shall be, in the performance of all work, service and activities under this Agreement, an independent contractor and not an agent or servant of the COUNTY. All persons engaged in any of the work or service performed pursuant to this Agreement shall at all times and in all places, be subject to the CULTURAL COUNCIL's sole direction, supervision and control. The CULTURAL COUNCIL shall exercise control over the means and manner in which it and its employees perform the work and in all respect the CULTURAL COUNCIL's relationship and the relationship of its employees to the COUNTY shall be that of an independent contractor and not as officers, employees, agents or servants of the COUNTY. The CULTURAL COUNCIL shall not have the power or authority to bind the COUNTY in any promise, agreement or representation unless specifically provided for in this Agreement.

36. Preservation of Records. The CULTURAL COUNCIL shall maintain and preserve the records, books, documents, papers and financial information pertaining to the work performed under this Agreement. The CULTURAL COUNCIL agrees that the COUNTY, or any of its duly authorized representatives, until the expiration of three (3) years after final payment under this Agreement or until the expiration of three (3) years after the termination of this Agreement, whichever occurs last, shall have access

to and the right to examine any pertinent books, documents, papers and records of the CULTURAL COUNCIL. In the event that such audit is in progress at the expiration of the aforementioned three (3) year period, access to and the right to examine will continue until completion of such audit.

37. Public Records. The parties expressly agree that any and all records of the CULTURAL COUNCIL relating to this Agreement are to be considered public records, subject to the provisions of this Chapter 119, Florida Statutes. Moreover, during the term of this Agreement, COUNTY is hereby granted the power to designate any or all records of the CULTURAL COUNCIL as public records under Chapter 119, Florida Statutes, by resolution of the Board of County Commissioners, making such designation, regardless of whether said records are presently deemed public records.
38. Notification to Executive Director of the TDC. The CULTURAL COUNCIL shall notify the Executive Director of the TDC if any CULTURAL COUNCIL board or executive committee meeting at which matters relating to this Agreement or any other matters relating to Tourist Development Tax funds are to be considered.
39. Prohibition of Assignment. The CULTURAL COUNCIL shall not assign, sublet, convey or transfer in whole or in part its interest in this Agreement, without the prior written consent of the COUNTY.
40. Authority to Practice. The CULTURAL COUNCIL hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business. Proof of such license and approvals shall be submitted to COUNTY upon request. Furthermore the CULTURAL COUNCIL shall at all times conduct its

business activities in a responsible manner and in compliance with any and all applicable laws, ordinances, statutes and regulations.

41. Other Activities and Services. This Agreement shall not be construed so as to prevent the CULTURAL COUNCIL from being an applicant for other funds the COUNTY for activities or services other than those carried out under the terms of this Agreement and which do not conflict with the activities or services provided for in this Agreement. This Agreement shall not be construed so as to prevent the CULTURAL COUNCIL from being an applicant to the COUNTY or the TDC for other service to promote tourism in Palm Beach County.
42. Public Entity Crimes. As provided in F.S.287.132-133, by entering into this contract or performing any work in furtherance hereof, the CULTURAL COUCIL, 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 F.S.287.133 (3) (a).
43. Term of Agreement. The term of this Agreement shall be in effect until September 30, 2012. This contract may be extended or modified upon mutual agreement in writing.
44. Termination. The COUNTY or the CULTURAL COUNCIL may terminate this Agreement at any time without cause by giving the other ninety (90) days advance written notice of such termination and specifying the effective date thereof. If the CULTURAL COUNCIL, at any time during this Agreement, should be in default (i.e. a material breach) of any term, provision of covenant of this Agreement and shall fail

to remedy such default within thirty (30) days after written notice from COUNTY then, if such default is not cured, COUNTY may at its option terminate this Agreement by giving the CULTURAL COUNCIL written notice of COUNTY's election to terminate this Agreement at least ten (10) days prior to said date of termination. In the event the Board of County Commissioners shall decide to terminate this Agreement, the CULTURAL COUNCIL shall have an opportunity to appear before the Board of County Commissioners prior to the effective date of the termination of this Agreement.

45. Notices. All notices required by this Agreement shall be sent by certified mail, return receipt requested, to the following: As to the COUNTY:

Executive Director
Tourist Development Council
1555 Palm Beach Lakes Boulevard, Suite 900
West Palm Beach, FL 33401

As to the CULTURAL COUNCIL:

President
Palm Beach County Cultural Council, Inc.
1555 Palm Beach Lakes Boulevard, Suite 300
West Palm Beach, FL 33401

Or such other address directly by the respective parties in writing.

46. Entirety of Agreement. This Agreement shall constitute the whole Agreement between parties unless otherwise in writing. Any failure by the COUNTY to require strict performance by the CULTURAL COUNCIL or any waiver by the COUNTY of any provisions of this Agreement shall not be constructed as a consent or waiver of any other breach of the same or any other provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day
and year first written above.

ATTEST

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

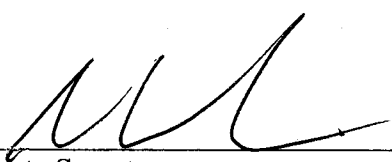
By: _____
Deputy Clerk

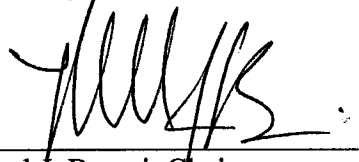
By: _____

(SEAL)

ATTEST

PALM BEACH COUNTY CULTURAL
COUNCIL, INC.

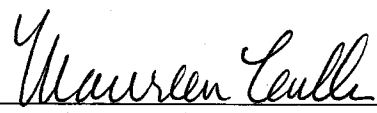
By:  _____
Corporate Secretary

By:  _____
Michael J. Bracci, Chairman

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
County Attorney

By:  _____
Tourist Development Council

**PALM BEACH COUNTY
TOURIST DEVELOPMENT COUNCIL
CULTURAL COUNCIL FY 09
EXHIBIT "A"**

	FY 2007 Actual	FY 2008 Budget	FY 2008 Forecast	FY 2009 Budget
Salaries & Related				
Salary and Wages	318,292	341,382	364,646	405,513
PR Taxes & Benefits	77,537	85,853	87,515	97,775
Contract Staff				
Total Staffing	395,829	427,235	452,161	503,288
Marketing and Related				
Advertising	124,431	110,000	114,000	25,000
Agency Services/Web Design	54,828	56,000	40,000	21,000
Events, Meetings & Conferences	33,793	25,000	25,000	25,000
Freight & Delivery	58,931	47,000	47,000	18,410
Postage	7,915	18,000	15,000	15,000
Printing	53,807	85,000	70,000	70,000
Surveys & Studies	5,025	31,000	5,000	26,630
Travel	18,110	15,000	15,000	15,000
Video/Radio & Other	12,970	30,000	30,000	30,000
Total Marketing & Related	369,811	417,000	361,000	246,040
General & Administrative				
Equipment Rental	7,444	6,500	6,500	6,695
Membership & Subscriptions	28,225	28,100	28,100	28,943
Outside Professional Services	20,755	17,000	17,000	18,700
Repairs & Maintenance	939	2,500	2,500	2,575
Supplies	14,348	14,000	14,000	14,420
DP Equipment	15,820	4,500	4,500	4,635
Telephone/Internet	14,079	17,000	17,000	2,810
Other Office Expense	8,151	8,500	8,500	8,755
Office Rent	40,419	39,665	39,665	40,855
Total General & Administrative	150,179	137,765	137,765	128,388
Total TDC Contract Expense	915,820	982,000	950,926	877,716
County Direct				
Category B Grants	3,196,783	2,803,217	2,803,217	2,400,000
Category C II Grants		400,000	400,000	150,000
Indirect Cost	206,646	227,846	230,104	231,740
Tax Collector Fees	56,085	60,595	55,873	55,873
Total County Direct	3,459,514	3,491,658	3,489,194	2,837,613
Total Cultural Council	4,375,334	4,473,658	4,440,120	3,715,329

EXHIBIT "B"

MOVING EXPENSES REIMBURSEMENT POLICY FOR EMPLOYEES HIRED IN SELECTED POSITIONS

The Council may be reimbursed by Palm Beach County, solely from tourist tax funds, for moving expenses for employees hired for executive, administrative and professional positions.

Employees hired for management positions, as outlined in Exhibits G & H of the contract, may be reimbursed up to 75% of their moving expenses but not to exceed \$5,000 unless provided otherwise in a written agreement. Such written agreement may provide for reimbursement of actual and reasonable moving expenses in an amount not to exceed \$10,000, after obtaining written estimates as provided in this Policy and approval by the County Administrator or his designee.

Eligible employees shall submit three (3) written estimates and a paid invoice to The Council, who shall then submit the payment request to the Executive Director of the Tourist Development Council for certification of compliance with this Policy.

Acceptance of less than three estimates will be permitting only on a showing that three qualified vendors were not available.

Employees who have been reimbursed for moving expenses and who for any reason terminate their employment with the Council within one year from the date of employment, must reimburse the Council the full amount of the moving expenses originally paid. The Council will, in turn, reimburse Palm Beach County.

EXHIBIT "C"
EMPLOYMENT OF STUDENT INTERNS POLICY

From time to time, the CULTURAL COUNCIL may find it desirable to hire student interns to assist with the work of promoting Palm Beach County as a tourist destination. The employment of all interns shall be subject to the following requirements and resolutions:

1. Interns shall be college students receiving credits for their internship and enrolled in a curriculum leading to a degree in non-profit management or fundraising or in a tourism, hospitality or marketing discipline.
2. Prior to employment, each intern and the CULTURAL COUNCIL shall sign a letter of agreement outlining the terms and conditions of employment which shall be approved by the Executive Director of the TDC.
3. Interns should work at least 20 hours per week for a period up to 16 weeks and can be compensated at the rate of \$7.50 per hour on a biweekly basis. The compensation provided to an intern cannot exceed \$3,000.00 per semester.
4. Palm Beach County will reimburse the CULTURAL COUNCIL for the compensation paid to a student intern only if a letter of agreement has been initialed by the Executive Director of the TDC and was executed by both the intern and the CULTURAL COUNCIL prior to the intern's employment.

EXHIBIT "D"

SBE POLICY

Pursuant to Palm Beach County Ordinance No. 2002-064, CULTURAL COUNCIL agrees to carry out its duties under this Agreement in accordance with the following program to encourage the participation of small business enterprises ("SBEs") in CULTURAL COUNCIL'S procurement process.

CULTURAL COUNCIL will make good faith efforts in providing equal opportunity whereby all Palm Beach County businesses may fully participate in CULTURAL COUNCIL'S procurement process. CULTURAL COUNCIL agrees to take the following steps to insure that Palm Beach County-certified small business enterprises are afforded the opportunity to participate in CULTURAL COUNCIL'S procurement process:

- A. Analysis of SBE availability to provide the products or services identified for contracting at either the prime or subcontract levels.
- B. Inclusion of SBEs on contract solicitation lists or vendor lists.
- C. Establishment and implementation of goals for SBE participation, and tracking of SBE participation, consistent with Ordinance No. 2002-064 and Policies and Procedures adopted by the COUNTY pursuant thereto.
- D. Monitoring and maintenance of records sufficient for verification of steps taken and results achieved to maximize participation.
- E. Dividing purchases and contracts into smaller units, areas, or quantities where feasible and likely to increase participation without substantial adverse fiscal impact.
- F. Setting delivery schedules that do not discourage SBE participation.
- G. Use of services and assistance provided by the COUNTY's Office of Small Business Assistance and other agencies in locating available SBEs.
- H. Utilization of the COUNTY's computerized listing of certified SBEs.
- I. Submission of annual reports to the TDC, and if requested, to the Board of County Commissioners, detailing the results of efforts to obtain SBE participation. This

report shall include as a minimum the percentage of SBE participation during the contract term, total expenditures, and dollar amount of contracts awarded to SBEs. If the report indicates that CULTURAL COUNCIL is behind in reaching the annual goals, the report shall also discuss the known or possible reasons for the failure to meet the goals.

- J. Providing SBEs with adequate information about plans, specifications, and requirements of CULTURAL COUNCIL contracts, and following up initial solicitations of interest by SBEs.
- K. Where applicable, negotiating with SBEs in good faith and demonstrating that SBEs were not rejected as unqualified without sound reasons based on thorough investigation of their capabilities.
- L. Using the services of available community and contractors' groups, and local, state, or federal minority and/or woman business assistance offices that provide assistance in the recruitment of SBEs for public sector contracts.
- M. Where applicable, providing assistance to obtain bonding, lines of credit, and insurance.
- N. Where appropriate, scheduling pre-bid or pre-proposal meetings to inform potential subcontractors of SBE requirements and other bid/proposal requirements, and encouraging SBEs to attend the pre-bid or pre-proposal meetings.
- O. Offering instructions and clarification on bid/proposal specifications, procurement policy and procedures, and general bidding requirements.
- P. Maintaining a file of successful bid/proposal documents from past procurement and permitting SBEs to review and evaluate such documents.
- Q. When requested, meeting with unsuccessful bidders/proposers to explain why bids may have been unsuccessful.

- R. Ensuring that bid/proposals specifications and plans are written or drawn so as not to prejudice or unreasonably limit SBE participation. The inclusion of proprietary specifications should be avoided without the establishment of a particular need.
- S. Limiting the use of renewal provisions in subcontracts so as not to inhibit SBE participation.
- T. Placement of bid notices, and where appropriate, in minority, women, and small business-focused media.
- U. Providing adequate time for the submission of bids/proposals so as to facilitate the participation of SBEs.

For the purposes of this Exhibit, all terms shall have their ordinary meaning, except that any terms defined in Palm Beach County Ordinance No. 2002-064 or any successor ordinance, shall have the meaning provided therein.

* * *

Exhibit "E"
Performance Measurements

Performance Measure	FY 2009
Media/Trade Shows	5
Reimbursements processed for Category B grants	65
Orgs/artist receiving direct assistance	800
Inquiries from advertising	15,400
Website visits (change to Google analytics)	40,000
Meetings, roundtables and workshops	27

EXHIBIT "F"

TRAVEL & ENTERTAINMENT POLICY for TOURISM PROMOTION ACTIVITIES

Florida Statute 125.0104 governs the reimbursement of travel expenses incurred in the course of tourism promotion for Palm Beach County. The statute authorizes reimbursement for "actual and reasonable" expenses. All expenses/purchases must have receipts, with the exception tips to bellman/valets that are less than \$10. (See section on Receipts)

Staff of Palm Beach County Cultural Council is authorized to provide, arrange and make expenditures for transportation, lodging, meals, and other reasonable and necessary items and services for such persons, as determined by the head of the agency, in connection with the performance of promotional and other duties of the Council. Out of state staff travel expenditures which are to be reimbursed by Palm Beach County must have prior approval by the CULTURAL COUNCIL's CEO/President. The CULTURAL COUNCIL's Board chair will give prior approval to the CEO/President's out of travel expenditures which are to be reimbursed by Palm Beach County. However, entertainment expenses shall be authorized only when meeting with travel writers, tour brokers, or other persons connected with the tourist industry. All travel and entertainment-related expenditures in excess of \$10 shall be substantiated by paid (invoices). Palm Beach County PPM CW-F-009 Travel Policy is utilized when Florida Statute Section 125.0104 does not govern this policy.

Tourism Promotion and Convention Sales activities shall include consumer and trade shows, familiarization tours, sales missions, and other travel related and entertainment expenses that are incurred by officers and employees of the Council, other authorized persons, travel writers, tour brokers, or other persons connected with the tourist industry, including the convention meeting industry, in the course of promoting Palm Beach County and the Palm Beach County Convention Center.

DOMESTIC TRAVEL (Including Florida)

Meal expenses will be deemed to be reasonable if they comply with the per diem limit by city as shown in the Business Travel Network Per Diem schedule distributed at the beginning of each fiscal year. If a particular city is not listed in the Per Diem schedule, it may be appropriate to use the next closest city as the guide. However, some resorts are adjacent to a city with a per diem meal schedule that may not be on par with the resort. In that case, "actual and reasonable" meal expenses will be accepted. Any departure from the published rates will be deemed to be excessive unless the reasonableness and necessity of the expenditure is satisfactorily proven by the traveler in a written explanation on the expense reimbursement form. Meal expenditures may be combined such that the daily total does not exceed the per diem limit, provided, however, that one does not incur entertainment expenses which include a meal during the same day, or during a day when the traveler arrives or departs from a city. **The maximum tip on any meal is 15%, NO EXCEPTIONS.** Miscellaneous incidental expenses will be reimbursed upon review and justification. Employees may make 1 personal call home per day, excepting unusual circumstances which must be explained and will be subject to review.

FOREIGN TRAVEL

Foreign Travel will be reimbursed at the per diem rates as listed in the "Standardized Regulations (Government Civilians Foreign Areas)" publication. This publication breaks down per diem into meals & incidentals (MIE), and lodging. The MIE rate is inclusive of tips for meals and other related expenses.

Lodging may exceed the per diem listed provided there is a valid reason as to why the accommodations exceeded the per diem limits.

Foreign ExchangeRate: Expense reports containing a mix of cash and credit card expenses will be reimbursed using (a) the actual rate of exchange shown on the credit card statement for each charge and (b) the average of the Interbank Rate for eligible cash expenditures incurred during the time the traveler was in the country, as published by *OANDA.com*. The average rate as published by *OANDA.com* shall be attached to each expense report. Expense reports that have only credit card charges shall be reimbursed at the same rate as shown on the credit card statement of the traveler, which shall be attached to the expense report.

When traveling in several countries on the same trip, please submit an expense report for each country along with the exchange rate in effect at the time of travel.

AIR TRAVEL

For inter-continental flights, full fare coach tickets may be upgraded to business class/first class, if available through airline programs. For all other air travel, the traveler shall attempt to obtain the most economical means of travel that is reasonable under the circumstances.

RECEIPTS ARE REQUIRED FOR ALL EXPENDITURES

TIPS: All tips for portage, taxi cabs etc., must be detailed on the back page of the travel reimbursement form. Tips over \$10.00 given for portage of large and/or numerous boxes of material or displays, require explanations and receipts. Tips for meals are to be included in the meals column, NOT the tips column of the expense report. The per diem schedule for meals is inclusive of tips.

ENTERTAINMENT

Entertainment expenses are currently limited to the following amounts per person per day:

Breakfast: \$ 30.00	A maximum 20% gratuity
Lunch : \$ 70.00	may be added to these rates.
Dinner : \$100.00	

The above limits do not include taxes and other expenses associated with the event during which the meal is served. Items such as invitations, entertainment, room rental, beverages served at

a reception, photography and special decorations are not included.

In cases where a facility has required payment for a guaranteed minimum number of attendees, such limits shall be calculated based on the guaranteed minimum number. Each reimbursement shall include names and affiliations of those entertained, and the staff in attendance.

EXPENSE REPORTS

Requests for reimbursement for travel and entertainment expenses are to be made utilizing the standard PBCCC Expense Report Form, as updated from time to time. Requests for reimbursement for mileage shall be done using a mileage expense report form as a backup to the standard expense report. Each expense report must be approved by the President/CEO or his/her designee. The appropriate account code should be shown on the expense report.

**FY 2009
EXHIBIT "G"**

**PALM BEACH COUNTY CULTURAL COUNCIL
TOURIST DEVELOPMENT COUNCIL
ANNUAL SALARY RANGES**

	<u>Low</u>	<u>High</u>
Vice President Marketing & Govt. Relations	\$75,000	\$125,000
Director of Finance	\$65,000	\$95,000
Grants Director	\$65,000	\$95,000
Marketing Coordinator	\$30,000	\$47,500
Public Relations Coordinator	\$30,000	\$47,500
Bookkeeper	\$35,000	\$45,000
Marketing Assistant	\$30,000	\$40,000
Operations Assistant	\$30,000	\$40,000
Secretary to CEO	\$30,000	\$45,000
Grants Manager	\$ 35,000	\$ 50,000

PALM BEACH COUNTY CULTURAL COUNCIL

Organizational Chart

As of August 2008

EXHIBIT "H"

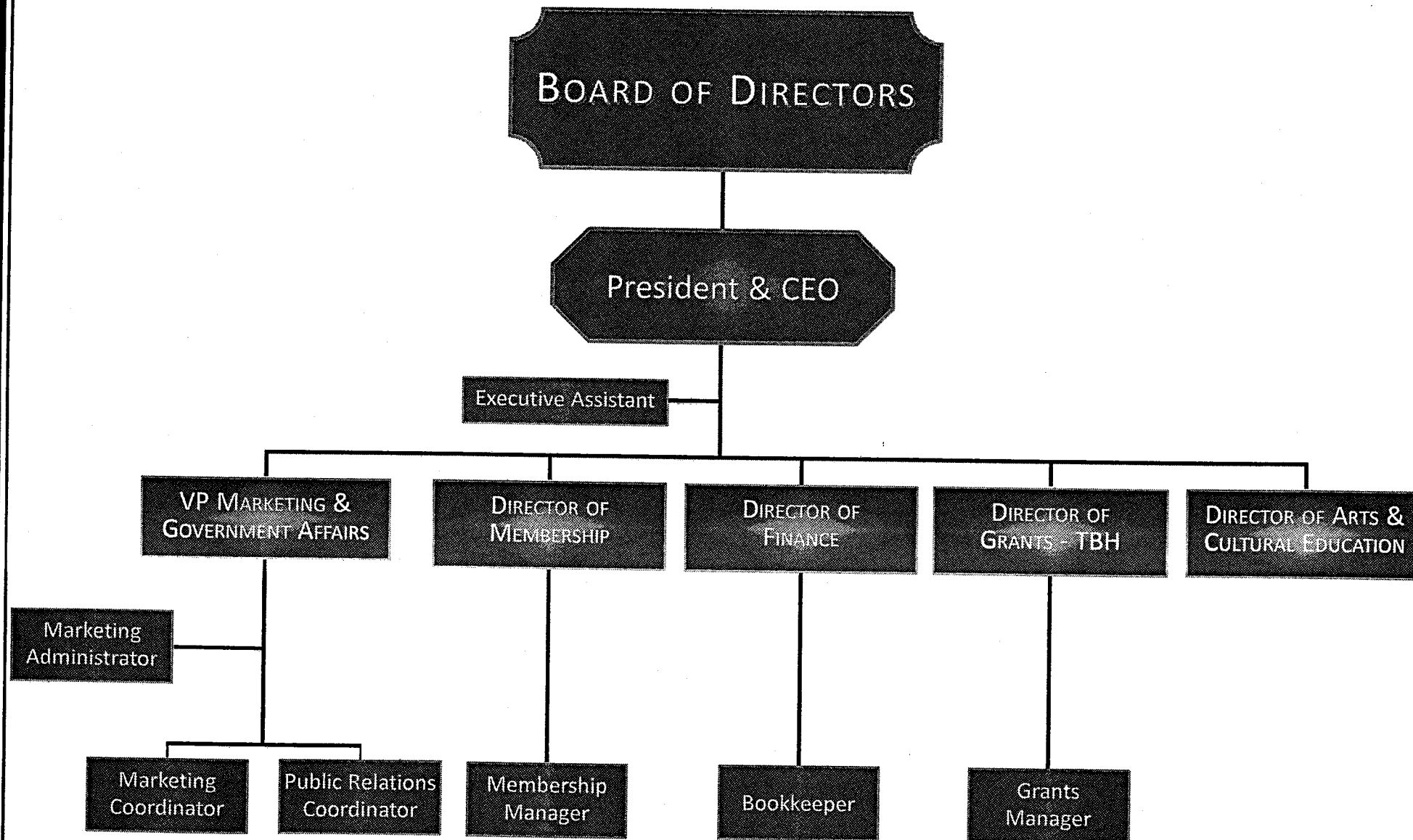




EXHIBIT I FY 2008 CONFLICT OF INTEREST POLICY

The Palm Beach County Cultural Council (hereinafter referred to as "The Council") its Board of Directors ("Board"), members of the staff ("Staff") and volunteers must value and support high standards of ethical and accountable behavior. They each must be active, independent and free of self-dealing and act in a manner that inspires respect for The Council and enhances its prestige.

The purpose of this conflict-of-interest policy is to prevent the institutional or personal interests of The Council board members, officers, and staff from interfering with the performance of their duties to The Council, and to ensure that there is no personal, professional, or political gain at the expense of The Council. This policy is not designed to eliminate relationships and activities that may create a duality of interest, but to require the disclosure of any conflicts of interest and the recusal of any interested party in a decision relating thereto.

A conflict of interest may exist when the interests or potential interests of any director, officer, or staff member, or that person's close relative, or any individual, group, or organization to which the person associated with The Council has allegiance, may be seen as competing with the interests of The Council, or may impair such person's independence or loyalty to The Council. A conflict of interest is defined as an interest that might affect, or might reasonably appear to affect, the judgment or conduct of any director, officer, or staff member in a manner that is adverse to the interests of The Council.

Examples

A conflict of interest may exist if a director, officer, staff member, or close relative

- Has a business or financial interest in any third party dealing with The Council. This does not include ownership interest of less than 5 percent of outstanding securities of public corporations.
- Holds office, serves on a board, participates in management, or is employed by any third party dealing with The Council, other than direct funders to The Council.
- Derives remuneration or other financial gain from a transaction involving The Council (other than salary reported on a W-2 or W-9 or salary and benefits expressly authorized by the board).
- Receives gifts from any third party on the basis of his or her position with The Council (other than occasional gifts valued at no more than \$[50], or if valued at more than \$[50], the gift is made available in a team space or common area for others to share — e.g., fruit baskets, boxes of candy). All other gifts should be returned to the donor with the explanation that The Council policy does not permit the acceptance of gifts. No personal gift of money should ever be accepted.
- Engages in any outside employment or other activity that will materially encroach on such person's obligations to The Council; compete with The Council's activities; involve any use of The Council's equipment, supplies, or facilities; or imply The Council's sponsorship or support of the outside employment or activity

Use of Information

Directors, officers, and staff shall not use information received from participation in The Council affairs, whether expressly denominated as confidential or not, for personal gain or to the detriment of The Council.

Disclosure and Recusal

Whenever any director has a conflict of interest or a perceived conflict of interest with The Council, he or she shall notify the board chair of such conflict in writing.

Whenever any staff member (paid or volunteer) has a conflict of interest or a perceived conflict of interest with The Council, he or she shall notify the chief executive of such conflict in writing.

When any conflict of interest is relevant to a matter that comes under consideration or requires action by the board, or a board committee, the interested person shall call it to the attention of the board chair and shall not be present during board or committee discussion or decision on the matter. However, that person shall provide the board or applicable committee with any and all relevant information on the particular matter.

The minutes of the meeting of the board or its committee shall reflect that the conflict of interest was disclosed, that the interested person was not present during discussion or decision on the matter, and did not vote.

Dissemination

A copy of this conflict-of-interest policy shall be furnished to each director, officer, and staff member who is presently serving this organization or who may become associated with it.

Certification

The policy and its application shall be reviewed annually for the information and guidance of directors, officers, and staff members, each of whom has a continuing responsibility to scrutinize their transactions and outside business interests and relationships for potential conflicts of interest, and make such disclosures as described in this policy.

As administered by the chief executive, each director will be asked to complete a certification of agreement with the policy and disclosure of any known conflicts of interest upon his or her election or re-election to the board and annually thereafter. As administered by the employee in charge of human resources, each senior staff member will be asked to complete such a certification upon his or her employment and on an annual basis thereafter. All certifications shall be reviewed by the board as appropriate.



**CONFLICT CERTIFICATION FOR THE COUNCIL
Board and Senior Staff**

I have read and agree to abide by The Council's Conflict-of-Interest Policy. To the best of my knowledge, I have no conflicts as described in this Policy.

Signature

Date

Name (please print)

— OR —

I have read and agree to abide by The Council's Conflict-of-Interest Policy. To the best of my knowledge, I have no conflicts as described in this Policy, except those noted below or on the attached paper.

Signature

Date

Name (please print)



Client#: 33902

PALMBEAC2

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
09/22/08

PRODUCER

USI Insurance Services LLC-SCL
Small Commercial
200 West Cypress Creek Rd #500
Fort Lauderdale, FL 33309THIS 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.

INSURED

Palm Beach County Cultural Council, Inc
1555 Palm Beach Lakes Blvd.; Suite 900
West Palm Beach, FL 33401

INSURERS AFFORDING COVERAGE

NAIC

INSURER A: American Casualty Company of Reading

20427

INSURER B: Transportation Insurance Company

20494

INSURER C: Zenith Insurance Company

13269

INSURER D: Travelers Casualty & Surety Co. of A

31194

INSURER E:

COVERAGES

COVERAGES AS OF 09/22/08

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	B2097240141	10/01/08	10/01/09	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COM/OP AGG \$2,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	B2097240141	10/01/08	10/01/09	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
B		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10000	B2097240107	10/01/08	10/01/09	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	Z832023817	10/01/08	10/01/09	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$100,000 E.L. DISEASE - EA EMPLOYEE \$100,000 E.L. DISEASE - POLICY LIMIT \$500,000
D		OTHER D & O EPL/Fudiciary	105058928	01/01/08	01/01/10	1,000,000 2,500 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

** Workers Comp Information **

Voluntary Compensation ; Other States Coverage

*Except 10 days notice of cancellation for non-payment of premium

(See Attached Descriptions)

CERTIFICATE HOLDER

Palm Beach County c/o Tourist
Development Council
1555 Palm Beach Lakes Blvd Suite
900
West Palm Beach, FL 33402

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION
DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 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

Gary Morris

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

DESCRIPTIONS (Continued from Page 1)

**** Supplemental Name ****

Palm Beach Country Cultural Council, Inc. 401k

Palm Beach County is additional insured with respects to General Liability