3H-1

Agenda Item #:

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

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March 17, 2009

[X] Consent

[] Ordinance

[] Regular

| Public Hearing

Department:

Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Third Restated Agreement (R2004-0257) with The Historical Society of Palm Beach County (Society).

Summary: In 2004, the Board approved a thirty (30) year Agreement with Society for the operation of a museum and occupancy of a portion of the 1916 Courthouse that commenced on January 1, 2008. The parties now wish to provide further definition and in some cases add, guidelines for use of the 1916 Courthouse by the County, Society and other third party users via this Third Restated Agreement. This Third Restated Agreement limits: (i) use of the 1916 Courthouse for third party non-County activities to those activities which are either: (a) educational in nature; (b) directly related to the court or judicial system or (c) require a courtroom setting; (ii) Society's use of the Leased Premises for its Special Events and Fund Raising Activities to those that are approved by the County via issuance of a County Facility Use Permit; and (iii) Society's right to enter into any agreements for the use and/or sale of images of the restored 1916 Courthouse without the County's consent which may be granted or denied at the County's sole discretion. This Third Restated Agreement clarifies that Society may request a revocable County Facility Use Permit, which may be granted, conditioned or denied at the County's sole discretion, for Society's use of: (i) additional parking within the County's 4th Street Parking Lot; (ii) common areas within the 1916 Courthouse; (iii) the outdoor areas surrounding the 1916 Courthouse; and (iv) the Leased Premises for Society Special Events. Restated Agreement provides a tailored version of the County's standard Facility Use Permit for the Society. Other than the changes set forth herein and a few minor changes all other terms and conditions remain the same. (FDO Admin) Countywide/District 7 (HJF)

Background and Justification: On February 3, 2004, the Board approved an Agreement with Society for the operation of a museum and occupancy of approximately 6,111 SF within the 1916 Courthouse. On February 15, 2005, the Board approved a first Restated Agreement (R2005-0370) that: (i) increased the total square footage assigned to Society to 8,695 SF; (ii) changed the space allocation within the Courthouse to reduce Society's capital investment requirement and increase operating efficiency; and (iii) increased the Society's Project Budget from \$500,000 to \$650,000.

Continued on Page 3

Attachments:

Third Restated Agreement

Agenda item is more than 50 pages; may be viewed in Administration.

Recommended By:	Ahmy Work	423/09	
· · · · · · · · · · · · · · · · · · ·	Department Director	Date	
Approved By:	Work	3/10/09	
	County Administrator	Date	

II. FISCAL IMPACT ANALYSIS

A. Five Tear Sum	mary of Fis	scai impact:				
Fiscal Years		2009	2010	2011	2012	2013
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County						
NET FISCAL IMPACT		0-		·		
# ADDITIONAL FTE POSITIONS (Cumulative)				·		
Is Item Included in C Budget:	urrent	Yes		No		
Budget Account No:	Fund	Dept_		Unit	_ Object	
	Program					
B. Recommended	Sources of	Funds/Summ	ary of Fisc	al Impact:		
There is a	no fiscal im	pact to this iter	n.			
C. Departmental	Fiscal Revie	ew:				
	1	II. <u>REVIEW</u>	COMMEN	<u>TS</u>		
A. OFMB Fiscal a OFMB	and/or Cont	5-09	nent Comn Contract De	f- Jacob Velopment and	3/5/09 Control .3/5/09	
B. Legal Sufficien Assistant Count	1/3/	19/09	ann	s Contract complies tract review require the fire fundaments of the form of th	with our ments. Le VF och Confront Con	ir A way
C. Other Departm	ient Review	y :	•			
Department Dire	ector	·				

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

Background and Justification, continued:

On June 6, 2006, the Board approved a second Restated Agreement (R2006-0979) that increased the Society's Project Budget from \$650,000 to \$920,825. Exhibit D to the Third Restated Agreement has been revised to reflect Society's actual expenditures from its Project Budget in the amount of \$897,086. Society's Special Events are defined in the Third Restated Agreement as: (i) historical and/or educational presentations or programming regarding Palm Beach County or Florida history or (ii) Society's Fund Raising Activities that may include donor recognition events. All applications made by the Society for the issuance of a County Facility Use Permit, pursuant to the terms of the Third Restated Agreement, shall be submitted to the County on the form attached as Exhibit E to the Third Restated Agreement. Said County Facility Use Permit Application has been: (i) tailored for use only by the Society and (ii) modified from the County Facility Use Permit Application set forth in Countywide PPM CW-0-024 in order to address the rules, regulations, use and operations guidelines that apply to Society's use of the 1916 Courthouse and the Ceremonial Courtroom. Florida State Statutes, Section 286.23, requires that a Disclosure of Beneficial Interests be obtained when a property held in a representative capacity is leased to the County, but does not require such Disclosure in connection therewith when the County leases property to a tenant. Since the Statue does not require the Disclosure and since this is a third restatement of the Agreement that was already approved by the Board, Staff did not request such Disclosure.