

Agenda Item #:

3D2

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

---

Meeting Date: 4/7/2009

☒ Consent      ☐ Regular  
☐ Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

---

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to receive and file: documents for inclusion in the official transcript of the \$17,000,000 Sunshine State Governmental Financing Commission Paper Revenue Notes (Palm Beach County Program) Series J (documents associated with second draw) (the "Bonds"), as authorized by Resolution R-2006-2300 adopted on October 17, 2006.

**Summary:** The documents tabbed #22, #23, #24, #25, #26 and #27 have been provided for inclusion in the official transcript, dated December 6, 2006, previously provided for this transaction. These documents should now be received and filed in the Minutes Department. Countywide (PFK)

**Background and Justification:** Documents tabbed #22, #23, #24, #25, #26 and #27 are now ready for inclusion in the original Transcript Book dated December 6, 2006 for the above bond project.

**Attachments:**

1. Documents tabbed #22, #23, #24, #25, #26 and #27. (May be reviewed in the Minutes Department.)

---

Recommended by:

Maureen Leully For Denise Nieman 3/25/09

Department Director

Date

Approved by: \_\_\_\_\_

N/A

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>0</u>	—	—	—	—
Operating Costs	<u>0</u>	—	—	—	—
External Revenues	<u>0</u>	—	—	—	—
Program Income (County)	<u>0</u>	—	—	—	—
In-Kind Match (County)	<u>0</u>	—	—	—	—
<b>NET FISCAL IMPACT</b>	<u>0</u>	—	—	—	—
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	<u>0</u>	—	—	—	—

Is Item Included in Current Budget? Yes \_\_\_ No 0

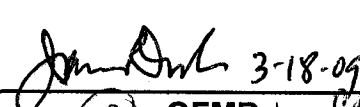

Budget Account No.: Fund\_\_\_ Department\_\_\_ Unit\_\_\_ Object\_\_\_  
Reporting Category\_\_\_

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

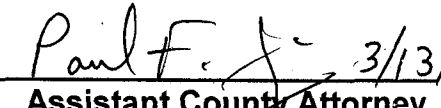
C. Departmental Fiscal Review: No fiscal impact.

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 3-18-09  
 3/19/09  
 OFMB Contract Dev. and Control

### B. Legal Sufficiency:

 3/13/09  
 Assistant County Attorney

### C. Other Department Review:

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

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

SUNSHINE STATE GOVERNMENTAL FINANCING COMMISSION  
TAX-EXEMPT COMMERCIAL PAPER REVENUE NOTES  
(PALM BEACH COUNTY PROGRAM), SERIES J

I. BASIC DOCUMENTS

1. Trust Indenture dated October 1, 2005

II. ISSUER DOCUMENTS

2. Certificate of Issuer  
Resolution No. 06-14 adopted September 22, 2006
3. (a) Incumbency Certificate of Issuer  
(b) Public Meeting Certificate
4. IRS Form 8038-G
5. Request to Authenticate and Deliver Palm Beach County Notes
6. Certificate of Executive Director
7. Second Amended and Restated Interlocal Agreement

III. OPINIONS

8. Opinion of Bond Counsel  
[including items required by Section 4.03(h) of Loan Agreement]
9. Opinion of Counsel to Issuer Regarding Loan Agreement and Notes

IV. MISCELLANEOUS

10. Reserved
11. (a) Receipt for Note Proceeds  
(b) Receipt for Notes

- 12. (a) Notice of Sale to Division of Bond Finance  
(b) Form 2003 and 2004-B
- 13. Truth-in-Bonding Statement
- 14. Closing Memorandum

V. LOAN DOCUMENTS

- 15. Palm Beach County Loan Agreement
- 16. Borrower's Closing Certificate  
[including items required by Section 4.03 (c) and (e) of Loan Agreement]
- 17. Opinion of Counsel to Borrower  
[per Exhibit C attached to Loan Agreement]
- 18. Tax Regulatory Agreement
- 19. Non-Arbitrage Certificate  
Exhibit A – Certificate of Lehman Brothers  
Exhibit B – Certificate of DEPFA BANK plc
- 20. IRS Form 8038-G

VI. LIQUIDITY DOCUMENTS

- 21. Fourth Amendment to Commercial Paper Purchase Agreement

VII. SECOND DRAW

- 22. Request for Issuance
- 23. Borrower's Closing Certificate
- 24. Revised Aggregate Debt Service Schedule
- 25. Resolution Amending Project
- 26. Fifth Amendment to Commercial Paper Purchase Agreement
- 27. Opinion of Counsel to Issuer Regarding Loan Agreement and Notes

#### Distribution of Transcripts

- (1) Sunshine State Governmental Financing Commission
- (2) Palm Beach County, Florida
- (1) Bryant Miller Olive P.A.
- (1) Deutsche Bank Trust Company Americas
- (1) DEPFA BANK plc
- (1) Lehman Brothers Inc.



### REOUEST FOR ISSUANCE

The undersigned, the Authorized Representative of Palm Beach County, Florida (the "Borrower"), requests the Sunshine State Governmental Financing Commission (the "Commission") to issue \$4,838,000 in Sunshine State Governmental Financing Commission Tax-Exempt Commercial Paper Revenue Notes (Palm Beach County Program), Series J for the purpose of funding an advance in the amount of \$4,838,000 pursuant to Article III of the Loan Agreement between the Commission and the Borrower dated as of December 6, 2006 (the "Loan Agreement").

The undersigned hereby certifies as follows:

- (1) The Borrower is not in default under the Loan Agreement and nothing has occurred that would prevent the performance of its obligations under the Loan Agreement.
- (2) The amount requested does not exceed the amount authorized under the Loan Agreement.
- (3) The amount requested will be used for the Projects, as described in Exhibit A to the Loan Agreement.
- (4) The amount requested will be needed on or before August 29, 2007.

Dated: August 29, 2007.

PALM BEACH COUNTY, FLORIDA

By: \_\_\_\_\_

Name: John A. Long

Title: Debt Manager





### **BORROWER'S CERTIFICATE**

We, the undersigned Addie L. Greene, Chairperson and Sharon R. Bock, Clerk and Comptroller of Palm Beach County, Florida (the "Borrower"), in connection with the advance under the Loan Agreement dated as of December 4, 2006 between the Sunshine State Governmental Financing Commission (the "Commission") and the Borrower (the "Loan Agreement"), hereby represent, warrant and covenant as follows:

(1) As of the date of this Certificate, all representations and warranties of the Borrower contained in Section 2.01 of the Loan Agreement are true and correct and the Borrower is in compliance with all covenants contained in the Loan Agreement.

(2) The Loan proceeds will be used in a manner which does not violate the terms and provisions set forth in Section 2.01(h) of the Loan Agreement.

(3) The amount borrowed pursuant to the Loan Agreement, together with accrued interest earnings, does not exceed the amounts needed for the Projects. It is reasonably anticipated by the Borrower that the Loan will be fully advanced for its Project and expended by the Borrower prior to August 29, 2010.

(4) The Loan Agreement is in full force and effect and continues to be a valid, enforceable and legally binding obligation of the Borrower, enforceable in accordance with its terms, except as such enforceability may be limited by laws relating to bankruptcy, reorganization, insolvency or other similar laws affecting enforceability of creditors' rights generally and to the application of equitable principles if equitable remedies are sought.

(5) There is no litigation or legal or governmental action, proceeding, inquiry pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the properties, prospects or condition (financial or otherwise) of the Borrower in a manner which would adversely affect its ability to make the payments under the Loan Agreement when and as the same become due and payable, or the existence or powers or ability of the Borrower to perform its duties and obligations under the Loan Agreement.

(6) Signatures of the Chairperson and the Clerk at the end of this Certificate are true and genuine signatures of such Borrower's officials.

(7) A certified copy of Resolution No. R-2006-2300 approving the issuance of Commercial Paper Revenues Notes in an aggregate amount not to exceed \$17,000,000 duly adopted by the Board of County Commissioners of Palm Beach County, Florida on October 17, 2006 is attached and remains in full force and effect as of the date of this Certificate.

Executed this 29<sup>th</sup> day of August, 2007

PALM BEACH COUNTY, FLORIDA

By: Addie L. Greene  
Addie L. Greene, Chairperson

Sharon R. Bock, Clerk and Comptroller

By: Grant Kolnick  
Deputy Clerk

Approved as to form and legal  
sufficiency:

By: Paul F. King  
Name: Paul F. King, Esq.  
Title: Assistant Palm Beach  
County Attorney



REVISED AGGREGATE  
SCHEDULE OF LOAN PAYMENTS

<u>November 1</u>	<u>Principal Amount</u>
2008	\$ -0-
2009	163,000
2010	171,000
2011	179,000
2012	187,000
2013	196,000
2014	205,000
2015	215,000
2016	225,000
2017	236,000
2018	247,000
2019	258,000
2020	270,000
2021	283,000
2022	297,000
2023	311,000
2024	325,000
2025	340,000
2026	357,000
2026	<u>373,000</u>
Total	<u>\$4,838,000</u>

Interest shall be due and payable at the times and in amounts set forth in Section 5.01 and 5.02 of the Loan Agreement.



A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUNSHINE STATE GOVERNMENTAL FINANCING COMMISSION AUTHORIZING AND APPROVING THE AMENDING OF A LOAN AGREEMENT BETWEEN THE SUNSHINE STATE GOVERNMENTAL FINANCING COMMISSION AND PALM BEACH COUNTY, FLORIDA; PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, Florida has previously executed a loan agreement dated December 6, 2006 between the Sunshine State Governmental Financing Commission (the "Commission") and Palm Beach County, Florida (the "County") in connection with the Sunshine State Governmental Financing Commission Commercial Paper Revenue Notes, Series J;

WHEREAS, the County has requested that the Commission approve an amendment to their Loan Agreement to provide for amending the County's Project (as defined in the Loan Agreement);

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SUNSHINE STATE GOVERNMENTAL FINANCING COMMISSION, as follows:

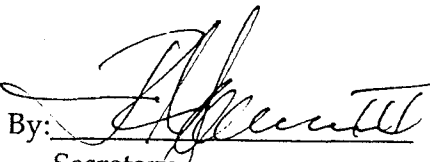
Section 1. The Board of Directors of the Sunshine State Governmental Financing Commission hereby approves the amendment to Exhibit A of the Loan Agreement between the Commission and the County dated December 6, 2006 to include the construction of a health department administration building.


Section 2. This Resolution shall take effect immediately.

PASSED AND ADOPTED by the Board of Directors of the Sunshine State Governmental Financing Commission at a meeting held on this 15th day of March, 2007.

BOARD OF DIRECTORS OF THE  
SUNSHINE STATE GOVERNMENTAL  
FINANCING COMMISSION

ATTEST:

By:   
Secretary

By:   
Chairman





## FIFTH AMENDMENT TO COMMERCIAL PAPER PURCHASE AGREEMENT

This Fifth Amendment to Commercial Paper Purchase Agreement dated August 29, 2007 (this "*Amendment*") between DEPFA BANK plc, acting through its New York Branch (the "*Bank*") and Sunshine State Governmental Financing Commission (the "*Issuer*").

### WITNESSETH

WHEREAS, the Issuer and the Bank have heretofore entered into a Commercial Paper Purchase Agreement dated as of October 1, 2005, as amended (the "*Agreement*") in connection with the issuance by the Issuer of its Commercial Paper Revenue Notes (Palm Beach County Program), Series J (the "*Series J Notes*")

WHEREAS, the Issuer has requested that the Bank amend the Agreement to provide liquidity for an additional issuance of \$4,838,000 Series J Notes as set forth herein;

WHEREAS, the Bank has agreed to amend the Agreement to provide such liquidity;

NOW THEREFORE, in consideration of the premises, the parties hereto hereby agree as follows:

1. The definition of "*Available Commitment*" shall be amended by deleting the reference to "\$55,889,000" therein and by inserting "\$53,021,000" in lieu thereof;

2. The Agreement shall be further amended by adding Exhibit D-5 attached hereto as Exhibit D-5 attached thereto which shall be the Basic Payment schedules for the additional notes being issued.

3. The effectiveness of this Amendment is subject to the satisfaction of or waiver by the Bank in its sole discretion of all of the following conditions precedent:

(a) delivery by the Issuer of an executed counterpart of this Amendment and an opinion of counsel to the Issuer; and

(b) such other documents, certificates and opinions as the Bank or the Bank's counsel shall reasonably request.

4. The Issuer hereby represents and warrants as follows:

(a) It is a legal entity and public body corporate and politic duly created and existing under the Constitution and laws of the State with full power and authority to execute this Amendment and to perform its obligations under the Agreement, as amended hereby.

(b) The execution, delivery and performance by the Issuer of this Amendment and the Agreement, as amended hereby, are within its corporate powers, have been duly authorized by all necessary corporate action and do not violate any provision of law or regulation or any order or decree of any court, tribunal or governmental authority, bureau or agency, or by-laws of the Issuer, or any contractual restriction binding on or affecting the Issuer, or result in, or require, the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest or other charge or encumbrance of any nature upon or with respect to any of the properties now owned or hereafter acquired by the Issuer.

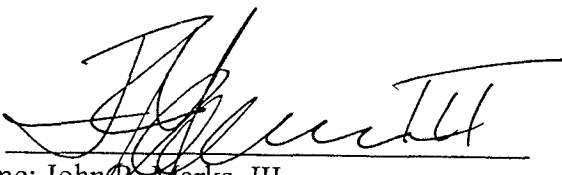
(c) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Issuer of this Amendment or the Agreement, as amended hereby.

(d) This Amendment and the Agreement, as amended hereby, constitute legal, valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their respective terms.


Except as specifically amended herein, the Agreement shall continue in full force and effect in accordance with its terms. Reference to this specific amendment need not be made in any note, document, agreement, letter, certificate, the Agreement itself, or any communication issued or made subsequent to or with respect to the Agreement, it being hereby agreed that any reference to the Agreement shall be sufficient to refer to the Agreement as hereby amended. In case any one or more of the provisions contained herein should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired hereby. All capitalized terms used herein without definition shall have the same meanings herein as they have in the Agreement. The obligations of the Issuer hereunder shall be construed and governed by and in accordance with the internal laws of the State of Florida, and the obligations of the Bank hereunder shall be construed and governed by and in accordance with the internal laws of the State of New York.

This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Dated as of the date first above written

By:   
Name: John R. Marks, III  
Title: Secretary

SUNSHINE STATE GOVERNMENTAL FINANCING  
COMMISSION

By:   
Name: John A. Long  
Title: Chairman

DEPFA BANK PLC, acting through its  
New York Branch

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

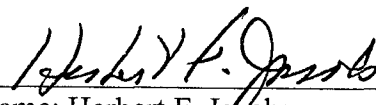
Dated as of the date first above written


SUNSHINE STATE GOVERNMENTAL FINANCING  
COMMISSION

By: \_\_\_\_\_  
Name: John R. Marks, III  
Title: Secretary

By: \_\_\_\_\_  
Name: John A. Long  
Title: Debt Manager

DEPFA BANK PLC, acting through its  
New York Branch

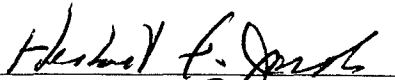

By:  \_\_\_\_\_  
Name: Herbert F. Jacobs  
Title: General Manager

By:  \_\_\_\_\_  
Name: David D. Park  
Title: Managing Director

### INCUMBENCY CERTIFICATE OF THE BANK

The undersigned officers of DEPFA BANK plc, acting through its New York Branch (the "*Bank*"), serving as the Bank under the Fifth Amendment to Commercial Paper Purchase Agreement, dated August \_\_, 2007 (the "*Amendment*"), by and between the Bank and Sunshine State Governmental Financing Commission (the "*Issuer*"), hereby certify as follows:

1. The Amendment was executed on behalf of the Bank by the persons named below whose offices appear below; and said persons were at the time of executing the Amendment and are now, the duly qualified and acting incumbent of such offices; and the signature appearing after each such person's name below is a true and correct specimen of each such person's genuine signature.

<u>Name</u>	<u>Title/Office</u>	<u>Signature</u>
Herbert F. Jacobs	General Manager	
David D. Park	Managing Director	

2. The foregoing officers of the Bank are authorized to executed and deliver the Amendment on behalf of the Bank and to execute on behalf of the Bank such other documents as may be necessary or incidental to the acceptance and performance thereof as set forth in the Amendment. The Amendment has been duly authorized by the Bank.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of August, 2007.

DEPFA BANK plc, acting through  
its New York Branch

By: 

Name: Jane Russell

Title: Managing Director





**BOARD OF DIRECTORS**

August 29, 2007

John A. Long  
Chair  
Debt Manager  
Palm Beach County

Donald G. Nelson  
Vice Chair  
Finance Director  
City of Coral Gables

John R. Marks, III  
Secretary-Treasurer  
Mayor  
City of Tallahassee

Rebecca W. Sutton  
Chief Financial Officer  
City of Orlando

Lidia Monzon-Aguirre  
Director-Bond Administration  
Miami-Dade County

**STAFF**

Robert B. Inzer  
Executive Director  
Clerk of the Circuit Court  
Leon County

G. Michael Miller  
Deputy Executive Director  
Chief Financial Officer  
City of Jacksonville

**COUNSEL TO THE  
COMMISSION**

James R. English  
City Attorney  
City of Tallahassee

**PROGRAM  
ADMINISTRATOR**

Richard C. Dowdy  
The GAMS Group, Inc.

**MEMBERSHIP**

City of Coral Gables  
City of Coral Springs  
City of Daytona Beach  
City of Fort Lauderdale  
City of Hollywood  
City of Jacksonville  
City of Lakeland  
City of Miami  
City of Miami Beach  
City of Orlando  
City of St. Petersburg  
City of Tallahassee  
City of Vero Beach  
Miami-Dade County  
Palm Beach County  
Polk County

DEPFA BANK plc, acting through its  
New York Branch  
New York, New York

\$4,838,000 Sunshine State Governmental Financing Commission  
Tax-Exempt Commercial Paper Revenue Notes  
(Palm Beach County Program), Series J

Ladies and Gentlemen:

I have acted as counsel to the Sunshine State Governmental Financing Commission (the "Issuer") in connection with the issuance and sale by it of its Tax-Exempt Commercial Paper Revenue Notes (Palm Beach County Program) (the "Notes"), to be issued pursuant to the Trust Indenture dated as of October 1, 2005 (the "Indenture") between the Issuer and Deutsche Bank Trust Company Americas, as trustee (the "Trustee") and Resolution No. 06-14 of the Issuer adopted on September 22, 2006, as amended by a Resolution adopted on February 9, 2007 (collectively, the "Resolution"). All terms used herein in capitalized form and not otherwise defined herein shall have the meanings ascribed to them in the Indenture.

I have examined the following:

1. The Loan Agreement, dated as of December 6, 2006 (the "Loan Agreement") by and between the Issuer and the Palm Beach County, Florida (the "Borrower");
2. The Indenture and the Resolution;
3. The Fifth Amendment to Commercial Paper Purchase Agreement dated as of August 29, 2007 between DEPFA BANK plc, acting through its New York Branch, and the Commission (the "Amendment"); and
4. Chapter 163, Part I, Florida Statutes; Chapter 159, Part I, Florida Statutes; Chapter 166, Part II, Florida Statutes; Chapter 125, Part I Florida Statutes, as amended and all other applicable provisions of law, collectively hereinafter referred to as the "Act"; and

5. Such other documents and proceedings as I have deemed relevant.

Based on such review, and such other considerations of law and fact as I believe to be relevant, I am of the opinion that:

1. The Issuer is a public body corporate and politic of the State of Florida (the "State") with the legal right and requisite power and authority to enter into the Amendment and to consummate the transactions contemplated thereby.

2. The Resolution authorizing the issuance and sale of the Notes and the execution and delivery of the Amendment has been duly adopted by the Issuer, has not been amended and is in full force and effect and no further action of the Issuer is required for its continued validity. The meeting at which the Resolution was adopted was duly convened after giving proper notice thereof and a quorum was present.

3. The Issuer has duly authorized, executed and delivered the Amendment, and it constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, reorganization, insolvency and other similar laws affecting enforceability of creditors' rights generally and to the application of equitable principles if equitable remedies are sought.

4. The Notes have been duly authorized by all necessary action on the part of the Issuer, duly executed by authorized officers of the Issuer and validly issued by the Issuer. The Notes constitute the legal, valid and binding limited obligations of the Issuer enforceable in accordance with their terms and are entitled to the benefit and security of the Indenture, subject to the qualification that the enforcement thereof may be limited by laws relating to bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by the availability of equitable remedies.

5. There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best of my knowledge, threatened or any meritorious basis therefor, against or affecting the Issuer to restrain or enjoin the issuance or sale of the Notes or in any way contesting or affecting the authority for the issuance of the Notes or for the execution, delivery and performance by the Issuer of its obligations under the Amendment, or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Amendment or the validity or enforceability of the Notes or the Amendment.

6. The execution, delivery and performance by the Issuer of its obligations under the Notes and the Amendment (i) are not subject to any authorization, consent, approval or review of any governmental body or regulatory authority not heretofore obtained or effected, (ii) will not violate any provision of State law or any applicable judgment, order or regulation of any court or of any public or governmental agency or authority of the State known to us, and



DEPFA BANK plc, New York Branch

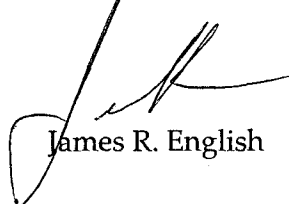
August 29, 2007

Page 3

(iii) will not conflict with, or result in the breach of any of the provisions of, or constitute a default under, the Interlocal Agreement or any indenture, mortgage, deed of trust or other agreement or instrument to which the Issuer is a party or by which it or its properties are bound, which conflict, violation, breach or default would materially and adversely affect the consummation of the transactions described in the Amendment or the Notes.

7. The Issuer has received all necessary approvals, consents and orders required to be obtained and has taken all action required to be taken under federal, state and local laws prior to (i) the adoption of the Resolution, (ii) the authorization, issuance, sale, execution and delivery of the Notes, and (iii) the performance by the Issuer of its obligations under the Amendment and the Notes, except for such approvals, consents, orders or other action as may be required under the securities laws of any state in connection with the offering and sale of the Notes.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. English', is written over the printed name. The signature is fluid and cursive, with a large loop at the beginning and a horizontal stroke at the end.

James R. English