

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: April 7, 2009

☒ Consent  
☐ Ordinance

☐ Regular  
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: Agreement with the City of West Palm Beach for the period April 7, 2009, through September 30, 2009, in an amount not-to-exceed \$7,500 for funding of the Kaleidoscope 2009 event.

**Summary:** This funding is to help offset costs incurred by the City of West Palm Beach for the Kaleidoscope 2009 event held in downtown West Palm Beach on January 25, 2009. Approximately 41,000 people participated in or attended the event. The Agreement allows for the reimbursement of eligible expenses incurred subsequent to December 1, 2008. Funding is from the Recreation Assistance Program (RAP) District 2 Funds. District 7 (AH)

**Background and Justification:** The annual Kaleidoscope event (the Event) is held by the City of West Palm Beach in conjunction with the Palm Beach County School Board to provide a celebration of many cultures. The 2009 event featured seventeen "villages" created through partnerships with local cultural organizations and public schools, two stages of ethnic entertainment, a kids' area, an International Bazaar, and food and refreshments from around the world.

The event cost approximately \$82,400 for contractual services, operational expenses, equipment, and other miscellaneous expenses. The \$7,500 from District 2 RAP funding will help offset a portion of these costs. The Agreement has been executed on behalf of the City of West Palm Beach, and now needs to be approved by the Board of County Commissioners.

Attachment: Agreement

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Recommended by:   
Department Director

3-17-09  
Date

Approved by:   
Assistant County Administrator

3-27-09  
Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>7,500</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>7,500</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>

Is Item Included in Current Budget? Yes X No         
Budget Account No.: Fund 3600 Department 583 Unit R902  
Object 8101 Program N/A

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

FUND: Park Improvement Fund/Recreation Assistance Program  
UNIT: RAP/District 2

Contributions Othr Govtl Agency      3600-583-R902-117-8101      \$7,500

C. Departmental Fiscal Review: chopelakis

## III. REVIEW COMMENTS

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

Jim O'Neil 3-23-09  
OFMB 3/23/09 OK 3/20/09 3/19/09

Don J. Sawyer 3/24/09  
Contract Development and Control  
E. Jones 3/24/09

### B. Legal Sufficiency:

Anne Delgent 3/26/09  
Assistant County Attorney

This Contract complies with our  
contract review requirements.

### C. Other Department Review:

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

REVISED 10/95  
ADM FORM 01

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**AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF WEST PALM BEACH FOR FUNDING OF THE KALEIDOSCOPE 2009 EVENT**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and the City of West Palm Beach, a Florida Municipal Corporation, hereinafter referred to as "West Palm Beach".

**WITNESSETH:**

**WHEREAS**, West Palm Beach, in conjunction with the School Board of Palm Beach County, will produce the Kaleidoscope 2009 Event on January 25, 2009, in downtown West Palm Beach; and

**WHEREAS**, Kaleidoscope 2009 (the Event) is a celebration of many cultures, featuring seventeen (17) "villages" created through partnerships with local cultural organizations and Palm Beach County public schools, two stages of ethnic entertainment, a kids' area, International Bazaar, food and refreshments from around the world, and a Centennial kick-off for Palm Beach County; and

**WHEREAS**, the Event is anticipated to attract approximately 25,000 attendees and 16,000 students, parents, and teachers; and

**WHEREAS**, the total cost of the Kaleidoscope 2009 Event is anticipated to be \$82,400 for contractual services, operational expenses, equipment, and other miscellaneous project expenses; and

**WHEREAS**, West Palm Beach has requested from County an amount not-to-exceed \$7,500 to help offset costs paid for the Event; and

**WHEREAS**, County desires to provide funding to offset costs for the Event in an amount not to exceed \$7,500; and

**WHEREAS**, funding for the Event in an amount not-to-exceed \$7,500 is available from the Recreation Assistance Program (RAP) - District 2; and

**WHEREAS**, West Palm Beach's cultural arts, recreational, and community entertainment Events are deemed to serve a public purpose; and

**WHEREAS**, both parties desire to enter into this Agreement.

**NOW THEREFORE**, in consideration of the covenants and promises contained herein, the parties hereby agree to the following terms and conditions:

1. County agrees to fund an amount not to exceed \$7,500 to West Palm Beach for the Event for contractual services, operational expenses, equipment, and other miscellaneous project expenses, as set forth in Exhibit "A", attached hereto and incorporated herein, hereinafter referred to as the "Project".

2. County will use its best efforts to provide said funds to West Palm Beach on a reimbursement basis within forty-five (45) days of receipt of the following information:

a. A written statement that the Project, as specified herein, was carried out in accordance with this Agreement; and

b. A Contract Payment Request Form and a Contractual Services Purchases Schedule Form attached hereto and made a part hereof as Exhibit "B", which are required for each and every reimbursement requested by West Palm Beach. Said information shall list each invoice paid by West Palm Beach and shall include the vendor invoice number; invoice date; and the amount paid by West Palm Beach along with the number and date of the respective check or proof of payment for said payment. West Palm Beach shall attach a copy of each vendor invoice paid by West Palm Beach along with a copy of the respective check or proof of payment and shall make reference thereof to the applicable item listed on the Contractual Services Purchases Schedule. Further, West Palm Beach's Program Administrator and Project Financial Officer shall certify the total funds spent by West Palm Beach on the Project and shall also certify that each vendor invoice, as listed on the Contractual Services Purchases Schedule was paid by West Palm Beach and approved by West Palm Beach as indicated.

3. West Palm Beach incurred expenses for the Project beginning on December 1, 2008. Those costs incurred by West Palm Beach for the Project, approved and submitted accordingly by West Palm Beach subsequent to December 1, 2008, are eligible for reimbursement by County pursuant to the terms and conditions hereof.

4. RAP funds may be used as a match for other local, state, or federal grant programs, but West Palm Beach may not submit reimbursement requests for the same expenses to the County as other fund sources to receive duplicate reimbursement for the same expenses.

5. West Palm Beach agrees, warrants, and represents that all of the employees

and participants in the Project will be treated equally during employment, and for the provision of services without regard to residency, race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation, gender identity or expression.

6. West Palm Beach shall be responsible for all costs of operation and maintenance of the Project, including all associated costs.

7. The term of this Agreement shall be until September 30, 2009, commencing upon the date of execution by the parties hereto.

8. The parties agree that, in the event West Palm Beach is in default of its obligations under this Agreement, the County shall provide West Palm Beach thirty (30) days written notice to cure the default. In the event West Palm Beach fails to cure the default within the thirty (30) day cure period, the County shall have no further obligation to honor reimbursement requests submitted by West Palm Beach for the Project deemed to be in default and West Palm Beach shall return any County RAP funds already collected by West Palm Beach for that Project.

9. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by the County, without cause, upon thirty (30) days prior written notice to the other party. This Agreement may be terminated by the County with cause, upon expiration of the thirty (30) day cure period provided for in Section 8 above.

10. West Palm Beach shall complete the Project by June 30, 2009, and invoices and checks submitted for reimbursement must be dated within the project time frame of December 1, 2008, through June 30, 2009. West Palm Beach shall provide its final reimbursement request(s), including a project completion statement and reimbursement documentation as indicated in Section 2 above on or before September 30, 2009. Upon written notification to County at least ninety (90) days prior to that date West Palm Beach may request an extension beyond this period for the purpose of completing the Project. County shall not unreasonably deny West Palm Beach's request for said extension.

11. In the event West Palm Beach ceases to exist, or ceases or suspends the Project for any reason, any remaining unpaid portion of this Agreement shall be retained by County, and County shall have no further obligation to honor reimbursement requests submitted by West Palm Beach. The determination that West Palm Beach has ceased or

suspended the Project shall be made by County and West Palm Beach agrees to be bound by County's determination.

12. West Palm Beach agrees to abide by, and be governed by, all applicable federal, state, county, and municipal laws, including but not limited to, Palm Beach County's ordinances, as said laws and ordinances exist and are amended from time to time. In entering into this Agreement, Palm Beach County does not waive the requirements of any County or local ordinance or the requirements of obtaining any permits or licenses normally required to conduct business or activity conducted by West Palm Beach. Failure to comply may result in County's refusal to honor reimbursement requests for the Project.

13. County reserves the right to withhold reimbursement if the Project is not completed as specified in Exhibit "A".

14. It is understood and agreed that West Palm Beach is merely a recipient of County funding and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. It is further acknowledged that the County only contributes funding under this Agreement and operates no control over the Project. Each party shall be liable for its own actions and negligence and, to the extent permitted by law, West Palm Beach shall indemnify, defend, and hold harmless County, its officers, agents and/or employees from and against any and all actions, claims, or damages arising out of West Palm Beach's, its agents, servants, and/or employees acts, errors, or omissions in connection with this Agreement. The foregoing indemnification shall survive termination of this Agreement.

In consideration for reimbursement of costs incurred prior to the term of this Agreement, the foregoing indemnification shall apply not only during the term of this Agreement but also for the period prior to the Agreement for which West Palm Beach is eligible to receive reimbursement from the County.

15. Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, West Palm Beach acknowledges to be self-insured for General Liability and Automobile Liability under Florida sovereign immunity statutes with coverage limits of \$100,000 Per Person and \$200,000 Per Occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

In the event West Palm Beach maintains third-party commercial General Liability and Business Auto Liability in lieu of exclusive reliance on self-insurance under Section 768.28, Florida Statutes, West Palm Beach shall agree to maintain said insurance policies at limits not less than \$500,000 combined single limit for bodily injury or property damage.

West Palm Beach agrees to maintain or to be self-insured for Worker's Compensation & Employer's Liability insurance in accordance with Florida Statute 440.

Prior to execution of this Agreement by the County, West Palm Beach shall deliver to the County an affidavit or Certificate of Insurance evidencing insurance, self-insurance, and/or sovereign immunity status, which County agrees to recognize as acceptable for the above mentioned coverages. Certificate holder's address shall read Palm Beach County, c/o Parks and Recreation Department, 2700 Sixth Avenue South, Lake Worth, FL 33461, Attention: Administrative Support Manager.

Compliance with the foregoing requirements shall not relieve West Palm Beach of its liability and obligations under this Agreement.

15. Upon request by County, West Palm Beach shall demonstrate financial accountability through the submission of acceptable financial audits performed by an independent auditor.

16. West Palm Beach shall maintain books, records, documents and other evidence that sufficiently and properly reflect all costs of any nature expended in the performance of this Agreement for a period of not less than five (5) years. Upon advance notice to West Palm Beach, County shall have the right to inspect and audit said books, records, documents and other evidence during normal business hours.

17. The County and West Palm Beach may pursue any and all actions available under law to enforce this Agreement including, but not limited to, actions arising from the breach of any provision set forth herein.

18. This Agreement shall be governed by the laws of the State of Florida and any and all legal action necessary to enforce this Agreement shall be held in Palm Beach County.

19. As provided in Section 287.132-133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, West Palm Beach certifies that it,

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

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

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

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

As to West Palm Beach:  
City Administrator  
P.O. Box 3366  
West Palm Beach, FL 33402

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

**IN WITNESS WHEREOF**, the undersigned parties have signed this Agreement on the date first above written.

**ATTEST:**  
**SHARON R. BOCK, Clerk & Comptroller**

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

**ATTEST:**  
By: [Signature]  
City Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By: [Signature]  
County Attorney

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

By: \_\_\_\_\_  
John F. Koons  
Chair man

**CITY OF WEST PALM BEACH**  
By: [Signature]  
Mayor

CITY ATTORNEY  
Approved as to form and legal sufficiency  
By: [Signature]  
Date: 2/11/05

**APPROVED AS TO TERMS AND CONDITIONS**

By: [Signature]  
Dennis L. Eshleman, Director  
Parks and Recreation Department



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

Name of Municipality: West Palm Beach  
Mailing Address: P.O. Box 3366, West Palm Beach, FL 33402

Name of Mayor: Lois Frankel  
Name of City Manager: City Administrator: Ed Mitchell  
Project Liaison Information:  
Name: Mary Pinak  
Telephone #: 561-822-1515 Ext. 1518  
Fax #: 561-822-1525  
e-mail: [mpinak@wpb.org](mailto:mpinak@wpb.org)

**PROJECT INFORMATION**

1. Name of Project: KALEIDOSCOPE 2009
2. Project Description
  - General (Project Scope): Kaleidoscope 2009 is a celebration of many cultures featuring 17 villages created by local cultural groups with Palm Beach County schools, 2 stages of ethnic entertainment, Kids Area, International Bazaar and Food and Refreshments from around the world.
  - Public Purpose: Community-wide celebration which this year includes Palm Beach County's Centennial kick-off.
  - Location: Downtown West Palm Beach
  - Anticipated Number of Participants/Users: 25,000 attendees, 16,000 students / parents / teachers
3. Project Elements: List anticipated broad categories of Expenditure Items such as capital outlay, contractual services, personnel costs, operational expenses, equipment, and "Other Miscellaneous Project expenses". Do not include expenditure line item budget/ amounts.
  - Contractual Services
  - Operational
  - Other Miscellaneous project / program expenses
  - Equipment
4. Estimated Lump Sum Total for Project: \$ 82,400.00
5. Project Initiation date (date of first invoice for which reimbursement will be requested) and anticipated End date (date which project will be completed and all invoices paid). ~~4/25/09~~ to 6/30/09  
*December 1, 2008 / 09*

Note: Invoices and copies of proof of payment documents will be required for Project/Program reimbursement after the RAP Agreement is approved by the Board of County Commissioners. Do not submit reimbursement documentation at this time. After the Agreement is approved, and the reimbursement request is submitted, all invoices and checks must be dated within the stated project time frame AND Categories for Project Elements must be listed in Section 3 above in order to be eligible for RAP reimbursement.

6. Required Attachments:

Certificate of Insurance   X  

7. Amount of Recreation Assistance Program Funding awarded \$ 7,500.  
District 2.  
(filled in by County)

Form available online by request. Contact Susan Yinger at [syinger@pbcgov.com](mailto:syinger@pbcgov.com)



PALM BEACH COUNTY  
PARKS AND RECREATION DEPARTMENT

EXHIBIT B

CONTRACT PAYMENT REQUEST

Date \_\_\_\_\_

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

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

Item	Key	Project Costs This Submission	Cumulative Project Costs
Contractual Services	(C)	_____	_____
Salary & Wages (% of salaries)	(S)	_____	_____
Materials, Supplies, Direct Purchases	(M)	_____	_____
Equipment	(E)	_____	_____
Travel	(T)	_____	_____
Indirect Costs	(I)	_____	_____
TOTAL PROJECT COSTS		_____	_____

Key Legend

C = Contractual Services  
S = Salary & Wages  
M = Materials, Supplies, Direct Purchases  
E = Equipment  
T = Travel  
I = Indirect Costs

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

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

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

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

**PBC USE ONLY**

County Funding Participation \$ \_\_\_\_\_

Total Project Costs To Date: \$ \_\_\_\_\_

County Obligation To Date \$ \_\_\_\_\_

County Retainage ( \_\_\_\_\_ %) \$ \_\_\_\_\_

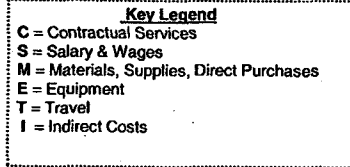
County Funds Previously Disbursed \$ \_\_\_\_\_

County Funds Due this Billing \$ \_\_\_\_\_

Reviewed and Approved By: \_\_\_\_\_

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

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

**EXHIBIT B**  
**(cont'd.)**Page        of

# The City of West Palm Beach



*"The Capital City of the Palm Beaches"*

City of West Palm Beach  
Finance Department  
Risk Management Division  
1000 45<sup>th</sup> Street, Suite 7  
West Palm Beach, FL 33407

October 29, 2008

Palm Beach County  
Recreation Assistance  
West Palm Beach, FL 33406

Re: Certificate of Insurance

Without waiving the right to sovereign immunity as provided by FL Statutes Section 768.28, this acknowledges that the City of West Palm Beach is self insured for General Liability and Automobile liability with coverage limits of \$100,000 per person and \$200,000 per occurrence. The city is also self insured for Workers Compensation and Employer's Liability insurance in accordance with FL Statutes, Chapter 440. Additionally, the City is self insured for physical damage to any property leased or rented

The City carries an excess liability policy. Please feel free to contact me with any questions you may have.

Regards,

  
Ann Marie Sharpe  
Risk Manager

*"An Equal Opportunity Employer"*