

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: April 21, 2009

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A) Tri-Party Agreement with 814 Community Center LLC and TAB Development, Inc. in an amount not-to-exceed \$500,000 for the period April 21, 2009, through April 20, 2012, for construction of the U.B. Kinsey Educational and Community Center; and B) Budget Transfer of \$500,000 within the \$25 Million GO Parks and Cultural Improvements Bond Fund – 2003 to TAB Development Educational and Community Center.

Summary: This allocation provides funding for construction of the U.B. Kinsey Educational and Community Center at 814 Division Street in West Palm Beach by TAB Development, Inc. Expenses eligible for reimbursement include construction costs for a 15,324 square foot two-story facility with a first floor lobby, elevator, library, restrooms, multi-purpose community room, classrooms, kitchen with storage, pantry and mechanical room, and second floor upper balcony, learning center gallery, staff offices, copy/storage room, work room, classrooms, meeting rooms, and computer room, as well as an outside gazebo and landscape areas. Funding is from the 2002 \$50 Million Recreation and Cultural Facilities Bond referendum. District 7 (PK)

Background and Justification: On January 13, 2009, the Board authorized redirection of \$500,000 from the 2002 \$50 Million Recreation and Cultural Facilities Bond referendum originally earmarked for the Riviera Beach Harbor Village Amphitheatre to TAB Development, Inc. for construction of the U.B. Kinsey Educational Cultural Center. The property on which the Center will be constructed is leased by TAB Development, Inc. from 814 Community Center LLC, a holding company, under a long term lease. TAB Development, Inc. is a not-for-profit community development organization whose mission is to enhance the quality of life to residents in Palm Beach County and act as a catalyst in the rebuilding and revitalization of the North West community of the County. TAB Development's mission is to rebuild lives through creative and transformational economic programs and youth development programs. TAB Development is involved in affordable housing, educational enrichment, and youth recreation programs in the North West community area. All of its programs are open and available to all residents of Palm Beach County.

The U.B. Kinsey Educational and Community Center will operate an after school/tutorial program dedicated to educational support of children in grades K-5 each afternoon, five (5) days a week, and will accommodate approximately 60-90 children. In addition to providing educational support, the center will offer training in computers, life coping skills, etiquette, video production, and career education, and will offer enrichment activities through field trips. The center will also be available for community gatherings throughout the week and its library and multi-purpose community room will be available to the public on a scheduled basis for cultural, recreational, and social purposes. Outdoor areas at the center will feature an urban garden equipped to facilitate outdoor activities and play, including planned recreational activities for youth.

The 15,324 square foot facility will be constructed as a two (2) story "green" building. The total project cost is estimated to be \$5,050,000, and TAB Development will pay \$4,550,000 toward the project prior to being reimbursed with the Bond funding for the final \$500,000 in project costs. The construction completion date for this project is April 20, 2012, and the term of the Agreement is until April 20, 2039 which is consistent with the 30-year term of other Bond projects. The Agreement has been executed on behalf of 814 Community Center LLC and TAB Development, Inc., and now needs to be approved by the Board of County Commissioners.

Attachments:

1. Tri-Party Agreement
2. Budget Transfer

Recommended by: _____

Department Director

Date

Approved by: _____

Assistant County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>500,000</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>500,000</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 No X
Budget Account No.: Fund Department Unit
Object Program N/A

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

FUND: \$25M GO 03, Parks & Cultural Facilities
UNIT: Reserves

Reserves-New Projects 3019-581-9900-9908 \$500,000

C. Departmental Fiscal Review: ckopelakis

III. REVIEW COMMENTS

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

Paul F. 4.8.09
OFMB 4/12/09 4/10/09 4/13/09

Contract Development and Control 4/19/09

B. Legal Sufficiency:

Paul F. 4/13/09
Assistant County Attorney

This Contract complies with our
contract review requirements.

Proof of Builders Risk
insurance will be
provided at time of
construction.

C. Other Department Review:

Department Director

REVISED 10/95
ADM FORM 01

G:\SYINGER\Bond2002\TAB Development, Inc\AGD.doc

**AGREEMENT BETWEEN PALM BEACH COUNTY, 814 COMMUNITY CENTER LLC,
AND TAB DEVELOPMENT, INC. FOR FUNDING OF THE U. B. KINSEY
EDUCATIONAL AND COMMUNITY CENTER**

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", 814 Community Center, LLC, a Florida Limited Liability Company, hereinafter referred to as "PROPERTY OWNER", and TAB Development, Inc., a not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "AGENCY".

WITNESSETH:

WHEREAS, AGENCY leases property located at 814 Division Street in West Palm Beach from PROPERTY OWNER under a long term lease dated October 1, 2008; and

WHEREAS, AGENCY desires to design and construct the U.B. Kinsey Educational and Community Center, hereinafter referred to as "the Project" at said location; and

WHEREAS, AGENCY has asked COUNTY to financially participate in the design and construction of said project; and

WHEREAS, on November 5, 2002, a bond referendum was passed by the voters of Palm Beach County for the issuance of general obligation bonds for the purpose of financing the acquisition, construction, and/or improvements to certain recreation and cultural facilities, in the principal amount of \$50 Million "the \$50 Million Recreation and Cultural Facilities Bond"); and

WHEREAS, COUNTY has approved a recreation and cultural facilities project list and proposed funding allocations, as amended, for the \$50 Million Recreation and Cultural Facilities Bond; and

WHEREAS, the Project represents one such recreation/cultural project; and

WHEREAS, AGENCY desires to operate and maintain the Project upon its completion; and

WHEREAS, the Project shall be open to and benefit all residents of Palm Beach County; and

WHEREAS, both parties desire to increase the recreational and cultural opportunities for residents of Palm Beach County and to enter into this Agreement.

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

ARTICLE 1: GENERAL

Section 1.01 The foregoing recitals are true and correct and are incorporated herein as if fully set forth.

Section 1.02 The purpose of this Agreement is to enhance recreational and cultural opportunities for use by the public and thereby provide a mechanism for COUNTY to assist AGENCY in the funding of the Project.

Section 1.03 COUNTY will pay to AGENCY a total amount not to exceed \$500,000 for the design and construction of the Project as more fully described in the Project Description, Conceptual Site Plan, and Cost Estimate attached hereto and made a part hereof as Exhibit "A".

AGENCY recognizes that COUNTY's funding of the Project is being paid from the proceeds of tax-exempt bonds issued by COUNTY. AGENCY agrees to provide COUNTY with a certification, in a form acceptable to COUNTY, from AGENCY's chief financial officer or independent accountant that each cost item for which COUNTY funding is requested under Article 3 of this Agreement constitutes a capital expenditure. In that regard, an item is considered a capital expenditure where the item has a useful life and benefit beyond one year or extends the Project's use beyond one year.

Section 1.04 AGENCY agrees to provide funding in an amount of \$4,550,000 or greater to complete the Project. The parties agree that COUNTY shall provide its portion of the funding only after AGENCY has expended \$4,550,000.

Section 1.05 COUNTY's representative during the design and construction of the Project shall be the Director of Parks and Recreation, Palm Beach County Parks and Recreation Department, telephone no. (561) 966-6685. AGENCY's representative during the construction of the Project shall be Gerald Kisner, Executive Director, TAB Development, Inc. at telephone no. 561-832-8338.

Section 1.06 AGENCY shall design and construct the Project upon property leased by AGENCY under a long term lease as more fully described in Exhibit "B" attached hereto and made a part hereof.

Section 1.07 AGENCY shall utilize its procurement process for all design and construction services required for the Project. Said procurement process shall be consistent with all federal, state and local laws, rules and regulations. COUNTY shall have no contractual obligation to any person retained by AGENCY with regard to the Project. Any dispute, claim, or liability that may arise as a result of AGENCY's procurement is solely the responsibility of AGENCY and AGENCY hereby holds COUNTY harmless for same to the extent permitted by law.

ARTICLE 2: DESIGN AND CONSTRUCTION

Section 2.01 AGENCY shall be responsible for the design and construction of the Project. AGENCY shall design and construct the Project in accordance with Exhibit "A", attached hereto and made a part hereof, and with all applicable federal, state and local laws, rules and regulations.

Section 2.02 Prior to or upon execution of this Agreement by the parties hereto, AGENCY shall initiate its procurement process to select the necessary professional engineer and/or architect to perform all engineering and/or architectural design work, including, but not limited to, the preparation of plans, permits and specifications necessary for the design and construction of the Project.

Section 2.03 AGENCY shall provide a copy of the engineer's and/or architect's programming phase documents (i.e., site plan, floor plan, elevations, etc.) to COUNTY's Representative for review. COUNTY's Representative shall review said programming phase documents to ensure consistency with the intent of this Agreement.

Section 2.04 AGENCY shall be responsible for securing all permits and approvals necessary to construct the Project.

Section 2.05 Prior to AGENCY commencing construction of the Project, AGENCY shall provide a copy of all plans and specifications, along with the associated costs thereof, to COUNTY's Representative for review to ensure consistency with the intent of this Agreement.

Section 2.06 AGENCY agrees to totally complete the Project and open same to the public for its intended use within thirty six (36) months from the date of execution of this Agreement by the parties hereto. Upon notification to COUNTY at least ninety (90) days prior to that date, AGENCY may request an extension beyond this period for the purpose of completing the Project. COUNTY shall not unreasonably deny AGENCY's request for said extension.

Section 2.07 AGENCY shall submit quarterly project status reports to COUNTY's Representative on or before January 10, April 10, July 10, and October 10 during the design and construction of the Project. These Quarterly reports shall include but not be limited to, a summary of the work accomplished, problems encountered, percentage of completion, and other information as deemed appropriate by COUNTY's Representative.

ARTICLE 3: FUNDING

Section 3.01 The total not to exceed amount as set forth in Section 1.03 hereinabove shall be paid by COUNTY to AGENCY on a reimbursable basis. Any costs incurred in connection with the Project in excess of that amount shall be the sole responsibility of AGENCY. Should the total cost of the Project exceed the amount as projected by AGENCY, AGENCY shall obtain and expend the excess funds required for completion of the Project. COUNTY shall not disburse any funds to AGENCY for the Project until AGENCY has obtained and expended said excess funds for the Project.

Section 3.02 COUNTY shall reimburse project costs under the terms of this Agreement to AGENCY on a quarterly basis from the date of execution of this Agreement; however, should the need arise for AGENCY to be reimbursed on a more frequent basis, then COUNTY will, at AGENCY's specific request for each instance, make its best efforts to reimburse AGENCY within forty five (45) days of such special request. For each requested payment, AGENCY shall provide to COUNTY's Representative a fully completed and executed Contract Payment Request Form and a Contractual Services Purchase Schedule Form, attached hereto and made a part hereof as Exhibit "C". Said forms shall include information listing each invoice as paid by AGENCY and shall include the vendor invoice number; invoice date; and the amount paid by AGENCY along with the number and date of the respective check for said payment. AGENCY shall attach a copy of each vendor invoice paid by AGENCY along with a copy of each respective check and shall make reference thereof to the applicable item listed on the Contractual Services Purchase Schedule Form. Further, AGENCY's Project Administrator and Project Financial Officer shall certify the total funds spent by AGENCY on the Project and shall also certify that each vendor invoice as listed on the Contractual Services Purchase Schedule Form was paid by AGENCY as indicated.

Section 3.03 COUNTY shall retain not less than ten percent (10%) of the total amount allocated to AGENCY for the Project until AGENCY completes the Project and provides COUNTY with either a Certificate of Occupancy or a Project Completion Certification as determined by COUNTY, and COUNTY receives and approves all documentation as required in accordance with this Agreement.

COUNTY's representative shall visit the Project site to verify and approve said final reimbursement.

Section 3.04 AGENCY shall provide a request for final reimbursement to COUNTY no later than ninety (90) days following completion of the Project and provision of either a Certificate of Occupancy or Project Completion Certification to COUNTY.

Section 3.05 COUNTY agrees to reimburse AGENCY an amount not to exceed \$0 for those approved pre-agreement costs accruing to the Project subsequent to November 5, 2002, as more fully described in Exhibit "D", Pre-Agreement Cost List, if applicable.

Section 3.06 For construction projects fully funded by COUNTY, no more than 10% of COUNTY's funding for the project shall be used for design and engineering costs for the project and be eligible for reimbursement under this Agreement. For construction projects not fully funded by COUNTY, all design and engineering costs associated with the project shall be borne by AGENCY, and will not be eligible for reimbursement from COUNTY.

Section 3.07 COUNTY shall reimburse project costs only after AGENCY has expended its share of project funding in its entirety. AGENCY shall provide COUNTY with a certification, in a form acceptable to COUNTY, from AGENCY's President, CEO, Chairman of the Board, Chief Financial Officer, or independent auditor that AGENCY has complied with this Project funding provision. COUNTY will be entitled to rely on that certification in reimbursing Project costs to AGENCY under this Agreement.

ARTICLE 4: OWNERSHIP, OPERATION AND MAINTENANCE OF THE PROJECT

Section 4.01 Upon completion, the Project shall remain the property of AGENCY. COUNTY shall not be required to pay AGENCY any additional funds for any other capital improvement required by or of AGENCY.

Section 4.02 AGENCY hereby warrants and represents that it has full legal authority and financial ability to operate and maintain said Project. AGENCY shall be responsible for all costs, expenses, fees and charges, and liability related to the operation and maintenance of the Project.

Section 4.03 AGENCY or PROPERTY OWNER shall operate and maintain the Project for its intended use by the general public for a term of thirty (30) years from the execution of this Agreement by the parties hereto. AGENCY shall maintain the Project in accordance with industry standards for such facilities to prevent undue deterioration and to encourage public use.

Section 4.04 The rights and duties arising under this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. AGENCY may not assign this Agreement or any interest hereunder without the express prior written consent of COUNTY.

Section 4.05 It is the intent of COUNTY to issue this funding assistance to AGENCY for the purpose set forth hereinabove. In the event AGENCY transfers ownership of the Project to a party or parties not now a part of this Agreement, other than another governmental entity that agrees to assume, in writing, AGENCY's obligations hereunder, COUNTY retains the right to reimbursement from AGENCY for its participation to the full extent of the funding assistance awarded to accomplish the Project. Should AGENCY transfer management of the project to a party or parties not now a part of this Agreement, AGENCY shall continue to be responsible for the liabilities and obligations as set forth herein. Further, AGENCY shall not transfer management of the Project to a third party without the written consent of COUNTY.

ARTICLE 5: USE OF THE PROJECT

Section 5.01 AGENCY warrants that the Project shall serve a public recreational or cultural purpose and be open to and benefit all residents of Palm Beach County and shall be available thereto on the same cost and availability basis. AGENCY shall not discriminate on the basis of race, color, sex, national origin, age, disability, religion, ancestry, marital status, sexual orientation, gender identity, or expression with respect to use of the Project.

Section 5.02 The term of this Agreement shall be for a period of thirty (30) years commencing upon the date of execution of this Agreement by the parties hereto. AGENCY shall restrict its use of the Project to recreational, cultural, civic, community and social purposes only unless otherwise agreed to in writing by the parties hereto.

Section 5.03 AGENCY shall affix a permanent plaque or marker in a prominent location at the completed Project indicating that COUNTY was a contributor to the development of the Project. Said plaque or marker shall include the COUNTY seal and a list of County Commissioners, unless otherwise directed by COUNTY's Representative.

ARTICLE 6: ACCESS AND AUDITS

AGENCY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the acquisition/design/construction of the Project for at least five (5) years after the end of the fiscal year in which the final payment is released by COUNTY, except that such records shall be retained by AGENCY until final resolution of matters resulting from any litigation, claim, or special audit that starts prior to the expiration of the five (5) year period. COUNTY reserves the right, upon reasonable request and during normal business hours, to inspect said Project and shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit.

ARTICLE 7: NOTICES

Any notice given pursuant to the terms of this Agreement shall be in writing and hand delivered or sent by Certified Mail, Return Receipt Requested. All notices shall be addressed to the following:

As to COUNTY:

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

With a Copy to:
County Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

As to PROPERTY OWNER;

Chairman, 814 Community Center LLC
801 8th Street
West Palm Beach, FL 33401

As to AGENCY:

Chairman, TAB Development, Inc.
801 8th Street
West Palm Beach, FL 33401

ARTICLE 8: TERMINATION FOR NON-COMPLIANCE

COUNTY may terminate this Agreement upon written notice to AGENCY for non-compliance by AGENCY in the performance of any of the terms and conditions as set forth herein and where AGENCY does not cure said non-compliance within ninety (90) days of receipt of written notice from COUNTY to do so. Further, if AGENCY does not cure said non-compliance within the time frame specified above, then upon written notice, COUNTY may require AGENCY to reimburse any funds provided to AGENCY pursuant to this Agreement either in whole or in part once COUNTY has reasonably determined that no other remedy is available.

ARTICLE 9: REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof. The parties hereto 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.

ARTICLE 10: INDEMNIFICATION

It is understood and agreed that AGENCY 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. In the event a claim or lawsuit is brought against COUNTY or any of its officers, agents or employees AGENCY shall indemnify, save and hold harmless and defend COUNTY, its officers, agents, and/or employees from and against any and all claims, liabilities, losses, judgments and/or causes of action of any type arising out of or relating to any intentional or negligent act or omission of AGENCY, its agents, servants and/or employees in the performance of this Agreement.

ARTICLE 11: INSURANCE

- A. AGENCY or PROPERTY OWNER, at their sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. The requirements contained herein, as well as COUNTY's review of acceptance of insurance maintained by AGENCY or PROPERTY OWNER are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by AGENCY under the contract.
- B. **Commercial General Liability.** AGENCY shall maintain Commercial General Liability at a limit of liability not less than \$500,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by COUNTY's Risk Management Department. AGENCY shall provide this coverage on a primary basis.
- C. **Business Automobile Liability.** AGENCY shall maintain Business Automobile Liability at a limit of liability not less than \$500,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event AGENCY does not own any automobiles, the Business Auto Liability requirement shall be amended allowing AGENCY to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. AGENCY shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability.** AGENCY shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. AGENCY shall provide this coverage on a primary basis.
- E. **Additional Insured.** AGENCY shall endorse COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." AGENCY shall provide the Additional Insured endorsements coverage on a primary basis.
- F. **Builder's Risk and Property Insurance.** AGENCY or its contractor agree to maintain property insurance, which would include builder's risk insurance while the project is in the course of construction in an amount at least equal to the estimated completed project value as well as subsequent modifications of that sum; thereafter, AGEMCU agrees to maintain All-Risk property insurance for adequate limits based on AGENCY's replacement cost or probable maximum loss estimates for the perils of either fire, wind, or flood. AGENCY shall agree to be fully responsible for any deductible or self-insured retention.
- G. **Umbrella or Excess Liability.** If necessary, AGENCY may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella

or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

- H. **Waiver of Subrogation.** AGENCY hereby waives any and all rights of Subrogation against COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then AGENCY shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should AGENCY enter into such an agreement on a pre-loss basis.
- I. **Certificate(s) of Insurance.** Prior to execution of this Agreement by COUNTY, AGENCY shall deliver to COUNTY a Certificate(s) of coverage evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. Certificate holder's address shall read Palm Beach County, c/o Parks and Recreation Department, 2700 Sixth Avenue South, Lake Worth, FL 33461, Attention: Administrative Support Manager.
- J. **Right to Review.** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.
- K. AGENCY shall require each Contractor engaged by AGENCY for work associated with this Agreement to maintain:
1. Workers' Compensation coverage in accordance with Florida Statutes including endorsements for U.S. Longshore and Harbor Workers Compensation Act and the Merchant Marine Act (Jones Act) in the event any portion of the scope of services/work occurs over, near, or contiguous to any navigable bodies of water.
 2. Commercial General Liability Insurance at not less than \$1,000,000 Each Occurrence. COUNTY shall be named in the coverage as an additional insured.
 3. Business Auto Insurance with limits of not less than \$1,000,000 each accident.

4. If the construction work being performed exceeds \$200,000, a payment and performance bond for the total amount of their construction contract, in accordance with Florida Statute 255.05.

ARTICLE 12: PUBLIC ENTITY CRIMES

As provided in Section 287.132-133, Florida Statutes, by entering into this contract or performing any work in furtherance hereof, AGENCY 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 Section 287.133 (3) (a), Florida Statutes.

ARTICLE 13: CAPTIONS

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

ARTICLE 14: SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision, to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 15: ENTIRETY OF AGREEMENT

This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations or agreements, either written or oral, relating to this Agreement. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

ARTICLE 16: THIRD PARTY BENEFICIARIES

This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns subject to the express provisions hereof relating to successors and assigns, 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 parties have caused this Agreement to be executed on the day and year first above written.

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Commissioner John F. Koons, Chairman

WITNESSES:

By: TAB DEVELOPMENT, INC.
FEI #: 650720742

KOP
Guendaly P. Ferguson

By: GERALD D. KISNER
Name (Type or Print)

Title: EX DIR
By: [Signature]
Signature

WITNESSES:

By: 814 COMMUNITY CENTER, LLC

KOP
Guendaly P. Ferguson

By: Olysses Smith
Name (Type or Print)

Title: CHAIR
By: [Signature]
Signature

APPROVED AS TO TERMS AND
CONDITIONS

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

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

By: _____
Agency Attorney

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

By: _____
County Attorney

LIST OF EXHIBITS

- | | |
|------------------|---|
| EXHIBIT A | Project Description, Conceptual Site Plan, and Cost Estimate
(Provided by Agency) |
| EXHIBIT B | Legal Description of Property (Provided by Agency) |
| EXHIBIT C | Contract Payment Request Form (Page 1 of 2) and
Contractual Services Purchase Schedule Form) (Page 2 of 2) |
| EXHIBIT D | Pre-Agreement Costs List (NOT APPLICABLE) |

EXHIBIT A

PROJECT DESCRIPTION, COST ESTIMATE, AND CONCEPTUAL SITE PLAN

PROJECT DESCRIPTION AND COST ESTIMATE
U.B. Kinsey Educational and Community Center

PROJECT DESCRIPTION

T.A.B. Development, Inc., a Florida not-for-profit corporation, is planning to construct the 15,324 square foot U.B. Kinsey Educational and Community Center (the "Center") at 814 Division Street in West Palm Beach. The Center will predominantly benefit the northwest community of West Palm Beach, but will also be open to residents of Palm Beach County on a non-discriminatory basis, regardless of residency.

The Center will operate an After School/Tutorial Program dedicated to the educational support of children in grades K-5 from 2:30 – 5:30 p.m. five days a week. Approximately 60-90 children are anticipated to participate in the After School/Tutorial Program. The primary goal of the Center is to provide educational support through homework assistance and FCAT skills development. In addition, training in computer skills, life coping skills and etiquette will be offered. There will be video production, career education classes, and enrichment and exposure to the arts via field trips to such places as the Royal Poinciana Playhouse, Bak Middle School of the Arts, Black Box Theater, the Historic Jenkins House, the Puppetry Arts Center, and the African-American Research Library and Cultural Center.

The Center will also be available for other gatherings throughout the week, and the Center's library and multi-purpose hall will be available to the public on a scheduled basis for cultural, recreational, and social purposes. Also included in the project will be an urban garden that will be equipped to facilitate outdoor activities and play, including planned recreational activities such as cheerleading, creative dance, and gardening curriculum and activities.

PROJECT ELEMENTS

The 15,324 square foot facility will be constructed as a "Green Building. It will consist of two stories featuring the following project elements:

First floor: Lobby, Elevator, Library, Restrooms, Multi-Purpose community room, classrooms, Kitchen with storage and pantry, and mechanical room.

Second floor: Upper balcony, Learning Center gallery, staff offices, copy/storage room, work room, classrooms, meeting rooms, and computer room.

Outside: gazebo and landscape areas.

COST ESTIMATE

Architectural, Design, and Permitting
Construction – Hard and Soft Costs

Total Project Cost Estimate \$5,050,000

8th STREET

Stephen Boruff, AIA
Architects + Planners, Inc.
AAG 002228
Architecture
Planning
Interior Architecture

901
Northpoint Parkway
Suite 101
West Palm Beach
Florida 33407

U.B.
Kinsey
Educational
& Community
Center

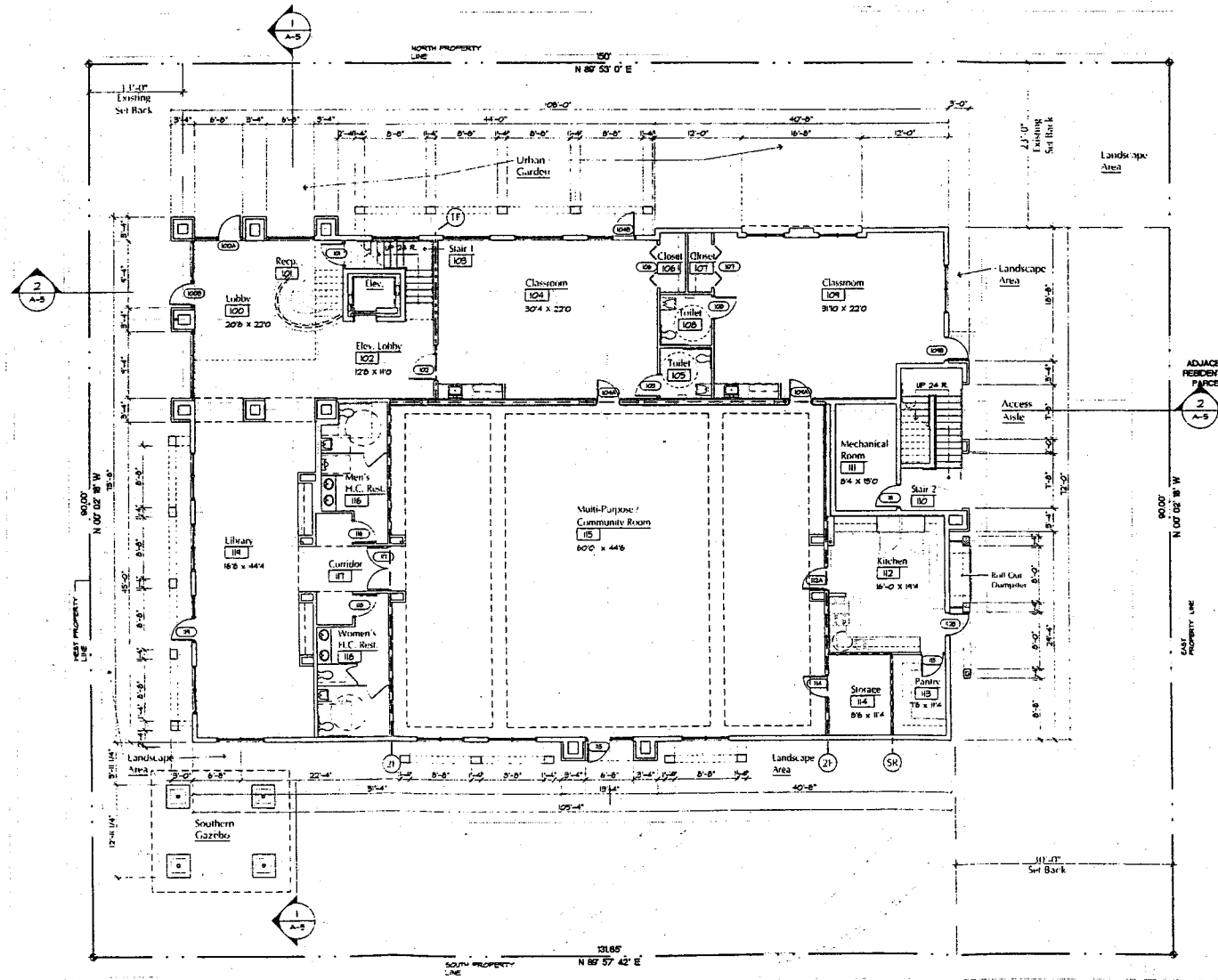
814 Division Avenue
West Palm Beach,
Florida

Project No. 06-046
13 June 2007

DAC
A-1

of 6

DIVISION AVENUE

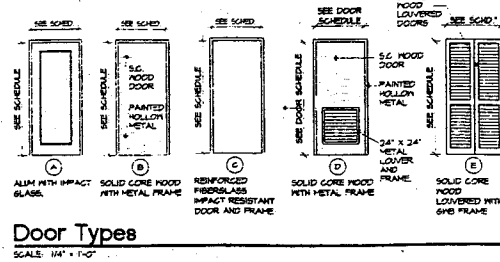


First Floor Plan

SCALE: 1/8" = 1'-0"
SUMMARY OF AREAS FIRST FLOOR:
TOTAL AREA: 10,000 S.F.
TOTAL FLOOR AREA: 10,000 S.F.
TOTAL FLOOR AREA: 10,000 S.F.

NO.	ROOM NAME	DOOR SIZE		DOOR	FRAME	HARDWARE SET	REMARKS
		WIDTH	HEIGHT	THICK.	MATL.	TYPE	
100A	LOBBY	3'-0"	8'-0"	1-3/4"	ALUMINUM	A	ALUM.
100B	RECEPTION	3'-0"	8'-0"	1-3/4"	ALUMINUM	A	ALUM.
101	CLASSROOM	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
102	CLASSROOM	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
103	CLASSROOM	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
104	CLASSROOM	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
105	TOILET	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
106	CLOSET	3'-0"	7'-0"	1-3/4"	S.G. WOOD	E	SW
107	CLOSET	3'-0"	7'-0"	1-3/4"	S.G. WOOD	E	SW
108	TOILET	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
109A	CLASSROOM	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
109B	CLASSROOM	3'-0"	7'-0"	1-3/4"	FIBERGLASS	C	FIBER
110	Mechanical	3'-0"	7'-0"	1-3/4"	FIBERGLASS	C	FIBER
120A	KITCHEN	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
120B	KITCHEN	3'-0"	7'-0"	1-3/4"	FIBERGLASS	C	FIBER
121	PANTRY	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
124	STORAGE	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
125	MULTIPURPOSE	3'-0"	7'-0"	1-3/4"	ALUMINUM	A	ALUM.
126	MEN'S H. TOILET	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
127	CORRIDOR	2'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
128	WOMEN'S H. TOILET	3'-0"	7'-0"	1-3/4"	S.G. WOOD	B	METAL
130	RECEPTION	3'-0"	8'-0"	1-3/4"	ALUMINUM	A	ALUM.

DOOR SCHEDULE NOTES:
1. ALL DOOR HARDWARE SHALL COMPLY WITH THE BUILDING STANDARD ESTABLISHED FOR THIS FACILITY. GENERAL CONTRACTOR SHALL COORDINATE.
2. ALL DOORS AND HARDWARE SHALL COMPLY WITH NFPA 101, 1-2.1.5.



SCALE 1:4" = 1'-0"

EXHIBIT B

LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION
814 Division Street
West Palm Beach, Florida

**Lots 3, 4, and 5, Block 2, FRESHWATER ADDITION AMENDED according to the Plat thereof
recorded in Plat Book 6, page 6 of the Public Records of Palm Beach County, Florida.**

EXHIBIT C

CONTRACT PAYMENT REQUEST FORM AND CONTRACTUAL SERVICES
PURCHASE SCHEDULE FORM



PALM BEACH COUNTY
PARKS AND RECREATION DEPARTMENT

EXHIBIT C

CONTRACT PAYMENT REQUEST

Date

Grantee: _____ Project Name: _____

Submission #: _____ Reimbursement Period: _____

Item	Key	Project Costs This Submission	Cumulative Project Costs
Consulting Services	(CS)	_____	_____
Contractual Services	(C)	_____	_____
Materials, Supplies, Direct Purchases	(M)	_____	_____
Equipment, Furniture	(E)	_____	_____
TOTAL PROJECT COSTS		=====	=====

Key Legend

CS = Consulting Services
C = Contractual Services
M = Materials, Supplies, Direct Purchases
E = Equipment, Furniture

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



Key Legend

CS = Consulting Services
C = Contractual Services
M = Materials, Supplies, Direct Purchases
E = Equipment, Furniture

**PALM BEACH COUNTY
PARKS AND RECREATION DEPARTMENT
CONTRACTUAL SERVICES PURCHASE SCHEDULE**

EXHIBIT C

Date _____

Grantee: _____

Project Name: _____

Submittal #: _____

Reimbursement Period: _____

Ln	Payee (Vendor/Contractor)	Key	Check or Voucher		Invoice		Amount	Expense Description
			Number	Date	Number	Date		
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
TOTAL \$								

Certification: I hereby certify that the purchases noted above were used in accomplishing this project.

Administrator

Date

Certification: I hereby certify that bid tabulations, executed contract, cancelled checks, and other purchasing documentation have been maintained as required to support the costs reported above and are available for audit upon request.

Financial Officer

Date

EXHIBIT D

PRE-AGREEMENT COST LIST

NOT APPLICABLE

Note: Matching project costs must be for eligible project expenses incurred subsequent to November 5, 2002

ACORD		CERTIFICATE OF LIABILITY INSURANCE		OP ID PG TABDE-1	DATE (MM/DD/YYYY) 03/16/09
PRODUCER SLATON INSURANCE P.O. Box 220537 West Palm Beach FL 33422 Phone: 561-683-8383 Fax: 561-684-5995			THIS 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 Tab Development Inc. & 814 Community Center LLC 801 8th Street West Palm Beach FL 33401			INSURERS AFFORDING COVERAGE		NAIC #
			INSURER A: Southern Owners Ins Company		10190
			INSURER B:		
			INSURER C:		
			INSURER D:		
			INSURER E:		

COVERAGES

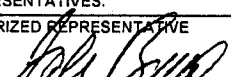
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES 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	040109BNDR	04/01/09	04/01/10	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 10,000
	<input checked="" type="checkbox"/> Liability Plus				PERSONAL & ADV INJURY	\$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$ 2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG	\$ 2,000,000
A A	AUTOMOBILE LIABILITY	040109BNDR 040109BNDR	04/01/09 04/01/09	04/01/09 04/01/10	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident)	\$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC AGG	\$
	EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	\$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE					\$
	RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	\$
	If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$
	OTHER				E.L. DISEASE - POLICY LIMIT	\$

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

*FLORIDA STATUTE MANDATES TEN (10) DAYS NOTICE OF CANCELLATION FOR NON PAYMENT & FORTY FIVE (45) DAYS FOR NON RENEWAL

SEE HOLDER NOTES FOR ADDITIONAL INSUREDS NAME & ADDRESS COVERAGE FOR ADDITIONAL INSUREDS IS PRIMARY & NON CONTRIBUTORY

CERTIFICATE HOLDER	CANCELLATION
Palm Beach County Board Of County Commissioners (SEE NOTES FOR ADDL INSD) 2700 6th Avenue South Lake Worth FL 33461	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL *10 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 

NOTEPAD:

HOLDER CODE
INSURED'S NAME Tab Development Inc. &

TABDE-1
OP ID PG

PAGE 2
DATE 03/16/09

Additional Insured Shall Read As Follows:

Palm Beach County Board Of County Commissioners - A Political Subdivision
Of The State Of Florida It's Officers/Employees & Agents 2700 6th Avenue
South Lake Worth FL 33461

Tabernacle Missionary Baptist Church Inc. 801 8th Street West Palm Beach
FL 33401



801 - 8th Street
West Palm Beach, FL 33401
(561) 832-8338 FAX: (561) 659-7929

March 17, 2009

Mr. Dennis L. Eshleman, Director
Parks and Recreation Department
2700 6th Avenue South
Lake Worth, FL 33461

RE: 2002 Recreation and Cultural Facilities Bond Agreement fro Construction of the U. B.
Kinsey Educational and Community Center

Dear Mr. Eshleman:

In connection with the above captioned transaction, I am writing to certify to you that pursuant to Florida Statute Chapter 440, TAB Development, Inc. is not required to maintain Worker's Compensation and Employers' Liability.

I am also certifying to you that as soon as a contractor is selected and before any requests are made for draws from the County for funds for this project, TAB Development, Inc. will submit to you our Builder's Risk and Property Insurance certificate.

Sincerely,



Rev. Gerald D. Kisner
Executive Director

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER

BGEX 581 033009 *1301

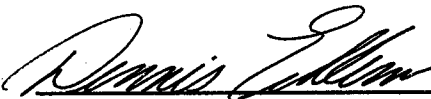
FUND 3019 - \$25M GO Park and Cultural Improv 03

ACCT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 3/24/2009	REMAINING BALANCE
TAB Development Education & Community Center								
3019-581-P683-8201	Contributions-Non-Govts Agncs	0	0	500,000		500,000	0	500,000
Reserves								
3019-581-9900-9908	Res-New Projects	1,933,590	569,261		500,000	69,261	0	69,261
	TOTAL			<u>500,000</u>	<u>500,000</u>			

Parks and Recreation Department
INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

Signatures	Date
	3-26-09
_____	_____
_____	_____

By Board of County Commissioners
At Meeting of
April 21, 2009
Deputy Clerk to the Court