

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 19, 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) Interlocal Agreement with the Village of Wellington for the period May 19, 2009, through May 18, 2012, in an amount not-to-exceed \$822,296 for funding of an Amphitheater; and B) Budget Transfer of \$822,296 within the \$25 Million GO Parks and Cultural Improvements Bond Fund - 2005 from Cultural Trust Outdoor Entertainment Pavilion to Village of Wellington Amphitheater.

**Summary:** This Agreement provides funding for the design and construction of an amphitheater within the Wellington Community Town Center located at 12165 Forest Hill Boulevard. The funding allocation was approved by the Board on October 21, 2008. The Agreement allows for the reimbursement of eligible expenses incurred subsequent to January 1, 2009. Funding is from the 2002 \$50 Million Recreational and Cultural Facilities Bond referendum, as amended – District 6. District 6 (PK)

**Background and Justification:** On October 21, 2008, the Board approved the termination of the tri-party Agreement (R2007-0053) with Cultural Trust of the Palm Beaches, Inc. and the Village of Wellington in the amount of \$1,000,000 from the 2002 Recreational and Cultural Facilities Bond referendum for Cultural Trust's proposed outdoor entertainment pavilion. At that time, the Board also approved the reallocation of the unexpended balance of \$822,296 from Cultural Trust's uncompleted project to the Village of Wellington for construction of an amphitheater at the Wellington Community Center site.

The amphitheater project proposed by the Village of Wellington will be a part of current economic development initiatives designed to fulfill Wellington's vision to create a community town center including a new municipal complex, a barrier-free playground, and the amphitheater. These new facilities, coupled with the existing Wellington Community Center and aquatic complex, will become the centerpiece of activity for the Village of Wellington.

The open-air amphitheater facility will be approximately 3,200 square feet and will include a restroom area, storage area, delivery area, and waiting room for performers. The total cost of the project is estimated to be \$917,400 for architectural and engineering fees, construction of the amphitheater building, landscaping, and site work/utilities. The County's contribution of \$822,296 will be supplemented by \$95,104 from the Village of Wellington.

The specified completion date for construction and submission of reimbursement documentation for the project is May 18, 2012. The term of the Agreement is until May 18, 2039, consistent with the 30 year term of other recreational and cultural facility bond projects. The Agreement has been executed on behalf of the Village of Wellington, and now needs to be approved by the Board of County Commissioners.

**Attachments:**

1. Interlocal Agreement
2. Budget Transfer

Recommended by: \_\_\_\_\_

Department Director

4/30/09  
Date

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

Assistant County Administrator

5/13/09  
Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>822,296</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>822,296</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>				

Is Item Included in Current Budget? Yes ☐ No ☒  
Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_  
Object \_\_\_\_\_ Program \_\_\_\_\_

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

FUND: \$25M GO 05, Parks & Cultural Improvements  
UNIT: Cultural Trust Outdoor Entertainment Pavilion

Contributions-Non-Govts Agencies      3020-581-P578-8201      \$822,296

C. Departmental Fiscal Review: ckopelakis

## III. REVIEW COMMENTS

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

Paul F. [Signature] 5/4/09  
OFMB 5/6/09 5/4/09 5/4/09

Jim J. Jacobson 5/12/09  
Contract Development and Control  
5/12/09

### B. Legal Sufficiency:

This Contract complies with our  
contract review requirements.

Paul F. [Signature]  
Assistant County Attorney

### C. Other Departmental Review:

REVISED 09/2003  
ADM FORM 01

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

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09-

BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA  
BUDGET TRANSFER

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BGEX 581 042009\*1509

FUND 3020 - 25M GO 05, Parks & Cultural Imprvmnts

ACCT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 04/20/09	REMAINING BALANCE
<b>Cultural Trust Outdoor Entertainment Pavilion</b>								
3020-581-P578-8201	Contributions-Non-Govts Agncs	822,297	822,297		822,296	1	0	1
<b>Village of Wellington Amphitheater</b>								
3020-581-P687-8101	Contributions Othr Govtl Agency	0	0	822,296		822,296	0	822,296
TOTAL				822,296	822,296			

Signatures

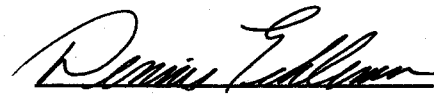
Date

By Board of County Commissioners  
At Meeting of  
May 19, 2009  
Deputy Clerk to the Court

Parks and Recreation Department  
INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

 4/21/09

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY  
AND THE VILLAGE OF WELLINGTON FOR FUNDING OF AN AMPHITHEATER**

**THIS INTERLOCAL 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 Village of Wellington, a Florida municipal corporation, hereinafter referred to as "MUNICIPALITY".

**WITNESSETH:**

**WHEREAS, MUNICIPALITY** owns property located at 12165 Forest Hill Boulevard AMP, in the Village of Wellington; and

**WHEREAS, MUNICIPALITY** desires to design and construct an amphitheater at said location, hereinafter to be referred to as "the Project"; and

**WHEREAS, MUNICIPALITY** has asked COUNTY to financially participate in the construction and funding for 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, the 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, MUNICIPALITY** 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, Section 163.01, Florida Statutes, permits public agencies to enter into Interlocal Agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and**

**WHEREAS**, both parties desire to increase the recreational and cultural opportunities for residents of Palm Beach County and to enter into this Interlocal 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 Interlocal Agreement is to enhance recreational and cultural opportunities for use by the public and thereby provide a mechanism for the COUNTY to assist MUNICIPALITY in the funding of the Project.

Section 1.03 COUNTY will pay to MUNICIPALITY a total amount not to exceed \$822,296 for 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". MUNICIPALITY recognizes that the County's funding of the Project is being paid from the proceeds of tax-exempt bonds issued by the County. MUNICIPALITY agrees to provide the County with a certification, in a form acceptable to the County, from MUNICIPALITY'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 MUNICIPALITY agrees to provide funding in an amount of \$95,104 or greater to complete the Project. The parties agree that the COUNTY shall provide its portion of the funding only after MUNICIPALITY has expended \$95,104.

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. MUNICIPALITY's representative during the design and construction of the Project shall be Richard Greene, Project Manager, Village of Wellington, 561- 791-4079.

Section 1.06 MUNICIPALITY shall design and construct the Project upon property owned by MUNICIPALITY as more fully described in Exhibit "B" attached hereto and made a part hereof.

Section 1.07 MUNICIPALITY 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 MUNICIPALITY with regard to the Project. Any dispute, claim, or liability that may arise as a result of MUNICIPALITY's procurement is solely the responsibility of MUNICIPALITY and MUNICIPALITY hereby holds the COUNTY harmless for same to the extent permitted by law and subject to the limitations of Section 768.28, Florida Statutes.

## **ARTICLE 2: DESIGN AND CONSTRUCTION**

Section 2.01 MUNICIPALITY shall be responsible for the design and construction of the Project. MUNICIPALITY 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 Interlocal Agreement by the parties hereto, MUNICIPALITY 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 MUNICIPALITY shall provide a copy of the engineer's and/or architect's programming phase documents (i.e., site plan, floor plan, elevations, etc.) to the COUNTY's Representative for review. The COUNTY's Representative shall review said programming phase documents to ensure consistency with the intent of this Interlocal Agreement.

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

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

Section 2.06 MUNICIPALITY 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 Interlocal Agreement by the parties hereto. Upon notification to the COUNTY at least ninety (90) days prior to that date MUNICIPALITY may request an extension beyond this period for the purpose of completing the Project. COUNTY shall not unreasonably deny MUNICIPALITY's request for said extension.

Section 2.07 MUNICIPALITY shall submit quarterly project status reports to the 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 the 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 MUNICIPALITY on a reimbursable basis. Any costs incurred in connection with the Project in excess of that amount shall be the sole responsibility of MUNICIPALITY. Should the total cost of the Project exceed the amount as projected by MUNICIPALITY, MUNICIPALITY shall appropriate and expend the excess funds required for completion of the Project. The COUNTY shall not disburse any funds to MUNICIPALITY for the Project until MUNICIPALITY has appropriated and expended said excess funds for the Project.

Section 3.02 The COUNTY shall reimburse project costs under the terms of this Agreement to MUNICIPALITY on a quarterly basis from the date of execution of this Interlocal Agreement; however, should the need arise for MUNICIPALITY to be reimbursed on a more frequent basis, then COUNTY will, at MUNICIPALITY's specific request for each instance, make its best efforts to reimburse MUNICIPALITY within forty five (45) days of such special request. For each requested payment, MUNICIPALITY shall provide to the 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 provided to by the MUNICIPALITY by the Contractor/Vendor.

Section 3.03 The COUNTY shall retain not less than ten percent (10%) of the total amount allocated to MUNICIPALITY for the Project until MUNICIPALITY completes the Project and provides COUNTY with either a Certificate of Occupancy or a Project Completion Certification as determined by COUNTY, and the COUNTY receives and approves all documentation as required in accordance with this Interlocal Agreement. The COUNTY's representative shall visit the Project site to verify and approve said final reimbursement.

Section 3.04 MUNICIPALITY shall provide a request for final reimbursement to the 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 the County.

Section 3.05 The County agrees to reimburse MUNICIPALITY an amount not to exceed \$822,296 for those approved pre-agreement costs accruing to the Project subsequent to January 1, 2009, as more fully described in Exhibit "D", Pre-Agreement Cost List.

Section 3.06 For construction projects fully funded by the County, no more than 10% of the 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.

Section 3.07 County shall reimburse Project costs only after MUNICIPALITY has expended its Share of Project funding in its entirety. MUNICIPALITY shall provide the County with a certification, in a form acceptable to the County, from an independent auditor that the MUNICIPALITY has complied with this Project funding provision. The County will be entitled to rely on that certification in reimbursing Project costs to the MUNICIPALITY under this Agreement.

#### **ARTICLE 4: OWNERSHIP, OPERATION AND MAINTENANCE OF THE PROJECT**

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

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

Section 4.03 MUNICIPALITY 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 Interlocal Agreement by the parties hereto. MUNICIPALITY 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 Interlocal Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. MUNICIPALITY may not assign this Interlocal Agreement or any interest hereunder without the express prior written consent of the COUNTY.

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



## **ARTICLE 5: USE OF THE PROJECT**

Section 5.01 MUNICIPALITY 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 as to residents of MUNICIPALITY. MUNICIPALITY shall not discriminate on the basis of race, color, sex, national origin, age, disability, religion, ancestry, marital status or sexual orientation, gender identity, or expression with respect to use of the Project.

Section 5.02 The term of this Interlocal Agreement shall be for a period of thirty (30) years commencing upon the date of execution of this Interlocal Agreement by the parties hereto. MUNICIPALITY 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 MUNICIPALITY shall affix a permanent plaque or marker in a prominent location at the completed Project indicating that the 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 the COUNTY's Representative.

## **ARTICLE 6: ACCESS AND AUDITS**

MUNICIPALITY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the design and 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 the COUNTY, except that such records shall be retained by MUNICIPALITY 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. The 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 Interlocal 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 the 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 the MUNICIPALITY:

Village Manager  
Village of Wellington  
14000 Greenbriar Boulevard  
Wellington, FL 33414

#### **ARTICLE 8: TERMINATION FOR NON-COMPLIANCE**

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

#### **ARTICLE 9: REMEDIES**

This Interlocal Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Interlocal 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 Interlocal Agreement including, but not limited to, actions arising from the breach of any provision set forth herein.

#### **ARTICLE 10: FILING**

A copy of this Interlocal Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.

#### **ARTICLE 11: INDEMNIFICATION**

It is understood and agreed that MUNICIPALITY 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. In the event a claim or lawsuit is brought against County or any of its officers, agents or employees, MUNICIPALITY shall indemnify, save and hold harmless and defend the 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 MUNICIPALITY, its agents, servants and/or employees in the performance of 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 apply for the period prior to the Agreement for which MUNICIPALITY is eligible to receive reimbursement from the County.

## **ARTICLE 12: INSURANCE**

Without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, the MUNICIPALITY acknowledges to be either insured or 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.

The MUNICIPALITY agrees to maintain or to be self-insured for Workers' Compensation and Employer's Liability insurance in accordance with Florida Statutes Chapter 440.

The MUNICIPALITY agrees to maintain or acknowledges to be self-insured for 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, All-Risk property insurance for adequate limits based on the MUNICIPALITY'S replacement cost or probable maximum loss estimates for the perils of either fire, wind, or flood. MUNICIPALITY shall agree to be fully responsible for any deductible or self-insured retention.

The MUNICIPALITY shall agree to provide a statement 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.

Compliance with the foregoing requirements shall not relieve MUNICIPALITY of its liability and obligations under this Interlocal Agreement.

The MUNICIPALITY shall require each Contractor engaged by MUNICIPALITY 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 coverage at limits of not less than \$1,000,000 Each Occurrence. The COUNTY shall be added 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 13: PUBLIC ENTITY CRIMES**

As provided in Section 287.132-133, Florida Statutes, by entering into this contract or performing any work in furtherance hereof, MUNICIPALITY 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 14: CAPTIONS**

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

#### **ARTICLE 15: SEVERABILITY**

If any term or provision of this Interlocal Agreement, or the application thereof to any person or circumstance, shall to any extent be held invalid or unenforceable, the remainder of this Interlocal 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 Interlocal Agreement shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 16: ENTIRETY OF AGREEMENT**

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

#### **ARTICLE 17: 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 Interlocal Agreement to be executed on the day and year first above written.

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

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

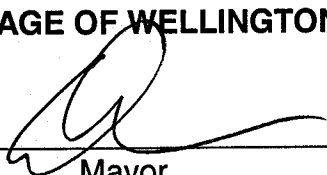
**PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Commissioner John F. Koons, Chairman

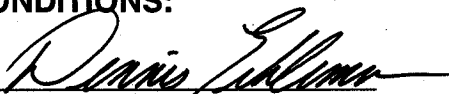
**ATTEST:**

By   
Village Clerk

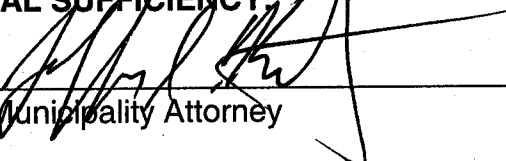
**VILLAGE OF WELLINGTON**

By:   
Mayor

**APPROVED AS TO TERMS AND CONDITIONS:**

By   
Dennis L. Eshleman, Director  
Parks and Recreation Department

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

By:   
Municipality Attorney

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

By: \_\_\_\_\_  
County Attorney

## **LIST OF EXHIBITS**

- |                  |   |
|------------------|---|
| <b>EXHIBIT A</b> | <b>Project Description, Conceptual Site Plan, and Cost Estimate</b>   |
| <b>EXHIBIT B</b> | <b>Legal Description of Property</b>  |
| <b>EXHIBIT C</b> | <b>Contract Payment Request Form (Page 1 of 2) and<br/>Contractual Services Purchase Schedule Form) (Page 2 of 2)</b> |
| <b>EXHIBIT D</b> | <b>Pre-Agreement Cost List</b>  |

## **EXHIBIT A**

### **PROJECT DESCRIPTION, CONCEPTUAL SITE PLAN, AND COST ESTIMATE**

# **Exhibit A**

## **Village of Wellington Amphitheater Project Description and Cost Estimate**

**Project:** Village of Wellington Amphitheater

**Description:**

The Village is developing a Town Center that will include a new 50,000 to 60,000 square foot municipal complex, a barrier-free playground and an open-air amphitheater to complement the existing Wellington Community Center and Aquatics complex. The amphitheater will create a cultural resource within the Village and enhance the concept of a Town Center as the centerpiece of Forest Hill Boulevard.

The amphitheater building will be designed to be approximately 3,200 square feet and it will provide a venue for concerts, plays and activities for users and visitors. The stage will measure approximately 30 feet by 40 feet and the building will include a restroom, storage area, delivery area and waiting room for performers.

The Village plans to begin construction of the facility immediately to take advantage of the playground construction occurring immediately to the west along with the proposed municipal complex.

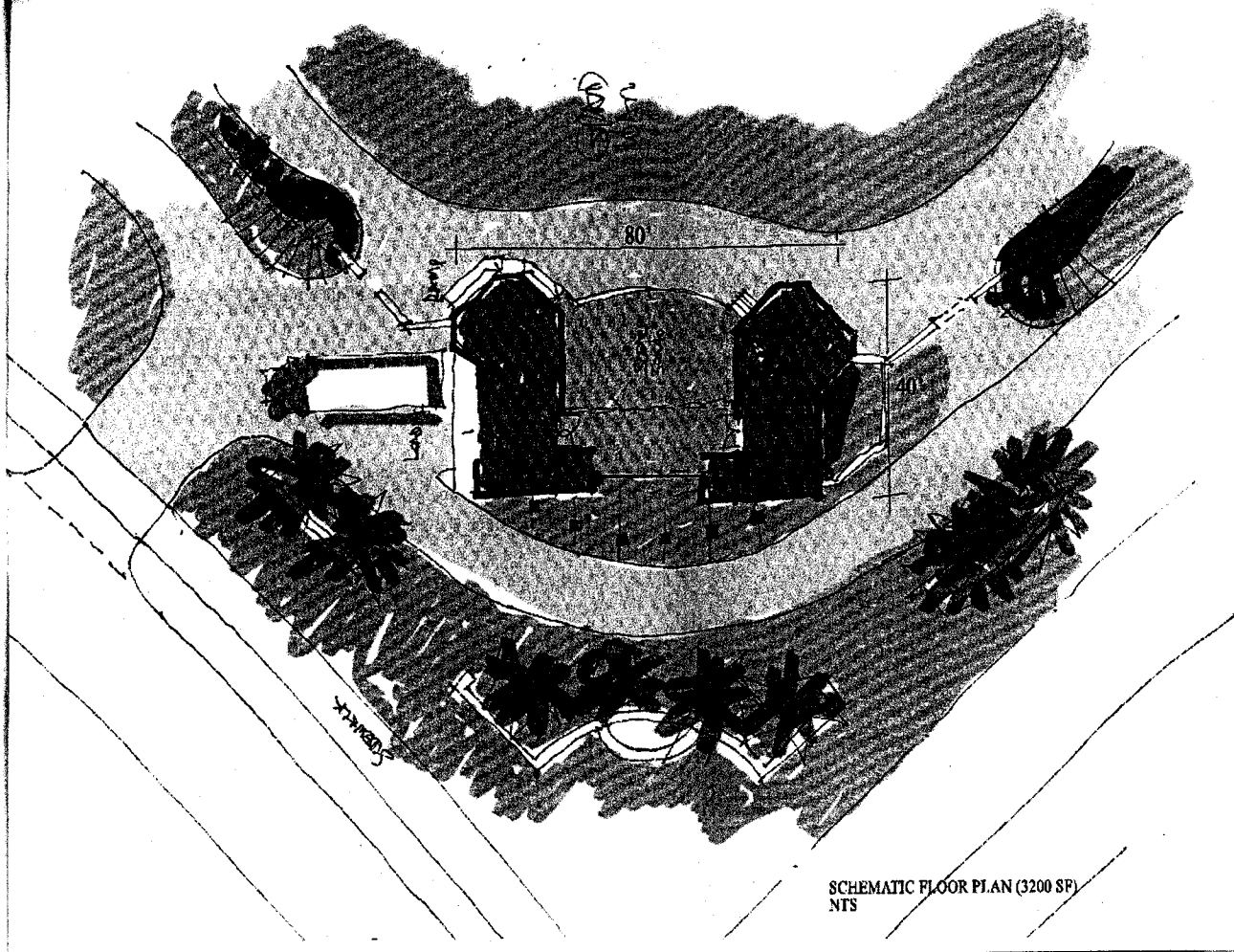
**Cost Estimate and Project Elements:**

Architect Fees  
Engineer Fees  
Amphitheater Building (+/- 3,200 square feet)  
Landscaping  
Site work/utilities

**Total Estimated Cost                      \$917,400**

**Palm Beach County Donation    \$822,296**  
**Wellington Contribution            \$95,104**





**REG**  
REGISTERED  
PLANNING  
INCORPORATED



WILLIAMSON & ASSOCIATES  
PLANNING & ARCHITECTURE  
1011 PALM BEACH  
SUITE 200  
PALM BEACH, FL 33480  
TEL: 561-833-1111  
FAX: 561-833-1112  
WWW.WILLIAMSON-ASSOCIATES.COM



**THE VILLAGE  
OF WELLINGTON  
AMPHITHEATRE**

VILLAGE OF WELLINGTON	
PROJECT INFORMATION	
PROJECT NAME	AMPHITHEATRE
PROJECT LOCATION	WELLINGTON, FL
PROJECT OWNER	THE VILLAGE OF WELLINGTON
PROJECT ARCHITECT	WILLIAMSON & ASSOCIATES
PROJECT ENGINEER	WILLIAMSON & ASSOCIATES
PROJECT LANDSCAPE ARCHITECT	WILLIAMSON & ASSOCIATES
PROJECT PLANNING	WILLIAMSON & ASSOCIATES
PROJECT CONSULTANT	WILLIAMSON & ASSOCIATES
PROJECT DATE	2003

**AMPHITHEATER  
FLOOR PLAN**

73414410020010000



## **EXHIBIT B**

### **LEGAL DESCRIPTION OF PROPERTY**

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATE IN SECTION 10, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 10868, PAGE 1646 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERNMOST CORNER OF THE LANDS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 10868, PAGE 1646 AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF FOREST HILL BOULEVARD, AND AT A POINT ALONG A CURVE HAVING A RADIUS OF 2332.26 FEET, FROM WHICH POINT A RADIAL LINE BEARS NORTH 44°27'37" EAST; THENCE NORTHWESTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF FOREST HILL BOULEVARD AND ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST, THROUGH A CENTRAL ANGLE OF 02°01'57", A DISTANCE OF 82.73 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 50°22'05" WEST, A DISTANCE OF 55.05 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 828.48 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°16'37", A DISTANCE OF 119.68 FEET; THENCE NORTH 74°00'44" WEST, A DISTANCE OF 197.30 FEET; THENCE NORTH 15°54'17" EAST, A DISTANCE OF 13.54 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 50.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 23°27'57", A DISTANCE OF 20.48 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 205.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 59°55'21", A DISTANCE OF 214.40 FEET TO A POINT OF TANGENCY; THENCE NORTH 52°21'41" EAST, A DISTANCE OF 77.05 FEET TO A POINT ON THE SAID SOUTHERLY RIGHT-OF-WAY LINE OF FOREST HILL BOULEVARD AND AN INTERSECTION WITH A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 2332.36 FEET, FROM WHICH POINT OF INTERSECTION A RADIAL LINE BEARS NORTH 53°07'36" EAST; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY OF FOREST HILL BOULEVARD AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 06°38'02", A DISTANCE OF 270.05 FEET TO THE POINT OF BEGINNING.

CONTAINING 61,304.79 SQUARE FEET OR 1.41 ACRES, MORE OR LESS.

NOTES:


1. INFORMATION SHOWN HEREON DOES NOT CONSTITUTE NOR DOES IT REPRESENT, A SURVEY OF THE SUBJECT PREMISES.
2. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
3. MOCK, ROOS AND ASSOCIATES, INC., LICENSED AUTHORIZATION NO. LB-048.
4. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTHERLY PLAT LINE OF THE PLAT OF SOUTH SHORE NO. 1 OF WELLINGTON, AS RECORDED IN PLAT BOOK 29, PAGES 222 THROUGH 226 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, HAVING A BEARING OF NORTH 61°15'03" EAST.
5. LANDS SHOWN HEREON ARE A PORTION OF THE MOCK ROOS BOUNDARY SURVEY OF WELLINGTON COMMUNITY CENTER, DWG NO. 44-41-10-78, DATED JULY 22, 2008; LAST UPDATED ON AUGUST 18, 2008.

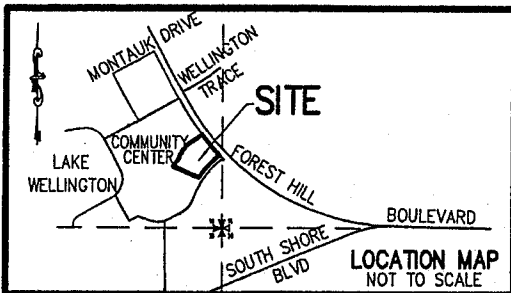
NOT VALID WITHOUT  
ACCOMPANYING SKETCH  
SHEET 2 OF 2

MANUEL A. GUTIERREZ  
PROFESSIONAL SURVEYOR & MAPPER  
FLORIDA CERTIFICATE NO. 4102

SHEET 1 OF 2

SEC. 10, TWP. 44 S., RGE. 41 E.

REV: -	FL. E.B. NO. 48	FL. L.B. NO. 48	TOWN CENTER AMPHITHEATER	SCALE: N/A
FIELD: -		5720 Corporate Way, West Palm Beach, Florida 33407 (561) 683-3113, fax 478-7248	PORTION OF ORB 10868	DATE: 03-12-09
DRAWN: MAG			PAGE 1646	P.A.NO. A9734.00
APPR: MHC			VILLAGE OF WELLINGTON PALM BEACH COUNTY, FL	DR. NO. A-4514



- LEGEND**
- FPL FLORIDA POWER & LIGHT
  - ORB OFFICIAL RECORDS BOOK
  - PG(S) PAGE(S)
  - POB POINT OF BEGINNING
  - POC POINT OF COMMENCEMENT
  - SBT SOUTHERN BELL TELEPHONE
  - SQ. FT. SQUARE FEET
  - UE UTILITY EASEMENT

WELLINGTON  
COMMUNITY  
CENTER  
NOT PLATTED  
ORB 10868 PG 1646

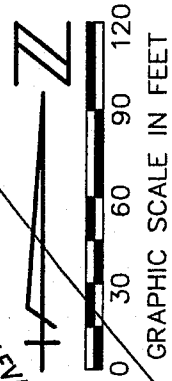
**TOWN CENTER  
AMPHITHEATER**  
61,304.79 SQ. FT.  
1.41 ACRES ±  
A PORTION OF  
ORB 10868 PG 1646

WELLINGTON  
COMMUNITY  
CENTER  
NOT PLATTED  
ORB 10868 PG 1646

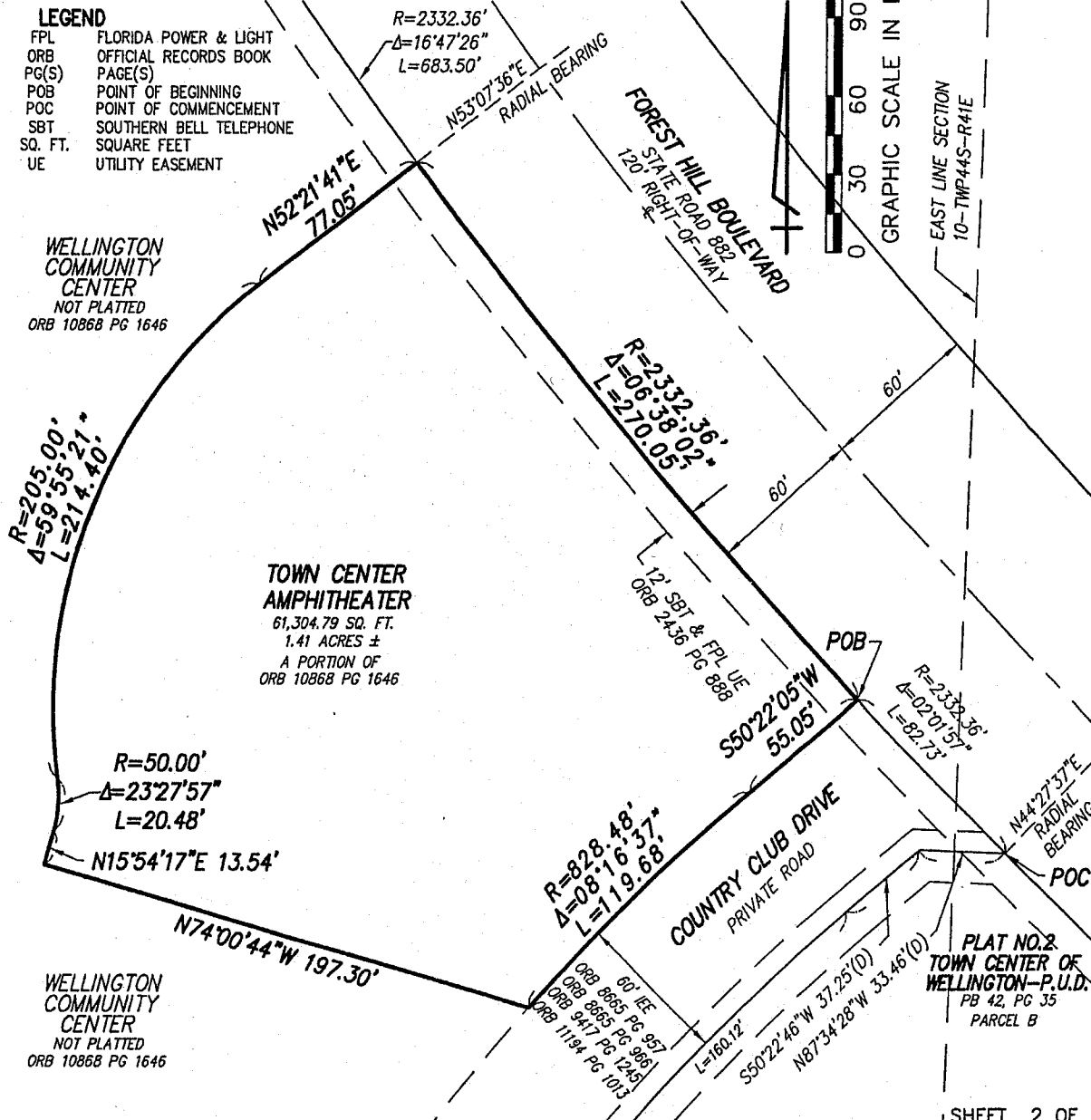
**FOREST HILL BOULEVARD**  
STATE ROAD 882  
120' RIGHT-OF-WAY

**COUNTRY CLUB DRIVE**  
PRIVATE ROAD

**PLAT NO. 2  
TOWN CENTER OF  
WELLINGTON-P.U.D.**  
PB 42, PG 35  
PARCEL B



EAST LINE SECTION  
10-TWP 44S-R41E



SHEET 2 OF 2  
SEC. 10, TWP. 44 S., RGE. 41 E.

REV: -	FL. E.B. NO. 48	FL. L.B. NO. 48	<b>TOWN CENTER AMPHITHEATER</b>	SCALE: 1"=60'
FIELD: -	 <b>MOCK ROOS</b> ENGINEERS, SURVEYORS & PLANNERS		PORTION OF ORB 10868	DATE: 03-12-09
DRAWN: MAG			PAGE 1646	P.A.NO. A9734.00
APPR: MHC	5720 Corporate Way, West Palm Beach, Florida 33407		VILLAGE OF WELLINGTON	DR. NO. A-4514
	(561) 683-3113, fax 478-7248		PALM BEACH COUNTY, FL	

## **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**

Grantee: \_\_\_\_\_

Submittal #: \_\_\_\_\_

Date \_\_\_\_\_

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

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

Note: Costs must be for eligible project expenses incurred subsequent to January 1, 2009

# Exhibit D

## Cost Estimate for PreAgreement Expenses

### Project Elements List

- Architect Fees
- Engineer Fees
- Amphitheater Building (+/- 3,200 square feet x \$240/s.f. )
- Landscaping
- Site work/utilities

Total : \$917,400

CERTIFICATE OF COVERAGE

Certificate Holder	Administrator	Issue Date 4/15/09
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS PARKS & RECREATION 2700 6 <sup>TH</sup> AVENUE SOUTH LAKE WORTH FL 33461	Florida League of Cities, Inc. Public Risk Services P.O. Box 530065 Orlando, Florida 32853-0065	

COVERAGES  
THIS IS TO CERTIFY THAT THE AGREEMENT BELOW HAS BEEN ISSUED TO THE DESIGNATED MEMBER FOR THE COVERAGE 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 COVERAGE AFFORDED BY THE AGREEMENT DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH AGREEMENT.

COVERAGE PROVIDED BY: **FLORIDA MUNICIPAL INSURANCE TRUST**

AGREEMENT NUMBER: FMIT 0001	COVERAGE PERIOD: FROM 10/1/08	COVERAGE PERIOD: TO 10/1/09 12:01 AM STANDARD TIME
-----------------------------	-------------------------------	--


<b>TYPE OF COVERAGE - LIABILITY</b>  <b>General Liability</b>  <input checked="" type="checkbox"/> Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury  <input checked="" type="checkbox"/> Errors and Omissions Liability  <input checked="" type="checkbox"/> Supplemental Employment Practice  <input checked="" type="checkbox"/> Employee Benefits Program Administration Liability  <input checked="" type="checkbox"/> Medical Attendants'/Medical Directors' Malpractice Liability  <input checked="" type="checkbox"/> Broad Form Property Damage  <input type="checkbox"/> Law Enforcement Liability  <input checked="" type="checkbox"/> Underground, Explosion & Collapse Hazard  <b>Limits of Liability</b> * Combined Single Limit  Deductible Stoploss \$25,000  <b>Automobile Liability</b>  <input checked="" type="checkbox"/> All owned Autos (Private Passenger)  <input checked="" type="checkbox"/> All owned Autos (Other than Private Passenger)  <input checked="" type="checkbox"/> Hired Autos  <input checked="" type="checkbox"/> Non-Owned Autos  <b>Limits of Liability</b> * Combined Single Limit  Deductible Stoploss \$25,000	<b>TYPE OF COVERAGE - PROPERTY</b>  <input checked="" type="checkbox"/> Buildings <input checked="" type="checkbox"/> Basic Form <input checked="" type="checkbox"/> Special Form  <input checked="" type="checkbox"/> Personal Property <input type="checkbox"/> Basic Form <input checked="" type="checkbox"/> Special Form  <input checked="" type="checkbox"/> Agreed Amount <input checked="" type="checkbox"/> Deductible \$25,000 <input type="checkbox"/> Coinsurance N/A <input checked="" type="checkbox"/> Blanket <input type="checkbox"/> Specific <input checked="" type="checkbox"/> Replacement Cost <input type="checkbox"/> Actual Cash Value  <b>Limits of Liability on File with Administrator</b>  <b>TYPE OF COVERAGE - WORKERS' COMPENSATION</b>  <input checked="" type="checkbox"/> Statutory Workers' Compensation  <input checked="" type="checkbox"/> Employers Liability \$1,000,000 Each Accident \$1,000,000 By Disease \$1,000,000 Aggregate By Disease  <input type="checkbox"/> Deductible N/A  <input type="checkbox"/>
--	---

**Automobile/Equipment – Deductible**  
  
☒ Physical Damage    \$500 - Comprehensive - Auto    \$500 - Collision - Auto    Per Schedule - Miscellaneous Equipment

**Other**  
  
The limit of liability is \$100,000 Bodily Injury and/or Property Damage per person or \$200,000 Bodily Injury and/or Property Damage per occurrence. These specific limits of liability are increased to \$1,000,000 (combined single limit) per occurrence, solely for any liability resulting from entry of a claims bill pursuant to Section 768.28 (5) Florida Statutes or liability imposed pursuant to Federal Law or actions outside the State of Florida.

**Description of Operations/Locations/Vehicles/Special Items**  
  
Re: Events, activities, elections and functions authorized by the certificate holder involving the designated member while being held upon the premises of the certificate holder. The certificate holder is hereby added as an additional insured, except for Workers' Compensation and Employers Liability, as respects the member's liability for the above described event.

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 AGREEMENT ABOVE.

DESIGNATED MEMBER  VILLAGE OF WELLINGTON 14000 GREENBRIAR BOULEVARD WELLINGTON FL 33414	CANCELLATIONS SHOULD ANY PART OF THE ABOVE DESCRIBED AGREEMENT BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED ABOVE, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE PROGRAM, ITS AGENTS OR REPRESENTATIVES.   _____ AUTHORIZED REPRESENTATIVE
---	---