

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 20, 2009

Consent

Regular

Ordinance

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 receive and file: fully executed original Agreement for Recreation Assistance Program (RAP) funding as follows:

Agreement with the City of Delray Beach for the period September 17, 2009, through November 30, 2009, in an amount not-to-exceed \$5,000 for the 2009 Roots Cultural Festival.

Summary: Delegation of authority for execution of this standard Recreation Assistance Program (RAP) Agreement was approved by the Board on May 19, 2009 (5F-1). Funding is from RAP District 7 Funds. District 7 (AH)

Background and Policy Issues: On May 19, 2009, the Board approved funding allocations for 17 District 7 RAP projects that were awarded by Commissioner Addie Greene prior to her leaving office. At that time, the Board also delegated authority to the County Administrator or his designee to execute Agreements for each project as they became available.

The project addressed in this item is fully executed and is now being submitted for receive and file to provide for proper recording and budgeting.

Attachment: Fully executed Agreement

Recommended by: 
Department Director

9/29/09
Date

Approved by: 
Assistant County Administrator

10/6/09
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	<u>5,000</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>5,000</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 X No _____
Budget Account No.: Fund 3600 Department 583 Unit R917
Object 8101 Program N/A

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

FUND: Park Improvement Fund/Recreation Assistance Program
UNIT: RAP/Transportation Improvement Fund-District 7

Contributions Other Govtl Agency 3600-583-R917-044-8101 \$5,000

C. Departmental Fiscal Review: _____ ckopelakis

III. REVIEW COMMENTS

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

[Signature] 10/5/09
OFMB 10/2/09 CN 10/6/09

[Signature] 10/5/09
Contract Development and Control

B. Legal Sufficiency:

Anne Delgant 10/6/09
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 10/95
ADM FORM 01

**AGREEMENT BETWEEN PALM BEACH COUNTY AND THE CITY OF DELRAY BEACH
FOR FUNDING OF THE 2009 ROOTS CULTURAL FESTIVAL**

THIS AGREEMENT is made and entered into on September 7, 2009, by and between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and the City of Delray Beach, a Florida Municipal Corporation, hereinafter referred to as "Delray Beach".

WITNESSETH:

WHEREAS, Delray Beach sponsored the 2009 Roots Cultural Festival held at Pompey Park and the 7th Day Adventist Church in Delray Beach during the months of July and August, 2009 (the Event); and

WHEREAS, the Event included a variety of activities such as adult and youth basketball tournaments, prayer breakfast, gospel festival, and youth academics; and

WHEREAS, the purpose of the Event was to provide community unity bringing people of different races together to join in celebration and respect cultural differences and to promote and educate African American cultures; and

WHEREAS, approximately 2,000 people participated in the various activities of the Event; and

WHEREAS, the Event cost approximately \$28,500 for contractual services, city overtime for security, liability insurance, entertainment, promotion and marketing, awards, basketball officials, academic Olympic study packets, and other miscellaneous expenses related to the Event; and

WHEREAS, Delray Beach has requested from County an amount not to exceed \$5,000 to help offset costs for the Event; and

WHEREAS, County desires to provide funding to help offset costs for the Event; and

WHEREAS, funding for the Event in an amount not to exceed \$5,000 is available from the Recreation Assistance Program (RAP) – District 7; and

WHEREAS, Delray Beach's cultural arts, recreational, and community events are deemed to serve a public purpose; and

WHEREAS, both parties desire to enter into this Agreement.

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

1. County agrees to fund an amount not to exceed \$5,000 to Delray Beach for the Event for contractual services, city overtime for security, liability insurance, entertainment, promotion and marketing, awards, basketball officials, academic Olympic study packets, and other miscellaneous expenses related to the Event, as specifically set forth in Exhibit "A", attached hereto and incorporated herein, hereinafter referred to as the "Project".

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

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

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

3. Delray Beach incurred expenses for the Project beginning on June 1, 2009. Those costs incurred by Delray Beach for the Project, approved and submitted accordingly by Delray Beach subsequent to June 1, 2009, are eligible for reimbursement by County pursuant to the terms and conditions hereof.

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

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

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

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

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

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

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

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

12. Delray Beach agrees to abide by, and be governed by, all applicable federal, state, county, and municipal laws, including but not limited to, Palm Beach County's ordinances, as said laws and ordinances exist and are amended from time to time. In entering into this Agreement, Palm Beach County does not waive the requirements of any County or local

ordinance or the requirements of obtaining any permits or licenses normally required to conduct business or activity conducted by Delray Beach. Failure to comply may result in County's refusal to honor reimbursement requests for the Project.

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

14. It is understood and agreed that Delray Beach is merely a recipient of County funding and is an independent contractor and is not an agent, servant or employee of County or its Board of County Commissioners. It is further acknowledged that the County only contributes funding under this Agreement and operates no control over the Project. To the extent permitted by law and without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, in the event a claim or lawsuit is brought against County or any of its officers, agents or employees, Delray Beach 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 act or omission of Delray Beach, 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 for the period prior to the Agreement for which Delray Beach is eligible to receive reimbursement from the County.

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

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

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

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

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

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

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

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

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

20. As provided in Section 287.132-133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, Delray Beach certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty six (36) months immediately preceding the date hereof. This notice is required by Section 287.133 (3) (a), Florida Statutes.

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

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

As to the County:

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

As to Delray Beach:

City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, FL 33444

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

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

WITNESSES:

Susan W. Young
Veronica Fennell

PALM BEACH COUNTY, FLORIDA, ON BEHALF OF ITS BOARD OF COUNTY COMMISSIONERS

By: *Robert Weisman*
Robert Weisman, County Administrator

ATTEST:

By: _____
Deputy Clerk

CITY OF DELRAY BEACH

By: *Dean Smith*
Mayor

Attest: *Cherrill D. Huber*, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: *Anne Helgard*
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: *Dennis L. Eshleman*
Dennis L. Eshleman, Director
Parks and Recreation Department

Approved as to form and legal sufficiency:

By: *[Signature]*
City Attorney

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

Name of Municipality: **City of Delray Beach**
Mailing Address: City Hall, 100 N.W. First Avenue, Delray Beach, FL 33444

Name of Mayor: **Mayor Nelson S. McDuffie**
Name of City Manager: **David T. Harden**

Project Liaison Information:

Name: **Robert A. Barcinski**
Telephone #: **561-243-7011**
Fax #: **561-243-7199**
e-mail: **barcinski@ci.delray-beach.fl.us**

PROJECT INFORMATION

1. Name of Project: **2009 Roots Cultural Festival**
2. Project Description
 - **General (Project Scope):**
The Cultural Festival includes a variety of activities including youth and adult basketball tournaments, prayer breakfast, Gospel Festival, and youth academic programs. This is their 32nd year.

 - **Public Purpose:**
To provide community unity and bringing people of different races and cultures together to join in celebrating and respecting differences.
Promote and educate African American cultures.
 - **Location:**
Pompey Park, Community Center & 7th Day Adventist Church
 - **Anticipated Number of Participants/Users:**
2,000
3. Project Elements: List anticipated broad categories of Expenditure Items such as capital outlay, contractual services, personnel costs, operational expenses, equipment, and "Other Miscellaneous Project expenses". Do not include expenditure line item budget/ amounts.
 - Contract Services
 - City overtime for security
 - Liability Insurance
 - Entertainment
 - Promotion and Marketing
 - Awards
 - Basketball Officials
 - Academic Olympic study packets
 - Other Misc.
4. Estimated Lump Sum Total for Project: \$ 28,500
5. Project Initiation date (date of first invoice for which reimbursement will be requested) and anticipated End date (date which project will be completed and all invoices paid). 6/1/09 to 8/30/09

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

6. Required Attachments: Certificate of Insurance _____

Amount of Recreation Assistance Program Funding awarded \$ 5,000
District 7 RAP
(filled in by County)

Form available online by request. Contact Susan Yinger at svinger@pbccgov.com



PALM BEACH COUNTY
PARKS AND RECREATION DEPARTMENT

EXHIBIT B

CONTRACT PAYMENT REQUEST

Date _____

Grantee: _____ Project Name: _____

Submission #: _____ Reimbursement Period: _____

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

Key Legend

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

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

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

Administrator

Date

Financial Officer

Date

PBC USE ONLY

County Funding Participation	\$	_____
Total Project Costs To Date:	\$	_____
County Obligation To Date	\$	_____
County Retainage (_____ %)	\$	_____
County Funds Previously Disbursed	\$	_____
County Funds Due this Billing	\$	_____

Reviewed and Approved By: _____
PBC Project Administrator Date

Department Director Date



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

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

EXHIBIT B

Grantee: _____
Submittal #: _____

Date
Project Name: _____
Contract Reimbursement Period: _____

#	Payee (Vendor/Contractor)	Check or Voucher		Invoice			Expense Description	
		Key	Number	Date	Number	Date		Amount
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.

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.

Administrator Date

Date

CERTIFICATE OF COVERAGE

Certificate Holder

ATTN SUSAN YINGER
PALM BEACH COUNTY
C/O PARKS & RECREATION DEPT
2700 6TH AVE SOUTH
LAKE WORTH FL 33461

Administrator

Issue Date 8/19/09

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 0140

COVERAGE PERIOD: FROM 4/1/08

COVERAGE PERIOD: TO 10/1/10 12:01 AM STANDARD TIME

TYPE OF COVERAGE - LIABILITY

General Liability

- Comprehensive General Liability, Bodily Injury, Property Damage and Personal Injury
- Errors and Omissions Liability
- Supplemental Employment Practice
- Employee Benefits Program Administration Liability
- Medical Attendants'/Medical Directors' Malpractice Liability
- Broad Form Property Damage
- Law Enforcement Liability
- Underground, Explosion & Collapse Hazard

Limits of Liability

* Combined Single Limit

Deductible N/A

Automobile Liability

- All owned Autos (Private Passenger)
- All owned Autos (Other than Private Passenger)
- Hired Autos
- Non-Owned Autos

Limits of Liability

* Combined Single Limit

Deductible N/A

TYPE OF COVERAGE - PROPERTY

- | | |
|---------------------------------------------------------|----------------------------------------------------------------|
| <input checked="" type="checkbox"/> Buildings | <input checked="" type="checkbox"/> Miscellaneous |
| <input type="checkbox"/> Basic Form | <input checked="" type="checkbox"/> Inland Marine |
| <input checked="" type="checkbox"/> Special Form | <input checked="" type="checkbox"/> Electronic Data Processing |
| <input checked="" type="checkbox"/> Personal Property | <input checked="" type="checkbox"/> Bond |
| <input type="checkbox"/> Basic Form | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> Special Form | |
| <input type="checkbox"/> Agreed Amount | |
| <input checked="" type="checkbox"/> Deductible \$50,000 | |
| <input checked="" type="checkbox"/> Coinsurance 100% | |
| <input type="checkbox"/> Blanket | |
| <input checked="" type="checkbox"/> Specific | |
| <input checked="" type="checkbox"/> Replacement Cost | |
| <input type="checkbox"/> Actual Cash Value | |

Limits of Liability on File with Administrator

TYPE OF COVERAGE - WORKERS' COMPENSATION

- Statutory Workers' Compensation
- Employers Liability
 - \$1,000,000 Each Accident
 - \$1,000,000 By Disease
 - \$1,000,000 Aggregate By Disease
- Deductible N/A
- Self Insured Retention: \$500,000

Automobile/Equipment - Deductible

- Physical Damage Per Schedule - Comprehensive - Auto Per Schedule - Collision - Auto Per Schedule - Miscellaneous Equipment

Other

* The limit of liability is \$5,000,000 (combined single limit) bodily injury and/or property damage each occurrence in excess of a self-insured retention of \$400,000. This limit is 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: Grant funding for the Roots Cultural Festival.

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

CITY OF DELRAY BEACH
100 NW 1ST AVENUE
DELRAY BEACH FL 33444

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