

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: March 20, 2012

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)** Reallocation of \$100,000 within the 2002 \$50 Million Recreational and Cultural Facilities Bond referendum from Expanding and Preserving Our Cultural Heritage, Inc. (EPOCH) and the City of Delray Beach for construction of the C. Spencer Pompey Amphitheater to Old School Square, Inc., and the City of Delray Beach for the purchase and installation of a sound system for the Old School Square pavilion; **B)** Interlocal Agreement with Old School Square, Inc., and the City of Delray Beach for the period of March 20, 2012, through March 19, 2013, in an amount not-to-exceed \$100,000 for the purchase and installation of a sound system for the Old School Square pavilion; and **C)** Budget Transfer of \$100,000 within the 2002 \$50 Million Recreational and Cultural Facilities Bond referendum from C. Spencer Pompey Amp/Pass-Through to the Old School Square Pavilion Sound Equipment project.

Summary: The District 7 Commissioner has identified \$100,000 from the \$50 Million Recreational and Cultural Facilities Bond that she is requesting the Board redirect to Old School Square for the replacement of their pavilion's sound system that is no longer useable. The \$100,000 is from the 2002 Recreational and Cultural Facilities Bond allocation for Neighborhood Parks that is no longer needed for EPOCH's proposed amphitheater project at the Spady House Museum. The Agreement for the Old School Square sound system is a tri-party Interlocal Agreement with the City of Delray Beach, as owner of the leased Old School Square property. The Agreement allows for the reimbursement of eligible expenses incurred subsequent to December 1, 2011. District 7 (PK)

Background and Justification: Since EPOCH was not ready to proceed with its proposed amphitheatre construction project within a reasonable time frame, the District 7 Commissioner indicated her desire to redirect \$100,000 from the previously allocated \$250,000 from the amphitheatre project to Old School Square's sound system project.

Old School Square pavilion hosts year-round activities including major festivals and events, private parties and functions, Old School Square programming, and a free community concert series. The pavilion currently averages 87,000 people annually at its events. The recently added concert series held at the pavilion draws a broad ethnic and age demographic of approximately 1,500 people per concert. The Agreement has been executed by Old School Square, Inc. and the City of Delray Beach, and is now being presented for consideration by the Board of County Commissioners.

Attachments:


1. Interlocal Agreement
2. Budget Transfer

Recommended by: _____


Department Director

2/27/2012
Date

Approved by: _____


Assistant County Administrator

3/13/12
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	<u>-0-</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>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE POSITIONS (Cumulative) 0

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:

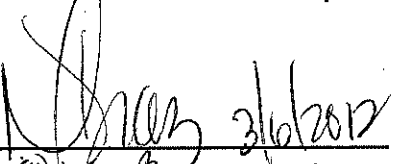
FUND: \$25.0M GO 03, Recreational & Cultural Facilities
 UNIT: C. Spencer Pompey Amp/Pass-Through

Contributions-Non-Govts Agencies 3019-581-P570-8201 \$100,000

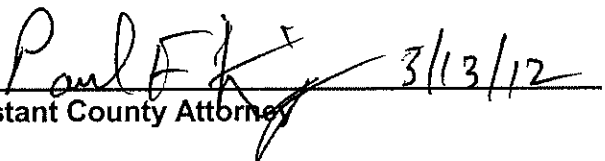
C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

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

 3/16/12
 OFMB
 WS 3-5-12 RLB 3/15/12 SP 3/15/12
 3/15/12 3/15/12 3/15/12
 3/15/12 (SC)

 3/12/12
 Contract Development and Control
 3.12.12 B.W. Kelly

B. Legal Sufficiency:
 3/13/12
 Assistant County Attorney

This Contract complies with our contract review requirements.

C. Other Departmental Review:

**BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER**

BGEX 581 021712*1011

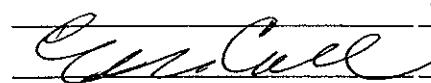
FUND 3019 - \$25M GO 03, Recreational & Cultural Facilities

ACCT NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED 2/17/2012	REMAINING BALANCE
<u>C. Spencer Pompey Amp/Pass-Through</u>								
3019-581-P570-8201	Contributions-Non-Govts Agnces	250,000	250,000		100,000	150,000	0	150,000
<u>Old School Square Pavilion Sound Equipment</u>								
3019-581-P754-8201	Contributions-Non-Govts Agnces	0	0	100,000		100,000	0	100,000
TOTAL				<u>100,000</u>	<u>100,000</u>			

Parks and Recreation Department
INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures

Date



2/28/2012

By Board of County Commissioners
At Meeting of
March 20, 2012
Deputy Clerk to the Court

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY,
OLD SCHOOL SQUARE, INC., AND THE CITY OF DELRAY BEACH FOR THE
PURCHASE AND INSTALLATION OF OLD SCHOOL SQUARE SOUND EQUIPMENT**

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", Old School Square, Inc., a Florida not-for-profit corporation authorized to do business in the State of Florida, hereinafter referred to as "AGENCY", and the City of Delray Beach, a Florida Municipal Corporation, hereinafter referred to as "MUNICIPALITY".

WITNESSETH:

WHEREAS, AGENCY leases property located at 51 North Swinton Avenue under a long term lease from MUNICIPALITY; and

WHEREAS, AGENCY is replacing its no longer functioning sound system at the Old School Square pavilion so that it will no longer be necessary to rent sound equipment; and

WHEREAS, AGENCY has asked COUNTY to financially participate in the purchase and installation of new sound equipment for the Old School Square Pavilion, hereinafter referred to as "the Project"; and

WHEREAS, funding is available from the November 5, 2002, bond referendum approved by the voters of Palm Beach County for the purpose of financing acquisition, construction, and/or improvements to certain recreation and cultural facilities; and

WHEREAS, the COUNTY has approved a recreation and cultural facilities project list, as amended, and proposed funding for the \$50 Million Recreation and Cultural Facilities Bond for this Project is available from neighborhood parks funding in District 7; and

WHEREAS, this 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, 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, all 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 COUNTY to assist AGENCY in the funding of the Project.

Section 1.03 COUNTY will pay to AGENCY a total amount not to exceed \$100,000 for the Project as more fully described in the Project Description 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 the 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 Interlocal 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 \$0 or greater to complete the Project.

Section 1.05 COUNTY's representative during the construction of the Project shall be the Director of Parks and Recreation, Palm Beach County Parks and Recreation Department, telephone no. (561) 966-6613. AGENCY's representative during the purchase and installation of the Project shall be Joe Gillie, President, Old School Square Cultural Center, Inc., telephone no. (561) 243-7922 Ext. 504.

Section 1.06 AGENCY shall install the Project upon property leased by AGENCY from MUNICIPALITY 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 purchasing 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 and subject to the limitations of Section 768.28, Florida Statutes.

ARTICLE 2: PURCHASE AND INSTALLATION

Section 2.01 AGENCY shall be responsible for the purchase and installation of the Project. AGENCY shall purchase and install 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.

AGENCY agrees to meet Project purchase and installation milestones in Article 2 and to complete the Project within twelve (12) months from the date of execution of this Interlocal Agreement by the parties hereto. AGENCY's failure to meet purchase and installation milestones shall be deemed an event of non-compliance of this Interlocal Agreement and COUNTY shall have any and all rights and remedies as set forth in Article 9 of this Interlocal Agreement.

Section 2.02 AGENCY shall award the bid for purchase and installation of this Project no later than six (6) months from the date of execution of this Interlocal Agreement by the parties hereto. Prior to AGENCY commencing purchase 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 Interlocal Agreement.

Section 2.03 AGENCY shall complete the Project and open same to the public for its intended use within twelve (12) months from the date of execution of this Interlocal Agreement by the parties hereto.

Section 2.04 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 purchase and installation of the Project as well as a separate Milestone Status Report at such times that milestones indicated above have been met during the purchase and installation of the Project. The Quarterly status 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 appropriate and expend the excess funds required for

completion of the Project. COUNTY shall not dispense any funds to AGENCY for the Project until AGENCY has appropriated and expended said excess funds for the Project.

Section 3.02 COUNTY shall reimburse project costs under the terms of this Interlocal Agreement to AGENCY on a quarterly basis from the date of execution of this Interlocal 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 or proof of payment for said payment. AGENCY shall attach a copy of each vendor invoice paid by AGENCY along with a copy of each respective check or proof of payment 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 a Project Completion Certification and COUNTY receives and approves all documentation as required in accordance with this Interlocal 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 the Project Completion Certification to COUNTY.

Section 3.05 County agrees to reimburse AGENCY an amount not to exceed \$100,000 for those approved pre-agreement costs accruing to the Project subsequent to December 1, 2011, as more fully described in Exhibit "D", Pre-Agreement Cost List.

Section 3.06 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 Chief Financial Officer or an 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 Interlocal Agreement.

ARTICLE 4: OWNERSHIP, OPERATION AND MAINTENANCE OF THE PROJECT

Section 4.01 Upon completion, the Project shall remain the property of the 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 shall operate and maintain the Project for its intended use by the general public for a term of eight (8) years from the execution of this Interlocal 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 Interlocal 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 Interlocal 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 Interlocal Agreement, 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 or MUNICIPALITY transfer management of the project to a party or parties not now a part of this Interlocal Agreement, AGENCY or MUNICIPALITY shall continue to be responsible for the liabilities and obligations as set forth herein. Further, neither AGENCY nor MUNICIPALITY shall 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 and MUNICIPALITY warrant 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 all residents of COUNTY. Neither AGENCY nor MUNICIPALITY shall not discriminate on the basis of race, color, sex, national origin, age, disability, religion, ancestry, marital status, familial status, sexual orientation, or 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 eight (8) years commencing upon the date of execution of this Interlocal 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 current County Commissioners at the time of completion, unless otherwise directed by COUNTY's Representative.

ARTICLE 6: ACCESS, AUDITS, AND INSPECTOR GENERAL

AGENCY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the 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.

COUNTY has established the Office of the Inspector General in Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the AGENCY, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

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 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 AGENCY:

President
Old School Square, Inc.
51 North Swinton Avenue
Delray Beach, Florida 33444

As to MUNICIPALITY:

City Manager
100 N.W. First Avenue
Delray Beach, FL 33444

ARTICLE 8: TERMINATION FOR NON-COMPLIANCE

Upon occurrence of one or more of the following events set forth below, COUNTY may find AGENCY in non-compliance and shall use any and all rights and remedies to this Interlocal Agreement as indicated in Article 9 for non-compliance by AGENCY in the performance of any of the terms and conditions as set forth herein:

1. Failure to award the bid for purchase and installation of this Project no later than six (6) months from the date of execution of this Interlocal Agreement by the parties hereto.
2. Failure to totally complete the Project and open same to the public for its intended use within twelve (12) months from the date of execution of this Interlocal Agreement.
3. Failure in the performance of any of the material terms and conditions as set forth herein.

ARTICLE 9: REMEDIES

In the event of any non-compliance by AGENCY in the performance of any of the terms and conditions as set forth in Article 8 and if AGENCY does not cure said non-compliance within ninety (90) days of receipt of written notice from COUNTY to do so, COUNTY may at any time thereafter elect to pursue any and all remedies available pursuant to this Interlocal Agreement, either in whole or in part. These County remedies include, but are not limited to terminating the Interlocal Agreement and requiring AGENCY to reimburse any funds provided to AGENCY pursuant to this Interlocal Agreement, either in whole or in part, including interest paid by COUNTY to retire bond funds during the term of this Interlocal Agreement.

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 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 or MUNICIPALITY or its City Commission. It is further acknowledged that COUNTY only contributes funding under this Interlocal 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, or MUNICIPALITY or any of its officers, agents or employees, AGENCY shall indemnify, save and hold harmless and defend COUNTY, its officers, agents, and/or employees and MUNICIPALITY, or any of its officers, agents 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 Interlocal Agreement. The foregoing indemnification shall survive termination of this Interlocal Agreement.

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

ARTICLE 12: INSURANCE

AGENCY shall, at its 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 are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by AGENCY under the contract.

- A. **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.
- B. **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.
- C. **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.
- D. **Umbrella or Excess Liability.** If necessary, AGENCY may satisfy the minimum limits required above for either Commercial General 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.
- E. **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.
- F. **Certificate(s) of Insurance.** Prior to execution of this Interlocal 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.

- H. **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.

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, 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 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 COUNTY, AGENCY, 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 Interlocal 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 Interlocal 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

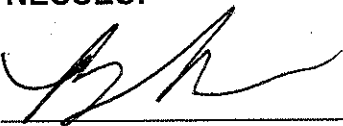
PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS


By: _____
Deputy Clerk

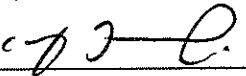
By: _____
Shelley Vana, Chair

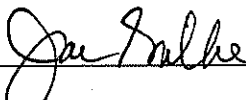
WITNESSES:

OLD SCHOOL SQUARE, INC.

By: 

By:  CHAIR.

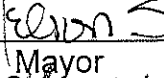
By: 

By:  Pres./CCO

ATTEST:

CITY OF DELRAY BEACH

By: _____
City Clerk

By:  Mayor

Attest:  Deputy City Clerk

APPROVED AS TO TERMS AND
CONDITIONS:

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 
Eric Call, Director
Parks and Recreation Department

By: _____
AGENCY Attorney

APPROVED AS TO FORM AND
SUFFICIENCY

APPROVED AS TO FORM AND LEGAL
LEGAL SUFFICIENCY:

By: _____
COUNTY Attorney

By: 
MUNICIPALITY Attorney

LIST OF EXHIBITS

- EXHIBIT A Project Description and Cost Estimate
- EXHIBIT B Legal Description of Property
- EXHIBIT C Contract Payment Request Form (Page 1 of 2) and
Contractual Services Purchase Schedule Form) (Page 2 of 2)
- EXHIBIT D Pre-Agreement Cost List

EXHIBIT A

PROJECT DESCRIPTION
AND COST ESTIMATE

**PROJECT DESCRIPTION AND COST ESTIMATE
OLD SCHOOL SQUARE PAVILION – PURCHASE AND INSTALLATION OF
SOUND SYSTEM**

Project Description

Old School Square, Inc. operates the Old School Square Cultural Arts Center in Delray Beach, Florida, located on property leased from the City of Delray Beach. Old School Square, Inc. has requested funding for the purchase and installation of a new sound system for the outdoor Old School Square Pavilion, which hosts year-round activities including major festivals and events, private parties and functions, and Old School Square programming. The pavilion currently averages 87,000 people a year for events. Most recently, Old School Square has added a free community concert series from October-December showcasing local and regional music acts that cover a wide variety of musical genres. The entire program is family friendly and draws a broad ethnic and age demographic of approximately 1,500 – 2,000 people per concert.

The original sound equipment installed when the pavilion opened lasted for eight years, which is the life expectancy of this type of equipment. Old School Square has since had to rent equipment for its free concerts and other activities. With the purchase of a new sound system, the cost of the performances will be reduced and thus will allow Old School Square, Inc. to keep the concerts free of charge to the entire community. The new system will allow for the rigging and placement of the sound system during the concert, and then it can be stored in a protected, air conditioned and climate controlled area of the pavilion when not in use. The equipment can also handle small to mid-sized events similar to those presented at the concert series.

Cost Estimate

Old School Square, Inc. went through a competitive bidding process to secure the best equipment and price available. The proposed cost includes substantial discounts based on a total cash price payment for the system.

The project elements include cables, LCD monitor with stand, keyboard, amps, chain hoists, sub-woofer, floor monitor, fly bar, conductors, freight charges, and other miscellaneous expenses associated with the purchase and installation of a sound system for concerts and events.

Lump Sum Cost Estimate: \$100,000

EXHIBIT A

EXHIBIT B
LEGAL DESCRIPTION OF PROPERTY

Exhibit B

Legal Description

ALL OF LOTS 7 AND 8 AND A PORTION OF LOTS 1,2,3, AND 9, AND A PORTION OF THE 16 FOOT ALLEY RIGHT OF WAY, ALL WITHIN BLOCK 76, MAP OF THE TOWN OF LINTON, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 1 AT PAGE 3, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF LOT 7, BLOCK 76, MAP OF THE TOWN OF LINTON, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, AT PAGE 3, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S00°00'00"W ALONG THE EAST LINE OF SAID LOTS 7,8, AND 9 FOR A DISTANCE OF 210.03 FEET; THENCE N89°06'47"W ALONG A LINE PARALLEL WITH AND 210.00 FEET SOUTH OF AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID BLOCK 76, FOR A DISTANCE OF 276.01 FEET; THENCE N00°00'00"E ALONG A LINE PARALLEL WITH AND 10 FEET EAST OF AS MEASURED AT RIGHT ANGLES TO THE WEST LINE OF LOTS 3,2, AND 1 OF SAID BLOCK 76 FOR A DISTANCE OF 210.03 FEET; THENCE S89°06'47"E ALONG THE NORTH LINE OF LOTS 1 AND 7, OF SAID BLOCK 76 FOR A DISTANCE OF 276.01 FEET TO THE POINT OF BEGINNING; LESS THAT PORTION OF THE PARKING STRUCTURE DESIGNATED ON ATTACHED EXHIBIT B.1, SITE PLAN / GROUND FLOOR PLAN, AS RETAIL AREA, RETAIL ELECTRICAL ROOM AND RETAIL PHONE ROOM INCLUDING ADJACENT CONTIGUOUS WALKWAYS.

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 _____

EXHIBIT D

PRE-AGREEMENT COST LIST

(All Project expenses must be incurred subsequent to December 1, 2011)

**PRE-AGREEMENT COST LIST
OLD SCHOOL SQUARE PAVILION – PURCHASE AND INSTALLATION OF
SOUND SYSTEM**

Pre Agreement Expenses Must Be Incurred Subsequent to December 1, 2011

Project elements: cables, LCD monitor with stand, keyboard, amps, chain hoists, sub-woofer, floor monitor, fly bar, conductors, freight charges, and other miscellaneous expenses associated with the purchase and installation of a sound system for concerts and events

Lump Sum Cost Estimate: \$100,000

EXHIBIT D



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/27/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Weekes & Callaway, Inc. 3945 West Atlantic Avenue Delray Beach FL 33445-3902		CONTACT NAME: Jill Sayer, AAI, ATAM PHONE (A/C, No, Ext): (561) 278-0448 FAX (A/C, No): (561) 278-2391 E-MAIL ADDRESS: jsayer@weekescallaway.com PRODUCER CUSTOMER ID#: 00010161	
INSURED Old School Square, Inc. 51 N. Swinton Avenue Delray Beach FL 33444		INSURER(S) AFFORDING COVERAGE INSURER A: INSURER B: Firemans Fund Insurance Co 21873 INSURER C: Zenith Insurance Company 13269 INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL116601516 REVISION NUMBER:

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Multi-Cover Endorsement GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		MZG80930493	5/3/2011	5/3/2012	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		MZG80930493	5/3/2011	5/3/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0		CGU48476410	5/3/2011	5/3/2012	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	2068277606	4/9/2011	4/9/2012	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E L EACH ACCIDENT \$ 500,000 E L DISEASE - EA EMPLOYEE \$ 500,000 E L DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents is named as Additional Insured with respects to the General Liability when required by written contract with the Named Insured per the policy terms and conditins. See Form attached MultiCover Endorsement: CG7158 (12/07). Florida statute requires Ten (10) Days Notice of Cancellation for Non Payment of Premium.

CERTIFICATE HOLDER Palm Beach County Parks and Recreation Department 2700 Sixth Avenue Lake Worth, FL 33461	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Rose McEwen, CIC/JDS <i>Rose McEwen</i>
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