

Agenda Item #:

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	9/14/2021	[X]	Consent Ordinance	[] []	Regular Public Hearing
Department		. ,			3
Submitted By:	TOURIST DI	EVELO	PMENT COUNCIL	!	
Submitted For:	TOURIST 1	DEVEL	OPMENT COUNC	<u>IL</u>	
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I. <u>EXECUTIVE BRIEF</u>

Motion and Title: Staff recommends motion to approve: The Fifth Amendment to the Agreement dated October 17, 2017, with Discover Palm Beach County, Inc., d.b.a. Discover The Palm Beaches (Discover) (R2017-1633) for the provision of services under the County's Tourist Development Plan for the period October 1, 2021 through September 30, 2022, for the total budgeted amount of \$23,320,183

Summary: The Fifth Amendment updates for Fiscal Year 2021 Exhibit "A"- Annual Budget, Exhibit "H" – Performance Measures, Exhibit "K" – Organizational Chart, Exhibit "L" – Insurance, and Exhibit "M" – Diversity Survey, to be executed in Fiscal Year 2022. Included is \$13,287,000 in contractual services, \$6,466,400 in requested stimulus funding, \$3,216,770 in reserves, and \$350,013 in indirect costs for a total budgeted amount of \$23,320,183. This will be the fifth Amendment and final year of a five-year Agreement. The Fifth Amendment and exhibit changes have been reviewed and approved by the Tourist Development Council (TDC) Finance Committee and the TDC Board. Countywide (AH)

Background and Justification: Under the current Agreement, Discover develops and implements an Annual Marketing Plan to directly promote Palm Beach County Tourism. All expenditures by Discover under the Agreement must be made in accordance with an Annual Operating Budget included as Exhibit "A" to the Agreement, which is amended annually to reflect County annual appropriations. The Fifth Amendment adopts a new Exhibit "A" (Annual Budget), updates Exhibit "H" (Performance Measures), Exhibit "K" (Organizational Chart) reflecting unfunded and furloughed positions, Exhibit "L" (Insurance), and Exhibit "M" (Diversity Survey) reflecting the current levels of staffing diversity. The Amendment also adds certain County standard language on E-Verify.

Attachment:	Fifth Amendment to the Agreement with Discover Palm Beach County, Inc.
Recommende	
Approved By	Department Director Date: 9/2/2/ County Administrator

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures					
Operating Costs	13,287,000	13,951,350	14,648,918	15,381,363	16,150,432
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	13,287,000	13,951,350	14,648,918	15,381,363	16,150,432
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

POSITIONS (Cumulative) - 0- 0 0 0
Is Item Included In Proposed Budget? Yes_X No Does this item include the use of federal funds? YesNo_X
Budget Account No.: Fund 1454 Dept 710 U nit 7420 Object 3401 Reporting Category
B. Recommended Sources of Funds/Summary of Fiscal Impact: Discover Palm Beach County receives 48.32% of the 2 nd , 3 rd ,5 th , and 6 th pennies of the Local Option Bed Tax
C. Department Fiscal Review:
III. <u>REVIEW COMMENTS</u>
A. OFMB Fiscal and/or Contract Administration Comments:
June 1913/21 John Start Bev. and Control B127/21
M6 8 23 21 B. Approved as to form and Legal Sufficiency:
County Attorney
C. Approved as to Terms and Conditions:
Department Director
This summary is not to be used as a basis for payment.

FIFTH AMENDMENT TO THE AGREEMENT BETWEEN PALM BEACH COUNTY ON BEHALF OF THE TOURIST DEVELOPMENT COUNCIL AND DISCOVER PALM BEACH COUNTY, INC.

THIS FIFTH AMENDMENT is made and entered into thisday of,
2021, to the Agreement dated October 17, 2017 (hereinafter referred to as the "Agreement")
(R2017-1633 as amended), by and between Palm Beach County, a political subdivision of the
State of Florida, by and through its Board of County Commissioners (hereinafter referred to as
"COUNTY"), and Discover Palm Beach County, Inc., d.b.a. Discover The Palm Beaches
(hereinafter referred to as "DISCOVER").

WITNESSETH:

WHEREAS, the COUNTY and DISCOVER entered into a five-year Agreement whereby DISCOVER develops and implements an Annual Marketing Plan to directly promote Palm Beach County Tourism; and

WHEREAS, the Agreement requires an amendment to provide for certain revised Exhibits and new E-Verify language; and

WHEREAS, the parties have agreed that this Amendment is in the best interest of DISCOVER and the COUNTY's Tourism promotion program.

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

1. Exhibits "A", "H", "K", "L", and "M" of the Agreement are hereby deleted in their entirety and replaced with a new Exhibit "A" (FY 2022 Annual Budget), Exhibit "H" (Performance Measures), Exhibit "K" (Organizational Chart), Exhibit "L" (Insurance), and Exhibit "M" (Diversity Survey), all attached hereto and made a part hereof.

Effective immediately, the following new section is added to the Agreement:

2. E-VERIFY – EMPLOYMENT ELIGIBILITY: DISCOVER warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of DISCOVER's subcontractors performing the duties and obligations of this Agreement are registered with the E-Verify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment of all newly hired workers. DISCOVER shall obtain from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. DISCOVER

shall maintain a copy of any such affidavit from a subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Agreement which requires a longer retention period. COUNTY shall terminate this Agreement if it has a good faith belief that DISCOVER has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If COUNTY has a good faith belief that DISCOVER's subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, COUNTY shall notify DISCOVER to terminate its contract with the subcontractor and DISCOVER shall immediately terminate its contract with the subcontractor. If COUNTY terminates this Agreement pursuant to the above, DISCOVER shall be barred from being awarded a future Agreement by COUNTY for a period of one (1) year from the date on which this Agreement was terminated. In the event of such Agreement termination, DISCOVER shall also be liable for any additional costs incurred by COUNTY as a result of the termination.

- 3. This Amendment shall become effective when executed by the parties hereto.
- 4. All other terms and conditions of the Agreement dated October 17, 2017, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment on the day and year first written above.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY

TDC Executive Director

ATTEST: JOSEPH ABRUZZO CLERK & COMPTROLLER	PALM BEACH COUNTY FLORIDA BY ITS BOARD OF COUNTY COMMISSIONER
By: Deputy Clerk	By: Dave Kerner, Mayor
ATTEST: By: Jason Emmett Board Authorization	DISCOVER PALM BEACH COUNTY, INC. Docusigned by: JOYAL PUSQUETA 7E110EB8375B444 Jorge Pesquera, President & CEC
Approved as to Terms and Conditions Docusigned by: Gun Jurgusun DOCUSED DOC	Approved as to Form and Legal Sufficiency Docusigned by: Anne Helfant 804811822F68464
Glenn Jergensen	Deputy County Attorney

PALM BEACH COUNTY Discover The Palm Beaches Exhibit A

Discover FY21 Contract	***************************************	FY19 Actual	20 Actual	FY21 Budget	FY21 Modified Budget	FY21 Forecast	FY22 Budget
Total Discover Contract	\$	17,326,263	\$ 12,499,715	\$ 12,900,000	\$ 12,900,000	\$ 10,853,100	\$ 13,287,000
Marketing Stimulus	\$	-	\$ -	\$ 2,199,896	\$ 4,051,049	\$ 1,663,309	\$ 6,466,400
County Direct Total Discover Expenses	<u>\$</u> \$	92,748 17,419,011	\$ 97,241 \$ 12,596,956	\$ 330,295 \$ 15,430,191	\$ 330,295 \$ 17,281,344	\$ 330,295 \$ 12,846,704	\$ 350,013 \$ 20,103,413
Reserves	\$	5,258,875	\$ 6,928,075	\$ 1,987,425	\$ 3,656,292	\$ 8,824,406	\$ 3,216,770
Total Discover Expense Budget	\$	22,677,886	\$ 19,525,031	\$ 17,417,616	\$ 20,937,636	\$ 21,671,110	\$ 23,320,183

Exhibit H

DISCOVER THE PALM BEACHES

Palm Beach County, FL

FY 2022 OBJECTIVES

Marketing

- 1 Consumer and Travel Industry database increases to 405,000 records
- $_2$ Generate 18,000,000 in Owned Views Digital Footprint
- 3 Generate 1,400,000 Social Engagements
- 4 Generate 600,000,000 Advertising Impressions a universal performance measurement in advertising
- 5 Generate 200,000,000 Earned Media Impressions a universal performance measurement in PR Sales
- 6 Book 100,000 DTPB only room nights (Hotel Meetings Leads)
- 7 Generate 40,000 Group Level Booked Room Nights Convention Center Shared
- 8 Generate 30,000 Group Level Actual FY Room Nights for Convention Center Shared
- 9 Generate 70 participants in Destination Reviews
- 10 Generate 90 Destination Site participants

	Actual	Actual	Forecast*	Proposed*
PERFORMANCE MEASUREMENTS	FY19	FY20	FY21	FY22
Marketing				
Consumer & Travel Industry Data Base	396,477	401.911	400,000	405,000
Unique Visitors to Web Site	2,579,047	Discontinue	Discontinued	Discontinued
Owned Views Digital Footprint	N/A	16,262,152	11,000.000	18,000.000
Social Engagement	1.601,515	1,899,202	1,200,000	1,400,000
Advertising Impressions	807.667,108	335.048,514	400,000.000	600,000,000
Earned Media Impressions	254,459,489	257,442,997	150,000,000	200,000,000
Sales				
DTPB Only Booked Room Nights (Hotel Meetings Lea	165,881	104,125	90,000	100,000
Group Level Booked Room Nights Convention Center:	54,159	37,920	26,876	40,000
Group Level Actual FY Room Nights for Convention C	39,590	25,029	18,000	30,000
Generate participants in Destination Reviews	79	56	55	70
Destination Site Participations	111	80	70	90

^{*}Assumes continued recovery with no significant events disrupting the recovery such as new variants causing further restrictions. Also, key in-house meeting inventory will be off-line and reconfigured due to renovations **DTPB Only Booked Room Nights for FY21 reflect 25,927 new bookings and 8.426 rebooked room nights on the books as of March 2021

^{***}Convention Center Booked Room Nights for FY21 reflect an estimated 16.624 new bookings and 10.252 rebooked room nights forecasted as of March 2021

Exhibit K Discover The Palm Beaches FY2022 Organizational Chart

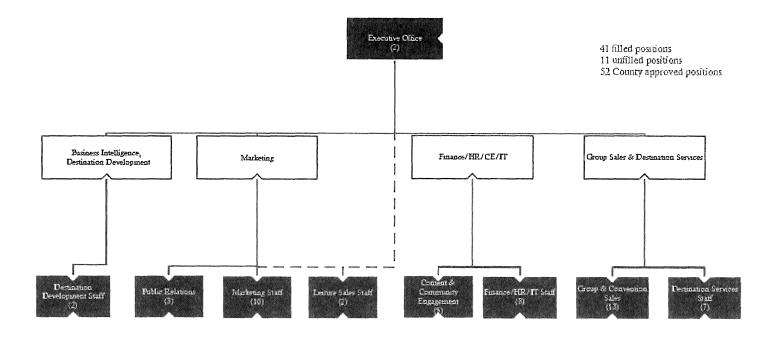


Exhibit L



DISCPAL-01

DATE (MM/DD/YYYY)

URIBEA

CERTIFICATE OF LIABILITY INSURANCE

3/23/2021

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 have ADDITIONAL INSURED provisions or 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). CONTACT Annie Uribe PRODUCER License # 0E67768 Abacoa Town Center 1200 University Blvd, Suite 200 Jupiter, FL 33458 FAX (A/C, No): (561) 776-0670 PHONE (A/C, No, Ext): (561) 296-5966 26059 E-MAIL ADDRESS: Annie.Uribe@ioausa.com INSURER(S) AFFORDING COVERAGE NAIC# INSURER A: Southern-Owners Insurance Company 10190 INSURED INSURER B: Auto-Owners Insurance Company 18988 Discover Palm Beach County, Inc. dba Discover The Palm 20443 INSURER C: Continental Casualty Company 2195 Southern Blvd INSURER D: Scottsdale Insurance Company 41297 Suite 400 INSURER E : West Palm Beach, FL 33406 INSURER F COVERAGES **CERTIFICATE NUMBER: 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. ADDL SUBR POLICY EFF POLICY EXP
(MM/DD/YYYY) (MM/DD/YYYY) TYPE OF INSURANCE POLICY NUMBER LIMITS X COMMERCIAL GENERAL LIABILITY 1,000,000 EACH OCCURRENCE
DAMAGE TO RENTED
PREMISES (Ea occurrence) 300,000 CLAIMS-MADE X OCCUR 72700706-19 10/1/2020 10/1/2021 10,000 MED EXP (Any one person) 1,000,000 PERSONAL & ADV INJURY 2.000.000 GEN'L AGGREGATE LIMIT APPLIES PER: GENERAL AGGREGATE 2,000,000 PRO-POLICY LOC 1,000,000 OTHER: COMBINED SINGLE LIMIT (Ea accident) AUTOMOBILE LIABILITY ANY AUTO BODILY INJURY (Per person) OWNED AUTOS ONLY SCHEDULED BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) HUTED ONLY NON-SWNED 5,000,000 В X UMBRELLA LIAB X OCCUR EACH OCCURRENCE 10/1/2020 10/1/2021 5,000,000 4740089100 EXCESS LIAB CLAIMS-MADI AGGREGATE DED X RETENTION \$ 10,000 X PER STATUTE OTH-WORKERS COMPENSATION AND EMPLOYERS' LIABILITY 5094636760 10/1/2020 10/1/2021 500,000 ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) E.L. EACH ACCIDENT 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 lf yes, describe under DESCRIPTION OF OPERATIONS below E.L. DISEASE - POLICY LIMIT | \$ Directors & Officers EKI3348872 10/1/2020 10/1/2021 Deductible \$10,000 5,000,000 DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) **CERTIFICATE HOLDER** 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.

West Palm Beach, FL 33401 ACORD 25 (2016/03)

Attn: TDC

Suite 500

2195 Southern Blvd

Palm Beach County Board of County Commissioners

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AUTHORIZED REPRESENTATIVE

Exhibit M

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Organization Name:			TOTAL	L STAFF MA	Y 2021			TOTAL	L STAFF JUI	NE 2020	1		TOTAL	STAFF JUN	E 2019			TOTA	L STAFF JUN	IE 2018	
Discover	PBC																				
	Ethnicity	Кеу			Total	Ethnicity	Кеу			Total	Ethnicity	Key			Total	Ethnicity	Key			Total	Ethnicity
	*	Ethnicity	Female	Male	Staff	%	Ethnicity	Female	Male	Staff	%	Ethnicity	Female	Male	Staff	%	Ethnicity	Female	Male	Staff	%
Senior Management	54%	White	2	2	4	67%	White	1	2	3	75%	White	1	3	4	80%	White	1	. 2	3	60%
	18%	Black	0	0	0	0%	Black	0		0	0%	Black	0	0	0	0%	Black		0	0	0%
	21%	Hispanic	1	1	2	33%	Hispanic	0	1	. 1	25%	Hispanic	0	1	1	20%	Hispanic		1	1	20%
	3%	Asian	0	0	0	0%	Asian	0	c)c	0%	Asian	0	0	0	0%	Asian		1	1	20%
	4%	Other	0	0	0	0%	Other	0	c	<u> </u>	0%	Other	0	0	0	0%	Other		0	0	0%
Total	100%		3	3	6	100%		1	3	4	100%		1	4	5	100%		1 1	. 4	5	100%
Professional	54%	White	14	6	20	71%	White	12	7	19	66%	White	13	7	20	63%	White	15	8	23	72%
	18%	Black	2	2	4	14%	Black	3	2	9 9	17%	Black	2	3	5	16%	Black		0	3	9%
	21%	Hispanic	1	2	3	11%	Hispanic	3	2	. 5	17%	Hispanic	4	3	7	22%	Hispanic	1	. 4	5	16%
	3%	Asian	0	0	0	0%	Asian	0	c) c	0%	Asian	0	0	0	0%	Asian	1 1	. 0	1	3%
	4%	Other	1	0	1	4%	Other	0	c) c	0%	Other	0	0	0	0%	Other		0	0	0%
Total	100%		18	10	28	100%		18	11	. 29	100%		19	13	32	100%		20	12	32	100%
Administrative & Clerical	54%	White	2	0	2	50%	White	7	-	7	70%	White	7	1	8	67%	White	1 .	1	7	78%
	18%	Black	1	0	1	25%	Black	2		1 2	20%	Black	0	0	0	0%	Black	1	. 0	1	11%
	21%	Hispanic	1	0	1	25%	Hispanic	1	C) 1	10%	Hispanic	1	2	3	25%	Hispanic	1	. 0	1	11%
	3%	Asian	0	0	0	0%	Asian	0	C) (0%	Asian	1	0	1	8%	Asian		0	0	0%
	4%	Other	0	0	0	0%	Other	0	C	0	0%	Other	0	0	0	0%	Other		0	0	0%
Total	100%		4	0	4	100%		10	c	10	100%		9	3	12	100%			1	9	100%
Total Agency	54%	White	18	8	26	68%	White	20		29	67%	White	21	11	32	65%	White	27	11	33	72%
	18%	Black	3	2	5	13%	Black	5	2	2 7	16%	Black	2	3	5	10%	Black	4	0	4	9%
	21%	Hispanic	3	3	6	16%	Hispanic	4		7	16%	Hispanic	5	6	11	22%	Hispanic		5	7	15%
	3%	Asian	0	0	0	0%	Asian	0	c) <u> </u>	0%	Asian	1	0	1	2%	Asian	1 1	. 1	2	4%
***************************************	4%	Other	1	0	1	3%	Other	0	 	·	1	Other	0	0			Other	 	0	0	0%
Total	100%	<u></u>	25	13	38	100%		29	14	4	100%		29	20	49	100%	<u> </u>	29	17	46	100%



Department of State / Division of Corporations / Search Records / Search by Entity Name /

Detail by Entity Name

Florida Not For Profit Corporation DISCOVER PALM BEACH COUNTY, INC.

Filing Information

Document Number

768549

FEI/EIN Number

59-2321112

Date Filed

05/20/1983

State

FL

Status

ACTIVE

Principal Address

2195 SOUTHERN BLVD

SUITE 400

WEST PALM BEACH, FL 33406

Changed: 01/10/2018

Mailing Address

2195 SOUTHERN BLVD

SUITE 400

WEST PALM BEACH, FL 33406

Changed: 01/10/2018

Registered Agent Name & Address

PESQUERA, JORGE CEO

2195 Southern Blvd

SUITE 400

W. PALM BEACH, FL 33406

Name Changed: 07/09/2008

Address Changed: 03/13/2018

Officer/Director Detail
Name & Address

Title Treasurer

CARNS, JOHN

2195 SOUTHERN BLVD

SUITE 400

WEST PALM BEACH, FL 33406

Title PRESIDENT

PESQUERA, JORGE 2195 SOUTHERN BLVD SUITE 400 WEST PALM BEACH, FL 33406

Title Chairman

Craig, Rita 2195 SOUTHERN BLVD SUITE 400 WEST PALM BEACH, FL 33406

Title VC

Emmett, Jason 2195 Southern Blvd. SUITE 400 W. PALM BEACH, FL 33406

Title SVP, Finance

Lomrantz, Evan 2195 SOUTHERN BLVD SUITE 400 WEST PALM BEACH, FL 33406

Annual Reports

Report Year	Filed Date
2019	02/15/2019
2020	02/10/2020
2021	01/19/2021

Document Images

01/19/2021 ANNUAL REPORT	View image in PDF format
02/10/2020 ANNUAL REPORT	View image in PDF format
02/15/2019 ANNUAL REPORT	View image in PDF format
03/13/2018 ANNUAL REPORT	View image in PDF format
02/10/2017 - ANNUAL REPORT	View image in PDF format
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02/24/2015 ANNUAL REPORT	View image in PDF format
05/02/2014 ANNUAL REPORT	View image in PDF format
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01/28/2011 ANNUAL REPORT	View image in PDF format
03/04/2010 ANNUAL REPORT	View image in PDF format
02/11/2009 ANNUAL REPORT	View image in PDF format
07/09/2008 ANNUAL REPORT	View image in PDF format

DocuSign Envelope ID: CB53798D-9D2F-4FB8-AF73-BBFE2C9532B4 8/4/2021

Detail by Entity Name

07/17/2007 ANNUAL REPORT	View image in PDF format
03/28/2006 ANNUAL REPORT	View image in PDF format
04/25/2005 ANNUAL REPORT	View image in PDF format
06/01/2004 ANNUAL REPORT	View image in PDF format
02/17/2003 ANNUAL REPORT	View image in PDF format
05/03/2002 ANNUAL REPORT	View image in PDF format
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