

3EE-4

Agenda Item #: _____

PALM BEACH COUNTY

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	9/1/2020	<input checked="" type="checkbox"/>	Consent	<input type="checkbox"/>	Regular
		<input type="checkbox"/>	Ordinance	<input type="checkbox"/>	Public Hearing

Department

Submitted By: TOURIST DEVELOPMENT COUNCIL

Submitted For: TOURIST DEVELOPMENT COUNCIL

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: The Fourth Amendment to the Agreement dated October 17, 2017 with the Cultural Council of Palm Beach County, Inc., d.b.a. Cultural Council for Palm Beach County (Cultural Council) (R2017-1632) for the provision of services under the County’s Tourist Development Plan for the period October 1, 2020 through September 30, 2021 for the total budgeted amount of \$7,754,623.

Summary: The Fourth Amendment updates for Fiscal Year 2021 Exhibit “A”- Annual Budget, Exhibit “E” – Performance Measures, Exhibit “H” – Organizational Chart, Exhibit “J” - Insurance, and Exhibit “N” – Diversity Survey to be executed in Fiscal Year 2021. Included is \$2,280,000 in contractual services, \$532,472 in requested stimulus funding, \$1,394,611 in reserves, \$3,250,000 in cultural grants and \$297,540 in indirect costs for a total budgeted amount of \$7,754,623. This will be the fourth Amendment and fourth year of a five-year Agreement. The Fourth Amendment and exhibit changes have been reviewed and approved by the Tourist Development Council (TDC) Finance Committee and the TDC Board. Countywide (LDC)

Background and Justification: Under the current Agreement the Cultural Council develops and implements an Annual Marketing Plan to attract cultural and fine arts entertainment, festivals, programs, and activities which directly promote Palm Beach County Tourism. All expenditures by the Cultural Council 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 Fourth Amendment to the Agreement adopts a new Exhibit “A” (Annual Budget), updates Exhibit “E” (Performance Measures), Exhibit “H” (Organizational Chart) TDC funded personnel, Exhibit “J” (Insurance), and Exhibit “N” (Diversity Survey) reflecting the current levels of staffing diversity.

1. **Attachments:** 1. Fourth Amendment to the Agreement with Cultural Council, Inc.

Recommended by:  **Date:** 8/19/20

Department Director

Approved By:  **Date:** 8/27/2020

County Administrator

FISCAL IMPACT ANALYSIS


A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	<u>2,280,000</u>	<u>2,394,000</u>	<u>2,513,700</u>	<u>2,639,385</u>	<u>2,771,354</u>
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	-----	-----	-----	-----	-----
In-Kind Match (County)	-----	-----	-----	-----	-----
NET FISCAL IMPACT	<u><u>2,280,000</u></u>	<u><u>2,394,000</u></u>	<u><u>2,513,700</u></u>	<u><u>2,639,385</u></u>	<u><u>2,771,354</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	- 0-	0----	0----	0----	0-----

Is Item Included In Proposed Budget? Yes X No _____

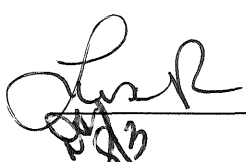

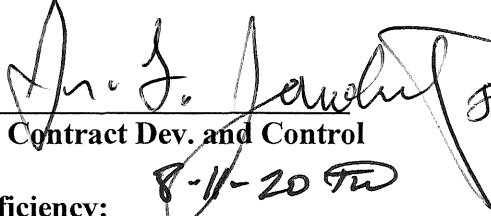
Budget Account No.: Fund 1455 Dept 710 U nit 7014 Object 3401
 Reporting Category _____ VARIOUS

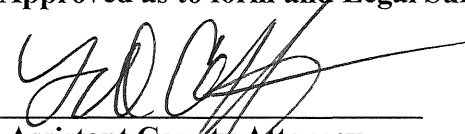
B. Recommended Sources of Funds/Summary of Fiscal Impact:
 The Cultural Council receives 20.72% of the 2nd, 3rd, 5th, and 6th pennies of the Local Option Bed Tax

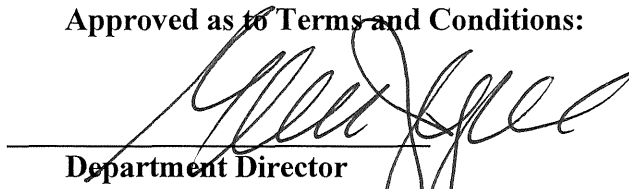
C. Department Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

 8/14/2020 OFMB 
 8/11/2020
 Contract Dev. and Control 8-11-20 FW

B. Approved as to form and Legal Sufficiency:

 Assistant County Attorney

C. Approved as to Terms and Conditions:

 Department Director

This summary is not to be used as a basis for payment.

**FOURTH AMENDMENT TO THE AGREEMENT BETWEEN PALM BEACH COUNTY
ON BEHALF OF THE TOURIST DEVELOPMENT COUNCIL AND THE CULTURAL
COUNCIL OF PALM BEACH COUNTY, INC.**

THIS FOURTH AMENDMENT is made and entered into this _____ day of _____, 2020, to the Agreement dated October 17, 2017 (hereinafter referred to as the "Agreement") (R2017-1632 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 the Cultural Council of Palm Beach County, Inc., d.b.a. Cultural Council for Palm Beach County (hereinafter referred to as "CULTURAL COUNCIL").

WITNESSETH:

WHEREAS, the COUNTY and CUTLURAL COUNCIL entered into a five-year Agreement whereby CULTURAL COUNCIL develops and implements an Annual Marketing Plan for attracting cultural and fine arts entertainment, festivals, programs, and activities which directly promote Palm Beach County Tourism; and

WHEREAS, the Agreement requires an amendment to provide for certain revised Exhibits; and

WHEREAS, the parties have agreed that this Amendment is in the best interest of the CULTURAL COUNCIL 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", "E", "H", "J", and "N" of the Agreement are hereby deleted in their entirety and replaced with a new Exhibit "A" (FY 2021 Annual Budget), Exhibit "E" (Performance Measures), Exhibit "H" (Organizational Chart), Exhibit "J" (Insurance), and Exhibit "N" (Diversity Survey), all attached hereto and made a part hereof.
2. This Amendment shall become effective when executed by the parties hereto.
3. 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 PAGE LEFT BLANK INTENTIONALLY

ATTEST:
SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONER

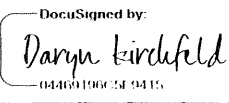
By: _____
Deputy Clerk

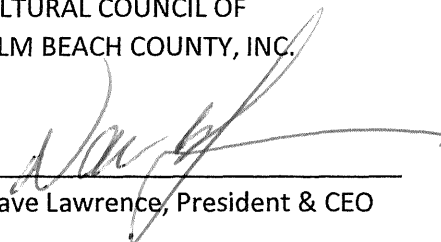
By: _____
Dave Kerner, Mayor

(SEAL)

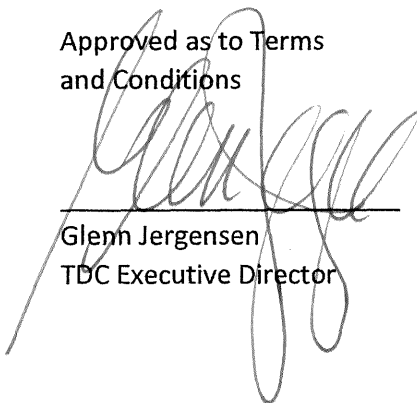
ATTEST:

CULTURAL COUNCIL OF
PALM BEACH COUNTY, INC.

By:  _____
Board Authorization

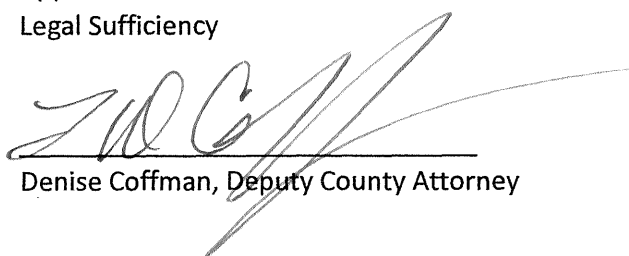
By:  _____
Dave Lawrence, President & CEO

Approved as to Terms
and Conditions



Glenn Jergensen
TDC Executive Director

Approved as to ~~Form~~ and
Legal Sufficiency



Denise Coffman, Deputy County Attorney

PALM BEACH COUNTY
Cultural Council of Palm Beach County, Inc.
Exhibit A

Cultural Council FY21 Contract	Actual FY 2018	Actual FY 2019	Proposed Budget FY 2020	Amended Budget FY 2020	Forecast FY 2020	Proposed Budget FY 2021
Total Cultural Council Contract Expenses	\$ 2,534,586	\$ 2,703,058	\$ 2,845,505	\$ 2,845,505	\$ 2,213,935	\$ 2,280,000
Marketing Stimulus	\$ -	\$ -	\$ -	\$ -	\$ 556,265	\$ 532,472
County Direct	\$ 4,649,965	\$ 4,912,595	\$ 5,180,644	\$ 5,180,644	\$ 3,738,187	\$ 3,547,540
Total Cultural Council Expenses	\$ 7,184,551	\$ 7,615,653	\$ 8,026,149	\$ 8,026,149	\$ 6,508,387	\$ 6,360,012
Reserves	\$ 1,920,761	\$ 1,753,509	\$ 1,142,981	\$ 1,161,427	\$ 1,488,128	\$ 1,394,611
Total Cultural Council Expense Budget	\$ 9,105,312	\$ 9,369,162	\$ 9,169,130	\$ 9,187,576	\$ 7,996,515	\$ 7,754,623

Exhibit E

Cultural Council for Palm Beach County

Palm Beach County, FL

FY 2021 OBJECTIVES & PERFORMANCE MEASURES

	Actual FY19	Goal FY20	Projected FY21	Type
• Continue to expand the Council's destination marketing efforts through grants to eligible non-profit cultural organizations.				
<i>Size of out-of-county audiences</i>	1,288,841	1,127,171	889,429	Demand
<i>Estimated number of cultural room nights</i>	267,048	264,167	184,290	Demand
<i>Direct room nights from cultural activity</i>	22,809	20,186	15,740	Demand
• Provide both technical and professional development for the cultural industry in order to build capacity and sustainability within the industry.				
<i>Number of cultural audiences</i>	3,929,108	3,957,823	2,711,477	Demand
• Increase awareness of Palm Beach County as a cultural destination through integrated advertising, marketing and public relations efforts.				
<i>Advertising and social media leads¹</i>	N/A	N/A	N/A	Outcome
<i>Website sessions (visits)</i>	515,745	530,000	580,000	Outcome
<i>Tourism email database</i>	21,380	27,000	32,000	Outcome
<i>Partner referrals</i>	50,963	50,000	40,000	Outcome
• Increase social media followers, specifically targeting users interested in arts, culture and/or travel.				
<i>Social media followers (Twitter, Facebook, Instagram, Pinterest²)</i>	32,319	35,000	37,500	Outcome
• Utilize the Cultural Concierge program to grow high-impact cultural tourism and meeting/event planner leads.				
<i>Cultural Concierge program leads</i>	849	1,000	1,000	Outcome
• Expand co-op opportunities for cultural organization partners and hotels.				
<i>Co-op program packages sold</i>	57	55	50	Outcome
• Promote the Robert M. Montgomery, Jr. building as a cultural destination and informational hub for the county.				
<i>Visitors to the Cultural Council³</i>	13,945	12,500	6,000	Demand

¹ The Council moved away from reporting this metric in FY 2020. This effort is now more accurately reflected by social media followers.

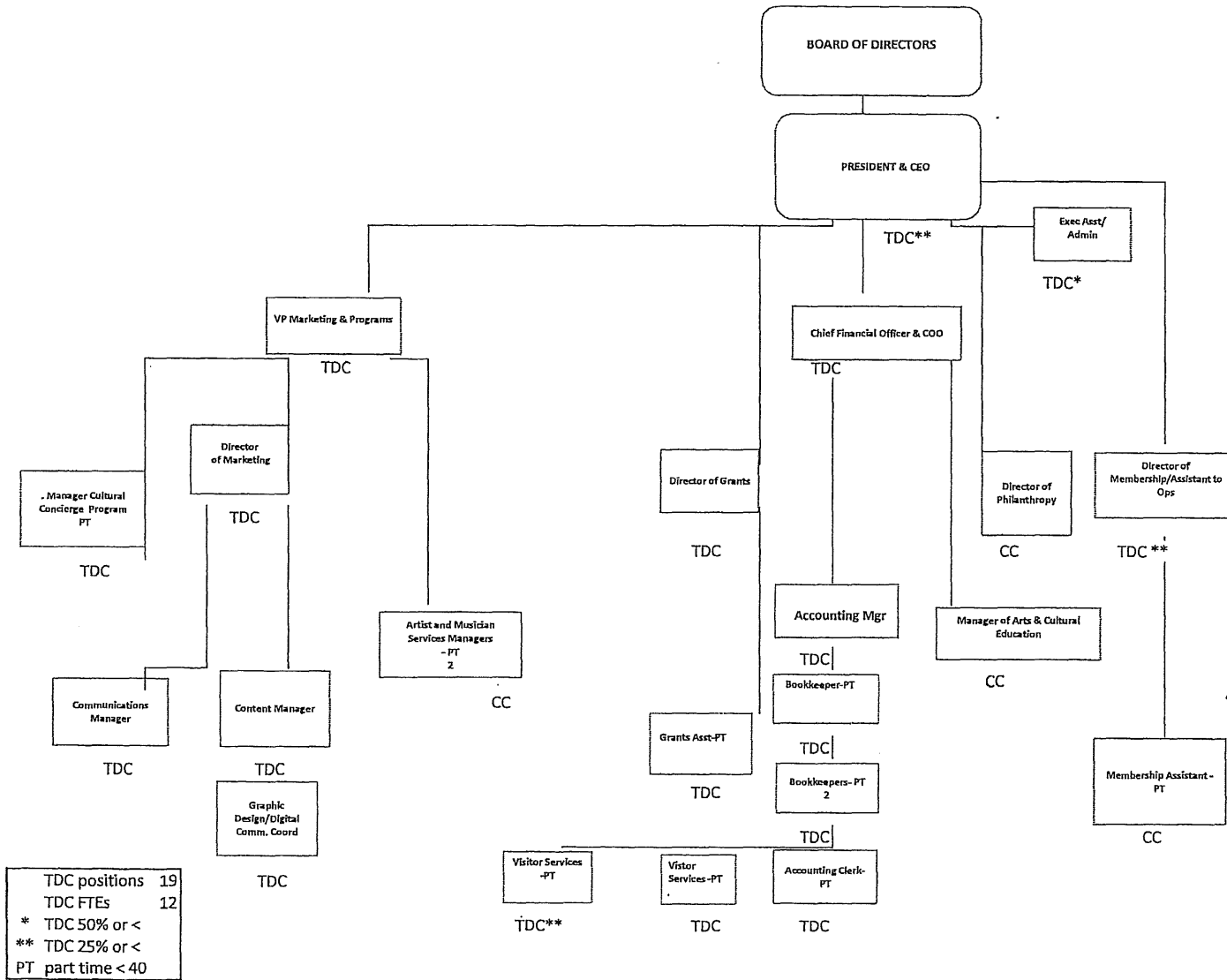
² The Council created a Pinterest account in FY 2020 as an additional outlet for tourism content.

³ FY 2019 totals include visitors to The Satellite pop-up space in CityPlace. The Council also plans to test different programming/exhibition

Cultural Council for Palm Beach County

Exhibit H

Revised June 2020





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 09/20/2019

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.

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.

PRODUCER: Bruce Gendelman Co., Inc. 262-478-1000 CONTACT NAME: Carolyn Rabbitt
INSURED: Cultural Council of Palm Beach County Inc. 601 Lake Ave Lake Worth, FL 33460
INSURER A: Philadelphia Indemnity Ins Co 18058
INSURER B: Transportation Ins. Co. 20494
INSURER C: Travelers Casualty & Surety 25674

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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL SUBR (INSR, WVD), POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes rows for Commercial General Liability, Automobile Liability, Umbrella Liability, Workers Compensation, and D&O Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Directors & Officers Liability Limit - \$1,000,000 / \$2,500 Deductible
Employment Practices Liability Limit - \$1,000,000 / \$2,500 Deductible
Fiduciary Liability Limit - \$1,000,000 / No Deductible
Crime Limit \$1,000,000 / \$10,000 Deductible
Palm Beach County is additional insured with respects to General Liability

CERTIFICATE HOLDER: Palm Beach County c/o Tourist Development Council, 1555 Palm Beach Lakes Blvd, Suite 900, West Palm Beach, FL 33401
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: Bruce Gendelman

Non-profit D&O Liability - \$1,000,000 Limit for all claims / \$2,500 retention - each claim cov B&C / P&P and Continuity date 1/1/05

EPLI - \$1,000,00 Limit for all claims / 3rd party claim cov / 2,500 retention - each claim cov A&B / P&P and Continuity date 1/1/05

Fiduciary - \$1,000,000 Limit for all claims / \$100,000 Settlement Program Limit of Liab (w/in lmt of liab) / \$100,000 HIPAA Limt (w/in lmt of liab) / \$0 retention / P&P and Continuity date 10/1/11

Defense Coverage outside limit (Full Settlement Clause)

Crime:

Employee Theft - \$1,000,000 / \$10,000 retention
ERISA - \$500,000 / \$0 retention
Employee Theft of client property - \$1,000,000 / \$25,000 retention
Forgery or Alteration - \$1,000,000 / \$10,000 retention
On Premises - \$1,000,000 / \$10,000 retention

Money Orders & Counterfeit Money - \$1,000,000 / \$10,000 retention
Computer Fraud - \$1,000,000 / \$10,000 retention
Computer Restoration Expense - \$250,000 / \$10,000 retention
Funds Transfer Fraud - \$1,000,000 / \$10,000 retention
Personal Accts Forgery or Alteration - \$100,000 / \$0 retention
Personal Accts Identity Fraud Expense Reimb - \$25,000 / \$0 retention
Claim Expense - \$5,000 / \$0 retention

Exhibit N

	PBC	TOTAL STAFF JUNE 2020					TOTAL STAFF JUNE 2019					TOTAL STAFF JUNE 2018					TOTAL STAFF JUNE 2017					
Organization Name:	Cultural Council	Ethnicity %	Key Ethnicity	Total Staff		Ethnicity %	Key Ethnicity	Total Staff		Ethnicity %	Key Ethnicity	Total Staff		Ethnicity %	Key Ethnicity	Total Staff		Ethnicity %				
	Female			Male	Female			Male	Female			Male	Female			Male	Female		Male	Female	Male	
Senior Management		54%	White	3	1	4	100%	White	3	1	4	100%	White	4		4	100%	White	5		5	100%
		18%	Black			0	0%	Black			0	0%	Black			0	0%	Black			0	0%
		21%	Hispanic			0	0%	Hispanic			0	0%	Hispanic			0	0%	Hispanic			0	0%
		3%	Asian			0	0%	Asian			0	0%	Asian			0	0%	Asian			0	0%
		4%	Other			0	0%	Other			0	0%	Other			0	0%	Other			0	0%
Total		100%		3	1	4	100%		3	1	4	100%		4	0	4	100%		5	0	5	100%
Professional		54%	White	5	2	7	54%	White	4	2	6	50%	White	6	1	7	54%	White	7	1	8	57%
		18%	Black	1	1	2	15%	Black	1	1	2	17%	Black	1	1	2	15%	Black	1	1	2	14%
		21%	Hispanic	2	1	3	23%	Hispanic	2	1	3	25%	Hispanic	2	1	3	23%	Hispanic	2	1	3	21%
		3%	Asian		1	1	8%	Asian		1	1	8%	Asian		1	1	8%	Asian		1	1	7%
		4%	Other			0	0%	Other			0	0%	Other			0	0%	Other			0	0%
Total		100%		8	5	13	100%		7	5	12	100%		9	4	13	100%		10	4	14	100%
Administrative & Clerical		54%	White	3		3	60%	White	3		3	60%	White	2		2	50%	White	3		3	75%
		18%	Black			0	0%	Black			0	0%	Black			0	0%	Black			0	0%
		21%	Hispanic	2		2	40%	Hispanic	2		2	40%	Hispanic	2		2	50%	Hispanic	1		1	25%
		3%	Asian			0	0%	Asian			0	0%	Asian			0	0%	Asian			0	0%
		4%	Other			0	0%	Other			0	0%	Other			0	0%	Other			0	0%
Total		100%		5	0	5	100%		5	0	5	100%		4	0	4	100%		4	0	4	100%
Total Agency		54%	White	11	3	14	64%	White	10	3	13	62%	White	12	1	13	62%	White	15	1	16	70%
		18%	Black	1	1	2	9%	Black	1	1	2	10%	Black	1	1	2	10%	Black	1	1	2	9%
		21%	Hispanic	4	1	5	23%	Hispanic	4	1	5	24%	Hispanic	4	1	5	24%	Hispanic	3	1	4	17%
		3%	Asian		1	1	5%	Asian		1	1	5%	Asian		1	1	5%	Asian		1	1	4%
		4%	Other			0	0%	Other			0	0%	Other			0	0%	Other			0	0%
Total		100%		16	6	22	100%		15	6	21	100%		17	4	21	100%		19	4	23	100%

Does not include volunteers or interns