

CITY OF HOLLYWOOD, FLORIDA

Agreement / Contract Routing Form

Without Mayor's Signature

Must route the three (3) original agreements, as described, unless more than three (3) are required, for execution. Outside signatures must be obtained first before any City signatures are done in the majority of the situations. Only exceptions are for Federal, State and County governments. This form must be filled out completely or it will be returned to the Department/Office.

Date: 03 / 21 / 2023Prepared by: Sandra BettonExtension #: 5453Company/Vendor Name: Broward County Cultural Division

Complete Description of Agreement. Provide a summary of what the resolution authorizes, services provided, equipment to be purchased, action to be taken, etc: To Accept, If Awarded, The Broward County Cultural Division Cultural And Artistic Facilities Capital Grant For Improvements To Hollywood Art & Culture Center Education Expansion Projects In The Approximate Amount Of \$500,000.00; Authorizing The Execution Of An Agreement With Broward County; Authorizing The Appropriate City Officials To Execute All Other Applicable Grant Documents And Agreements; Amending The Fiscal Year 2023 Operating Budget And Capital Improvement Plan.

Total amount authorized by legislation: N/A /year, N/A /contract term

Length of Term: _____.

Term ending date _____

Renewals: N/A.

Do renewals need to be authorized annually? _____

Approved by: Resolution/Ordinance/ Memo No: R-2022-360Funding in account number: 333.309901.57200.563010.001214.000.000

Authorization to enter into agreement:

- ☒ City Commission
☒ City Manager

- ☐ Procurement Service
☐ Other: _____


BRING COMPLETED PACKAGE TO CITY CLERK'S OFFICE


____ Outside signatures obtained first: _____, date _____


 Originating Director, print name: Rick Engle, date 3/22/2023
 (Director must also initial on contract by City Manager's signature)

 Submission to City Clerk's Office, date 3/22/2023

 Office of Human Resources, Stacy Myers, Loss Control Officer, date 3/23/2023

 Office of Human Resources, Tammie Hechler, Director, date 3/23/2023

 Office of Procurement & Contract Compliance, Randy Stovall, Contract Compliance Administrator, date 3/26/2023

 Office of Procurement & Contract Compliance, Steve Stewart, Director, date 3/27/2023

 Department of Financial Services, David Keller, Director, date 3/27/2023

 City Attorney, Douglas R. Gonzales, date 3/27/2023

 Deputy/Assistant City Manager for Sustainable development, date 3/27/2023

 City Manager, Wazir Ishmael, Ph.D, date 3/27/2023

 City Clerk, Patricia A. Cerny, date 3/27/2023

Distribution: _____ Original to City Clerk; _____ Copy to Procurement; _____ Originals Returned to Preparer.

Effective Date: 2/13/2023

Agreement/Contract Routing Form Continued

Document Type: (check one)

- ☐ Agreement / Contract
- ☐ Lease
- ☒ Grant
- ☐ Consulting/Professional Services
- ☐ Authorization to Proceed:
- ☐ Other: _____

Location of Executed Copies:

- ☒ City Clerk's Office
- ☐ Other: _____
- ☐ Other: _____

Procurement Method: (check one)

- ☐ Formal Solicitation (RFQ, RFP, IFB, RLI): / # _____
- ☐ Open Market (3 quotes/proposals)
- ☐ Co-op Agreement
- ☐ Piggyback Agreement
- ☐ Other: _____

- ☐ Insurance reviewed and approved by Risk Management. (Attached)
- ☐ Bonds reviewed and approved by City Attorney's office. (Attached)

Additional Notes: _____

RESOLUTION NO. R-2022-360

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO ACCEPT, IF AWARDED, THE BROWARD COUNTY CULTURAL DIVISION CULTURAL AND ARTISTIC FACILITIES CAPITAL GRANT FOR IMPROVEMENTS TO HOLLYWOOD ART & CULTURE CENTER EDUCATION EXPANSION PROJECTS IN THE APPROXIMATE AMOUNT OF \$500,000.00; AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH BROWARD COUNTY; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE ALL OTHER APPLICABLE GRANT DOCUMENTS AND AGREEMENTS; AMENDING THE FISCAL YEAR 2023 OPERATING BUDGET AND CAPITAL IMPROVEMENT PLAN.

WHEREAS, one of the approved projects on the 2019 General Obligation Bond was for the new art education building addition to the existing Hollywood Art and Culture Center ("ACC") building owned by the City; and

WHEREAS, to maximize funding, the Department of Parks, Recreation and Cultural Arts ("PRCA") has found a grant funding opportunity from the Broward County Cultural Division Cultural and Artistic Facilities ("CAF") Grant; and

WHEREAS, the CAF Grant provides funding for renovation, construction, or acquisition of cultural facilities; and

WHEREAS, PRCA, in partnership with the ACC, desire to apply for this grant in the approximate amount of \$500,000.00; and

WHEREAS, the CAF Grant requires a 2:1 match, or \$1,000,000.00 from the City, for an estimated total project cost of \$5,500,000.00; and

WHEREAS, the grant match for this project was approved via Resolution R-2019-147 adopted June 5, 2019 that amended the FY 2019 Capital Improvement Program to include the General Obligation Bond projects, and funding is available for this project in account number 333.309901.57200.563010.001214.000.000; and

WHEREAS, if awarded, this grant funding will be utilized to assist in the construction of a new arts education building that will be adjacent to ACC's current City-owned gallery/administrative facility; and

WHEREAS, the new building will house a multipurpose dance/drama room, Distance Learning Arts broadcast and video/sound recording studio, and classrooms for music and the visual arts; and

WHEREAS, the Fiscal Year 2023 Operating Budget was adopted and approved by the City Commission pursuant to Resolution R-2022-283 at the second Public Budget Hearing on September 22, 2022; and

WHEREAS, the FY 2023 Capital Improvement Plan was adopted and approved by the City Commission pursuant to Resolution R-2022-284 at the second Public Budget Hearing on September 22, 2022; and

WHEREAS, it is necessary to amend the approved FY 2023 Operating Budget and Capital Improvement Plan as set forth in the attached Exhibit "1".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That it approves and authorizes the appropriate City officials to accept, if awarded, the Broward County Cultural and Artistic Facilities Grant for new art education building addition to the existing Art and Culture Center building.

Section 3: That the City Manager is authorized to accept the funds, provided that the City Manager shall have the discretion to refuse the grant in those circumstances where he determines it is in the best interest of the City to do so, in which case he shall advise the City Commission of his intention to refuse the grant.

Section 4: That upon the Broward County Cultural and Artistic Facilities Grant funds being awarded to the City and the City Manager accepting the award, the appropriate City officials are authorized to execute all applicable grant documents and agreements in a form acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

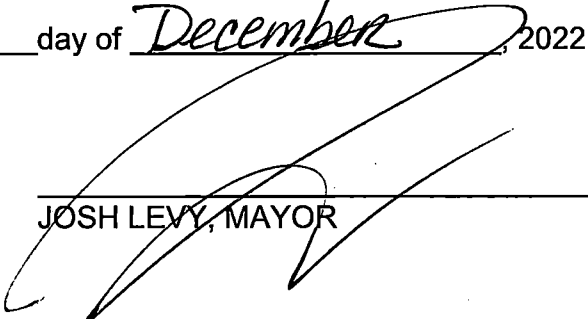
Section 5: That these Amendments to the FY 2023 Operating Budget and FY 2023 Capital Improvement Plan for the Fiscal Year beginning October 1, 2022 and set forth in detail in the attached Exhibit "1" are adopted and authorized as Amendments to the Operating Budget and Capital Improvement Plan of the City of Hollywood for the Fiscal Year 2023.

Section 6: That the Department of Financial Services is authorized to create and establish in the appropriate fund the necessary accounts to recognize the receipt of grant funding and to appropriate grant related funding as may be required.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO ACCEPT, IF AWARDED, THE BROWARD COUNTY CULTURAL DIVISION CULTURAL AND ARTISTIC FACILITIES GRANT FOR IMPROVEMENTS TO HOLLYWOOD ART & CULTURE CENTER EDUCATION EXPANSION PROJECTS IN THE APPROXIMATE AMOUNT OF \$500,000.00.

Section 7: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 7 day of December, 2022.



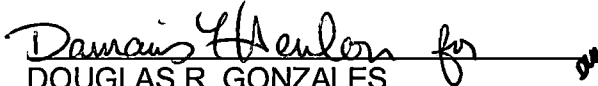
JOSH LEVY, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance
of the City of Hollywood, Florida, only.



DOUGLAS R. GONZALES
CITY ATTORNEY

Exhibit 1: Budget and Capital Amendments
General Capital Outlay Fund

This item recognizes and appropriates grant proceeds from the Broward County Cultural Division Cultural Artistic Facilities (CAF) Grant and allocates it for a new arts education building addition.

<u>Revenue:</u>		
Description	Account Number	Amount
CAF Grant Proceeds	TBD	500,000
<u>Expenditures:</u>		
Description	Account Number	Amount
Arts and Education Building	TBD	500,000



100 S. Andrews Avenue, 6th Floor • Fort Lauderdale, Florida 33301 • TEL 954-357-7457 • FAX 954-357-5769

FY 2023 Grantee Award Letter

Today's Date: March 17, 2023

Docket/Invoice Number: CA02-2023

Name of Organization: **City of Hollywood, FL**

Address: 2600 Hollywood Boulevard
Room 419, Hollywood, Florida 33020

Primary Contact Name: Dr. Wazir Ishmael

Primary Contact Title: City Manager

Supplier ID:

Fund: Cultural and Artistic Facilities Capital

Dear Dr. Wazir Ishmael,

Congratulations on receiving an FY 2023 Cultural and Artistic Facilities Capital grant from the Broward County Cultural Division in the amount of \$500,000.00. The recommendations from the Citizen Review Panel Meeting on October 17, 2022 and were approved by the Broward County Board of County Commissioners on January 24, 2023, for final funding approval.

As a Cultural Division Grantee, you must agree to the following:

- (1) Attend a mandatory Awardee Meeting and comply with all logo and attribution requirements.
- (2) Review Terms & Conditions and Grant Agreement. Sign agreement via DocuSign by **April 25, 2023**.
- (3) Communicate any changes from your grant application in a timely manner to the Cultural Division through a Change Request Form. All changes need Contract Administrator approval prior to implementation and an executed Amendment may be required.
- (4) Acknowledge that payments will be issued upon the execution of the Grant Agreement (awards are not final until the Broward County Commission passes the FY 2023 Cultural Division budget).
- (5) Utilize grant funds during the Term of **October 1, 2022 – December 31, 2024**, and as stated in the application budget and budget narrative.
- (6) Retain accurate records and all receipts for project reporting documentation and provide the requisite cash match for the project (if any).

Please sign below if you agree to the above Grant Award requirements. This letter must be returned to the Cultural Division by April 25, 2023.

DocuSigned by:

A blue ink signature of Wazir Ishmael. Below the signature is a long horizontal line and the word "Signature" in a small font.

Dr. Wazir Ishmael

Printed Legal First & Last Name

City Manager

Title

3/27/2023

Date Signed

954.921.3201

Phone Number

Wishmael@HollywoodFL.org

Email Address



BROWARD COUNTY CULTURAL DIVISION GRANT AWARD AGREEMENT

This Broward County Cultural Division Grant Award Agreement ("Grant Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and City of Hollywood, FL., a Florida municipality, ("Recipient"). County and Recipient are individually referred to as a "Party" and collectively as the "Parties."

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recipient has been awarded a Broward County Cultural Division Grant ("Grant Award") in the category indicated below ("Grant Program") in accordance with the Broward County Administrative Code ("Administrative Code") or as otherwise authorized by the Board of County Commissioners:

- ☐ General Operating Support
- ☐ Program Support (organizational or individual artist)
- ☒ Cultural and Artistic Facilities Capital Support
- ☐ Other: _____

2. Grant Award Terms and Conditions. By signing this Grant Agreement, Recipient represents that it has read County's Standard Grant Program Terms and Conditions ("Grant Program Terms"), templates of the "Project Evaluation Report" any other required reports for the Grant Program ("Required Reports"), and the initial list of required documentation (all of which are posted at <https://www.broward.org/Arts/Funding/Pages/ManagingYourAward.aspx>), along with any additional guidelines for Recipient's specific Grant Program identified in the Grant Award Details ("Grant Guidelines"). All of the materials referenced in this paragraph are incorporated into this Grant Agreement.

3. Term. This Grant Agreement begins on the date it is fully executed by the Parties ("Effective Date") and ends sixty (60) days after the end of the Grant Award Period (the "Term").

4. Insurance. If the Grant Award Details indicates that Recipient is required to maintain insurance, the certificate showing the minimum required insurance coverage is attached as Exhibit A and incorporated herein. If the box for insurance is not checked, there are no Recipient insurance requirements for this Grant Agreement.

5. Grant Award. Subject to the Grant Program Terms and compliance with all requirements identified in Paragraph 2 above, Recipient's receipt of the Grant Award is conditioned upon Recipient's compliance with the provisions stated in the Grant Award Details below.

GRANT AWARD DETAILS

All Grant Awards	
County Internal Grant Award Number	CA02-2023
Grant Award Period	October 1, 2022 to December 31, 2024
Grant Award Amount	\$500,000
Grant Award Match Requirement (if any)	Recipient is required to provide a minimum two-to-one cash match to the C & A Facilities grant award. Matching funds may exceed the required match but may not fall below the minimum requirement.
Is any portion of the Grant Award funded with Tourist Development Tax?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (if Yes, identify amount): \$500,000* *Recipient represents and warrants that the Grant Award shall not be utilized for, any purposes other than those permitted under Section 125.0104, Florida.
Grant Award Payment Schedule	<p><u>Disbursement and Payments:</u></p> <p>Payments: Funds are paid to the Recipient on a reimbursement basis only after the Recipient has completed the different construction phases of the project, listed below, and provides to the County the Project Report. Reimbursements shall only be available after the Recipient has satisfied its cash (funds) match obligation and provided written documentation of expenditures as proof of same to the County.</p> <p>County shall pay Recipient 50% of the Grant Award (\$250,000) after Recipient completes 50% of the Construction Phase and has expended a minimum of the first 50% of the total construction project budget (i.e., \$2,779,038), or more, and provides County with written documentation showing that Recipient has satisfied its match obligation.</p> <p>County shall pay Recipient the remainder of the Grant Award (\$250,000) after Recipient completes 100% of the Construction Phase and has expended a minimum of the final 50% of the total construction project budget (i.e., \$2,779,038), or more, and provides County with written documentation showing, that Recipient has satisfied its total match obligation, and provides County with the completed Project Report. Project Report, which is due no later than sixty (60) calendar days after the completion of the term (or project period).</p>
Website at which Grant Guidelines are posted	https://www.broward.org/Arts/Funding/Pages/CulturalFacilities.aspx
Venue Name and Address	Hollywood Art and Culture Center 1650 Harrison St., Hollywood, FL 33020.

County Personnel/Cultural Council member tickets to be provided (if any)	None.
Recipient Insurance Requirements (only if checked).	<input checked="" type="checkbox"/> REQUIRED (if checked, Recipient must maintain insurance coverages in the types and amounts shown in Exhibit A for the duration of the Term.
General Operating Support Grants Only	
General Description	N/A
Program Support Grants Only	
Event/Program Title(s)	N/A
Event Date(s)	N/A
Cultural and Artistic Facilities Capital Support Grants Only	
<u>Program title:</u>	<p>Art & Culture Center of Hollywood Education Expansion Arts Ignite! Building Initiative. The City of Hollywood, FL (Recipient the City), in partnership with the Art and Culture Center/Hollywood (ACCH).</p> <p>As more fully described in the Grant Application, Recipient shall provide:</p> <p>SCOPE OF SERVICES: During the Grant Award Period, the Recipient shall provide for, and complete, the following construction project: a new 5,068-square-foot Arts Education Building that borders an 1,852-square-foot Outdoor Courtyard on property owned by the Recipient (City). Located at The Hollywood Art and Culture Center 1650 Harrison St., Hollywood, FL 33020, the new education building will flank the historic Kagey Home (The Art and Culture Center) on its west side.</p>
<u>Project team:</u>	The Project Architects: Jeffrey Huber, FAIA, ASLA, NCARB, LEED AP and Lawrence Scarpa with Brooks + Scarpa Architects. The building project team is: City of Hollywood, FL; David Vazquez; Jose Cortes; Elisa A Iglesias. Executive Director, Joy Satterlee (ACCH).
<u>Event/ Date(s):</u>	<p>TIMELINE</p> <p>The Recipient (City) is contributing to construction of multi-disciplinary arts-education spaces and expansion/renovation of visual arts galleries, as well as, multipurpose dance/drama room, visual arts and music classrooms, distance learning broadcast studio, mixed-use studio theater, interactive contemporary gallery and meeting/reception room.</p>
<u>Construction Phases:</u>	Artistic & Cultural Facilities Construction Project Timeline:

	<ol style="list-style-type: none"> 1. Schedule Pre-Construction Meeting, 8/21/23 2. Pre-Construction Kickoff Meeting, 8/29/23 3. Order project signage, fabricate signage and prepare public presentation 8/22/23-9/26/23 4. Pre-Construction Public Meeting, 9/26/23 5. Contractor to obtain construction permits, 10/9/23-11/2/23 6. Construction Start-Groundbreaking, 11/6/23 7. Construction, 200 days, 11/6/23-10/30/24 8. Substantial Completion (TCO)-Ribbon Cutting, 10/31/24 9. Close Out permits, 10/31/24-11/19/24 10. Receive Final Project Document Package, 11/24/24 11. Walk Thru & Punch list, 11/24/24-11/26/24 12. Final Walk Thru, 11/27/24-12/4/24 13. Turnover, 12/5/24 14. Final Pay application, 12/9/24 15. Project Complete (Deadline 10/31/24), 12/16/24.
<u>Project Budget:</u>	<p>The total project budget cost is estimated to be \$5,558,076.00. As indicated, the project budget for the design and construction of the new ACCH Arts Ignite! building is divided into the following areas:</p> <p>Project Budget Breakdown:</p> <ol style="list-style-type: none"> 1.) \$562,570. in Design, Engineering and Site Preparation. This area includes: <ol style="list-style-type: none"> a) \$278,800 allocated for all architectural and engineering design plans and permits and b) \$283,770. in site preparation which includes sitework, surveys and protection to the existing building. 2.) \$2,685,866. of Exterior Work which includes: <ol style="list-style-type: none"> a) \$460,472. of Structural Concrete and Masonry. b) \$449,715. in Structural Steel. c) \$869,490. in Thermal and Moisture Protection. d) \$71,972. in demolition. e) \$822,217. in Landscaping and Irrigation and, f) \$12,000. in site fences. 3.) \$1,793,421. of Interior work which includes: <ol style="list-style-type: none"> a) \$125,000. in HVAC system. b) \$78,500. in Plumbing. c) \$270,450. in Electrical. d) \$143,000. Fire Protection. e) \$3,815. in Acoustical Ceiling tiles. f) \$293,517. in Drywall, framing, insulation, stucco. g) \$65,950. in Painting. h) \$16,592. in Tile work.

	<ul style="list-style-type: none"> i) \$71,536. in Specialties. j) \$111,950.in Millwork. k) \$587,724. in Windows and Doors. l) \$14,921. in Flooring. m) \$10,466. in signage. <p>4.) \$516,219. General Requirements which include:</p> <ul style="list-style-type: none"> a) \$415,157.00 in Contractor overhead and profit. b) \$50,782.00 in Payments & Performance Bond and c) \$50,280.00 in General Liability and Workers Compensation Insurances. <p>The Arts Education Building Spaces in the new building will include the following:</p> <ul style="list-style-type: none"> 1. A 1,663-square-foot Multi-Purpose Studio for dance, drama, film screenings, and artist talks, with that can also host yoga, live performance, and artist talks. 2. 630-SF Visual Arts Studio with sinks and cabinetry. 3. 372-SF Distance Learning Broadcast and Video/Music Recording Studio (with cabinets). 4. 1,852-SF outdoor courtyard. 5. 380-SF Secure Lobby. 6. 251-SF Kitchen/Break Room. 7. 141-SF Storage/Supply Storage. 8. Two bathrooms. <p>All Cultural & Artistic Facilities Capital Support Funds will be used for expenses associated with the costs of the construction components of the Art & Culture Center Education Expansion Arts Ignite! Building Initiative from October 1, 2022 through September 30, 2025.</p>
ADDITIONAL GRANT AWARD TERMS (if any)	
N/A	

IN WITNESS WHEREOF, the Parties have made and executed this Broward County Cultural Division Grant Award Agreement CA02-2023: Broward County, signing by and through its County Administrator, authorized to execute same pursuant to Sections 29.14 through 29.17 of the Broward County Administrative Code, and Recipient, by and through the signatory identified on the following page, duly authorized to execute same.

COUNTY

BROWARD COUNTY, by and through
its County Administrator

By: _____
County Administrator

_____ day of _____, 20__

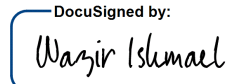
Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By: _____
Sara F. Cohen (Date)
Assistant County Attorney

BROWARD COUNTY CULTURAL DIVISION GRANT AWARD AGREEMENT

RECIPIENT

Entity Name: City of Hollywood, FL

DocuSigned by:

SF046EAA2A14D446...
(Authorized Signor)

Dr. Wazir Ishmael, City Manager

27 day of March, 2023

RECIPIENT ADDRESS AND EMAIL
(for notice purposes as provided in the
Grant Award Terms)

City of Hollywood, FL
2600 Hollywood Boulevard
Room 419
Hollywood, Florida 33020
Email: Wishmael@HollywoodFL.org

PUBLIC ENTITIES W/SOVEREIGN IMMUNITY
ALTERNATE INSURANCE PROVISIONS

City of Hollywood, FL is a governmental entity and is fully responsible for the acts and omissions of its agents or employees, subject to any applicable limitations of Section 768.28, Florida Statutes.

Upon request by County, City of Hollywood, FL must provide County with written verification of liability protection that meets or exceeds any requirements of Florida law. If City of Hollywood, FL holds any excess liability coverage, City of Hollywood, FL must ensure that Broward County is named as an additional insured and certificate holder under such excess liability policy and provide evidence of same to County.

If City of Hollywood, FL maintains broader coverage or higher limits than the minimum coverage required under Florida law, County shall be entitled to such broader coverage and higher limits on a primary and non-contributory basis. County's insurance requirements shall apply to City of Hollywood, FL's self-insurance.

In the event City of Hollywood, FL contracts with a Subcontractor to provide any of the Services set forth herein, City of Hollywood, FL shall require that each Subcontractor procure and maintain insurance coverage that adequately covers each Subcontractor's exposure based on the Services provided by that Subcontractor. City of Hollywood, FL must ensure that all such Subcontractors name "Broward County" as an additional insured and certificate holder under the applicable insurance policies. City of Hollywood, FL shall not permit any Subcontractor to provide Services until the insurance requirements of the Subcontractor under this section are met. If requested by County, City of Hollywood, FL shall furnish evidence of insurance of all such Subcontractors.

COUNTY reserves the right to review any and all insurance policies, and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Contract.

Coverage is not to cease and is to remain in full force and effect until all performance required of MUNICIPALITY's contractor is completed.



STANDARD GRANT AWARD TERMS AND CONDITIONS FOR BROWARD CULTURAL COUNCIL CULTURAL GRANT AWARD AGREEMENTS

These Standard Terms and Conditions ("Grant Program Terms") govern all Cultural Division Grant Agreements entered into by Broward County ("County") and the Recipient identified in the Broward County Cultural Division Grant Award Agreement ("Grant Agreement").

RECITALS

A. The Broward County Board of County Commissioners ("Board") has a core value of cultivating community culture, arts, recreation, and life-long learning. The Board's goals include providing diverse artistic, cultural, educational, and historical amenities, and programs that contribute to a vibrant, multi-cultural, and economically viable community.

B. The Board, through the Broward County Cultural Council (the "Cultural Council") and Cultural Division, offer various grant programs (each a "Grant Program") to support artistic and cultural organizations and programs in Broward County, as more fully described in Sections 29.14 through 29.17 of the Broward County Administrative Code (the "Administrative Code").

C. The Board has determined that approved recipients' use of grant funding under one or more Grant Programs towards qualifying expenditures serves a public purpose.

D. County desires to offer to Recipient, and Recipient desires to accept from County, certain monetary grant awards described in the Grant Agreement (the "Grant Award"), subject to the terms and conditions stated in the Grant Agreement, these Grant Program Terms, and other documents referenced and incorporated into the Grant Agreement and these Grant Program Terms.

ARTICLE 1. DEFINITIONS

All capitalized terms used in the Grant Agreement shall have the same uses in these Grant Program Terms. The following additional definitions shall apply to the Grant Agreement and these Grant Program Terms.

1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2. **Contract Administrator** means the Director of the Cultural Division, or other person designated in writing by the Director of the Cultural Division or the County Administrator.

1.3. **County Administrator** means the administrative head of County appointed by the Board.

1.4. **General Operating Support** means the Grant Program where Recipients must use the Grant Award during the Grant Period towards Recipient's general operating expenses as described in the Recipient Application and Grant Agreement.

1.5. **Program Support** means is the Grant Program where Recipients (whether individuals or entities) must use the Grant Award towards the Recipient's general expenses associated with the specific cultural or artists programs, activities, events, or performances, as stated in the Recipient Application and the Grant Agreement.

1.6. **Cultural and Artistic Facilities ("C&A Facilities") Capital Support** means the Grant Program where Recipient must use the Grant Award towards the capital project assistance (such as the acquisition, development, construction, renovation, expansion, or improvement of new or existing cultural or artistic facilities located in Broward County), as stated in the Recipient Application and the Grant Agreement.

1.7. **Authorized Uses** means the Recipient's activities for which the Grant Award may be used, as set forth in the Recipient Application, and subject to the terms and provisions of the Grant Agreement, these Grant Program Terms, the Grant Guidelines, and any other documents referenced or incorporated into the Grant Agreement and/or these Grant Program Terms.

1.8. **Recipient Application** means the application and all materials attached thereto submitted by Recipient to the Cultural Division, the Cultural Council, any Grant Panel associated with Recipient seeking a Grant Award, including any and all verbal representations made by Recipient in connection therewith.

ARTICLE 2. GRANT AWARD

2.1. Grant Award. County shall provide the Grant Award to Recipient for its use towards the Authorized Uses in connection with the applicable Grant Program identified in the Grant Agreement.

2.2. Grant Award Uses; Recipient Application Accuracy. Recipient shall only utilize the Grant Award (whether in whole or in part) for Authorized Uses, including those stated in the Recipient Application. Recipient represents and warrants that all information included in Recipient Application is true and correct, and that except as expressly stated in the Grant Award Details section of the Grant Agreement, or as may be set forth in any amendment to the Grant Agreement as described in Section 9.20 of these Grant Program Terms, Recipient is expressly prohibited from using any portion of the Grant Award for any purpose other than the uses stated in the Recipient Application.

ARTICLE 3. PAYMENT OF GRANT AWARD

3.1. Payment of Grant Award; Advance Payments. County will pay the Grant Award to Recipient in accordance with the Grant Award Details section of the Grant Agreement and these Grant Program Terms. If any portion of the Grant Award is paid to Recipient prior to the end of the Grant Award Period, such payment shall be deemed an advance, subject to Recipient fully performing all provisions of these Grant Program Terms and the Grant Agreement Terms (including as stated in any other documents incorporated therein).

3.2. Recipient Invoicing; Required Match. Prior to payment by County, Recipient shall submit an invoice to County (no more frequently than once during each calendar month) for the portion of the Grant Award that may be due. Recipient's final invoice to County must be submitted no later than sixty (60) days after the end of the Term. Failure to timely submit the final invoice will act as a waiver by Recipient of any portion of the Grant Award not paid to Recipient as of sixty (60) days after the end of the Term. Unless advance payments were expressly authorized in the Grant Agreement, Grant Award payments will be made only on a reimbursement basis after expenses have been incurred and after any documentation requested by the Contract Administrator has been provided by the Recipient. Invoices must be submitted on an approved invoice form provided by County. If the Grant Agreement contains a match requirement, County's payment obligation is conditioned and contingent upon Recipient obtaining and providing that match.

3.3. Refund of Grant Award. If Recipient receives any portion of the Grant Award before the end of the Grant Award Period, and, for any reason, all or any portion of the programming (for Program Support), Recipient operations (for General Operating Support), or the capital program (for C&A Facilities Support), is delayed, canceled, or does not proceed in accordance with the Recipient Application, the Grant Agreement (including any documents incorporated therein), or these Grant Program Terms, Recipient shall refund to County the entire amount of the Grant Award advanced to Recipient within thirty (30) days after written demand by the Contract Administrator. If the Contract Administrator determines that Recipient has substantially performed the obligations in (and incorporated into) the Grant Agreement, the Contract Administrator shall have the discretion to reduce Recipient's refund obligations based on the "pro rata share" of Recipient's performance, with Recipient agreeing that the Contract Administrator's determinations regarding the "pro rata share" are final and subject to the sole an absolute discretion of the Contract Administrator.

3.4. Fiscal Year. The continuation of the Grant Award beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes. If the Grant Award Period extends beyond one County fiscal year (October 1 through September 30 of the next year), and funds are not appropriated or available to fund Recipient in accordance with the Grant Agreement, the Grant Agreement shall automatically terminate with County having no further obligation to Recipient in connection therewith.

ARTICLE 4. PROJECT EVALUATION REPORT

Recipient must submit a completed Project Evaluation Report (the template for which is available online at: <https://bit.ly/3d7PG8J>) to the Contract Administrator, along with all other documentation referenced in the Project Evaluation Report, within thirty (30) calendar days after the end of the Grant Award Period (the Project Evaluation Report, all required documentation referenced in the Project Evaluation Report, and the financial information referenced in this section are collectively referred to as the "Reporting Materials"). Notwithstanding the Grant Award Payment Schedule as described in the Grant Agreement, Recipient's failure to timely submit the Reporting Materials may disqualify Recipient from consideration for any future grants

under any of County's Cultural Division Grant Programs and will entitle County to withhold payment of the Grant Award. Withheld amounts of the Grant Award will not accrue interest and will not be payable to Recipient until Recipient has met all requirements, including the requirements in the Grant Guidelines described or incorporated in the Grant Agreement. The provisions of this article will survive the termination or expiration of the Grant Agreement.

After Recipient provides the Reporting Materials to the Contract Administrator, the Reporting Materials will be reviewed to determine whether Recipient has complied with the obligations contained in the Grant Agreement, these Grant Program Terms, and any documents incorporated into either. Notwithstanding anything in the Grant Award Payment Schedule, final payment of the Grant Award may be delayed, and are not subject to interest, to provide the Contract Administrator thirty (30) days to review the Reporting Materials.

ARTICLE 5. ATTRIBUTION OF COUNTY

During the Term, Recipient will post the artscalendar.com banner web link (<http://www.artscalendar.com/>) on Recipient's website, if any. For instructions, please visit the following link: <http://www.broward.org/Arts/Funding/Pages/default.aspx>. Recipient must also acknowledge County's funding with the correct attribution statement and County logo, as specifically outlined at: <https://bit.ly/3TWzzLM>.

ARTICLE 6. TERMINATION

6.1. The Grant Agreement may be terminated by County for convenience, by written notice by the County Administrator to the Recipient, which termination shall be effective on the date stated in such notice provided the termination date is not less than thirty (30) days after the date of such written notice. The Grant Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. The Grant Agreement may also be terminated by County for cause for any breach of the Grant Agreement or these Grant Program Terms by Recipient that is not cured within ten (10) business days after written notice of such breach by the Contract Administrator. Upon termination of the Grant Agreement by County for any reason, Recipient shall have no right to receive or otherwise direct the receipt of the Grant Award (or any portion thereof) not already paid to Recipient. In addition, if County terminates the Grant Agreement, Recipient shall, within twenty (20) calendar days after such termination, return to County any portion of the Grant Award already paid. Recipient hereby waives and releases any and all claims it may have for breach of contract or otherwise arising out of County's exercise of its right to terminate the Grant Agreement pursuant to this section.

6.2. County, through its County Administrator, may terminate the Grant Agreement upon ten (10) days' prior written notice by the Contract Administrator if Recipient is found to have submitted a false certification according to Section 287.135, Florida Statutes, if Recipient has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or if Recipient has failed to

promptly implement corrective action for audit deficiencies after ten (10) days' written notice by the Contract Administrator. Notwithstanding anything contained in the Grant Agreement to the contrary, the rights and obligations of the Parties under this paragraph will be governed by Section 287.135, Florida Statutes, to the fullest extent applicable.

6.3. Recipient represents that neither it nor any of its affiliates have been placed on the discriminatory vendor list, as defined by Section 287.134, Florida Statutes, and is not otherwise ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. County may terminate the Grant Agreement effective immediately, without any further obligation to Recipient, upon learning that such representation is false or if Recipient or any of its affiliates are placed on the discriminatory vendor list or are otherwise ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes.

6.4. The Grant Agreement may also be terminated for any other basis and by any other means expressly permitted in the Grant Agreement or these Grant Program Terms.

6.5. Recipient acknowledges that it has received good, valuable, and sufficient consideration from County, the receipt and adequacy of which are acknowledged by Recipient, for County's right to terminate the Grant Agreement for convenience. Recipient hereby waives, to the fullest extent permissible under applicable law, any and all rights to challenge the adequacy of such consideration or the validity of County's right to terminate for convenience.

6.6. Notice of termination must be provided in accordance with the "Notices" section of these Grant Program Terms.

ARTICLE 7. INDEMNIFICATION

As consideration for County signing the Grant Agreement, Recipient hereby indemnifies, holds harmless, and shall defend County and all of County's former, current, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to the Grant Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Recipient, its officers, employees, agents, or servants, arising from, relating to, or in connection with the Grant Agreement and these Grant Program Terms (collectively, a "Claim"). If a Claim is brought against an Indemnified Party, Recipient must, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section survive the expiration or earlier termination of the Grant Agreement. To the extent considered necessary by the Contract Administrator and the County Attorney, County may retain any sums due to Recipient under the Grant Agreement until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld is not subject to payment of interest by County.

ARTICLE 8. INSURANCE; SOVEREIGN IMMUNITY

Sections 8.1-8.8: Insurance when Recipient is an Individual or Non-Governmental Entity:

8.1. If County requires Recipient to maintain insurance, coverage must reflect the following: during the Grant Award Period, Recipient must, at its sole expense, maintain the minimum insurance coverages identified in the Grant Agreement in accordance with the terms and conditions of sections 8.1-8.8 of this article. Recipient must maintain insurance coverage against claims relating to any act or omission by Recipient, its agents, representatives, employees, or subcontractors in connection with the Grant Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required.

8.2. Recipient must ensure that "Broward County" is listed and endorsed as an additional insured on all policies required under this article, and that Broward County, 115 South Andrews Avenue, Fort Lauderdale, Florida 33301, is be listed as the Certificate Holder on all policies required by this article.

8.3. Prior to the commencement of the Grant Award Period described in the Grant Agreement, but in no event later than fifteen (15) days after execution of the Grant Agreement, Recipient must provide to County a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the required insurance coverage. If and to the extent requested by County, Recipient must provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

8.4. Recipient must ensure that all required insurance coverages do not cease and remain in full force and effect until the Grant Award Period is completed and County determines all performance required of Recipient has been satisfied. Recipient must provide at least thirty (30) days' written notice to County of cancellation and at least ten (10) days' notice of cancellation due to nonpayment and must concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of any required coverages. Recipient must ensure that there is no lapse of coverage at any time during the applicable period for which coverage is required by this Article. Unless prohibited by the applicable policy, Recipient waives any right to subrogation that any of Recipient's insurers may acquire against County.

8.5. If Recipient maintains broader coverage or higher limits than the minimum insurance requirements required by County, County is entitled to any such broader coverage and higher limits maintained by Recipient. All required insurance coverages must provide primary coverage and shall not require contribution from any County insurance, self-insurance or otherwise, which are in excess of and will not contribute to the insurance required and provided by Recipient. Recipient shall declare in writing any self-insured retentions or deductibles over the limits prescribed and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Grant Award Period. Recipient is solely responsible for and must pay any deductible or self-insured retention applicable to any claim against County.

8.6. Recipient must ensure that all required insurance policies are issued by insurers that are: (1) assigned an A. M. Best rating of at least "A-" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer in accordance with Section 626.917 or 626.918, Florida Statutes, with approval by County.

8.7. If any of the policies required provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date or at least fifteen (15) days prior to commencement of the Grant Award Period; (2) the required coverage must be maintained after termination or expiration of the Grant Agreement for at least the duration provided by County, and (3) if coverage is cancelled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date or at least fifteen (15) days prior to commencement of the Grant Award Period, Recipient must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Grant Agreement for at least the duration provided by County.

8.8. Recipient shall require that any subcontractor maintains insurance coverage that adequately covers the services provided by that subcontractor on substantially the same insurance terms and conditions required of Recipient. Recipient must ensure that all such Subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the Subcontractors' applicable insurance policies.

Sections 8.9–8.13: When Recipient is a Governmental Entity

8.9. Recipient is a governmental entity and is fully responsible for the acts and omissions of its agents or employees, subject to any applicable limitations of Section 768.28, Florida Statutes.

8.10. Upon request by County, Recipient must provide County with written verification of liability protection that meets or exceeds any requirements of Florida law. If Recipient holds any excess liability coverage, Recipient must ensure that Broward County is named as an additional insured and certificate holder under such excess liability policy and provide evidence to County.

8.11. If Recipient maintains broader coverage or higher limits than the minimum coverage required under Florida law, County shall be entitled to such broader coverage and higher limits on a primary and noncontributory basis. County's insurance requirements shall apply to Recipient's self-insurance.

8.12. If Recipient contracts with a subcontractor in connection with any matter described in the Grant Agreement, Recipient shall require that each Subcontractor procure and maintain insurance coverage that adequately covers each subcontractor's exposure based on the services provided by that Subcontractor. Recipient must ensure that all such subcontractors name "Broward County" as an additional insured and certificate holder under the applicable insurance policies. Recipient shall not permit any Subcontractor to perform activities that are part of the Grant Agreement until the insurance requirements of the Subcontractor under this section are met. If requested by County, Recipient shall furnish evidence of insurance of all such Subcontractors.

8.13. County reserves the right, but not the responsibility, to periodically review any and all insurance policies and to reasonably adjust the limits and/or types of coverage required by the Grant Agreement, from time to time throughout the Term.

For C&A Facilities Capital Support

In addition to any insurance requirements as described in sections 8.1 to 8.13 above, Recipient shall comply with all additional insurance obligations provided in Exhibit B to the Grant Agreement.

ARTICLE 9. MISCELLANEOUS

9.1. Contract Administrator Authority. Recipient acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the amount of the Grant Award or adjust the Authorized Uses unless specifically authorized in the Administrative Code, any authorizing Board resolution, or any other Board-authorized action. If so authorized, upon written request by Recipient, changes in the Authorized Activities or modifications to the categories of expenditures, if any, listed in the Grant Agreement, must be documented via an amendment to the Grant Agreement. The maximum Grant Award amount may only be modified with Board approval and subsequently documented via a written amendment to the Grant Agreement. If Recipient desires to change the proposed allocation of Grant Award funds and the proposed change will result in a reallocation of more than 25% of the total Grant Award, the Recipient must provide advanced written notice to the Cultural Division.

9.2. Tax Withholding. If any federal, state, or local taxes, tariffs, or governmental charges may be due or imposed in connection with the Grant Award, if and to the extent deemed necessary by the Contract Administrator or required under applicable law, County may withhold any such amount from the Incentive otherwise due Recipient and remit only the remainder to Recipient. Upon request by the Contract Administrator, Recipient must provide any tax-related forms or documentation as a condition precedent to providing any portion of the Grant Award to Recipient. County makes no representation regarding the taxability or any other tax implications regarding the Grant Award, and Recipient is solely responsible for obtaining appropriate advice and guidance regarding these issues. All tax-related forms or documentation must be in the name of the Recipient as shown in the Grant Agreement.

9.3. Rights in Documents and Work; Perpetual Non-Exclusive License. Recipient hereby grants to County the perpetual non-exclusive license and right to record, reprint, republish, or otherwise reuse the creative elements generated as part of the Grant Agreement for County's benefit. The license granted to County pursuant to this section allows County, in its sole discretion, and for no additional compensation to Recipient other than the Grant Award, the right to publicly distribute, exploit, market, perform, broadcast, transmit, and exhibit the creative elements generated as part of the Grant Agreement, in all media means or methods, including but not limited to: print, internet, TV shows, videos, websites, podcasts, multimedia presentations, and films. County will make a good faith effort to credit Recipient as part of the republication stated in this section.

9.4. Public Records. Notwithstanding anything else in the Grant Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of the Grant Agreement. If Recipient is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Recipient shall:

9.4.1. Keep and maintain public records required by County to perform the services;

9.4.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

9.4.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of the Grant Agreement and after completion or termination of the Grant Agreement if the records are not transferred to County; and

9.4.4. Upon expiration of the Term or termination of the Grant Agreement, transfer to County, at no cost, all public records in possession of Recipient or keep and maintain public records required by County to perform the services. If Recipient transfers the records to County, Recipient shall destroy any duplicate public records that are exempt or confidential and exempt. If Recipient keeps and maintains the public records, Recipient shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

If Recipient receives a request for public records regarding the Grant Agreement or the services, Recipient must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

Recipient must separately submit and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that Recipient contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which Recipient asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, “Restricted Material”). In addition, Recipient must, simultaneous with the submission of any Restricted Material, provide a sworn affidavit from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, Recipient must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by Recipient as Restricted Material, County shall refrain from disclosing such

material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by Recipient, or the claimed exemption is waived. Any failure by Recipient to strictly comply with the requirements of this section shall constitute Recipient's waiver of County's obligation to treat the records as Restricted Material. Recipient must indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to nondisclosure of Restricted Material in response to a third-party request.

IF RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE GRANT AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-7457, CULTURALDIV@BROWARD.ORG, 115 SOUTH ANDREWS AVENUE, 6TH FLOOR, FORT LAUDERDALE, FLORIDA 33301.

9.5. Audit Rights and Retention of Records. If Recipient has an independent audit performed of its activities that encompasses all or any portion of the Grant Award Period, Recipient shall provide a copy thereof to County within thirty (30) days of receipt thereof. In addition to receipt of Recipient's independent audit (if any) of its activities, County has the right to audit the books, records, and accounts of Recipient and its Subcontractors that are related to the Grant Agreement. Recipient and its Subcontractors must keep books, records, and accounts as may be necessary in order to record complete and correct entries related to the Grant Agreement and performance under the Grant Agreement. All books, records, and accounts must be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Recipient or its Subcontractor must make all books, records, and accounts available in written form at no cost to County.

Recipient and its Subcontractors must preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to the Grant Agreement for at least three (3) years after expiration or termination of the Grant Agreement or until resolution of any audit findings, whichever is longer. Any audit or inspection in accordance with this section may be performed by any County representative (including any outside representative engaged by County). County has the right to conduct the audit or review at Recipient's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in the books, records, and accounts will be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by Recipient in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit will be reimbursed to County by Recipient in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of the audit or inspection must be made within thirty (30) days after presentation of County's findings to Recipient.

Recipient must ensure that the requirements of this section are included in all agreements with any subcontractors engaged in activities subject to the Grant Agreement.

9.6. Funding Agreement Only; No Employment Relationship. The Grant Agreement is purely a funding agreement between County and Recipient. To the extent there is any relationship between County and Recipient pursuant to the Grant Agreement, Recipient is an independent contractor under the Grant Agreement, and nothing in the Grant Agreement constitutes or creates a partnership, joint venture, or any other relationship between the Parties. Neither Recipient nor its agents will act as officers, employees, or agents of County. Recipient does not have the right to bind County to any obligation not expressly undertaken by County under the Grant Agreement.

9.7. Third-Party Beneficiaries. Neither Recipient nor County intends to directly or substantially benefit a third party by the Grant Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to the Grant Agreement and that no third party will be entitled to assert a right or claim against either Party based upon the Grant Agreement.

9.8. Notices. For a notice to a party to be effective under the Grant Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and is effective upon mailing or hand delivery (provided the contemporaneous e-mail is also sent). Recipient and County may change the addresses for notice by providing written notice of such change in accordance with the provisions on this section. Notice to Recipient shall be made to the address shown in the Grant Agreement.

Address for Notice to County:

Broward County, Cultural Division

Attn: Director

100 South Andrews Avenue, 6th Floor

Fort Lauderdale, Florida 33301

E-mail address: pdunlap@broward.org

With simultaneous copy of e-mail to: jshermer@broward.org

9.9. Assignment. Except for subcontracting approved by County in advance, neither the Grant Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Recipient without the prior written consent of County, and any such prohibited action shall be deemed null and void. If Recipient violates this provision, County will have the right to immediately terminate the Grant Agreement.

9.10. Tourist Development Tax. If all or any portion of the Grant Award is provided to Recipient from Tourist Development Tax revenues, Recipient represents and warrants that the Authorized Uses are limited to, and no portion of the Grant Award may be utilized for, any purposes except those permitted under Section 125.0104, Florida Statutes. Recipient represents and warrants that if Tourist Development Tax revenue is used for all or a portion of the Grant Award, the Authorized Uses have as one of their main purposes the attraction of tourists to Broward County

as evidenced by Recipient's promotion of the activity, service, venue, or event to tourists as defined in Section 125.0104.

9.11. Conflicts. Neither Recipient nor its employees may have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Recipient's loyal and conscientious exercise of judgment and care related to its performance under the Grant Agreement. During the term of the Grant Agreement, none of Recipient's officers or employees will serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Recipient is not a party, unless compelled by court process. Further, such persons may not give sworn testimony or issue a report or writing as an expression of his or her expert opinion that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section do not preclude Recipient or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Recipient is permitted in accordance with the Grant Agreement to utilize subcontractors in connection with the Grant Agreement, Recipient must require the subcontractors, by written contract, to comply with the provisions of this section to the same extent as Recipient.

9.12. Materiality and Waiver of Breach. Each requirement, duty, and obligation stated in the Grant Agreement and these Grant Program Terms was bargained for at arm's length and is agreed to by the parties. Each requirement, duty, and obligation stated in the Grant Agreement and these Grant Program Terms is substantial and important to the formation of the Grant Agreement, and each is, therefore, a material term of the Grant Agreement. County's failure to enforce any provision of the Grant Agreement and/or these Grant Award Terms is not a waiver of such provision or modification of the Grant Agreement or Grant Award Terms. A waiver of any breach of a provision of the Grant Agreement and/or Grant Award Terms is not a waiver of any subsequent breach and is not to be constructed as a modification of the terms of the Grant Agreement and/or Grant Award Terms. To be effective, any waiver must be in writing signed by an authorized signatory of the party.

9.13. Compliance with Laws. Recipient and the Authorized Uses must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

9.14. Joint Preparation. The Grant Agreement has been jointly prepared by the parties and will not be construed more strictly against either party.

9.15. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into the Grant Agreement, nothing in the Grant Award Agreement or these Grant Award Terms are intended to serve as a waiver of sovereign immunity by County nor shall anything included therein be construed as consent by County to be sued by third parties. County is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible

for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

9.16. Voluntary Execution; Role of Legal Counsel. Recipient and County acknowledge that the Grant Agreement is freely and voluntarily executed after Recipient had an opportunity to review both the Grant Agreement and Grant Award Terms, and that Recipient had adequate opportunity to consult with and receive the advice of counsel before entering into the Grant Award Agreement.

9.17. Interpretation. The titles and headings contained in the Grant Award Terms and Grant Agreement are for reference purposes only and do not in any way affect the meaning or interpretation of the Grant Agreement. All personal pronouns used in the Grant Agreement and/or the Grant Award Terms include the other gender, and the singular includes the plural, and vice versa, unless the context otherwise requires. Terms such as “therein” and “thereof” refer to the Grant Agreement and/or Grant Program Terms as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of the Grant Award Terms and/or Grant Award Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

9.18. Severability; Priority of Provisions. If any part of the Grant Agreement or Grant Award Terms is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed and the balance shall remain in full force and effect. Unless expressly specified in these Grant Award Terms, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in the Grant Award Agreement and any provision of the Articles of these Grant Program Terms, the provisions contained the Articles prevail and will be given effect.

9.19. Law, Jurisdiction, Venue, Waiver of Jury Trial. The Grant Agreement and these Grant Program Terms will be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with the Grant Agreement and/or Grant Program Terms is in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with the Grant Agreement and/or Grant Program Terms must be litigated in federal court, the exclusive venue for any such lawsuit is in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, RECIPIENT AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THE GRANT AGREEMENT AND/OR GRANT PROGRAM TERMS.**

9.20. Amendments. No modification, amendment, or alteration in the terms or conditions contained in the Grant Award Agreement or these Grant Program Terms shall be effective unless contained in a written document prepared with the same or similar formality as the Grant Award

Agreement and executed by the Board and Recipient or others delegated authority or otherwise authorized to execute the Grant Award Agreement on their behalf. The County Administrator is authorized to execute amendments to the Grant Agreement.

9.21. Prior Agreements. The Grant Agreement represents the final and complete understanding of the parties regarding the subject matter contained in the Grant Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of the Grant Agreement that is not contained in the written document.

9.22. Payable Interest.

9.22.1. Payment of Interest. County is not liable to pay any interest to Recipient for any reason, whether as prejudgment interest or for any other purpose, and in furtherance of that purpose, Recipient waives, rejects, disclaims, and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with the Grant Agreement and/or Grant Program Terms. This section does not apply to any claim for interest, including for post judgment interest, if such application would be contrary to applicable law.

9.22.2. Rate of Interest. If the preceding section is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under the Grant Agreement and/or Grant Program Terms, whether as prejudgment interest or for any other purpose, will be, to the full extent permissible under applicable law, one quarter of one percent (0.25%) simple interest (uncompounded).

9.23. Incorporation by Reference. Any and all Recital clauses stated above are correct and are incorporated in the Grant Agreement and these Grant Program Terms by reference.

9.24. Representation of Authority. Recipient represents and warrants that the Grant Agreement constitutes the legal, valid, binding, and enforceable obligation of Recipient, and that neither the execution nor performance of the Grant Award Agreement constitutes a breach of any agreement that Recipient has with any third party or violates any law, rule, regulation, or duty arising in law or equity applicable to Recipient. Recipient further represents and warrants that execution of the Grant Agreement is within Recipient's legal powers, and each individual executing the Grant Agreement on behalf of Recipient is duly authorized by all necessary and appropriate action to do so on behalf of Recipient and does so with full legal authority.

9.25. Contingency Fee. Recipient represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Recipient, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the Grant Agreement.

9.26. Nondiscrimination. Recipient may not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of the Grant Agreement. Recipient will include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds must comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

9.27. Remedies Cumulative. Failure by Recipient to carry out any of the requirements of the Grant Agreement, these Grant Program Terms, the Grant Guidelines, or any documents incorporated into any of the aforementioned, constitutes a material breach of the Grant Agreement, which will permit County to terminate the Grant Agreement for cause or to exercise any other remedy provided under applicable law, the Broward County Code of Ordinances, Broward County Administrative Code, all such remedies being cumulative.

9.28. Force Majeure. If County's performance of any obligation under the Grant Agreement (or any document incorporated therein) is prevented or delayed by reason of hurricane, earthquake, epidemic, pandemic, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency (including, without limitation, by County), County, upon giving prompt notice to Recipient, will be excused from such performance to the extent of such prevention, if County has first taken reasonable steps to avoid and remove the cause of nonperformance and continues to take reasonable steps to avoid and remove such cause, and promptly notify Recipient in writing and resume performance in accordance with the Grant Agreement whenever such causes are removed; if such nonperformance exceeds sixty (60) days, County shall have the right to terminate the Grant Agreement upon written notice to Recipient, with Recipient waiving any and all rights or claims associated therewith. This section does not supersede or prevent the exercise of any right the parties may otherwise have to terminate the Grant Agreement.

9.29. Regulatory Capacity. Notwithstanding that County is a political subdivision with certain regulatory authority, County's performance under the Grant Agreement is as a party to the Grant Agreement. If County exercises its regulatory authority, the exercise of the authority and the enforcement of any rules, regulation, laws, and ordinances will have occurred in accordance with County's regulatory authority as a governmental body separate and apart from the Grant Agreement and will not be attributable to County as a party to the Grant Agreement.

9.30. Truth-In-Negotiation Representation. The Grant Award awarded to Recipient is based upon its representations to County in, among other materials submitted to County, financial documents and reports provided to County as required by the Grant Agreement and these Grant Program Terms, as well as those contained in the Recipient Application and statements made by Recipient to County during the application process. Recipient certifies that all such information is accurate, complete, and current as of the same is submitted to County. Recipient will promptly provide County with written notice and details of any new information which renders any representations previously made by Recipient inaccurate, out of date, or incomplete. County

reserves the right to reduce the Grant Award based on updated information provided by Recipient.

9.31. Use of County Logo. Except as noted in the Grant Agreement, Grant Guidelines, or these Grant Program Terms, Recipient may not use County's name, logo, or otherwise refer to the Grant Agreement in any marketing or publicity materials without the prior written consent of County.

9.32. Breach of Representations. In entering into the Grant Agreement, Recipient acknowledges that County is materially relying on the representations and warranties of Recipient made in connection with the Recipient Application, as stated in the Grant Agreement, and these Grant Program Terms. County is entitled to recover any damages it incurs to the extent any such representation or warranty is untrue. In addition, if any such representation or warranty is false, County has the right, at its sole discretion, to terminate the Grant Agreement without any further liability to Recipient, to deduct from the Grant Award the full amount of any value paid in violation of a representation or warranty, or to recover all sums paid to Recipient under the Grant Agreement. Furthermore, a false representation may result in debarment from future Cultural Division Grant Programs and other programs offered by County.

9.33. Counterparts and Multiple Originals. The Grant Agreement may be executed in multiple originals, and may be executed in counterparts, each of which is an original, but all of which, taken together, constitute one and the same agreement.

9.34. Polystyrene Food Service Articles. Recipient shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

9.35. Time of the Essence. Time is of the essence as to all of Recipient's obligations as stated or incorporated into the Grant Agreement or these Grant Program Terms.