

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: **October 8, 2019**

[X] Consent **[] Regular**
[] Ordinance **[] Public Hearing**

Department: Department of Housing and Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A) an Agreement with the Palm Beach County Film and Television Commission, Inc. (F&TV Commission) in the amount of \$75,000 for the period October 1, 2019 to September 30, 2020: and B) Delegated authority to the County Administrator, or designee, to execute future amendments to the Agreement with the F&TV Commission.

Summary: Staff recommends the Board of County Commissioners' (BCC) approval of an Agreement with F&TV Commission. On September 16, 2019, the Board of County Commissioners approved the Fiscal Year 2019-2020 Budget which included an allocation of \$75,000 for F&TV Commission. This Agreement with the F&TV Commission will fund operational and educational expenses for the Film & TV Tech Prep Program (Program), which is entering its 24th year of operation. The Program continues to support the development of the film and television industry in Palm Beach County through an enhanced strategic plan drafted by educators and industry professionals. This funding will assist in the planning, facilitation and execution of all aspects in the production of the largest film competition and live awards ceremony within the State of Florida, the 2020 Student Showcase of Films (SSOF). The SSOF honors Florida high school and college student filmmakers and celebrates the artistic successes they have achieved in this field. **These are County Ad Valorem funds.** Countywide (DB)

Background and Justification: The Film & TV Tech Prep Program was created by Palm Beach County in 1996 as a result of the Board of County Commissioners' endorsement at the 1993 Economic Summit to expand the film and television industry. The objectives of the Program are to: prepare the high school students for a career pathway; create a future workforce in the film and television industry; and provide educational, financial and logistic resources for high school and college students and teachers through the F&TV Commission. The Program is expected to greatly influence the creation of a qualified workforce in the film and production industry.

Attachment(s):

- 1. Agreement with the Palm Beach County Film and Television Commission, Inc.**

Recommended By: Jonathan Brown 8/12/19
Department Director Date

Approved By: Pee 8/21/19
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2020	2021	2022	2023	2024
Grant Expenditures	\$75,000				
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	\$75,000				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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Is Item Included In Current Budget?

Yes X

No

Does this Item include the use of Federal funds?

Yes

No X

Budget Account No.:

Fund 1539 Dept 143 Unit 109³ Object 8201 Program Code/Period N/A

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

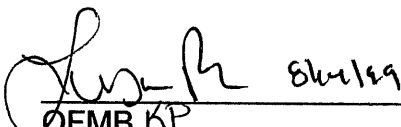

Approval of this agenda item will allocate \$75,000 in General Fund Ad Valorem dollars.

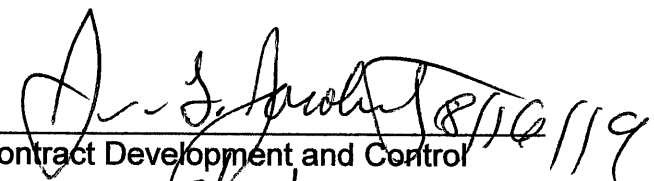
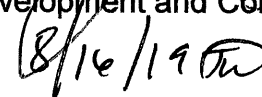
C. Departmental Fiscal Review:


Beverley Reid, Division Manager

III. REVIEW COMMENTS

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


OFMB KP
8/13



Contract Development and Control
8/16/19


B. Legal Sufficiency:


8/28/19
Assistant County Attorney

C. Other Department Review:

Department Director

**AGREEMENT BETWEEN PALM BEACH COUNTY
AND
PALM BEACH COUNTY FILM AND TELEVISION COMMISSION, INC.**

THIS AGREEMENT, with an effective date of **October 1, 2019**, by and between **Palm Beach County**, a political subdivision of the State of Florida, (hereinafter referred to as "County") and **Palm Beach County Film and Television Commission, Inc.**, a non-profit corporation duly organized and existing by virtue of the laws of the State of Florida (hereinafter referred to as the "Grantee"), having its principal office at 2195 Southern Boulevard, Suite 520, West Palm Beach, Florida 33406.

1. RECITALS

WHEREAS, the Grantee is a not-for-profit corporation dedicated to provide support for educational programs in the film and television industry in Palm Beach County; and

WHEREAS, the County has provided financial resources in support of educational programs in the film and television industry in Palm Beach County; and

WHEREAS, the County desires to engage the Grantee to implement the Palm Beach County Film & TV Tech Prep Program (hereinafter referred to as "Program"), in order to foster a stronger and more balanced economy in Palm Beach County; and

WHEREAS, the County and the Grantee desire to enter into this Agreement.

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

2. SCOPE OF SERVICES

The Grantee shall, in a satisfactory and proper manner as determined by the County, perform the tasks necessary to complete the Scope of Services outlined in Exhibit "A", submit invoices using the cover sheet as shown in Exhibit "B", and provide quarterly reports as shown in Exhibit "C", all of which are attached hereto and made a part hereof. In order to provide the services set forth in Exhibit "A", Grantee may enter into Agreements with various firms or individuals to assist Grantee in its performance of the activities or functions described in this Agreement, provided that the funds necessary to perform such duties, activities or functions are included in the budgeted amount set forth in Exhibit "A". The term of such Agreements shall not extend beyond the expiration or earlier termination of this Agreement or any renewal thereof, and all such Agreements shall expressly so provide. No such Agreement shall obligate the County in any manner to any third party.

3. EFFECTIVE DATE, TERM AND PERFORMANCE PERIOD

The effective date of this Agreement shall be **October 1, 2019**, and this Agreement shall end on **September 30, 2020** ("Grant Period") during which period the Grantee shall fulfill the obligations as scheduled in Exhibit "A". In any event, all services required hereunder shall be completed by the Grantee no later than **September 30, 2020**.

4. GRANT AMOUNT

- During the Grant Period, the County shall set aside Grant Funds in an amount not to exceed \$75,000 ("Grant Funds") for use by the Grantee in accordance with the Scope of Services as set forth in Exhibit "A," attached hereto and made a part hereof.
- The County will provide an initial advance to the Grantee of \$37,500. Following the initial advance, Grantee shall provide County with documentation outlined in #5 below on a monthly basis.

5. METHOD OF ADVANCE PAYMENTS RECONCILIATION

- Grantee shall submit for the prior month:
 - (i) copies of vendor invoices and corresponding check stub(s);
 - (ii) proof of receipt of the goods or services invoiced; and/or
 - (iii) any additional supporting documentation deemed necessary by the County and/or the Palm Beach County Clerk and Comptroller's Office.

- Grantee shall submit the aforementioned required documentation at the end of the month following the month that the expenses were incurred. For instance, if an expense is incurred in January, the documentation for that expense shall be submitted by the end of February. The County, through HES, will review supporting documentation to ensure, to its satisfaction, that all expenses satisfy the applicable requirements. Once Grantee is notified that the expenses satisfy the applicable requirements, then Grantee may request disbursement of funds, not to exceed the remaining \$37,500 with a justification for the request that is acceptable to the County.
- Additionally, for each vendor payment, the Grantee shall include a cover sheet that itemizes in sufficient detail for audit thereof and to establish that the Grantee directly incurred and paid for the eligible expense.
- Within 60 days of the end of the Grant Period, the Grantee shall reimburse the County for unspent funds and/or funds deemed to have been spent on ineligible expenses.

6. PURCHASING GUIDELINES

Grantee may enter into Agreements with firms or individuals for various goods and services needed to assist it in the performance of activities or functions specified in this Agreement. The term of any such Agreement shall not extend beyond the expiration or earlier termination of this Agreement and all such Agreements shall expressly so provide. Additionally, the Grantee shall comply with the following purchasing guidelines and requirements:

- Purchases between \$1,000 and \$5,000 – The Grantee may purchase goods and services valued between \$1,000 and \$5,000 upon obtaining verbal quotes from vendors. The Grantee shall make every effort to obtain a minimum of three (3) quotes.
- Purchases between \$5,001 and \$10,000 – The Grantee shall request written quotations for all purchases of goods and services valued between \$5,001 and \$10,000. The Grantee shall make every effort to receive a minimum of three (3) written quotes for each item or group of items being purchased. Requests for quotes shall be made to all prospective bidders, as feasible. The Grantee shall furnish the County with the responses or quotes received prior to the award. In the event the County shall question the recommended award, the Grantee shall establish the appropriateness of the award.
- Purchases exceeding \$10,000 – the Grantee shall request written proposals for all purchases of goods and services valued over \$10,000. The Grantee shall make every effort to secure at least three (3) written proposals for each item or group of items being purchased. Requests for proposals shall be made to all prospective bidders, as feasible. The Grantee shall furnish the County with the proposals received prior to the award. In the event the County shall question the recommended award, the Grantee shall establish the appropriateness of the award.

7. FINANCIAL ACCOUNTABILITY

The County as it deems necessary, may at any time, upon thirty (30) calendar days written notice, review the Grantee's financial systems, or conduct an audit of the Grantee or any of its subcontractors, in connection with any services being provided relating to this Agreement including, without limited to, any information necessary to determine the capability of the Grantee to fiscally manage the Scope of Services in accordance with County requirements.

8. SUBAGREEMENTS

The County reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. The Grantee is encouraged to seek small business enterprises, as certified by the County ("SBE"), for participation in subcontracting opportunities and shall aspire to obtain at least 20% SBE participation in connection with this Agreement.

9. REPORTS

A. Quarterly reports shall be submitted to the County, postmarked no later than fourteen (14) days after the end of the reporting period, as outlined in Exhibit "C". The reports shall be to the satisfaction of the County and be subject to verification. The County reserves the right to request additional reports from the Grantee, for any previous periods funded by the County upon ten (10) business days' notice. The final report produced and submitted by the Grantee will reflect quarterly and cumulative figures.

B. In compliance with Section 125.045(4), Florida Statutes, the Grantee shall submit an annual report detailing how the County funds were spent and the results of the Grantee's efforts on behalf of the County. The annual report shall cover the period from October 1 through September 30 of the reporting year and be due to the County no later than December 31st following the reporting year.

10. OPPORTUNITIES FOR RESIDENTS

To the greatest extent feasible, low-income residents of the County shall be given opportunities for training and employment; and to the greatest extent feasible, businesses located in or owned by persons residing in the County shall be awarded agreements in connection with the Grant Funds awarded pursuant to this Agreement.

11. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the Grantee shall make a positive effort to utilize small and minority/women-owned business enterprises as sources of supplies and services, and provide these enterprises the maximum feasible opportunity to compete for agreements to be performed pursuant to this Agreement. To the maximum extent feasible, these small and minority/women-owned business enterprises shall be located in or owned by residents of the County.

12. CIVIL RIGHTS COMPLIANCE AND NON-DISCRIMINATION POLICY

The Grantee acknowledges that the County is committed to assuring equal opportunity in the award of grants or contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Grantee warrants and represents that throughout the term of this Agreement, including any renewals thereof, all of its employees are treated equally during employment with regard to race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. Failure to meet this requirement shall be considered a breach of this Agreement and cause for termination.

In furtherance of such policy, the Grantee shall not, on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information, exclude any person from the benefits of, or subject any person to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the County shall have the right to terminate this Agreement.

13. CONFLICT OF INTEREST

The Grantee represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics.

The Grantee further represents that no person having any such conflict of interest shall be employed for said performance of services. The Grantee covenants that no person who presently exercises any functions or responsibilities in connection with the Program has any personal financial interest, direct or indirect, in the activities provided under this Agreement, which would conflict in any manner or degree with the performance of this Agreement.

The Grantee shall promptly notify the County's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the Grantee's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Grantee may

undertake and request an opinion of the County as to whether the association, interest or circumstance would, in the opinion of the County, constitute a conflict of interest if entered into by the Grantee. The County agrees to notify the Grantee of its opinion by certified mail within thirty (30) days of receipt of notification by the Grantee. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Grantee, the County shall so state in the notification and the Grantee shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the County by the Grantee under the terms of this Agreement.

14. AGREEMENT DOCUMENTS

The following documents are herein incorporated by reference or made part hereof, and shall constitute and be referred to as the Agreement; and all of said documents taken as a whole constitute the Agreement between the parties hereto and are as fully a part of the Agreement as if they were set forth verbatim and at length herein:

- A. This Agreement including its Exhibits;
- B. Title VI of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- C. The Drug-Free Workplace Act of 1988, as amended;
- D. The Grantee's Policies and Procedures Manuals, and Job descriptions;
- E. The Grantee's Articles of Incorporation and Bylaws;
- F. The Grantee's Certificate of Insurance;
- G. Current list of the Grantee's Officers and members of the Board of Directors;
- H. Proof of Grantee's 501(c)(3) certification from Internal Revenue Service (IRS);
- I. Florida Statute 112.061, relating to per diem, travel.

All of these documents shall be maintained on file by the Grantee. The Grantee shall keep an original of this Agreement, including its Exhibits, and all amendments thereto, on file at its principal office.

15. FEDERAL AND STATE TAX

The County is exempt from payment of Florida State Sales and Use Taxes. The County will sign an exemption certificate submitted by the Grantee. Grantee shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, nor is the Grantee authorized to use the County's Tax Exemption Number in securing such materials. The Grantee shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

16. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Florida. Unless otherwise agreed to in writing by the parties, any and all legal action necessary to enforce the Agreement shall be held in a court of competent jurisdiction located in Palm Beach County, Florida.

17. BINDING EFFECT

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns.

18. CONSTRUCTION OF AGREEMENT

No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at this final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based on who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

19. ENTIRETY OF AGREEMENT

The County and the Grantee agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

20. RECOGNITION

The Grantee shall include a reference to the financial support herein provided by the County in all publications and publicity. In addition, the Grantee shall make a good faith effort to recognize County support for all activities made possible with funds available under this Agreement.

21. SEVERABILITY OF PROVISIONS

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

22. NO FORFEITURE

The rights of the County under this Agreement shall be cumulative and failure on the part of the County to exercise promptly any rights given hereunder shall not operate to forfeit or waive any of the said rights.

23. DEFAULT

In the event the Grantee fails or refuses to perform any term, covenant, or condition of this Agreement for which a specific remedy is not set forth in the Agreement, the County shall, in addition to any other remedies provided at law or in equity, have the right of specific performance thereof.

24. FAILURE TO COMPLY

If the Grantee fails to comply with any of the provisions of this Agreement, the County may exercise any and all legal rights and remedies including, without limitation, withholding, temporarily or permanently, all, or any, unpaid portion of the Grant Funds upon giving written notice to the Grantee, terminating this Agreement, and/or demanding a refund of the Grant Funds, which shall be reimbursed upon demand. In the event of Grantee's failure to comply with any provisions of this Agreement, the County shall have no further funding obligation to the Grantee under this Agreement.

25. EXCUSABLE DELAYS

The Grantee shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Grantee or its subcontractors and without their fault or negligence, as determined by the County in its sole discretion. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the Grantee's request, the County shall consider the facts and extent of any failure to perform the work and, if the County determines in its sole discretion that the Grantee's failure to perform was without it or its subcontractors fault or negligence, the Agreement schedule and/or any other affected provision of this Agreement shall be revised accordingly, subject to the County's rights to change, terminate, or stop any or all of the work at any time.

26. WAIVER

No waiver of any provision of this Agreement shall be effective against any party hereto unless it is in writing and signed by the party(s) waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

27. REMEDIES

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

28. TERMINATION

- A. Termination for Cause:** In the event of Grantee's breach of this Agreement or failure to timely pursue its obligations under this Agreement, County shall have the right to terminate this Agreement in whole or in part upon ten (10) business days' notice to Grantee. In the event of termination under this subparagraph, the Grantee shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Grantee. In addition, in the event of termination under this subparagraph, County may withhold any undisbursed payment to the Grantee regardless of whether Grantee has rendered services pursuant to this Agreement.
- B. Termination for Convenience:** At any time during the term of this Agreement, County may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to Grantee. Upon termination under this subparagraph for convenience, the County shall pay the Grantee for services rendered pursuant to this Agreement through and including the date of termination.

If County exercises its option to terminate this Agreement for breach, convenience, or otherwise, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment obtained by the Grantee with funds under this Agreement shall be returned to the County.

29. AMENDMENTS

None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

30. INDEPENDENT CONTRACTOR RELATIONSHIP

The Grantee is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Grantee's sole direction, supervision, and control. The Grantee shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Grantee's relationship and the relationship of its employees to the County shall be that of an Independent Contractor and not as employees or agents of the County. The Grantee does not have the power or authority to bind the County in any promise, agreement or representation.

31. SUCCESSORS AND ASSIGNS

This Agreement is binding upon the parties hereto, their heirs, successors, and assigns. Neither this Agreement nor any obligation hereunder shall be assigned, subcontracted, transferred or otherwise encumbered by the Grantee without the prior written consent of the County. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and the Grantee.

32. DATA BECOMES COUNTY PROPERTY

All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the Grantee for the purpose of this Agreement shall become the property of the County without restriction, reservation, or limitation of their use and shall be made available by the Grantee at any time upon request by the County. Upon completion of all work contemplated under this Agreement, copies of all documents and records relating to this Agreement shall be surrendered to the County if requested. In any event, the Grantee shall keep all documents and records for a minimum of three (3) years, or longer if required by applicable law, after expiration of this Agreement.

33. EVALUATION AND MONITORING

The Grantee agrees that the County will carry out periodic monitoring and evaluation activities as determined necessary by the County and that the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement and comparisons of planned versus actual progress relating to project scheduling, budgets, audit reports, and output measures. The Grantee shall submit information and status reports required by the County, on forms approved by the County.

The Grantee shall allow the County to monitor the Grantee on site. Such visits may be scheduled or unscheduled as determined by the County.

34. ACCESS AND AUDITS

The Grantee shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years, or longer if required by applicable law, after completion or termination of this Agreement. The County shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Grantee's place of business.

35. OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County Agreements, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Grantee, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

36. INSURANCE

The Grantee shall maintain at its sole expense, in full force and effect, at all times during the term of this Agreement, insurance coverage and limits (including endorsements) as described herein. Failure to maintain the required insurance shall be considered default of the Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by the Grantee, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Grantee under the Agreement. The Grantee agrees to notify the COUNTY at least ten (10) days prior to cancellation, non-renewal or material change to the required insurance coverage. Where applicable, coverage shall apply on a primary basis.

- A. Commercial General Liability: Grantee shall maintain Commercial General Liability at a limit of liability not less than \$500,000 each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.
- B. Additional Insured Clause: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners" and "Palm Beach County Film and Television Commission, Inc." as Additional Insureds. A copy of the endorsement shall be provided to COUNTY upon request.
- C. Waiver of Subrogation: Grantee hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Grantee shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should Grantee enter into such an agreement on a pre-loss basis.
- D. Certificates of Insurance: Grantee shall provide proof of insurance within forty-eight (48) hours of a request by COUNTY, and subsequently, prior to expiration of any of the required coverage throughout the term of this Agreement, the Grantee shall deliver to the COUNTY, a signed Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. Said Certificate(s) of Insurance shall, to the extent allowable by the insurer, include a minimum thirty (30) days' endeavor to notify due to cancellation (10 days' for nonpayment of premium) or non-renewal of coverage. The Certificate Holder shall read:

Palm Beach County Board of County Commissioners
c/o Department of Housing & Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

- E. Right to Revise or Reject: COUNTY, by and through its Risk Management Department in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

37. INDEMNIFICATION

The Grantee agrees to protect, defend, reimburse, indemnify and hold the County, its agents, its employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees, and causes of action of every kind and character against and from the County which arise out of or relate in any way to this Agreement or the acts or omissions of Grantee or its officers, agents, and employees. The Grantee recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of good and valuable consideration provided by the County in support of this clause. This paragraph shall survive the termination of the Agreement.

38. ARREARS

The Grantee has no authority or power and shall not pledge the County's credit or make it a guarantor of payment or surety for any Agreement, debt, obligation, judgment, lien, or any form of indebtedness. The Grantee further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

39. PUBLIC ENTITY CRIMES

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

40. REGULATIONS: LICENSING REQUIREMENTS:

The Grantee shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. Grantee is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

41. CRIMINAL HISTORY RECORDS CHECK

If Grantee's employees or sub-contractors are required under this Agreement to enter a "critical facility" as identified in Resolution R-2003-1274, the Grantee shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The Grantee acknowledges and agrees that all employees and sub-contractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although County agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the Grantee shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

42. EXCLUSION OF THIRD PARTY BENEFICIARIES

No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the County and/or the Grantee.

43. AVAILABILITY OF FUNDS

The County's obligation to pay under this Agreement is contingent upon annual appropriation for its purpose by the Board of County Commissioners.

44. COUNTY FUNDED PROGRAMS

County funding may be used to match grants from other non-County sources; however, the Grantee cannot submit payment requests for the same expenses to more than one funding source or under more than one County funded program.

45. AUTHORITY TO PRACTICE

Grantee hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County's representative upon request.

46. NOTICES

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the County, notices shall be addressed to:

Sherry Howard, Deputy Director
Department of Housing & Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

With copy to:

David C. Behar, Assistant County Attorney
Palm Beach County Attorney's Office
301 North Olive Ave.
West Palm Beach, FL 33401

If sent to the Grantee, notices shall be addressed to:

Chuck Elder, Film Commissioner
Palm Beach County Film and Television Commission
2195 Southern Boulevard – Suite 520
West Palm Beach, Florida 33406

Such addresses may be changed by any party by written notice to the other party.

47. HEADINGS

The headings of the sections, paragraphs, divisions, subdivisions, part and subparts of this Agreement are for the convenience of reference only, and shall not limit or otherwise affect any of the terms hereof.

48. NUMBER AND GENDER

Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the others and shall apply jointly and severally.

49. INCORPORATION BY REFERENCE

Exhibits attached hereto and referenced herein or in Exhibit "A" shall be deemed to be incorporated into this Agreement by reference.

50. PUBLIC RECORDS

Notwithstanding anything contained herein to the contrary, the Grantee acknowledges that its records relating to this Agreement may constitute public records for the purposes of Chapter 119, F.S., and agrees that it will comply and maintain such records in accordance with Florida's public records laws. To that end, Grantee agrees that it will:

- A. Upon request from the COUNTY, provide the COUNTY with a copy of any requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Grantee further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Procedures and Fees for Public Record Requests, as it may be amended or replaced from time to time.

- B. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if the Grantee does not transfer the records to the public agency.
- C. Upon completion of the Agreement the Grantee shall transfer, at no cost to the COUNTY, all public records in possession of the Consultant unless notified by COUNTY'S representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the COUNTY to perform the service. If the Grantee transfers all public records to the COUNTY upon completion of the Agreement, the Grantee shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Grantee keeps and maintains public records upon completion of the Agreement, the Grantee shall meet all applicable requirements for retaining public records. All records stored electronically by the Grantee must be provided to the COUNTY, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of COUNTY, at no cost to the COUNTY.
- D. The parties agree to ensure that any confidential and exempt, or otherwise legally protected information shall not be disclosed except as authorized by law.

Failure of the Grantee to comply with the requirements of this article shall be a material breach of this Agreement. COUNTY shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate. Grantee acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein. This section on public records shall survive the expiration or earlier termination of this Agreement.

IF THE GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 NORTH OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT (561) 355-6680.


51. COUNTERPARTS

This Agreement, which includes the Exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Agreement on behalf of the County and the Grantee has set its hand and seal the above date first written.

(SEAL)

**PALM BEACH COUNTY FILM AND
TELEVISION COMMISSION, INC.**

By: 
Douglas Rill, Secretary

By: 
Chuck Elder, Film Commissioner

(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

BOARD OF COUNTY COMMISSIONERS

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____
Mack Bernard, Mayor
Palm Beach County

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form
and Legal Sufficiency

Approved as to Terms and Conditions
Department of Housing & Economic Sustainability

By: _____
David Behar
Assistant County Attorney

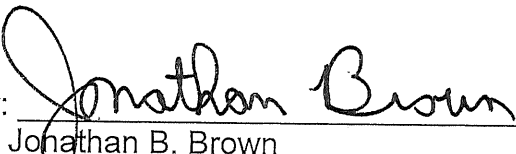
By: 
Jonathan B. Brown
Director

EXHIBIT "A"

SCOPE OF SERVICES:

I. The Grantee agrees to:

The Grantee agrees to provide the below described deliverables in accordance with the funding and reconciliation procedures pursuant to Paragraph 4 & Paragraph 5 herein.

- A.** In an effort to prepare high school students for career pathways in, and to create a future workforce in the film and television industry in Palm Beach County through the Film & TV Tech Prep Program ("Program") the Grantee shall undertake the following:

♦ The Grantee shall plan, organize, facilitate and execute all aspects of producing the largest film competition and live awards ceremony within the state of Florida, the 2020 Student Showcase of Films (SSOF). The SSOF awards ceremony to be undertaken by the Grantee shall be a fully scripted, professionally staged live show, which shall bring together the media, celebrities, students, industry veterans, and educators.

The SSOF, to be carried out by the Grantee, shall include a red carpet awards ceremony to honor Florida high school and college student filmmakers and to celebrate the artistic successes they have achieved in this field. The Grantee shall award winners of the competition in several categories to include but not be limited to:

- 1) Feature/Short
- 2) Documentary
- 3) Animation
- 4) Music Video
- 5) Commercial / Public Service Announcement, and
- 6) Poster

The Grantee shall also award the Burt Reynolds Scholarship.

♦ In connection with the above, the Grantee shall define competition categories and rules for the SSOF, and shall update and deploy all marketing materials for this event. The Grantee shall select national and international industry professionals to judge student entries in each category. The Grantee shall set deadlines, organize production meetings and contractual services, technical crews and vendors as needed.

The Grantee shall also contract with a temporary assistant producer, if necessary, to coordinate the administrative logistics of the SSOF competition and awards ceremony whose responsibilities shall include scheduling, writing letters and press releases, data entry, wrangling students and volunteers, coordinating the awards, trophies and event program, securing equipment, props and transportation, assembling various packages for the judges, student winners, guests.

♦ The Grantee shall secure a location to host the show, hire a public relations partner, hire a host, prepare entries for judging, tally all scores, create and design the set concept and theme, write the show script, and manage sound and lighting requirements. In addition, the Grantee shall produce, film, and edit introductions to all film categories, edit an opening film montage, edit clips of all winning films, create a sound track and facilitate all technical aspects of the load-in, rehearsal and show. This shall include ordering office supplies, coding and paying invoices, coordinating and attending production meetings, designing programs for the SSOF, purchasing trophies, securing sponsors and volunteers and sending thank you letters to participants, sponsors, guests, talent, and judges involved in the competition and show

♦ The Grantee shall collaborate with various associations such as the Burt Reynolds Institute for Theatre, the Palm Beach County Film & Television Institute, Film Florida and others to utilize additional resources and secure sponsorships and other costs associated with SSOF.

- B. Provide up to \$15,000 in awards and scholarships to the Student Showcase of Films winning student filmmakers and/or film programs.
- C. Produce, write, conduct interviews and edit a one-half hour (30 minutes) TV show on the Palm Beach International Film Festival in partnership with Channel 20 titled, *The Student Showcase of Films Special Edition*. The Grantee shall coordinate with the Channel 20 crew to film all aspects of the live show.

II. The County Agrees to:

- A. The County agrees to provide Grant Funds for the above described deliverables to be provided by the Grantee in accordance with Paragraph 4 and Paragraph 5 as set forth herein.
- B. Monitor the Grantee any time during the term of this Agreement. Visits may be scheduled or unscheduled as determined by HES. Visits may be conducted by HES staff to ensure compliance with this Agreement, to ensure that planned activities are conducted in a timely manner, and to verify the accuracy of Grantee's reporting to HES on such activities.

EXHIBIT "B"

LETTERHEAD STATIONERY

DATE: _____

TO: Sherry Howard, Deputy Director
Department of Housing & Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

FROM: Chuck Elder, Film Commissioner
Palm Beach County Film and Television Commission
2195 Southern Boulevard – Suite 520
West Palm Beach, Florida 33406

SUBJECT: **FUNDING INVOICE
AGREEMENT (R_____ - _____)**

Attached you will find Invoice Number _____ requesting payment in the amount of \$_____.

The expenses represented in this invoice cover the period of _____ through _____. You will also find attached originals or copies of supporting documentation, including but not limited to, invoice and check stubs, relating to eligible expenses involved with this project.

Approved for Submission:

By: _____
Name

Signature

EXHIBIT "C"
QUARTERLY REPORT

Report Date: _____

Report submitted by: **Palm Beach County Film and Television Commission, Inc.**

REPORTING PERIOD	DUE DATE
<input type="checkbox"/> First Quarter: October 1, 2019 to December 31, 2019	January 14, 2020
<input type="checkbox"/> Second Quarter: January 1, 2020 to March 31, 2020	April 14, 2020
<input type="checkbox"/> Third Quarter: April 1, 2020 to June 30, 2020	July 14, 2020
<input type="checkbox"/> Fourth Quarter: July 1, 2020 to September 30, 2020	October 14, 2020

PERFORMANCE OUTCOME

Provide *cumulative* quarterly information and supporting documentation about the following Agreement deliverables specified in Exhibit A and other related activities. Report the *status of completion* of each performance measure as completed, ongoing or pending.

1. Production of the 2020 Student Showcase of Films Competition and Awards Ceremony (SSOF):

Status: ☐ Completed ☐ Ongoing ☐ Pending

Describe progress to date: _____

List supporting documentation: _____

2. Award up to \$15,000 in scholarships to the Student Showcase of Films winning student filmmakers and/or film programs:

Status: ☐ Completed ☐ Ongoing ☐ Pending

Describe progress to date: _____

List supporting documentation: _____

3. Half-hour TV show, The Student Showcase of Films Special Edition:

Status: ☐ Completed ☐ Ongoing ☐ Pending

Describe progress to date: _____

List supporting documentation: _____

Signature _____
Michelle Hillery, Deputy Film Commissioner
PBC Film & TV Commission