# Agenda Item #3.M.2

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

### **AGENDA ITEM SUMMARY**

Meeting Date:	December 21, 2021	[X] Consent [ ] Ordinance	[ ] Regular [ ] Public Hearing
Department:	Parks and Recreation		
Submitted By:	Parks and Recreation Department		
Submitted For:	Parks and Recreation Department	<u> </u>	

## I. EXECUTIVE BRIEF

**Motion and Title: Staff recommends motion to approve:** Amendment No. 1 to Agreement (R2020-0526) with The Morikami Inc., a Florida not-for-profit corporation, for the funding, support, and use of the Morikami Museum and Japanese Gardens.

**Summary:** On May 5, 2020, the County and The Morikami, Inc. entered into an Agreement (R-2020-0526), superseding Agreements R2017-0759, R99-78D and R88-1675D for the funding, support, and use of the Morikami Museum and Japanese Gardens ("Museum"). The Agreement included language that allowed The Morikami Inc. to make capital improvements to the Museum with prior County approval. Since that time, it was brought to our attention that this Agreement does not conform with the Facilities Development and Operations Department PPM CW-O-095, Capital Improvements to County Facilities by Non-County Entities. Amendment No.1 amends the Agreement by adding the required procedures as outlined in County PPM CW-O-095. The Facilities Development and Operations Department is in support of the updated language. The Morikami Inc. has approved this Amendment. <u>District 5</u> (AH)

Background and Policy Issues: In the 1970s, the late George Morikami donated land to Palm Beach County and the State of Florida for the construction of a public park. The County opened the first phase of the park in 1977 on 40 acres which included a traditional Japanese residence and a modern garden. In 1993, a 32,000 square foot museum opened featuring a theater, café, exhibit space, library, offices and a museum store. Between 1999 and 2001, the Japanese Gardens were created on 16 acres adjoining the museum. The Morikami Inc. has partnered with the County for over 30 years and has provided financial, operational, and advisory support to the Museum. The annual financial support has grown to \$3.6 million, inclusive of the employment of a staff of 33 that support the Museum's operations. The Morikami Inc. manages an endowment which is currently valued at over \$6 million and has funded and facilitated a number of renovation projects including the refurbishment of the theater, the installation of new light and sound systems, the renovation of the galleries, the café, terrace and classroom. The Morikami Inc. has also completed a \$482,000 grant funded renovation of the Yamato-kan building adding impact windows and doors, air conditioning and interior and exterior improvements to the building. In 2014, the Board of County Commissioners approved a master plan for the development of the Museum. The Morikami Inc. will be an important financial and advisory partner in completing the components of the Master Plan.

Attachment: Amendment No. 1 to the Morikami, Inc. Agreement						
Recommended by: _	Department Director	<u>//- 2ゲ-                                 </u>				
Approved by:	Doma M Milly Assistant County Administrator	13/9/2021   Date				

# **II. FISCAL IMPACT ANALYSIS**

A. Five Year Summary of F	iscal Impa	ict:			
Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures Operating Costs External Revenues Program Income (County) In-Kind Match (County					
NET FISCAL IMPACT	0-	0-	0	0-	0
# ADDITIONAL FTE POSITIONS (Cumulative)					
Is Item Included in Current B Does this item include use of		ınds?	Yes	No No	X X
		epartment_ Revenue So		_ Program	
B. Recommended Sources	of Funds	/Summary of	Fiscal Impa	ct:	
There is no fiscal impact	associated	with this item	l.		
C. Departmental Fiscal Rev		rechy Ing			
A. OFMB Fiscal and/or Con	tract Deve	lopment and	Control Con	nments:	
OFMB JIT 11.24.21  MG 1(124/2)  B. Legal Sufficiency:	11/24/		ontract Deve	- Addle Opment & Co	introl DIS 12
Jean-adel Will Assistant County Attorney	liams				
C. Other Departmental Rev	iew:				
Department Director  This summany is not to be used a	as a basis f	or navment			
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### AMENDMENT NO. 1

# TO AGREEMENT BETWEEN PALM BEACH COUNTY AND THE MORIKAMI, INC. FOR THE FUNDING, SUPPORT AND USE OF THE MORIKAMI MUSEUM AND JAPANESE GARDENS

This Amendment No. 1 ("Amendment") is made and entered into on						
2021 by and between Palm Beach County ("County"), a political subdivision of the Stat	e of					
Florida and <b>The Morikami</b> , <b>Inc.</b> a Florida not-for-profit corporation (the "Corporation").						

#### WITNESSETH

WHEREAS, on May 5, 2020, the parties hereto entered into the Agreement for the Funding, Support and Use of the Morikami Museum and Japanese Gardens (R2020-0526) (hereinafter the "Agreement") under which the Corporation provides financial, operational and advisory support to the County for the County's Morikami Museum and Japanese Gardens; and

WHEREAS, the parties now desire to amend and modify certain provisions of the Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants, promises and representations contained herein, the Parties agree as follows:

- 1. Recitals. The above recitals are true and correct and incorporated herein by reference.
- 2. <u>Agreement Modifications and Additions</u>. The following provisions of the Agreement are modified as follows:

Section 3.34 of the Agreement is deleted in its entirety and replaced with the following new provision:

3.34 Capital Improvements. Capital Improvement projects performed by the Corporation, regardless of whether funded by the County or the Corporation, shall require County approval subject to County Policy PPM CW-O-095 as may be amended. For jointly funded projects, the County in its sole discretion may elect to reimburse the Corporation for capital improvements that it makes on behalf of the County up to a maximum of two hundred and fifty thousand dollars per project. Requests for reimbursement of eligible capital improvements shall be submitted to the County along with proof of performance and payment, including, without

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limitation, vendor invoices and corresponding canceled checks or bank advices. The Corporation understands and acknowledges that prior to payment, all invoices need to be approved by both the County and the Clerk & Comptroller's Finance Department. The County will endeavor to reimburse the Corporation for eligible expenses within 45 days of County approval of invoices. The County shall have the right to fund and make any capital improvement, addition, modification or repair to the Museum Premises it determines is warranted or is deemed reasonably necessary.

- 3. <u>All Other Terms Affirmed.</u> In all other respects, the terms and conditions of the Agreement shall remain in full force and effect and are hereby ratified and affirmed by the parties hereto.
- **4.** <u>Governing Law.</u> This Amendment shall be governed by and construed in accordance with the laws of the State of Florida, without regard to conflicts of law.

THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY

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**IN WITNESS WHEREOF,** the parties hereto have caused this Amendment to the Agreement to be executed as of the day and year first above written.

ATTEST:	
JOSEPH ABRUZZO CLERK OF THE CIRCUIT COURT & COMPTROLLER	PALM BEACH COUNTY, a political subdivision of the State of Florida
By: Deputy Clerk	By:
APPROVED AS TO LEGAL SUFFICIENCY  By: Than-ladel Williams Assistant County Attorney	APPROVED AS TO TERMS AND CONDITIONS  By:  Director, Parks and Recreation
	By: Director, FDO
Witness:  Peul D Connell  Paul D Connell	The Morikami, Inc.  By: Clia Jurner Sahringer  Celia Turner Zahringer  President, Board of Trustees

Witness Name Printed

Client#: 153918 MORIINC

ACORD...

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/29/2021

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

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

PRODUCER		CONTACT Evelyn D. Ambler				
CBIZ Weekes & Callaway		PHONE (A/C, No, Ext): 561 900-1636	FAX (A/C, No): 561 2	276-8261		
3945 West Atlantic Avenue		E-MAIL ADDRESS: eambler@cbiz.com				
Delray Beach, FL 33445		INSURER(S) AFFORDING COVER	NAIC#			
561 278-0448		INSURER A: Philadelphia Indemnity		18058		
INSURED		INSURER B : Zenith Insurance Co.	13269			
The Morikami, Inc 4000 Morikami Pa		INSURER C:				
		INSURER D:				
Delray Beach, FL	33446	INSURER E :				
		INSURER F:				
COVEDACES	CEDTIEICATE MUMDED.	DEVICION NI	IMPED			

COVERAGES CERTIFICATE NUMBER:					NUMBER:	REVISION NUMBER:			
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD									
INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,									
EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.									
INSR LTR		TYPE OF INSURANCE	ADDL SUBR INSR WVD POLICY NUMBER		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	CY EFF POLICY EXP D/YYYY) (MM/DD/YYYY) LIMITS		s
Α	Х	I .	Х		BINDER1344012			EACH OCCURRENCE	\$1,000,000
•		CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000
	Х	Liquor Liability						MED EXP (Any one person)	\$5,000
								PERSONAL & ADV INJURY	\$1,000,000
	GEN	N'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$3,000,000
		POLICY PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$3,000,000
		OTHER:							\$
Α	AUT	OMOBILE LIABILITY			BINDER1344012	09/30/2021	09/30/2022	COMBINED SINGLE LIMIT (Ea accident)	<sub>\$</sub> 1,000,000
		ANY AUTO						BODILY INJURY (Per person)	\$
Ì		OWNED SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$
ļ	X	HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
									\$
Α		UMBRELLA LIAB OCCUR			BINDER1344436	09/30/2021	09/30/2022	EACH OCCURRENCE	\$4,000,000
	X	EXCESS LIAB X CLAIMS-MADE						AGGREGATE	\$4,000,000
		DED X RETENTION \$10000						Inch   CTI	\$
В	AND	RKERS COMPENSATION DEMPLOYERS' LIABILITY Y / N			Z065509619	09/30/2021	09/30/2022	X PER OTH- ER	
	ANY	PROPRIETOR/PARTNER/EXECUTIVE N	N/A					E.L. EACH ACCIDENT	\$1,000,000
l		ndatory in NH) s, describe under						E.L. DISEASE - EA EMPLOYEE	\$1,000,000
<u> </u>	DÉS	CRIPTION OF OPERATIONS below			, ,			E.L. DISEASE - POLICY LIMIT	\$1,000,000
							<u> </u>		
		rion of operations / Locations / vehic - 4000 Morikami Park Rd Stor				e, may be attached if mo	ore space is requ	ired)	
ı		ng # 1 Museum Storage Buildi	_		ruy 2000, r 2				
		.g	-3						
								•	
CERTIFICATE HOLDER CANCELLATION									
CERTIFICATE HOLDER CANCELLATION									
	Palm Beach County Parks and SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF NOTICE WILL BE DELIVERED IN								
						REOF, NOTICE WILL B	E DELIVERED IN		
1	Recreation Department Director ACCORDANCE WITH THE POLICY PROVISIONS.								
of Parks and Recreation			AUTHORIZED REPRESE	NTATIVE					

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