

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Capital Expenditures					
Operating Costs	\$2,650,000				
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	\$2,650,000				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes X No
 Does this item include the use of federal funds? Yes No X
 Is this Item using State funds? Yes No X

Budget Account No.: Fund 1164 Dept 760 Unit 212A Object
 Reporting Category

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

C. Department Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

 Jose Maria 12/27/2023 *Garry M. Amici* 1/9/24
 OFMB Contract Dev. and Control
APP 12/27

B. Approved as to form and Legal Sufficiency:

 [Signature] 1/16/24
 County Attorney

C. Approved as to Terms and Conditions:

 Department Director

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

(Continued from Page 1)

- G. An Agreement between Palm Beach County and Friends of Sandoway House Nature Center, Inc. for the Cultural Capital Fund Grant, in the amount of \$130,000, to renovate the Sandoway Discovery Center entrance; and
- H. an Agreement between Palm Beach County and Cultural Council of Palm Beach County, Inc. for administration of Cultural Capital Fund Grants, in the amount of \$25,000, to monitor and evaluate the activities of grant recipients for compliance with the grant program.

SUMMARY: On July 12, 2022, the Board of County Commissioners (BCC) designated \$4,000,000 of ARPA Response Replacement funds for Cultural activities. The Cultural Council was designated to administer a grant process for \$3,000,000 of the \$4,000,000 funding. These funds will be expended between September 1, 2023 and December 31, 2026 to support cultural infrastructure projects of various local non-profit cultural organizations. The Agreement with the Cultural Council requires the Cultural Council to monitor and evaluate the activities of each grantee for compliance with each grant agreement. The Cultural Council Agreement is retroactive to September 1, 2023, the date on which the Cultural Council began work to convene the grant panel to review grantee applications. The grant agreements will fund capital improvements, which will expand and improve resident and visitor experiences in Palm Beach County. The total amount of the grant agreements and the Cultural Council agreement is \$2,650,000. There is one additional agreement, which will be brought before the BCC for capital improvements at Florida Atlantic University in the amount of \$350,000. This agreement remains in contract negotiations and is anticipated to be brought to the BCC for approval during a future Board meeting. The remaining \$1,000,000 in project(s) will be submitted to the BCC at a later date. **These are County ARPA Response Replacement funds that do not require a local match.** Districts 1, 2, 3, & 4 (YBH)

Background and Justification: On July 12, 2022, the BCC approved establishing budgets within the ARPA Response Replacement Projects Fund. One of the ARPA Response Replacement Projects categories is for Cultural Capital Improvements. Through the budgetary process, funding has been set aside to fund assistance in capital projects of non-profit cultural organizations through a grant process and funding to the Cultural Council to administer the cultural capital fund grants. The grant agreements and the Cultural Council agreement are now being submitted for approval.

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
ANN NORTON SCULPTURE GARDENS, INC.,
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20___, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **ANN NORTON SCULPTURE GARDENS, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 59-1874060 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$400,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding

paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s pre-payment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY**'s determination.
- D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.

5. **GRANTEE's Obligations.**

- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
- B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
- C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
- D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
- E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.

6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE**'s program, procedures, and operations under this Grant, or to discuss the **GRANTEE**'s **CAPITAL IMPROVEMENT** with the **GRANTEE**'s personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY**'s participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.

7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Mark Veil
2051 S, Flagler Dr.
West Palm Beach, FL 33401

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
- A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
- B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 **AGREEMENT** term and following completion of the **AGREEMENT**, if the **GRANTEE** does not transfer the records to the public agency.
- D. Upon completion of the **AGREEMENT** the **GRANTEE** shall transfer, at no cost to the **COUNTY**, all public records in possession of the **GRANTEE** 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 **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 **COUNTY**.
- E. 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 for cause. **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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of **GRANTEE**, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. **GRANTEE's** failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

15. **Remedies/Jury Waiver.** This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. **Insurance.** The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. **Commercial General Liability:** **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. **Workers' Compensation Insurance & Employer's Liability:** **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. **Professional Liability:** **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

- D. **Waiver of Subrogation:** Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.
- E. **Certificates of Insurance:** On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

- F. **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.
17. **Severability.** In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.
18. **Public Entity Crimes.** As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
19. **Scrutinized Companies.** As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)9b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.
20. **E-Verify-Employment Eligibility.** **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE: ANN NORTON SCULPTURE GARDENS, INC.

DocuSigned by:
Frances Fisher

AA35F1A5DCBA4DD...
Signature

Frances Fisher, President
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By ybh
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

By DocuSigned by:
Emanuel Perry

187F96C7C13F47E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** description. The **CAPITAL IMPROVEMENT** consists of the work specified below to repair, restore, and renovate GRANTEE’s existing building (Building). The **GRANT** is used to offset costs as shown below:

Line Items	GRANT AMOUNT	GRANTEE Funded
<p>1. Surgical Building Assessment This initial step will expose roof and wall cavities so the condition of the Building's structure, and electrical and plumbing systems, can be assessed.</p>	\$ 12,000.00	\$0
<p>2. Assessment Report and Recommendations A summary of the findings of the surgical assessment of the Building will be published in an Engineering and Architectural Summary.</p>	\$ 8,000.00	\$0
<p>3. Reconstruction, Shoring and Stabilization First, all ceiling and wall surfaces partially removed for assessment of the Building will be restored. Second, if significant structural deficiencies of the Building are discovered, temporary stabilization measures will be installed.</p>	\$ 10,000.00 \$ 50,000.00	\$0 \$0
<p>4. Restoration, Preservation, and Repurposing Design Phase A schematic design for the Building has already been prepared and approved for the project. The Design Phase will advance the schematic to a full set of permit level documents - including all structural, electrical, plumbing, and HVAC engineering.</p>	\$ 65,000.00	\$0
<p>5. Permitting Phase During this phase, the permit documents are submitted to the West Palm Beach Building Department and Historic Preservation Division for review and acceptance. Negotiations with city staff and reviewers, and revisions to the permit documents make up this phase.</p>	\$ 3,000.00	\$0
<p>6. Construction Phase Upon receiving a building permit for the full restoration of the Building, repair and repurposing of the existing Building structure into a lecture hall and classroom will be completed. It will include the following.</p> <p><u>Exterior of the Building:</u></p> <p>a. Exterior demolition and repair to all structural and plaster systems. \$ 80,000.00 \$0</p> <p>b. Replacement of existing windows with aesthetically compatible hurricane rated units. \$ 60,000.00 \$0</p> <p>c. Roof replacement. \$ 50,000.00 \$0</p> <p>d. Exterior door replacement with hurricane rated units. \$ 62,000.00 \$ 88,000.00</p> <p><u>Interior of the Building:</u></p> <p>a. Removal of all interior walls and finishes. \$0 \$ 25,000.00</p> <p>b. Replacement of all outdated electrical, plumbing and HVAC systems. \$0 \$ 350,000.00</p> <p>c. Foundation enhancement and repair. \$0 \$ 65,000.00</p> <p>d. Interior reconstruction to include a climate controlled, state of the art archival space; a 32-seat classroom/lecture hall; ADA compliant bathrooms; catering kitchen and a general purpose maintenance facility. \$0</p>		\$ 1,000,000.00

e. Installation of museum quality security and fire protection systems.

\$0	\$ 50,000.00
\$ 400,000.00	\$ 1,578,000.00

Totals

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:

- a. Developer fees;
- b. Design studies;
- c. Recapitalization and refinancing;
- d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
- e. Legal fees, insurance and liability insurances, and membership fees;
- f. Staff salaries and benefits;
- g. Operational and overhead expenditures;
- h. Marketing and promotional costs and expenses;
- i. Strategic planning, annual reports, and expenses related to developing a long- term plan to reposition the **GRANTEE**'s infrastructure;
- j. Cash reserves;
- k. Consumable supplies and materials;
- l. Activities that are solely for fundraising;
- m. Private functions, religious services, lobbying activities, and any non-public activity;
- n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
- o. Long-term debt.

3. **GRANTEE** further warrants and represents, as follows:

- a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
- b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
- c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B
RECOGNITION

GRANTEE shall install and maintain in perpetuity recognition on the GRANTEE's donor wall, located in the front lobby of the Building.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND ANN NORTON SCULPTURE GARDENS, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: ANN NORTON SCULPTURE GARDENS, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
BOCA RATON MUSEUM OF ART, INC.
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20___, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **BOCA RATON MUSEUM OF ART, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 59-6019851 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$242,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding

paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s pre-payment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY**'s determination.
- D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.

5. **GRANTEE's Obligations.**

- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
- B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
- C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
- D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
- E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.

6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE's** program, procedures, and operations under this Grant, or to discuss the **GRANTEE's CAPITAL IMPROVEMENT** with the **GRANTEE's** personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY's** participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.

7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Jody Harrison Grass
501 Plaza Real
Boca Raton, FL 33432

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
- A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
- B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 **AGREEMENT** term and following completion of the **AGREEMENT**, if the **GRANTEE** does not transfer the records to the public agency.
- D. Upon completion of the **AGREEMENT** the **GRANTEE** shall transfer, at no cost to the **COUNTY**, all public records in possession of the **GRANTEE** 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 **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 **COUNTY**.
- E. 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 for cause. **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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of **GRANTEE**, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. **GRANTEE's** failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

15. Remedies/Jury Waiver. This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. Insurance. The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. Commercial General Liability: **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. Workers' Compensation Insurance & Employer's Liability: **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. Professional Liability: **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

- D. **Waiver of Subrogation:** Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.
- E. **Certificates of Insurance:** On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:
- Palm Beach County Board of County Commissioners and may be addressed:
c/o Department
- Using the address as indicated in the "Notices" article or another address on agreement of the parties.
- F. **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.
17. **Severability.** In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.
18. **Public Entity Crimes.** As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
19. **Scrutinized Companies.** As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)9b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.
20. **E-Verify-Employment Eligibility.** **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE: BOCA RATON MUSEUM OF ART, INC.

DocuSigned by:
Jody Harrison Grass

2D41DFC814EB47E...
Signature

Jody Harrison Grass, Chair
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By *Yb*
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

By DocuSigned by:
Emanuel Perry

187F96C7C13FA7E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** consists of the renovation of six (6) restrooms with artistic tile and includes demolition, debris removal, drywall, widening of doorways, patching and cleaning of floors, tiles, painting, toilet accessories, toilet partitions, plumbing, HVAC, and electrical work. The **GRANT** is used to offset costs of the materials and construction of these restroom improvements, as shown below:

Boca Raton Museum of Art 6 Restrooms Renovation Budget							
	DESCRIPTION	UNIT	COMMENT	QTY	TOTAL BUDGET	GRANT AMOUNT	BRMA COST SHARE
1	Debris removal	Wks	labor and equipment rental	12	\$18,000	\$18,000	\$0
2	Supervision	Wks	labor	12	\$27,000	\$0	\$27,000
3	Demolition	LS	labor and materials	1	\$18,000	\$18,000	\$0
4	Drywall	LS	labor and materials	1	\$12,000	\$12,000	\$0
5	Reveal Base at Bath Entrys	EA	Widen Entrances - materials	4	\$4,000	\$4,000	\$0
6	Patch/Clean Floors	LS	labor and materials	1	\$3,600	\$3,600	\$0
7	Tiles	SF	materials	3,600	\$75,000	\$37,200	\$37,800
8	Painting	LS	labor and materials	1	\$2,500	\$2,500	\$0
9	Toilet Accessories	ALLO W	materials	1	\$57,200	\$26,100	\$31,100
10	Toilet Partitions	ALLO W	materials	1	\$65,000	\$29,350	\$35,650
11	Plumbing	LS	labor and materials	1	\$122,500	\$61,250	\$61,250
12	HVAC	LS	labor and materials	1	\$20,000	\$10,000	\$10,000
13	Electrical	LS	labor and materials	1	\$40,000	\$20,000	\$20,000
14	Contractor Fee	LS	labor	1	\$40,500	\$0	\$40,500
15	Architect Fee	LS	labor	1	\$50,980	\$0	\$50,980
TOTAL					\$556,280	\$242,000	\$314,280

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:
- a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;

- g. Operational and overhead expenditures;
- h. Marketing and promotional costs and expenses;
- i. Strategic planning, annual reports, and expenses related to developing a long-term plan to reposition the GRANTEE's infrastructure;
- j. Cash reserves;
- k. Consumable supplies and materials;
- l. Activities that are solely for fundraising;
- m. Private functions, religious services, lobbying activities, and any non-public activity;
- n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
- o. Long-term debt.

3. **GRANTEE** further warrants and represents, as follows:

- a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
- b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
- c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B
RECOGNITION

GRANTEE shall install and maintain in perpetuity a plaque, on north wall of the education center opposite restrooms.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND BOCA RATON MUSEUM OF ART, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: BOCA RATON MUSEUM OF ART, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/07/2023

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

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

PRODUCER Brown & Brown of Florida, Inc. P.O. Box 2412 Daytona Beach FL 32116-2412	CONTACT NAME: Courtney Crown PHONE (A/C, No, Ext): (386) 239-7237 FAX (A/C, No): (386) 323-9147 E-MAIL ADDRESS: Courtney.Crown@bbrown.com																					
INSURED Boca Raton Museum of Art, Inc 501 Plaza Real Boca Raton FL 33432	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td style="width: 70%;">INSURER A:</td> <td>GuideOne Mutual Insurance Company</td> <td style="text-align: center;">15032</td> </tr> <tr> <td>INSURER B:</td> <td>Travelers Casualty and Surety Company of America</td> <td style="text-align: center;">31194</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	GuideOne Mutual Insurance Company	15032	INSURER B:	Travelers Casualty and Surety Company of America	31194	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
INSURER(S) AFFORDING COVERAGE		NAIC #																				
INSURER A:	GuideOne Mutual Insurance Company	15032																				
INSURER B:	Travelers Casualty and Surety Company of America	31194																				
INSURER C:																						
INSURER D:																						
INSURER E:																						
INSURER F:																						

COVERAGES **CERTIFICATE NUMBER:** 23-24 Master **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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			010037591	04/09/2023	04/09/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			001829878	04/09/2023	04/09/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 2,500			001453000	04/09/2023	04/09/2024	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	CRIME			106085108	04/09/2023	04/09/2024	Employee Theft 500,000 ERISA 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Palm Beach County Board of County Commissioners, Tourist Development Council and Cultural Council, as Designated Organization, is an Additional Insured as respects General Liability, per form #PCG3510, when required by written contract subject to the terms, conditions, and exclusions of the policy
 30 Day Notice of Cancellation in favor of Certificate Holder

CERTIFICATE HOLDER Palm Beach County Board of County Commissioners c/o Cultural Council of Palm Beach County 601 Lake Avenue Lake Worth FL 33460	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

© 1988-2015 ACORD CORPORATION. All rights reserved.

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
BUSCH WILDLIFE SANCTUARY, INC.
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20_, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **BUSCH WILDLIFE SANCTUARY, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 59-2379003 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. **Recitals.** The above recitals are true and correct and are incorporated herein.
2. **Term.** The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. **GRANT Description.** **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$283,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. **Payment of GRANT Funds.**
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding

paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s prepayment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY**'s determination.
- D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.

5. **GRANTEE's Obligations.**

- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
- B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
- C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
- D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
- E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.

6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE**'s program, procedures, and operations under this Grant, or to discuss the **GRANTEE**'s **CAPITAL IMPROVEMENT** with the **GRANTEE**'s personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY**'s participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.

7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. **Notices.** All notices required under this **AGREEMENT** shall be in writing and shall be personally

delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Amy J. Kight
17855 Rocky Pines Rd.
Jupiter, FL 33478

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including a attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
 - A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
 - B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to

time.

- C. 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 **AGREEMENT** term and following completion of the **AGREEMENT**, if the **GRANTEE** does not transfer the records to the public agency.
- D. Upon completion of the **AGREEMENT** the **GRANTEE** shall transfer, at no cost to the **COUNTY**, all public records in possession of the **GRANTEE** 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 **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 **COUNTY**.
- E. 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 for cause. **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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of **GRANTEE**, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. **GRANTEE**'s failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.
- 15. Remedies/Jury Waiver. This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach

County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. **Insurance.** The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

A. **Commercial General Liability:** **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

B. **Workers' Compensation Insurance & Employer's Liability:** **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

C. **Professional Liability:** **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

D. **Waiver of Subrogation:** Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.

- E. Certificates of Insurance: On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

- F. 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.
17. Severability. In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.
18. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
19. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.
20. E-Verify-Employment Eligibility. **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE's** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE's** subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall

immediately terminate its contract with the subcontractor. If COUNTY terminates this AGREEMENT pursuant to the above, GRANTEE shall be barred from being awarded a future contract by COUNTY for a period of one (1) year from the date on which this AGREEMENT was terminated. In the event of such contract termination, GRANTEE shall also be liable for any additional costs incurred by COUNTY as a result of the termination.

21. Entirety of Agreement. The PARTIES agree that this AGREEMENT, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: GRANTEE shall execute the AGREEMENT through an approved COUNTY Electronic Signature Software. If GRANTEE is unable to access the approved software GRANTEE shall submit three (3) signed copies of the AGREEMENT, with approved signatures. If the GRANTEE fails to submit the required copies of the AGREEMENT, the COUNTY may decline to review and execute the AGREEMENT.
23. Counterparts: The AGREEMENT, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same AGREEMENT. The COUNTY may execute the AGREEMENT through electronic or manual means. The GRANTEE execute the AGREEMENT by manual means only, unless the COUNTY provides otherwise.
24. Assignment. The GRANTEE is not permitted in any manner to assign its rights or obligations under this AGREEMENT, and any purported assignment will be void.
25. Termination. The PARTIES agree that in the event GRANTEE fails to comply with the terms of this AGREEMENT, the COUNTY will provide to GRANTEE notice of default and may provide GRANTEE thirty (30) days written notice to cure the default. In the event GRANTEE fails to cure the default within the thirty (30) day cure period, the COUNTY will have the right to terminate this AGREEMENT, shall have no further obligation to honor reimbursement requests submitted by GRANTEE, and GRANTEE shall return any COUNTY funds already collected by GRANTEE under this AGREEMENT. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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, a 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 employee or agents of the COUNTY. The GRANTEE does not have the power or authority to bind the COUNTY in any promise, a agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE: **BUSCH WILDLIFE SANCTUARY, INC.**

DocuSigned by:

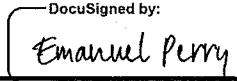

81D9D86F80044B0...
Signature

Amy Kight, Executive Director
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By ybh
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

DocuSigned by:
By 

187F90C7C13F47E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** description. **CAPITAL IMPROVEMENT** consists of construction of one (1) protective shell for five (5) flight cages what will be used for injured birds. The shell covering the 5 flight cages will be placed in a non-public area where injured large birds will be able to rehabilitate. Birds such as owls, falcons, and other key species will have a secure enclosure where birds can practice flying, gradually regaining muscle strength. The protective shell shall be constructed with hurricane rated metal and will be 120' long x 50' wide x 18' high. The **GRANT** is used to offset costs, as shown below:

DESCRIPTION	GRANT AMOUNT	LINE-ITEM COST
Shell	\$283,000	\$325,000
Plumbing		\$50,000
Electric		\$20,000
Fence		\$100,000
Substrate		\$5,000
Video Cameras		\$30,000
Landscaping		\$10,000
Permitting		\$2,000
Roofing		\$25,000
Total	\$283,000	\$567,000

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:
- a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;
 - g. Operational and overhead expenditures;
 - h. Marketing and promotional costs and expenses;
 - i. Strategic planning, annual reports, and expenses related to developing a long-term plan to reposition the **GRANTEE**'s infrastructure;
 - j. Cash reserves;
 - k. Consumable supplies and materials;
 - l. Activities that are solely for fundraising;
 - m. Private functions, religious services, lobbying activities, and any non-public activity;
 - n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and

- o. Long-term debt.
3. **GRANTEE** further warrants and represents, as follows:
- a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
 - b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
 - c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B

RECOGNITION

GRANTEE shall install and maintain in perpetuity a plaque, 18 inches by 30 inches, located in the Wildlife Rehabilitation Center's entrance room.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND BUSCH WILDLIFE SANCTUARY, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: BUSCH WILDLIFE SANCTUARY, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
COX SCIENCE CENTER AND AQUARIUM, INC.,
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20___, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **COX SCIENCE CENTER AND AQUARIUM, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 59-0915177 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$865,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding

paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s pre-payment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY**'s determination.
 - D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.
5. **GRANTEE's Obligations.**
- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
 - B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
 - C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
 - D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
 - E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.
6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE**'s program, procedures, and operations under this Grant, or to discuss the **GRANTEE**'s **CAPITAL IMPROVEMENT** with the **GRANTEE**'s personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY**'s participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.
7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Katherine Arrizza
4801 Dreher Trail North
West Palm Beach, FL 33405

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
- A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
 - B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 **AGREEMENT** term and following completion of the **AGREEMENT**, if the **GRANTEE** does not transfer the records to the public agency.
- D. Upon completion of the **AGREEMENT** the **GRANTEE** shall transfer, at no cost to the **COUNTY**, all public records in possession of the **GRANTEE** 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 **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 **COUNTY**.
- E. 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 for cause. **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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of **GRANTEE**, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. **GRANTEE's** failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

15. Remedies/Jury Waiver. This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. Insurance. The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. Commercial General Liability: **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. Workers' Compensation Insurance & Employer's Liability: **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. Professional Liability: **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE's** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

D. Waiver of Subrogation: Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.

E. Certificates of Insurance: On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

F. 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.

17. Severability. In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.

18. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

19. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.

20. E-Verify-Employment Eligibility. **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE: COX SCIENCE CENTER AND AQUARIUM, INC.

DocuSigned by:
Katherine Arrizza
050D58B5F399461...

Signature
Katherine Arrizza, President/CEO
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By ybh
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

By Emanuel Perry
187F96C7C13E47E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT description.** CAPITAL IMPROVEMENT will consist of upgrading the GRANTEE's fire safety system, as shown below. The GRANT is used to offset costs as shown below:

Description of Work Eligible Under the GRANT	Total Cost:
Fire Protection - BOH/Restrooms	7,935.00
Fire Protection - Cafe	14,875.00
Fire Protection -Kitchen	13,380.00
Fire Protection - Labs/classrooms	20,910.00
Fire Protection -Offices	14,700.00
Fire Protection - Planetarium	5,025.00
Fire Protection - Theater	5,250.00
Fire Protection - 2nd Floor	8,600.00
Fire Protection - Distribution piping, sprinklerheads, hangers	46,980.00
Plumbing - Misc allowance for relocation	23,490.00
Demolition of interior finishes	70,470.00
Demolition - Cut and cap sprinkler lines	58,725.00
Allowance for fireproofing all rated walls	35,235.00
Carpentry - Misc allowance for trim replacement	23,490.00
Finishes - floor patching after demo	70,470.00
Finishes - ceiling replacement - gyp	93,960.00
Finishes - ceiling replacement - act	140,940.00
Drywall - Partitions patching	46,980.00
HVAC relocation	140,095.00
Interior painting	23,490.00
Total GRANT Amount:	\$ 865,000.00
Description of Work Funded by GRANTEE	Total Cost:
Fire Protection - Lobby	18,300.00
Electrical - Lighting relocation	118,295.00
Total amount funded by GRANTEE	\$136,595.00
TOTAL Construction Costs - Phase 1B	\$ 1,001,595.00

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:
 - a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;
 - g. Operational and overhead expenditures;
 - h. Marketing and promotional costs and expenses;
 - i. Strategic planning, annual reports, and expenses related to developing a long- term plan to reposition the **GRANTEE**'s infrastructure;
 - j. Cash reserves;
 - k. Consumable supplies and materials;
 - l. Activities that are solely for fundraising;
 - m. Private functions, religious services, lobbying activities, and any non-public activity;
 - n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
 - o. Long-term debt.

3. **GRANTEE** further warrants and represents, as follows:
 - a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
 - b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
 - c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B

RECOGNITION

GRANTEE shall install and maintain in perpetuity a listing on **GRANTEE's** donor wall, located in front entrance.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND COX SCIENCE CENTER AND AQUARIUM, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: COX SCIENCE CENTER AND AQUARIUM, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____

DESCRIPTIONS (Continued from Page 1)

Palm Beach County Board of County Commissioners, Tourist Development Council and Cultural Council, as Designated Organization, is an Additional Insured as respects General Liability when required by written contract subject to the terms, conditions, and exclusions of the policy.

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
MALTZ JUPITER THEATRE, INC.,
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20___, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **MALTZ JUPITER THEATRE, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 65-0985652 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$405,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding

paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK's** pre-payment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY's** determination.
- D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.

5. **GRANTEE's Obligations.**

- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
- B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
- C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
- D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
- E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.

6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE's** program, procedures, and operations under this Grant, or to discuss the **GRANTEE's CAPITAL IMPROVEMENT** with the **GRANTEE's** personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY's** participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.

7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Andrew Kato
1001 E. Indiantown Rd.
Jupiter, FL 33477

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
- A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
 - B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 **AGREEMENT** term and following completion of the **AGREEMENT**, if the **GRANTEE** does not transfer the records to the public agency.
- D. Upon completion of the **AGREEMENT** the **GRANTEE** shall transfer, at no cost to the **COUNTY**, all public records in possession of the **GRANTEE** 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 **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 **COUNTY**.
- E. 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 for cause. **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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of **GRANTEE**, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. **GRANTEE's** failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

15. Remedies/Jury Waiver. This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. Insurance. The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. Commercial General Liability: **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. Workers' Compensation Insurance & Employer's Liability: **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. Professional Liability: **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

D. Waiver of Subrogation: Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.

E. Certificates of Insurance: On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

F. 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.

17. Severability. In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.
18. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
19. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(9b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.
20. E-Verify-Employment Eligibility. **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPTRROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE: MALTZ JUPITER THEATRE, INC.

DocuSigned by:

010FA1FA3B2947D...
Signature

Andrew Kato, Producing Artistic Director/Chief Executive
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By ybh _____
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

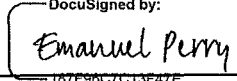
By  _____
167F96C7C13F47E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** description. **CAPITAL IMPROVEMENT** consists of construction of a black box theater, as specified below, within GRANTEE's existing theater. The **GRANT** is used to offset costs as shown below:

ELIGIBLE COST ASSOCIATED TO LINE-ITEMS	GRANT AMOUNT	LINE-ITEM COST
Labor and materials for construction/installation of telescoping seating	\$252,260	\$352,373
Labor and materials for construction/installation of a telescoping seating curtain	\$25,000	\$25,000
Labor and materials for construction/installation of a theatre lighting package	\$127,740	\$127,740
Total	\$405,000	\$539,740

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:
- a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;
 - g. Operational and overhead expenditures;
 - h. Marketing and promotional costs and expenses;
 - i. Strategic planning, annual reports, and expenses related to developing a long-term plan to reposition the GRANTEE's infrastructure;
 - j. Cash reserves;
 - k. Consumable supplies and materials;
 - l. Activities that are solely for fundraising;
 - m. Private functions, religious services, lobbying activities, and any non-public activity;
 - n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
 - o. Long-term debt.
3. **GRANTEE** further warrants and represents, as follows:
- a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property

- if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
- b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
 - c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B

RECOGNITION

GRANTEE shall install and maintain in perpetuity a 5x7 inch plaque, located in black box entrance.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND MALTZ JUPITER THEATRE, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: MALTZ JUPITER THEATRE, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
THE FRIENDS OF SANDOWAY HOUSE NATURE CENTER, INC.
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20__, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **THE FRIENDS OF SANDOWAY HOUSE NATURE CENTER, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 65-0603775 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$130,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding

paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s prepayment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY**'s determination.
- D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.

5. **GRANTEE's Obligations.**

- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
- B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
- C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
- D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
- E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.

6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE**'s program, procedures, and operations under this Grant, or to discuss the **GRANTEE**'s **CAPITAL IMPROVEMENT** with the **GRANTEE**'s personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY**'s participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.

7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Lisa White
142 S. Ocean Blvd.
Delray Beach, FL 33483

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
- A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
 - B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 **AGREEMENT** term and following completion of the **AGREEMENT**, if the **GRANTEE** does not transfer the records to the public agency.
- D. Upon completion of the **AGREEMENT** the **GRANTEE** shall transfer, at no cost to the **COUNTY**, all public records in possession of the **GRANTEE** 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 **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 **COUNTY**.
- E. 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 for cause. **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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of **GRANTEE**, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. **GRANTEE's** failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

15. Remedies/Jury Waiver. This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. Insurance. The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. Commercial General Liability: **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. Workers' Compensation Insurance & Employer's Liability: **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. Professional Liability: **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

D. Waiver of Subrogation: Except were prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.

E. Certificates of Insurance: On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

F. 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.

17. Severability. In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.

18. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

19. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)9b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.

20. E-Verify-Employment Eligibility. **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE:
THE FRIENDS OF SANDOWAY HOUSE NATURE CENTER, INC.

DocuSigned by:
Lisa White
2EF4F5BFAC454CC...
Signature

Lisa White, Director
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By ybh
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

By _____
DocuSigned by:
Emanuel Perry
187F90C7C13F47E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** description. **CAPITAL IMPROVEMENT** consists of renovations to Sandoway Discovery Center's entrance way, front porch, building, roof, interior framing, plumbing, electrical, HVAC, windows, doors, flooring, interior trim, and a gift shop build out, as shown below. The **GRANT** is used to offset costs, as shown below:

Line Item	Estimated Cost	GRANT AMOUNT
Architectural Fees	In-Kind Donation	\$ -
Permits	\$0	\$ -
General Contractor	\$34,000	\$ -
Engineers (structural, civil, mechanical)	\$9,000	\$ 4,000
Dumpsters	\$3,000	\$ 1,000
Building Pad	\$5,000	\$ 3,000
Building Shell (Block, Trusses, Slab)	\$45,000	\$ 40,000
Roof	\$28,000	\$ 20,000
Interior Framing	\$3,500	\$ 1,000
Plumbing (Fire Sprinklers)	\$5,000	\$ 3,000
Electrical	\$5,000	\$ 3,000
HVAC	\$5,000	\$ 3,000
Impact Windows/Doors	\$40,000	\$ 30,000
Entry Ramp	\$3,000	\$ 1,000
Insulation	\$1,800	\$ -
Drywall	\$7,000	\$ 3,000
Stucco/Siding	\$4,000	\$ 2,000
Flooring	\$5,000	\$ 2,000
Electrical Fixtures	\$1,500	\$ -
Interior Trim and Doors	\$5,000	\$ 2,000
Hardware	\$800	\$ -
Cabinets and gift shop build out	\$13,000	\$ 10,000
Paint	\$4,000	\$ 2,000
Final Grade	\$2,500	\$ -
Landscaping	\$4,000	\$ -
Cost Overruns/Unexpected Expenses 10%	\$21,000	\$ -
Total:	\$255,100	\$ 130,000

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:

- a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the CAPITAL IMPROVEMENT;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;
 - g. Operational and overhead expenditures;
 - h. Marketing and promotional costs and expenses;
 - i. Strategic planning, annual reports, and expenses related to developing a long- term plan to reposition the GRANTEE's infrastructure;
 - j. Cash reserves;
 - k. Consumable supplies and materials;
 - l. Activities that are solely for fundraising;
 - m. Private functions, religious services, lobbying activities, and any non-public activity;
 - n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
 - o. Long-term debt.
3. **GRANTEE** further warrants and represents, as follows:
- a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
 - b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
 - c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B

RECOGNITION

GRANTEE shall install and maintain in perpetuity a 8x4 inch plaque, located in the entryway of the new porch.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND THE FRIENDS OF SANDOWAY HOUSE NATURE CENTER, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: THE FRIENDS OF SANDOWAY HOUSE NATURE CENTER, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/16/2023

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

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

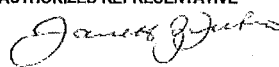
PRODUCER Plastridge Insurance Agency 820 NE 6th Avenue Delray Beach, FL 33483	CONTACT NAME: Janett	
	PHONE (A/C, No, Ext): (561) 276-5221	FAX (A/C, No): (561) 276-5244
E-MAIL ADDRESS: delraydocs@plastridge.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Scottsdale Insurance Company		41297
INSURER B: Travelers Casualty & Surety		19038
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		CPS7842887	8/25/2023	8/25/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		CPS7842887	8/25/2023	8/25/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Directors & Officers		105654164	8/25/2023	8/25/2024	D&O & EPLI 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 "Palm Beach County Board of County Commissioners, the Cultural Council for Palm Beach County, and the Tourist Development Council are included as additional insured..."
 As respects General Liability.

CERTIFICATE HOLDER Palm Beach County Board of County Commissioners c/o Cultural Council of Palm Beach County 601 Lake Avenue Lake Worth, FL 33460	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	--

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC.,
FOR THE CULTURAL CAPITAL FUND GRANT**

This **AGREEMENT** is made as of the ___ day of _____, 20__, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (**COUNTY**), and **RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC. (GRANTEE)**, authorized to do business in the State of Florida, whose Federal I.D. is 59-2245054 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, the **COUNTY** has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to **COUNTY** residents and visitors; and

WHEREAS, the **COUNTY**, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the **COUNTY** is contracting with the Cultural Council of Palm Beach County, Inc. (**COUNCIL**) for the **COUNCIL** to administer and monitor the cultural capital fund grants; and

WHEREAS, the **GRANTEE** is a non-profit cultural organization, seeking the cultural capital fund grant described herein (**GRANT**) to fund certain capital improvement(s) (**CAPITAL IMPROVEMENT**) to help offset expenses of **GRANTEE**'s larger capital infrastructure project; and

WHEREAS, the **COUNTY** has determined that the **GRANT** for the **CAPITAL IMPROVEMENT** is a **COUNTY** public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. **COUNTY** agrees to reimburse the **GRANTEE** the **GRANT** amount not to exceed **\$300,000** for the costs associated with the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**. Any changes to the **CAPITAL IMPROVEMENT**, as described in **EXHIBIT A**, shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to the grant description in **EXHIBIT A** to the **COUNTY** for approval. No expense related to a change in **EXHIBIT A** will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No **GRANT** funds shall be advanced by **COUNTY** to or on behalf of **GRANTEE**.
 - B. On or before the fifth (5th) day of each **COUNTY** fiscal quarter, the **GRANTEE** may submit to the **COUNCIL** the Request for Payment of Grant Funds, attached as **EXHIBIT C (REQUEST)**, for costs incurred under this **AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this **AGREEMENT** and applicable by law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be

itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK's** pre-payment audit thereof in accordance with law.

- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY's** determination.
- D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.

5. **GRANTEE's Obligations.**

- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
- B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
- C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
- D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
- E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.

6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE's** program, procedures, and operations under this Grant, or to discuss the **GRANTEE's CAPITAL IMPROVEMENT** with the **GRANTEE's** personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY's** participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.

7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this **AGREEMENT**.

8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
Executive Director
Palm Beach County Tourist Development Council
2195 Southern Boulevard, Suite 500
West Palm Beach, Florida 33406
561-233-3066

with a copy to:

Palm Beach County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401
561-355-6726

As to **GRANTEE**:

Diane Quinn
701 Okeechobee Blvd.
West Palm Beach, FL 33401

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
- A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
 - B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the 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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 AGREEMENT term and following completion of the AGREEMENT, if the GRANTEE does not transfer the records to the public agency.
- D. Upon completion of the AGREEMENT the GRANTEE shall transfer, at no cost to the COUNTY, all public records in possession of the GRANTEE 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 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 COUNTY.
- E. 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 for cause. 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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of GRANTEE, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. GRANTEE's failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the AGREEMENT, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default

of the **AGREEMENT**.

15. **Remedies/Jury Waiver.** This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. **Insurance.** The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. **Commercial General Liability:** **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. **Workers' Compensation Insurance & Employer's Liability:** **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. **Professional Liability:** **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

- D. Waiver of Subrogation: Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.
- E. Certificates of Insurance: On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

- F. 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.
17. Severability. In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.
18. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
19. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)9b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.
20. E-Verify-Employment Eligibility. **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention

period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPTRROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Mayor

GRANTEE: RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC.

DocuSigned by:
Diane Quinn
C05E70E92D7E4CE...
Signature

Diane Quinn, CEO
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By ybh
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

By _____
DocuSigned by:
Emanuel Perry
187F98C7C13F47E...
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** description. **CAPITAL IMPROVEMENT** consists of design and construction of a performance venue at the GRANTEE's Kravis Family Plaza (Project), as specified below. The **GRANT** is used to offset costs as shown below:

LINE-ITEM	GRANT AMOUNT	LINE-ITEM COST
Preparation of design documents and construction plans for the Project labor and materials for demolition of current plaza	\$60,000	\$260,000
Materials and labor for the construction/installation of audio, lighting, and technology equipment	\$60,000	\$160,000
Materials and labor for the construction/installation of pavers, stairways, and security features	\$105,000	\$105,000
Materials and labor for the construction/installation of fixtures, kiosks, and permanent anchor points for flexible tented configurations	\$75,000	\$75,000
Total	\$300,000	\$600,000

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:
- a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;
 - g. Operational and overhead expenditures;
 - h. Marketing and promotional costs and expenses;
 - i. Strategic planning, annual reports, and expenses related to developing a long-term plan to reposition the GRANTEE's infrastructure;
 - j. Cash reserves;
 - k. Consumable supplies and materials;
 - l. Activities that are solely for fundraising;
 - m. Private functions, religious services, lobbying activities, and any non-public activity;
 - n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
 - o. Long-term debt.

3. **GRANTEE** further warrants and represents, as follows:
 - a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1, 2023. However, **GRANTEE** must be the fee simple owner of the Property if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;
 - b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
 - c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B
RECOGNITION

GRANTEE shall install and maintain in perpetuity a 4x4 inch engraved metal plaque, located along the seating wall in the Plaza.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC., FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: RAYMOND F. KRAVIS CENTER FOR THE PERFORMING ARTS, INC.

Amount to be Paid: \$ _____

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/13/2023

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

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

PRODUCER Beecher Carlson Insurance Services, LLC 6 Concourse Parkway Suite 2300 Atlanta GA 30328	CONTACT NAME: Louis Levine PHONE (A/C, No, Ext): (404) 460-1400 FAX (A/C, No): E-MAIL ADDRESS: louis.levine@bbrown.com
INSURER(S) AFFORDING COVERAGE	
INSURED	INSURER A: Zurich American Insurance Company NAIC # 16535
The Raymond F. Kravis Center for the Performing Arts, Inc. 701 Okeechobee Blvd. West Palm Beach FL 33401	INSURER B: Federal Insurance Company 20281 INSURER C: American Guarantee and Liability Insurance Company 26247 INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** 23-24 Liab **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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	Y		GLA00191273-07	03/15/2023	03/15/2024	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	<input checked="" type="checkbox"/> Liquor Law Liability						MED EXP (Any one person) \$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY \$ 1,000,000
	OTHER:						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							Employee Benefits \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY	Y		GLA00191273-07	03/15/2023	03/15/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						BODILY INJURY (Per person) \$
	<input type="checkbox"/> HIRED AUTOS ONLY						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							Medical payments \$ 5,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB	Y		78190750	03/15/2023	03/15/2024	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR CLAIMS-MADE						AGGREGATE \$ 1,000,000
	DED RETENTION \$						\$
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A		WC 0191274-07	03/15/2023	03/15/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N						E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Additional Certificate Holder: c/o Cultural Council of Palm Beach County, Inc.

Palm Beach County Board of County Commissioners, Tourist Development Council and Cultural Council, as Designated Organization, is an Additional Insured as respects General Liability when required by written contract subject to the terms, conditions, and exclusions of the policy.

CERTIFICATE HOLDER Palm Beach County Board of County Commissioners 601 Lake Avenue Lake Worth FL 33460	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Beecher Carlson Insurance Services, LLC</i>
--	--

© 1988-2015 ACORD CORPORATION. All rights reserved.

**AGREEMENT BETWEEN PALM BEACH COUNTY AND
CULTURAL COUNCIL OF PALM BEACH COUNTY, INC.
FOR ADMINISTRATION OF
CULTURAL CAPITAL FUND GRANTS**

This **AGREEMENT** is made as of the ___ day of _____, 20__, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (**COUNTY**), and the **Cultural Council of Palm Beach County, Inc., (COUNCIL)**, authorized to do business in the State of Florida whose Federal I.D. is 59-1862336 (individually, **PARTY**, and collectively, **PARTIES**).

WHEREAS, COUNTY has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to its residents and visitors; and

WHEREAS, the COUNTY, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 30, 2026 to support cultural infrastructure projects of various local non-profit cultural organization that will further expand entertainment and visitor programs and experiences; and

WHEREAS, the COUNTY is entering into those certain individual agreements (**GRANT AGREEMENT(s)**) with each of the following non-profit cultural organizations: Ann Norton Sculpture Gardens, Inc., Boca Raton Museum of Art, Inc., Busch Wildlife Sanctuary, Inc., Cox Science Center and Aquarium, Inc., Florida Atlantic University Foundation, Inc., Maltz Jupiter Theater, Inc., Raymond F. Kravis Center for the Performing Arts, Inc., and The Friends of Sandoway House Nature Center, Inc., (individually, **GRANTEE**, collectively, **GRANTEES**) for the cultural capital fund grant to fund each **GRANTEE's** certain capital improvement(s) and help offset expenses of **GRANTEE's** larger capital infrastructure project; and

WHEREAS, each GRANT AGREEMENT is substantially in the form as **EXHIBIT A**; and

WHEREAS, the COUNCIL is recognized by the **COUNTY** as an appropriate organization to administer and monitor the **GRANTS**; and

WHEREAS, COUNCIL is a private non-profit corporation contracting with **COUNTY** and is not a part of **COUNTY** government;

WHEREAS, the COUNTY and **COUNCIL** agree to enter into this **AGREEMENT** to establish the terms and conditions under which the **COUNCIL** will administer and monitor the **GRANT AGREEMENTS**.

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the **PARTIES** hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this **AGREEMENT** shall commence retroactively on September 1, 2023, and shall remain in full force and effect until December 30, 2026.
3. COUNCIL Obligations.
 - A. **COUNCIL** shall monitor and evaluate the activities of each **GRANTEE** for compliance with each **GRANT AGREEMENT**, including but not limited to the following:
 - a. **COUNCIL** shall receive and review for compliance the **GRANTEE's** reimbursement

request pursuant to the **GRANT AGREEMENT** and the Request for Payment of Grant Funds (**REQUEST**), for costs **GRANTEE** incurred under the **GRANT AGREEMENT**. Upon approval of the **REQUEST** by the **COUNCIL**, the **REQUEST** shall be submitted by the **COUNCIL** to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with the **GRANT AGREEMENT** and applicable law. Each **REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s pre-payment audit thereof in accordance with law.

- b. **COUNCIL** shall monitor and ensure that the **GRANT** is used for improvements, as authorized in the **GRANT AGREEMENT**. Any changes to the authorized improvements shall first be submitted to the **COUNCIL** for review. The **COUNCIL** shall convey proposed changes to authorized improvements to the **COUNTY** for approval. No expense related to a change in the authorized improvements will be reimbursed, unless approved as provided herein.
 - c. **COUNCIL** shall monitor and ensure that each **GRANTEE** predominantly displays the **COUNTY** logo and credit designation, as required in the **GRANT AGREEMENT**.
- B. In the event **GRANTEE** receives improper payment from **COUNTY** under the **GRANT AGREEMENT**, which payment the **COUNCIL** approved, the **COUNCIL** shall reimburse the **COUNTY** for any funds the **COUNTY** paid the **GRANTEE**.
4. **COUNTY Obligations.** **COUNTY** shall pay the **COUNCIL** an amount not to exceed twenty-five thousand dollars (\$25,000) (**TOTAL AMOUNT**), as follows:
 - A. **COUNTY** shall timely pay the **COUNCIL** an amount not to exceed Seventeen Thousand Five Hundred (\$17,500) for performing the duties and services under this **AGREEMENT** from September 1, 2023, through February 15, 2024, upon **COUNCIL**'s submission of supporting invoices and any other documentation the **COUNTY** may reasonably request to ensure that expenditures have been made in conformity with this **AGREEMENT**; and
 - B. **COUNTY** shall timely pay the **COUNCIL** an amount not to exceed Seven Thousand Five Hundred (\$7,500), or the remainder of the **TOTAL AMOUNT**, whichever is greater, for performing the duties and services under this **AGREEMENT** from February 16, 2024 through December 31, 2026, upon **COUNCIL**'s submission of supporting invoices and any other documentation the **COUNTY** may reasonably request to ensure that expenditures have been made in conformity with this **AGREEMENT**. **COUNTY** shall not provide advance payment to the **COUNCIL**.
 5. **AGREEMENT Representatives.** The **COUNTY** representative/liaison during the performance of this **AGREEMENT** will be Emanuel Perry, 561-233-3066, EPerry@pbcgov.org. The **COUNCIL** representative/liaison during the performance of this **AGREEMENT** will be David Lawrence, 561-472-3332, DLawrence@palmbeachculture.com.
 6. **Availability of Records.** During the term of this **AGREEMENT** and for three (3) years thereafter, **COUNCIL** agrees that, in addition to **COUNTY**, an independent auditor shall have access to, and the right to examine, any pertinent books, documents, papers and records of the **COUNCIL**.
 7. **Certificate of Insurance.** All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The **COUNCIL** shall furnish Certificates of Insurance to the **COUNTY** prior to the commencement of operations. The certifications shall name the **COUNTY** as an additional insured and shall clearly indicate that the **COUNCIL** has obtained insurance of the type, amount and classification as required for strict compliance with this paragraph and to the extent allowed by the insurer, that no material change, or cancellation of the insurance shall be effective without thirty (30) days prior

written notice to the **COUNTY**. Compliance with the foregoing requirements shall not relieve the **COUNCIL** of its liability and obligations under this **AGREEMENT**.

- a. Comprehensive General Liability Insurance. The **COUNCIL** shall maintain during the life of this **AGREEMENT**, comprehensive general liability insurance, including contractual liability insurance, employee fidelity insurance, in an amount no less than \$1,000,000.00 per occurrence to protect the **COUNCIL** from claims for damages for bodily and personal injury, including death, as well as from claims for property damage which may arise from any operations by the **COUNCIL** or by anyone directly employed by or contracting with the **COUNCIL**.
 - b. Comprehensive Automobile Liability Insurance. The **COUNCIL** shall maintain, during the life of this **AGREEMENT**, comprehensive automobile liability insurance in the minimum amount of \$1,000,000.00 combined single limit for bodily injury, death and property damage liability to protect the **COUNCIL** from claims for damages, for property damage, death and for bodily and personal injury, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles by the **COUNCIL** or by anyone directly or indirectly employed or retained by the **COUNCIL**.
 - c. Worker's Compensation Insurance. The **COUNCIL** shall maintain during the life of this **AGREEMENT**, adequate workers' compensation insurance and employers' liability insurance in at least such amounts as are required by law for all of its employees in accordance with Chapter 440, Florida Statutes.
 - d. Fidelity Bond. The **COUNCIL** shall maintain during the term of this **AGREEMENT**, and any renewal thereof, a Third-Party Commercial Fidelity Bond in the amount of \$1,000,000 written on a blanket basis covering all officers, employees and agents who have custody of or access to any revenues, monies, or finances. Such bonds shall include or be endorsed to cover "third party" liability and name Palm Beach County as an additional insured.
 - e. Directors and Officers. The **COUNCIL** will maintain during the terms of this **AGREEMENT**, and any renewal thereof, Directors and Officers insurance in an amount of \$1,000,000.
8. Indemnification for Negligent Acts or Omissions. The **COUNCIL** shall indemnify, save, defend and hold harmless **COUNTY**, its officers, employees, servants and agents from and against any and all claims, liabilities, losses and/or causes of actions which may arise from any negligent act or omission of the **COUNCIL**, its officers, employees, servants, contractors and agents in the performance of services under this **AGREEMENT**, and regardless of whether such negligent act or omission of the **COUNCIL** was caused, occasioned or contributed to in whole or in part by the negligence of **COUNTY** or its officers, employees, servants or agents.
 9. Additional Indemnification. The **COUNCIL** further agrees to indemnify, save, hold harmless and defend the **COUNTY**, its officers, employees, servants and agents from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the **COUNCIL**, its employees or agents, not included in the paragraph above and for which the **COUNTY**, its officers, employees, servants, and agents are alleged to be liable.
 10. Non-Discrimination. The **COUNTY** is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the **COUNCIL** warrants and represents that throughout the term of the **AGREEMENT**, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital

status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

As a condition of entering into this **AGREEMENT**, the **COUNCIL** represents and warrants that it will comply with the **COUNTY**'s Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the **COUNCIL** shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the **COUNCIL** retaliate against any person for reporting instances of such discrimination. The **COUNCIL** shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the **COUNTY**'s relevant marketplace in Palm Beach County. The **COUNCIL** understands and agrees that a material violation of this clause shall be considered a material breach of this **AGREEMENT** and may result in termination of this **AGREEMENT**, disqualification or debarment of the **COUNCIL** from participating in **COUNTY** contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. **COUNCIL** shall include this language in its subcontracts.

11. Certificate of Authority and No Conflict. The **COUNCIL** hereby certifies that it is legally entitled to enter into this **AGREEMENT** with the **COUNTY**, and that it is not now and at no time will violate either directly or indirectly any provision of Chapter 112, Florida Statutes and the Palm Beach County Code of Ethics, or any other conflict of interest statute or other applicable statute.
12. Conflict of Interest. Neither the **COUNCIL**, nor its officers, directors, agents or employees shall acquire any interest, either directly or indirectly, which would conflict in any manner with the duties, obligations or the performance of services provided for in this **AGREEMENT**. The **COUNCIL** shall promptly notify the **COUNTY** in writing of all potential conflict of interests, and specify the association, interest or other circumstance, which may appear to influence the **COUNCIL**, its officers, directors, agents or employees. In the event the County Attorney's Office shall determine that such association, interest or other circumstance would constitute a conflict of interest, the **COUNCIL**, its officers, directors, agents or employees shall take all action necessary to resolve the conflict of interest.
13. Independent Contractor. The **COUNCIL** is, and shall be, in the performance of all work, services and activities under this **AGREEMENT**, an independent contractor, and not an 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 **COUNCIL**'s sole direction, supervision and control. The **COUNCIL** shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the **COUNCIL**'s relationship and the relationship of its employees to the **COUNTY** shall be that of an independent contractor and not as officers, employees, agents or servants of the **COUNTY**. The **COUNCIL** shall not have the power or authority to bind the **COUNTY** in any promise, **AGREEMENT** or representation unless specifically provided for in this **AGREEMENT**.
14. Preservation of Records. The **COUNCIL** shall maintain and preserve the records, books, documents, papers and financial information pertaining to the work performed under this **AGREEMENT**. The **COUNCIL** agrees that the **COUNTY**, or any of its duly authorized representatives, until the expiration of three (3) years after final payment under this **AGREEMENT** or until the expiration of three (3) years after the termination of this **AGREEMENT**, whichever occurs last, shall have access to, and the right to examine, any pertinent books, documents, papers and records of the **COUNCIL**. In the event that such audit is in progress at the expiration of the aforementioned three (3) year period, access to and the right to examine will continue until completion of such audit.
15. Public Records. The parties agree that any and all records of the **COUNCIL** relating to this **AGREEMENT** are to be considered public records, subject to the provisions of Chapter 119, Florida Statutes. Moreover, during the term of this **AGREEMENT**, **COUNTY** is hereby granted the power to designate any and all

records of the **COUNCIL** public records under Chapter 119, Florida Statutes, by resolution of the Board of County Commissioners, making such designation, regardless of whether said records are presently deemed public records.

IF THE COUNCIL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COUNCIL'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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

16. Notification to COUNTY. The **COUNCIL** shall notify the **COUNTY**'s representative of any **COUNCIL** board or executive committee meeting at which matters relating to this **AGREEMENT** are scheduled to be discussed.
17. Prohibition of Assignment. The **COUNCIL** shall not assign, sublet, convey or transfer in whole or in part its interest in this **AGREEMENT**, without the prior written consent of the **COUNTY**.
18. Authority to Practice. The **COUNCIL** 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 responsible manner. Proof of such license and approvals shall be submitted to **COUNTY** upon request.
19. Other Activities and Services. This **AGREEMENT** shall not be construed so as to prevent the **COUNCIL** from being an applicant for other funds from the **COUNTY** for activities or services other than those carried out under the terms of this **AGREEMENT**, and which do not conflict with the activities or services provided for in this **AGREEMENT**.
20. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **COUNCIL** certifies that it, its affiliates, suppliers, subcontractors and consultants 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).
21. Termination. The **COUNTY** or the **COUNCIL** may terminate this **AGREEMENT** at any time without cause by giving the other thirty (30) days advance written notice of such termination and specifying the effective date thereof.
22. Notices. All notices required by this **AGREEMENT** shall be sent by certified mail, return receipt requested, to the following:

As to **COUNTY**:
Verdenia Baker, County Administrator
301 North Olive Avenue, 11th Floor
West Palm Beach, FL 33401

As to **COUNCIL**:
Dave Lawrence, President and CEO
Cultural Council for Palm Beach County, Inc.

601 Lake Ave
Lake Worth Beach, FL 33460

Or such other address directed by the respective parties in writing.

23. Palm Beach County Office of the Inspector General Audit Requirements. Pursuant to Palm Beach County Code, Section 2-421–2-440, as amended, Palm Beach County’s Office of Inspector General is authorized to review past, present and proposed **COUNTY** contracts, transactions, accounts, and records. The Inspector General’s authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the **COUNTY**, or anyone acting on their behalf, in order to ensure compliance with **AGREEMENT** requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a 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.
24. Entirety of Agreement. This **AGREEMENT** shall constitute the whole **AGREEMENT** between the parties unless otherwise amended in writing. Any failure by the **COUNTY** to require strict performance by the **COUNCIL** or any waiver by the **COUNTY** of any provisions of this **AGREEMENT** shall not be construed as a consent or waiver of any other breach of the same or any other provision.
25. Remedies. This **AGREEMENT** shall be governed by the Laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in Palm Beach County. 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.

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 **COUNCIL**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

26. Regulations: Licensing Requirements. The **COUNCIL** shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. **COUNCIL** 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.
27. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **ESPN** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.
28. E-Verify-Employment Eligibility. **COUNCIL** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **COUNCIL**’s subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

COUNCIL shall obtain from each of its subconsultants an affidavit stating that the subconsultant does not employ, **AGREEMENT** with, or subcontract with an Unauthorized Alien, as that term is defined

in section 448.095(1)(k), Florida Statutes, as may be amended. **COUNCIL** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **COUNCIL** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **COUNCIL**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **COUNCIL** to terminate its contract with the subcontractor and **COUNCIL** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **COUNCIL** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such **AGREEMENT** termination, **COUNCIL** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

29. Agreement Submission: **COUNCIL** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **COUNCIL** is unable to access the approved software **COUNCIL** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **COUNCIL** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
30. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **COUNCIL** shall execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.

(This page intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and COUNCIL has hereunto set its hand the day and year above written.

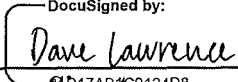
ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

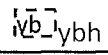
By: _____
Maria Sachs, Mayor

CULTURAL COUNCIL OF
PALM BEACH COUNTY, INC.

DocuSigned by:

Signature

David B. Lawrence, President and CEO
Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO TERMS
AND CONDITIONS


DocuSigned by:

Emanuel Perry, Director
Tourist Development Council

Exhibit A

AGREEMENT BETWEEN PALM BEACH COUNTY AND FOR THE CULTURAL CAPITAL FUND GRANT

This AGREEMENT is made as of the ___ day of _____, 20, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (COUNTY), and _____ (GRANTEE), authorized to do business in the State of Florida, whose Federal I.D. is _____ (individually, PARTY, and collectively, PARTIES).

WHEREAS, the COUNTY has determined that it is in the best interest of the residents and visitors of Palm Beach County to support cultural organizations which provide entertainment and education to COUNTY residents and visitors; and

WHEREAS, the COUNTY, through the budgetary process has approved allocation of Three Million Dollars (\$3,000,000) to be spent between September 1, 2023, and December 31, 2026, to support cultural infrastructure projects of various local non-profit cultural organization; and

WHEREAS, the COUNTY is contracting with the Cultural Council of Palm Beach County, Inc. (COUNCIL) for the COUNCIL to administer and monitor the cultural capital fund grants; and

WHEREAS, the GRANTEE is a non-profit cultural organization, seeking the cultural capital fund grant described herein (GRANT) to fund certain capital improvement(s) (CAPITAL IMPROVEMENT) to help offset expenses of GRANTEE's larger capital infrastructure project; and

WHEREAS, the COUNTY has determined that the GRANT for the CAPITAL IMPROVEMENT is a COUNTY public purpose by providing needed upgrades to enhance the public's experience and attract visitors to Palm Beach County; and

NOW, THEREFORE, in consideration of the mutual representations, terms and covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, the PARTIES hereby agree:

1. Recitals. The above recitals are true and correct and are incorporated herein.
2. Term. The term of this AGREEMENT will commence retroactively on September 1, 2023, and shall remain in full force and effect until December 31, 2026.
3. GRANT Description. COUNTY agrees to reimburse the GRANTEE the GRANT amount not to exceed \$_____ for the costs associated with the CAPITAL IMPROVEMENT, as described in EXHIBIT A. Any changes to the CAPITAL IMPROVEMENT, as described in EXHIBIT A, shall first be submitted to the COUNCIL for review. The COUNCIL shall convey proposed changes to the grant description in EXHIBIT A to the COUNTY for approval. No expense related to a change in EXHIBIT A will be reimbursed, unless approved as provided herein.
4. Payment of GRANT Funds.
 - A. No GRANT funds shall be advanced by COUNTY to or on behalf of GRANTEE.
 - B. On or before the fifth (5th) day of each COUNTY fiscal quarter, the GRANTEE may submit to the COUNCIL the Request for Payment of Grant Funds, attached as EXHIBIT C (REQUEST), for costs incurred under this AGREEMENT. Upon approval of the REQUEST by the COUNCIL, the REQUEST shall be submitted by the COUNCIL to the Clerk of the Circuit Court and Comptroller, Palm Beach County for processing and payment in accordance with this AGREEMENT and applicable by law. Each

- REQUEST** submitted by **GRANTEE** shall include a reference to its previous authorization, shall be itemized in sufficient detail for pre-payment audit thereof, shall be supported by copies of the corresponding paid vendor invoices and substantiated proof of receipt or proof of performance of the goods and services invoiced, and any further documentation deemed necessary by the **COUNCIL** or **COUNTY**. **COUNTY** shall not pay **GRANTEE** for any **REQUEST**, including any invoice, unless and until the **CLERK**'s pre-payment audit thereof in accordance with law.
- C. In the event **GRANTEE** ceases to exist or ceases or suspends the **CAPITAL IMPROVEMENT** for any reason, any remaining unpaid portion of this **AGREEMENT** shall be retained by **COUNTY**, and **COUNTY** in its sole discretion, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**. **COUNTY** shall make the determination that **GRANTEE** has ceased or suspended the **CAPITAL IMPROVEMENT** and **GRANTEE** agrees to be bound by **COUNTY**'s determination.
 - D. **COUNTY** reserves the right to withhold **GRANT** reimbursement if the **CAPITAL IMPROVEMENT** or the **GRANTEE** does not comply with the **AGREEMENT**, including but not limited to **EXHIBIT A**.
5. **GRANTEE's Obligations.**
- A. **GRANTEE** shall use the **GRANT** only for the **CAPITAL IMPROVEMENT**, as specified in **EXHIBIT A** and in compliance with this **AGREEMENT**.
 - B. In recognition of the **GRANT**, **GRANTEE** shall credit the **COUNTY** by predominantly displaying the **COUNTY** logo and credit designation "In recognition of support, the Palm Beach County Board of County Commissioners", as more specifically outlined in **EXHIBIT B**.
 - C. **GRANTEE** shall abide by any written instructions or conditions placed on the **GRANTEE** by the **COUNTY**, whether or not included in this **AGREEMENT**.
 - D. **GRANTEE** shall be solely responsible for all aspects of the **CAPITAL IMPROVEMENT**, including but not limited to securing funding, securing all permits and approvals, procuring all labor and materials, and maintaining the **CAPITAL IMPROVEMENT** consistent with the intent of this **AGREEMENT**.
 - E. **GRANTEE** shall comply with all applicable laws, rules, ordinances and regulations.
6. **Monitoring and Inspection:** The **COUNCIL** shall monitor and conduct an evaluation of compliance with this **AGREEMENT**. **GRANTEE** shall provide **COUNCIL** staff and board members, the Board of County Commissioners, **TOURIST DEVELOPMENT COUNCIL** staff and members, and/or other **COUNTY** representatives full access, including but not limited to parking, meals and entertainment, without cost to the **CAPITAL IMPROVEMENT** and related activities funded in part by the **COUNTY** to observe, encourage, and/or monitor the **GRANTEE**'s program, procedures, and operations under this Grant, or to discuss the **GRANTEE**'s **CAPITAL IMPROVEMENT** with the **GRANTEE**'s personnel. The **GRANTEE** shall notify the **COUNTY** prior to any key stakeholder events to allow for participation of **COUNTY** officials, which may include, but is not limited to, the County's Mayor, County Commissioners, County Administration, Department Staff or other County Official(s) (**COUNTY REPRESENTATIVES**). Such participation shall be reasonable relative to any such event's capacity restrictions, and overall purpose and shall be determined by **COUNTY**, in consultation with **GRANTEE**. To encourage and facilitate **COUNTY**'s participation, as part of the consideration for this Agreement, the **GRANTEE** shall provide a reasonable number, as determined by the **COUNTY**, of complimentary tickets to key stakeholder events during the term of this Agreement to the **COUNTY** for further distribution to **COUNTY REPRESENTATIVES**. The **COUNTY** hereby authorizes **GRANTEE** to provide such access directly to said persons on the County's behalf. In so doing, **GRANTEE** shall take all reasonable efforts to communicate to said persons that the access to **CAPITAL IMPROVEMENT** and to any the key stakeholder events is being provided pursuant to this Agreement, and that the County is the donor of said access for any state or local reporting purposes. The foregoing authorization may be revoked by County at any time for any reason upon notice to **CAPITAL IMPROVEMENT**.
7. **Authority to Execute This Agreement.** Any person executing this **AGREEMENT** hereby warrants and represents that he or she has received all corporate, government, association, or entity authorization necessary to enter this

AGREEMENT.

- 8. Notices. All notices required under this **AGREEMENT** shall be in writing and shall be personally delivered; sent certified mail, return receipt requested; or e-mail with verbal confirmation to:

As to the **COUNTY**:

Emanuel Perry,
 Executive Director
 Palm Beach County Tourist Development Council
 2195 Southern Boulevard, Suite 500
 West Palm Beach, Florida 33406
 561-233-3066

with a copy to:

Palm Beach County Attorney's Office
 301 North Olive Avenue, Suite 601
 West Palm Beach, Florida 33401
 561-355-2225

Verdenia C. Baker County Administrator Palm Beach County
 301 North Olive Avenue
 West Palm Beach, Florida 33401
 561-355-6726

As to **GRANTEE**:

These names and addresses can be modified at any time by written notice to the remaining signatories to this **AGREEMENT**.

- 9. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state, county, or city officers.
- 10. Filing. A copy of this **AGREEMENT** shall be filed with the Clerk of the Circuit Court in and for Palm Beach County.
- 11. Indemnification. **GRANTEE** shall protect, defend, reimburse, indemnify and hold **COUNTY**, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this **AGREEMENT** or due to the acts or omissions of **GRANTEE**.
- 12. Public Records. Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the **GRANTEE**: (i) provides a service; and (ii) acts on behalf of the **COUNTY** as provided under Section 119.011(2) F.S., the **GRANTEE** shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The **GRANTEE** is specifically required to:
 - A. Keep and maintain public records required by the **COUNTY** to perform services as provided under this **AGREEMENT**.
 - B. Upon request from the **COUNTY'S** Custodian of Public Records, provide the **COUNTY** with a copy of the

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, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

- C. 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 AGREEMENT term and following completion of the AGREEMENT, if the GRANTEE does not transfer the records to the public agency.
- D. Upon completion of the AGREEMENT the GRANTEE shall transfer, at no cost to the COUNTY, all public records in possession of the GRANTEE 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 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 COUNTY.
- E. 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 for cause. 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.

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 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

- 13. Inspector General. Palm Beach County has established the office of the 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 contracts, transactions, accounts, and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of GRANTEE, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. GRANTEE's failure to cooperate with the 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.
- 14. Non-Discrimination. The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Parties warrant and represent that throughout the term of the AGREEMENT, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation,

gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the **AGREEMENT**.

15. Remedies/Jury Waiver. This **AGREEMENT** shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the **AGREEMENT** will be held in a competent jurisdiction located in Palm Beach County, Florida. 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 or 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.

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 **GRANTEE**.

BY ENTERING INTO THIS AGREEMENT, ALL PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

16. Insurance. The **GRANTEE** shall maintain at its sole expense, in force and effect at all times during the term of this **AGREEMENT**, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least 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 **GRANTEE**, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by **GRANTEE** under the **AGREEMENT**. **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 the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. Commercial General Liability: **GRANTEE** shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to **COUNTY** upon request.

- B. Workers' Compensation Insurance & Employer's Liability: **GRANTEE** shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

- C. Professional Liability: **GRANTEE** shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, **COUNTY** reserves the right, but not the obligation, to review and request a copy of **GRANTEE'S** most recent annual report or audited financial statement. For policies written on a "claims-made" basis, **GRANTEE** warrants the Retroactive Date equals or precedes the effective date of this **AGREEMENT**. In the event the policy is canceled, non-renewed, switched to an Occurrence Form,

retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this **AGREEMENT**, **GRANTEE** shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the **AGREEMENT** term. The requirement to purchase a SERP shall not relieve the **GRANTEE** of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

- D. Waiver of Subrogation: Except where prohibited by law, **GRANTEE** hereby waives any and all rights of Subrogation against the **COUNTY**, its officers, employees and agents for each required policy except Professional Liability. 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 that 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.
- E. Certificates of Insurance: On execution of this **AGREEMENT**, renewal, within forty-eight (48) hours of a request by **COUNTY**, and upon expiration of any of the required coverage throughout the term of this **AGREEMENT**, the **GRANTEE** shall deliver to the **COUNTY** or **COUNTY'S** designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this **AGREEMENT** have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners and may be addressed:
c/o Department

Using the address as indicated in the "Notices" article or another address on agreement of the parties.

- F. 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.
17. Severability. In the event that any provision of this **AGREEMENT** is held by a court of competent jurisdiction to be invalid or is otherwise unenforceable, then such provision shall be deemed null and void and shall be severable but shall not invalidate any other provision of this **AGREEMENT**.
18. Public Entity Crimes. As provided in F.S. 287.132-133, by entering into this **AGREEMENT** or performing any work in furtherance hereof, **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants 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 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
19. Scrutinized Companies. As provided in F.S. 287.135, by entering into this **AGREEMENT** or performing any work in furtherance hereof, the **GRANTEE** certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)9b), if **GRANTEE** is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the **COUNTY**.
20. E-Verify-Employment Eligibility. **GRANTEE** warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of **GRANTEE'S** subcontractors and subconsultants performing the duties and obligations of this **AGREEMENT** are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

GRANTEE shall obtain from each of its subconsultants and subcontractors an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. **GRANTEE** shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof.

This provision shall not supersede any provision of this **AGREEMENT** which requires a longer retention period.

COUNTY shall terminate this **AGREEMENT** if it has a good faith belief that **GRANTEE** has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If **COUNTY** has a good faith belief that **GRANTEE**'s subcontractor has knowingly violated section 448.09(1), Florida Statutes, as may be amended, **COUNTY** shall notify **GRANTEE** to terminate its contract with the subcontractor and **GRANTEE** shall immediately terminate its contract with the subcontractor. If **COUNTY** terminates this **AGREEMENT** pursuant to the above, **GRANTEE** shall be barred from being awarded a future contract by **COUNTY** for a period of one (1) year from the date on which this **AGREEMENT** was terminated. In the event of such contract termination, **GRANTEE** shall also be liable for any additional costs incurred by **COUNTY** as a result of the termination.

21. Entirety of Agreement. The **PARTIES** agree that this **AGREEMENT**, together with any attached exhibits, 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 in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the Parties hereto.
22. Grant Agreement Submission: **GRANTEE** shall execute the **AGREEMENT** through an approved **COUNTY** Electronic Signature Software. If **GRANTEE** is unable to access the approved software **GRANTEE** shall submit three (3) signed copies of the **AGREEMENT**, with approved signatures. If the **GRANTEE** fails to submit the required copies of the **AGREEMENT**, the **COUNTY** may decline to review and execute the **AGREEMENT**.
23. Counterparts: The **AGREEMENT**, including the exhibits referenced herein, may be executed in one or more counterparts all of which shall constitute collectively but one and the same **AGREEMENT**. The **COUNTY** may execute the **AGREEMENT** through electronic or manual means. The **GRANTEE** execute the **AGREEMENT** by manual means only, unless the **COUNTY** provides otherwise.
24. Assignment. The **GRANTEE** is not permitted in any manner to assign its rights or obligations under this **AGREEMENT**, and any purported assignment will be void.
25. Termination. The **PARTIES** agree that in the event **GRANTEE** fails to comply with the terms of this **AGREEMENT**, the **COUNTY** will provide to **GRANTEE** notice of default and may provide **GRANTEE** thirty (30) days written notice to cure the default. In the event **GRANTEE** fails to cure the default within the thirty (30) day cure period, the **COUNTY** will have the right to terminate this **AGREEMENT**, shall have no further obligation to honor reimbursement requests submitted by **GRANTEE**, and **GRANTEE** shall return any **COUNTY** funds already collected by **GRANTEE** under this **AGREEMENT**. The effective date of the termination will be the notice of termination.
26. Independent Contractor. 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 employee or agents of the **COUNTY**. The **GRANTEE** does not have the power or authority to bind the **COUNTY** in any promise, agreement, or representation.

(This space intentionally left blank)

WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this AGREEMENT on behalf of the COUNTY and GRANTEE has hereunto set its hand the day and year above written.

ATTEST:
JOSEPH ABRUZZO
CLERK AND COMPROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

GRANTEE:

Signature

Print Name & Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By _____
Yelizaveta Herman
Assistant County Attorney

APPROVED AS TO
TERMS AND
CONDITIONS

By _____
Department Director

EXHIBIT A

1. **CAPITAL IMPROVEMENT** description. The **CAPITAL IMPROVEMENT** consists of _____ . The **GRANT** is used to offset costs of _____ , as shown below:

LINE-ITEM	GRANT AMOUNT	LINE-ITEM COST
	\$	\$
Total	\$	\$

2. The following costs and expenses are not eligible for reimbursement under the **AGREEMENT**:
- a. Developer fees;
 - b. Design studies;
 - c. Recapitalization and refinancing;
 - d. Conceptual design services that do not result in construction documents for the **CAPITAL IMPROVEMENT**;
 - e. Legal fees, insurance and liability insurances, and membership fees;
 - f. Staff salaries and benefits;
 - g. Operational and overhead expenditures;
 - h. Marketing and promotional costs and expenses;
 - i. Strategic planning, annual reports, and expenses related to developing a long- term plan to reposition the **GRANTEE**'s infrastructure;
 - j. Cash reserves;
 - k. Consumable supplies and materials;
 - l. Activities that are solely for fundraising;
 - m. Private functions, religious services, lobbying activities, and any non-public activity;
 - n. Costs of entertainment, social activities, including but not limited to receptions, parties, galas, dinners, and associated costs, including catering, planning, staffing, and supplies; and
 - o. Long-term debt.
3. **GRANTEE** further warrants and represents, as follows:
- a. **GRANTEE** is either a) the fee simple owner of the property subject to the **CAPITAL IMPROVEMENT** (Property), b) the lessee of the Property under a lease agreement with a state or municipal entity with guaranteed rights of renewal, or c) the lessee of the Property under a commercial lease agreement with at least 10 years remaining, as of September 1,2023. However, **GRANTEE** must be the fee simple owner of the Property

if the **CAPITAL IMPROVEMENT** involves work to any exterior portion of the property;

- b. At the time of executing the **AGREEMENT**, the **GRANTEE** has sufficient funds or has secured financing for the entire cost of the **CAPITAL IMPROVEMENT** through final completion. Pledges and donations of in-kind goods or services do not meet this requirement; and
- c. the **CAPITAL IMPROVEMENT** benefits tourism in Palm Beach County.

EXHIBIT B

RECOGNITION

GRANTEE shall install and maintain in perpetuity a _____, located in _____.

GRANTEE shall submit to the **COUNCIL** a photograph of County recognition, as provided below, prior to **REQUEST** for final reimbursement.



**In Recognition of Support Provided by
Palm Beach County Board of County Commissioners**

EXHIBIT C
REQUEST FOR PAYMENT OF GRANT FUNDS

Board of County Commissioners
Palm Beach County, Florida

Agreement: AGREEMENT BETWEEN PALM BEACH COUNTY AND _____ FOR THE CULTURAL CAPITAL FUND GRANT

GRANTEE: _____

Amount to be Paid: \$

The GRANTEE submits this request for payment of grant funds, with accompanying invoices and other supporting documentation, to Palm Beach County, Florida (County) for payment under the above-referenced Agreement of the Amount set forth above from moneys held by the Clerk. In this regard, the undersigned hereby certifies as follows:

- (i) that the obligation described above was incurred and is a proper charge against the Agreement;
- (ii) that the obligation described above was incurred by, or through, the GRANTEE and that each item thereof is a proper charge against the Agreement and has not been the basis of any previous payment request;
- (iii) that all prior distributions made pursuant to previous requests for payment relating to this Agreement were applied in the manner set forth in such requests for payment;
- (iv) that all required insurance and governmental approvals needed for the work at this time, are in full force and effect;
- (v) that the work performed to date has been satisfactorily performed in accordance with GRANTEE's contractual requirements with its consultants and/or contractors; and
- (vi) that there has not been filed or served upon the County or the GRANTEE a notice of any valid lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any moneys payable to any of the persons named in such request for payment which has not been released or will not be released simultaneously with the payment of such obligation.

GRANTEE

CULTURAL COUNCIL OF PALM BEACH COUNTY

By: _____
Signature

By: _____
Signature

Print Name and Title

Print Name and Title