

AGREEMENT

Between

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE, FL

for

BROWARD CULTURAL COUNCIL
CULTURAL INCENTIVE PROGRAM

GOVERNMENTAL ENTITY

FY 2013

INCENTIVE PROGRAM
Cultural Tourism Program

INCENTIVE NUMBER
CTP01-2013

AMOUNT
\$10,000.00

AGREEMENT

Between

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE, FLORIDA

for

BROWARD CULTURAL COUNCIL
Cultural Tourism Program

This Agreement, made and entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

and

CITY OF FORT LAUDERDALE, FLORIDA, a municipality, or municipal corporation of the State of Florida, hereinafter referred to as "RECIPIENT."

WHEREAS, the Broward Cultural Council recommends funding to assist the RECIPIENT with approved expenses as specifically set forth in Exhibit "A" of this Agreement; and

WHEREAS, the Broward County Board of County Commissioners has determined that these expenditures serve a COUNTY and public purpose and are authorized by Section 1-90 of the Broward County Code of Ordinances, as amended; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, COUNTY and RECIPIENT agree as follows:

ARTICLE 1 DEFINITIONS AND IDENTIFICATIONS

- 1.1 Agreement - Agreement shall mean this document and other terms and conditions which are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 Board - The Broward County Board of County Commissioners, which is the governing body of the Broward county government created by the Broward County Charter.
- 1.3 Contract Administrator - The Broward County Administrator or the Director of the Broward County Cultural Division. The primary responsibilities of the Contract Administrator are to coordinate and communicate with RECIPIENT and to manage and supervise execution and completion of the Scope of Services and

the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Contract Administrator. After the execution of this Agreement by COUNTY, the Contract Administrator may be changed from time to time using the notice procedure under Section 10.7, "Notices."

- 1.4 County Attorney - The chief legal counsel for COUNTY who directs and supervises the Office of County Attorney, pursuant to Section 2.10 of the Broward County Charter.
- 1.5 Project - The Project consists of the services described in Article 2.
- 1.6 "RECIPIENT" - means the entity receiving the incentive funds from the COUNTY.

ARTICLE 2 SCOPE OF SERVICES

RECIPIENT shall perform all services identified in this Agreement and its incentive application as amended in Exhibit "A," attached hereto. RECIPIENT shall provide to the COUNTY a Project Evaluation Report for each Project funded through this Agreement on the form Exhibit "B." The Project Evaluation Report shall be filed with the Contract Administrator no later than thirty (30) calendar days after the completion of the Project, or with the final invoice and documentation of all items not previously submitted. Failure of the RECIPIENT to submit a completed Project Evaluation Report within the time stated shall disqualify the RECIPIENT for all incentive consideration and awards under the Cultural Division and shall entitle the COUNTY to withhold payment of final invoice without accrual of interest until all requirements of the specific program guidelines and this Agreement have been met.

ARTICLE 3 TERM AND TIME OF PERFORMANCE

- 3.1 The term of this Agreement shall begin on October 1, 2012, through September 30, 2013. If the term of this Agreement extends beyond a single fiscal year of COUNTY, the continuation of this Agreement beyond the end of any fiscal year shall be subject to the appropriation and availability of funds by the Board in accordance with Chapter 129, Florida Statutes, as amended. COUNTY's fiscal year commences on October 1 of each year and ends on September 30 of the following year. The County Administrator may execute written amendment(s) with RECIPIENT to change the term of this Agreement.
- 3.2 All duties, services, obligations, and responsibilities of RECIPIENT required by this Agreement shall be completed no later than the time specifically stated in this Agreement. Time shall be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4
COMPENSATION

4.1 COUNTY agrees to pay RECIPIENT, in the manner specified in Exhibit "A" and Article 4 herein, the maximum not-to-exceed amount of Ten Thousand Dollars (\$10,000.00) for work actually performed and completed pursuant to this Agreement, which amount shall be accepted by RECIPIENT as full compensation for all such work. It is acknowledged and agreed by RECIPIENT that this amount is the maximum payable and constitutes a limitation upon COUNTY's obligation to compensate RECIPIENT for services and expenses related to this Agreement.

4.2 RECIPIENT agrees to provide matching funds as more specifically shown in Exhibit "A."

4.3 METHOD OF BILLING AND PAYMENT

4.3.1 RECIPIENT may submit an invoice for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. A final invoice must be received no later than sixty (60) calendar days after this Agreement expires.

4.3.2 Documentation as required in Exhibit "A" must accompany any request for reimbursement. Invoices shall be certified by the RECIPIENT's executive director or an authorized officer.

4.3.3 COUNTY shall pay RECIPIENT within thirty (30) calendar days of receipt of RECIPIENT's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49, as amended from time to time). To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator.

4.3.4 Notwithstanding any provision of this Agreement to the contrary, COUNTY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to Contract Administrator or failure of RECIPIENT to comply with a term, condition or requirement of this Agreement. The amount withheld shall not be subject to payment of interest by COUNTY.

4.3.5 Payment shall be made to RECIPIENT at:

City of Fort Lauderdale
Attn: Ms. Gina Rivera, CPRP, Grants & Special Projects Coordinator
1350 West Broward Blvd.

Fort Lauderdale FL 33312

RECIPIENT may change any of the information provided under Section 4.3.5 herein by providing written notice of such change to Contract Administrator using the notice procedure under Section 10.7, "Notices." RECIPIENT shall provide its federal identification number on the form provided by COUNTY's Contract Administrator at the time of RECIPIENT's execution of this Agreement.

ARTICLE 5
CHANGE IN SCOPE OF SERVICES AND FORCE MAJEURE

- 5.1 Upon written request by the RECIPIENT, the Contract Administrator may approve in writing changes in the categories of expenditures listed in Exhibit "A."
- 5.2 The Contract Administrator and/or County Administrator may be authorized to approve certain changes in writing or by amendment as authorized by the provisions of this Agreement or by the Broward County Administrative Code (including Section 29.17). If the Broward County Administrative Code allows the Contract Administrator to make changes to the dollar amount for the unit of service, then, the Contract Administrator may also simultaneously make any necessary changes or adjustments to the number of units of service when the Contract Administrator changes the dollar amounts for the units of service as long as such changes and adjustments are not inconsistent with the provisions of the Broward County Administrative Code.
- 5.3 Changes to the Scope of Services or categories of expenditures pursuant to this Article shall be in writing, signed by the RECIPIENT and the Contract Administrator using a mutually approved and executed incentive change request form unless the changes require written amendment pursuant to Section 29.17 of the Broward County Administrative Code and/or by Section 10.15, "Amendments," herein.
- 5.4 Force Majeure: Notwithstanding anything to the contrary in this Agreement, in the event that the COUNTY's Contract Administrator, in his/her sole discretion, determines that any service, production, or performance was prevented, or rendered impossible due to labor disputes, strike, fire, act of God (including earthquake, named storm or threat of named storm occurring or predicted to occur within a five hundred (500) mile radius of Broward County, Florida, within seven (7) calendar days before or within seven (7) calendar days after the date of the service, production, or performance), war, act of terrorism, action of local, state or federal governmental authorities, or for any other reason determined solely by COUNTY's Contract Administrator in his/her sole discretion to be beyond the reasonable control of the RECIPIENT, it is understood and agreed that there shall be no claims by RECIPIENT against COUNTY except that RECIPIENT may submit proper invoices for expenses already incurred by RECIPIENT up to and including the dates of any such event. All further

obligations of RECIPIENT to, for, or toward the proper provision of the requested service(s), production(s), or performance(s) may be waived in writing by COUNTY's Contract Administrator in his/her sole discretion. In the event of submittal of a proper invoice by RECIPIENT, COUNTY's Contract Administrator, in his/her sole discretion, may approve payment for actual expenses already incurred by RECIPIENT up to and including the date of the event resulting in the non-performance by RECIPIENT.

ARTICLE 6
GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. RECIPIENT represents to COUNTY for COUNTY's reliance that RECIPIENT is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, as amended, and RECIPIENT agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

ARTICLE 7
INSURANCE

- 7.1 RECIPIENT represents to COUNTY for its reliance that RECIPIENT is a state agency or political subdivision as defined by Section 768.28, Florida Statutes (as amended), and RECIPIENT agrees to furnish the COUNTY with written verification of liability protection in accordance with state law prior to final execution of this Agreement. Additionally, if RECIPIENT elects to purchase any additional liability coverage including excess liability coverage, RECIPIENT agrees that "Broward County" shall be listed as the certificate holders and included as an additional named insured on the certificate.
- 7.2 COUNTY reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work or specifications that affect the applicability of coverage for all General Liability and Excess Liability coverage only. The certificate holder address shall read "Broward County, Florida." The official title of the owner is Broward County. This official title shall be used in all insurance documentation.
- 7.3 In the event that RECIPIENT is permitted to utilize subcontractors to perform services in accordance with Section 10.9 of this Agreement, subcontractor shall be required to comply with the insurance requirements of this Agreement if required by the COUNTY's Risk Management Division.

ARTICLE 8
TERMINATION

- 8.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) calendar days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the COUNTY, through its Board or County Administrator which shall be effective on the termination date stated in the written notice provided by the Contract Administrator but such termination date shall not be less than thirty (30) calendar days after the date of such written notice. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety or welfare. Any such notice shall be provided by the Contract Administrator. The parties agree that if the COUNTY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) calendar days after such notice of termination for cause is provided.
- 8.2 This Agreement may be terminated for cause for reasons including, but not limited to, RECIPIENT's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.
- 8.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section in Article 10 of this Agreement.
- 8.4 In the event this Agreement is terminated for convenience by COUNTY, RECIPIENT shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. RECIPIENT acknowledges and agrees that it has received good, valuable and sufficient consideration from COUNTY, the receipt and adequacy of which are, hereby acknowledged by RECIPIENT, for COUNTY's right to terminate this Agreement for convenience.
- 8.5 In the event this Agreement is terminated for any reason, any amounts due RECIPIENT shall be withheld by COUNTY until all documents are provided to COUNTY pursuant to the "RIGHTS IN DOCUMENTS AND WORK" section in Article 10.

ARTICLE 9
FINANCIAL STATEMENTS

- 9.1 If RECIPIENT receives less than Twenty-Five Thousand Dollars (\$25,000.00) for general operating support in any one COUNTY fiscal year, RECIPIENT must submit all required information, including financial information, required by the incentive agreement within thirty (30) calendar days after completion of the project.
- 9.2 Any RECIPIENT receiving Twenty-Five Thousand Dollars (\$25,000.00) or more for general operating support from the COUNTY in any one COUNTY fiscal year must submit annual audited financial statements prepared by an independent Certified Public Accountant in accordance with Generally Accepted Accounting Principles, for the fiscal year COUNTY funds are received and for each subsequent fiscal year until such time as all of the COUNTY funds are expended. RECIPIENT shall provide to the Contract Administrator two (2) copies of each of the annual financial statements and any management letter(s) thereby generated as it relates to funding provided under this Agreement, and RECIPIENT's response to any management letter(s) within one hundred eighty (180) calendar days after the close of the RECIPIENT's fiscal years. No extensions will be granted for the audited financial statements.
- 9.3 For each of operating support incentive awarded under this Agreement, the financial statements shall account for all funds received from the COUNTY via explicit, discrete disclosures and/or accompanying notes to the financial statements or the RECIPIENT shall account for all funds received from the COUNTY via a Special Report prepared by an independent certified public accountant or governmental entity's internal auditor in accordance with Section 623 of the Codification of Statements on Auditing Standards as promulgated by the American Institute of Certified Public Accountants. If the special report is prepared by a governmental entity's internal auditor, it shall be as nearly in accordance with those sections as the status of the internal auditor permits, realizing that the internal auditor may not issue the opinions required therein. The special report shall include:
- a. The statement, "no funds, including interest earned on such funds, are due back to the County;" or, a listing of funds, including interest earned on such funds, which are due back to the COUNTY.
 - b. An opinion (finding, in the case of an internal auditor) as to whether the funds received under the applicable incentive agreement with the COUNTY have been expended in accordance with this Agreement.
 - c. A schedule of project revenues and expenditures including:
 - i. all revenues relating to the services and/or project classified

by the source of the revenues; and

- ii. all expenditures relating to the services and/or project classified by the type of expenditures, to include the classifications as set forth in Exhibit "A" of this Agreement.

- 9.4 Failure of the RECIPIENT to meet these financial reporting requirements shall result in suspension of payment under this or any subsequent incentive agreement in effect and disqualify the RECIPIENT from obtaining future incentive awards until such financial statements are received and accepted by COUNTY.
- 9.5 RECIPIENT acknowledges submission of financial statements to any other Broward County office, agency, or division does not constitute compliance with requirements to submit that material to Contract Administrator for this Agreement.
- 9.6 RECIPIENT agrees to reimburse COUNTY any and all funds not used in strict compliance with this Agreement.

ARTICLE 10
MISCELLANEOUS

10.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of COUNTY; and, if a copyright is claimed, RECIPIENT grants to COUNTY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by RECIPIENT, whether finished or unfinished, shall become the property of COUNTY and shall be delivered by RECIPIENT to the Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to RECIPIENT shall be withheld until all documents are received as provided herein.

10.2 AUDIT RIGHT AND RETENTION OF RECORDS

COUNTY shall have the right to audit the books, records (including financial receipts), and accounts of RECIPIENT that are related to this Agreement. RECIPIENT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of RECIPIENT shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, RECIPIENT shall make same available in written form at no cost to COUNTY.

RECIPIENT shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as amended), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after earlier termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained by RECIPIENT until final resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to RECIPIENT's records, RECIPIENT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by RECIPIENT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry.

In the event that RECIPIENT is permitted to utilize subcontractors to perform services in accordance with Section 10.9 of this Agreement, RECIPIENT shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 10.2.

10.3 PUBLIC ENTITY CRIME ACT

RECIPIENT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes, as amended,) which essentially provides that a person or affiliate who is a RECIPIENT, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to COUNTY, may not submit a bid on a contract with COUNTY for the construction or repair of a public building or public work, may not submit bids on leases of real property to COUNTY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with COUNTY, and may not transact any business with COUNTY in excess of the threshold amount provided in Section 287.017, Florida, as amended, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

In addition to the foregoing, RECIPIENT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida, as amended, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether RECIPIENT has been placed on the convicted vendor list.

10.4 EEO COMPLIANCE

RECIPIENT shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement and shall not otherwise unlawfully discriminate in violation of the Broward County Code, Chapter 16½, as amended. RECIPIENT shall include the foregoing or similar language in its contracts with any subcontractors or subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as COUNTY deems appropriate.

RECIPIENT shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. RECIPIENT shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, RECIPIENT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

By execution of this Agreement, RECIPIENT represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended). COUNTY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from RECIPIENT all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

10.5 INDEPENDENT CONTRACTOR

RECIPIENT is an independent contractor under this Agreement. Services provided by RECIPIENT pursuant to this Agreement shall be subject to the supervision of COUNTY. In providing such services, neither RECIPIENT nor its agents shall act as officers, employees, or agents of the COUNTY. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to RECIPIENT or RECIPIENT's agents any authority of any kind to bind COUNTY in any respect whatsoever.

10.6 THIRD PARTY BENEFICIARIES

Neither RECIPIENT nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

10.7 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgment of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

Director
Attn: Earl Bosworth, Director
Broward County Cultural Division
100 S. Andrews Avenue
Fort Lauderdale, Florida 33301-1829

FOR RECIPIENT:

Parks & Recreation Director
Attn: Mr. Phil Thornburg
City of Fort Lauderdale
1350 West Broward Blvd.
Fort Lauderdale, FL 33312

Either party may change its information provided in Section 10.7 herein by providing written notices to the other party using the notices procedures in Section 10.7, "NOTICES" herein. As authorized in Section 1.3, the Contract Administrator may also be changed using the notices procedure in Section 10.7, "NOTICES" herein.

10.8 CONFLICTS

Neither RECIPIENT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with RECIPIENT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

RECIPIENT further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against COUNTY in any legal

or administrative proceeding in which he, she, or RECIPIENT is not a party, unless compelled by court process. Further, RECIPIENT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of COUNTY in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude RECIPIENT or any persons in anyway from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event RECIPIENT is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, RECIPIENT agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as RECIPIENT.

10.9 ASSIGNMENT

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the prior written consent of the other party. For the COUNTY, such written consent shall be given by action of the Board. In addition, RECIPIENT shall not subcontract any portion of the work required by this Agreement, except as provided in Exhibit "A" and/or approved in advance in writing by the Contract Administrator in his/her sole discretion.

RECIPIENT represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

RECIPIENT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of RECIPIENT's performance and all interim and final product(s) provided to or on behalf of COUNTY shall be comparable to the best local and national standards.

10.10 MATERIALITY AND WAIVER OF BREACH

COUNTY and RECIPIENT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

10.11 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or RECIPIENT elects in writing to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

10.12 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

10.13 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision contained in Articles 1 through 10 of this Agreement, the provisions in this Agreement will first govern, followed by the terms in the exhibits.

10.14 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, RECIPIENT AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

10.15 AMENDMENTS

Except for the provisions set forth in Article 3, Article 5, or in the Broward County Administrative Code (including Section 29.17), no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless

contained in a written document prepared with the same or similar formality as this Agreement and executed by the RECIPIENT and the COUNTY through its Board; however, the County Administrator or the Contract Administrator may also execute amendments to this Agreement on behalf of the COUNTY if authorized by previous Board action, including as approved in this Agreement, Board's resolution or in the Broward County Administrative Code.

10.16 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

10.17 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits "A," "B," and "C" are incorporated into and made a part of this Agreement.

10.18 COMPLIANCE WITH LAWS

RECIPIENT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations and as such may be amended, in performing its duties, responsibilities, and obligations pursuant to this Agreement.

10.19 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

10.20 NO INTEREST

10.20.1 Payment of Interest. Except as required by the Broward County Prompt Payment Ordinance, COUNTY shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof RECIPIENT waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

10.20.2 Rate of Interest. In any instance where the prohibition or limitations

of Section 10.20.1 are determined to be invalid or unenforceable, the annual rate of interest payable by COUNTY under this Agreement, whether as prejudgment interest or for any other purpose, shall be .025 percent simple interest (uncompounded).

10.21 WAIVER OF CLAIMS

RECIPIENT hereby waives any claim against COUNTY, and its agents, servants and employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment of award in any suit or proceeding declaring this Agreement null, void or voidable, delaying the same or any part thereof, from being carried out.

10.22 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of any entity does hereby represent and warrant that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party.

10.23 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by the RECIPIENT shall act as the execution of a truth-in-negotiation certificate stating that the incentive application information, factual information, representation of costs and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which COUNTY determines the contract price was increased due to inaccurate, incomplete, or noncurrent incentive application information, factual information, representation of costs and other factual unit costs supporting the compensation. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

(The remainder of this page is intentionally left blank.)

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE, FLORIDA, FOR BROWARD CULTURAL COUNCIL CTP01-2013.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through the County Administrator, authorized to execute same by Board action, and the RECIPIENT, CITY OF FORT LAUDERDALE, FLORIDA, signing by and through its _____, duly authorized to execute same.

COUNTY

WITNESSES:

BROWARD COUNTY, through its
Broward County Administrator

Signature above
Print Name: _____

By _____
County Administrator

Signature above
Print Name: _____

_____ day of _____, 20____.

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By _____
Signature (Date)

By _____
Damaris Y. Henlon (Date)
Assistant County Attorney

Print Name and Title above

DYH:lw
04/10/12
City of Fort Lauderdale CTP01-2013
#13-110.06

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE,
FLORIDA, FOR BROWARD CULTURAL COUNCIL CTP01-2013

CITY OF FORT LAUDERDALE, FLORIDA

WITNESSES:

CITY OF FORT LAUDERDALE, FLORIDA

Signature above

(Authorized Signature)

Print Name: _____

(Print name and title of
Authorized Signature for
RECIPIENT above)

Signature above

____ day of _____, 20____.

Print Name: _____

ATTEST:

Reviewed and approved as to form:

City Clerk

City Attorney

(SEAL)

EXHIBIT A

CITY OF FORT LAUDERDALE, FLORIDA ("CITY OF FORT LAUDERDALE") has been awarded incentives under the following incentive programs and in the amounts specified:

Cultural Tourism Program	\$10,000.00
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Funding for each program shall be paid to CITY OF FORT LAUDERDALE by COUNTY in accordance with the following:

Cultural Tourism Program; CTP01-2013
Project Support Program \$10,000.00

- I. Project Title: "Memorial Day Weekend Beach"

- II. Scope of Services: CITY OF FORT LAUDERDALE, FLORIDA a FY 2013 Cultural Tourism Program project, agrees to provide: Part (A), a marketing campaign to promote and advertise the implementation of a Memorial Day Weekend Beach program ("project") of arts and cultural events in May 2013 that will reflect the full range of rich, diverse, ethnic, historical and contemporary cultural activity in Broward County, FL that will enhance the region as a cultural destination, encouraging cultural tourism patronage. The CITY OF FORT LAUDERDALE and the CITY OF FORT LAUDERDALE Parks & Recreation Department will collaborate with agencies such as Greater Fort Lauderdale Convention & Visitors Bureau, Broward County Film Society, and ArtServe to produce a sustainable event on Fort Lauderdale Beach during Memorial Day Weekend by attracting tourists to the Beach. In partnership with ArtServe, Inc. the CITY OF FORT LAUDERDALE will coordinate an art show and a chalk art competitions promoting both components in the art community statewide. Artists will display and sell their sculptures, paintings, photography, hand-made jewelry, and a sand sculpting competition. CITY OF FORT LAUDERDALE will coordinate a variety of music programming from Reggae to classic rock n roll, including the The CITY OF FORT LAUDERDALE will coordinate a variety of musical programming including; Boogie Nights; Across the Universe; Reminiss; Riverside Dixieland Band; and Junkanoo. Marketing materials: Creation of marketing publications including, but not limited to, rack cards and/or similar visitor communication tools; local and regional advertising; mailings; public relations; signage; and internet/web-based vehicles. The promotional and advertising campaign will be allocated towards a national, regional/state markets and publications. Regional and State of Florida marketing may be drawn from the following, but not limited to: advertising purchases with AAA Going Places; and with state travel bureaus (Travel Host, Great Locations; Florida Vacation Guide; Florida Travel) and internet/web-based vehicles. National marketing may be drawn from advertising in publications such as Delta Sky magazine, and internet/web-based vehicles.

Part (B), Marketing Research: To perform marketing research and development services including, but not limited to; surveys of patrons, tourists and the local general public; research studies; and reporting and evaluation with relation to this FY 2013 project, to strengthen the project's ability to work with the Broward's county-wide cultural community, hospitality interests, tourism industry, and commercial establishments.

The CITY OF FORT LAUDERDALE shall be responsible for overall management and operation of this Cultural Tourism Program project and shall be responsible for maintaining documentation and providing the required matching funds for the project, as described above in Section II.

- III. a. COUNTY's total funds: \$10,000.00.
- b. CITY OF FORT LAUDERDALE's total funds: \$10,000.00.
- c. MATCH requirements: Dollar for dollar (cash one-to-one).

IV. Definition of Unit(s) of Service(s):

The COUNTY agrees to purchase reimbursable project expenses associated with the following; for Part (A), Eight Thousand (8,000) units at a cost of one (\$1.00) dollar per unit, for the creation of a national and regional/state marketing and advertising campaign, as described above in Section II, Part (A) above, only after the CITY OF FORT LAUDERDALE has satisfied its match obligation, and provided written documentation as proof.

The COUNTY agrees to purchase reimbursable project expenses associated with the following; for Part (B), Two Thousand (2,000) units at a cost of one (\$1.00) dollar per unit, for marketing research and evaluation services, as described above in Section II, Part (B) above, only after the CITY OF FORT LAUDERDALE has satisfied its match obligation, and provided written documentation as proof.

During the term of this Agreement, the total dollar amount to be purchased by the COUNTY shall not exceed a maximum of \$10,000.00 and shall only be payable to CITY OF FORT LAUDERDALE after the CITY OF FORT LAUDERDALE has satisfied its match obligation and provided written proof to COUNTY of such satisfaction.

V. Required documentation of services rendered:

CITY OF FORT LAUDERDALE shall provide, as an attachment to each Units of Service Invoice, a brief narrative description of services provided during the billing period and copies of programs, or similar documentation for any cultural activities presented. Additionally, CITY OF FORT LAUDERDALE shall document the expenditure of the grant funds and the equivalent CITY OF FORT LAUDERDALE cash match in the qualifying funding categories for each unit of service expended. CITY OF FORT LAUDERDALE shall provide a detailed outline of marketing activities tied to each market segment, copies of paid

marketing invoices, and corresponding marketing materials provided during the period covered in the Units of Service Invoice. Activities listed shall be grouped by the same categories as those appearing in the scope of services section.

The final invoice shall include documentation of the completion of all items not previously submitted, as described in Section II. Exhibit B - The Project Evaluation Report is due in accordance with Article 2.

VI. Funding Categories for which COUNTY and CITY OF FORT LAUDERDALE matching funds may be used:

FUNDING CATEGORIES	
Cultural Incentive Program Funds	CITY OF FORT LAUDERDALE 's Funds or Match
Marketing -"Memorial Day Weekend Beach"	Personnel – Administrative
Research	Personnel – Artistic
	Personnel - Technical/Production
	Outside Professional Services – Artistic
	Travel
	Marketing
	Remaining Operating Expenses
TOTAL: \$10,000.00	TOTAL: \$10,000.00

VII. Funded activities.

All funded activities to occur in Broward County solely during the term of the Agreement as described in Section 3.1. The parties agree that notwithstanding the date that this Agreement is fully executed by both parties, the Agreement, including all payment obligations, shall commence effectively on October 1, 2012 but only after it is fully executed by both parties. The COUNTY represents that the CITY OF FORT LAUDERDALE cannot rely upon the funding provided in this Agreement until the CITY OF FORT LAUDERDALE is in receipt of a fully executed original or copy of this Agreement executed by the COUNTY, through its County Administrator or Board.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

EXHIBIT B
 BROWARD CULTURAL COUNCIL
CULTURAL TOURISM PROGRAM PROJECT EVALUATION REPORT

This CTP project evaluation report must be filed with the Cultural Division, no later than 30 day after completion of the project period.

Organization:	
Mailing address:	
Project Director: Title:	Telephone: _____ Ext. _____ Fax: _____
Project Title:	BCC # CTP _____
Project began:	Total Cost of Project: \$ _____
Project ended:	Award: \$ _____
FESTIVAL PROJECTS - COMPLETE THIS SECTION. ->	Net revenue derived from the festival: \$ _____

1. PROGRAM INFORMATION

A. For all of your CTP funded activities, list dates, locations, titles, and participating artists.

<u>Event</u>	<u>Date(s)</u>	<u>Location</u>	<u>Artists</u>
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B. Provide information on the personnel involved in the project.

Number	Artists	Administrative Staff	Other Staff	Board	TOTALS
Full-time					
Part-time					
Volunteers					
TOTALS					

2. AUDIENCE TOURISM IMPACT INFORMATION

A. How many individuals attended your CTP project activities? _____ What percentage of these attendees were tourists? _____% How did you determine each of these statistics?

B. Provide numbers for all applicable categories:

Category	Participants/ Performers	Number of Hotel/Motel Room Nights	Audience	Number of Hotel/Motel room nights
Broward County Residents				
Dade County Residents				
Palm Beach County Residents				
Other Florida (non-Broward)				
Out-of -state				
Foreign				
TOTAL				

- C. Describe your marketing activities specifically designed to attract tourists. Please be inclusive. Indicate whether your organization, the Cultural Tourism Director's office, or another agency was responsible for each activity. (Continued on next page)

Marketing Activity

Responsible Party

- D. What were the most effective elements of your marketing plan? Did you find that particular media placements generated better response? Identify.
- E. As a result of your experience with this CTP project, do you plan to employ some different marketing/publicity tactics with future tourism projects? Explain.

3. FINANCIAL INFORMATION

- A. Was admission charged to your CTP project events? yes no.

If Yes, range of admission (ticket) charges: \$ _____ to \$ _____.

- B. Total organization budget for year in which the CTP project took place:

Revenues: \$ _____ Expenditures: \$ _____.

4. REQUIRED ATTACHMENTS:

- _____ Detailed explanation of how you worked with key partners on your CTP project: A) With Cultural Tourism Director. B) With hoteliers, travel agents, or other travel industry representatives. C) With other cultural organizations.
- _____ Enclose EITHER two (2) quality black and white, OR two (2) color first generation (an original, not a copy) photographs. Electronic/digitized images that clearly document the organization's funded activity are preferred.
- _____ Copies of all promotional materials utilized for the funded project including Broward County logo and funding statement and CVB logo.
- _____ Copies of media buys, including print ads and recordings of electronic media ads.
- _____ Copy of sample tourism survey form, and a copy of the survey with the tabulated results of survey questions and the tabulated zip code results.

CERTIFICATION: The undersigned certify that the information provided in this Project Evaluation Report is true and correct, and Broward County funds were expended solely for the purpose of the approved funded activity.

Signature - Chief Executive Officer	Signature - Project Director
Typed name of CEO:	Typed name of Project Director:
Date:	Date:

To submit this Project Evaluation Report, Exhibit B, ONLINE

Go to your ACCOUNT profile page, and log on:

<https://www.GrantRequest.com/SID_391?SA=AM>

In your Account profile...Click on REQUIREMENTS tab (next to Applications tab) and click on the 'OPEN Requirement' link to launch the "Exhibit B Project Report" template published to your award. Complete the input fields with your data, and upload with the Attachment files, and submit.

Some of the fields in the report are already pre-populated with data associated with this request.

If you have questions about the online **Requirement** process, please contact

**Broward Cultural Division
Incentives Section
100 South Andrews Avenue, 6th Floor
Fort Lauderdale, FL 33301-1829**

James Shermer, Grants Administrator 954-357-7502
jshermer@broward.org

Adriane Clarke, Grants Management Specialist 954-357-7530
aclarke@broward.org
<http://www.broward.org/arts/Pages/Default.aspx>



Venice of America

CITY OF
FORT LAUDERDALE

April 10, 2013

Broward County Cultural Division
100 South Andrews Avenue, 6th Floor
Fort Lauderdale, FL 33301-1829
Attn: James Shermer, Grants Administrator

Re: Cultural Tourism Program

To Whom It May Concern:

The City of Fort Lauderdale is self-insured for all general and automobile liability exposures. Accordingly, claims made against the City are handled under the City's self-funded liability program as provided for by Florida Statute 768.28.

Please feel free to contact me if you have questions or need additional information.

Sincerely,

Guy Hine
Risk Manager

FRANCISCO VASQUEZ
2013.04.18 09:48:14
-04'00'

RISK MANAGEMENT
100 N. ANDREWS AVENUE, THIRD FLOOR, FORT LAUDERDALE, FLORIDA 33301
TELEPHONE: (954) 828-5177 FAX: (954) 828-5439

