

**CITY SUPPLEMENTAL GRANT AGREEMENT BETWEEN CITY OF FORT LAUDERDALE AND
PERFORMING ARTS CENTER AUTHORITY FOR SUPPLEMENTARY FUNDING FOR PACA’S
CAPITAL IMPROVEMENT PROJECTS**

This City Supplemental Grant Agreement (“Supplemental Agreement” or “Agreement”) is made and entered into by the City of Fort Lauderdale, a municipal corporation (“City”), and Performing Arts Center Authority, an independent special district and a public body in Broward County, Florida, created by Special Act of the Florida Legislature (“PACA”). City and PACA are individually referred to as a “Party” and collectively referred to as the “Parties.”

RECITALS

A. PACA operates the Broward Center for the Performing Arts (“Center”) located in the City of Fort Lauderdale, Broward County, Florida, which is a significant cultural attraction for Broward County.

B. PACA has presented renowned performers and productions that have enhanced the cultural life of South Florida and made the Center a first-class facility for Broward County, its residents, and visitors.

C. Broward County, a political subdivision of the State of Florida (“County”), City, and PACA have entered into a separate Tri-Party Grant Agreement (the “Tri-Party Grant Agreement”) in which County, City, and PACA have agreed upon certain matching contributions to fund capital improvement projects for the Center. City and PACA wish to enter into the Supplemental Agreement to supplement the funding of capital improvements to the Center as set forth in this Agreement.

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

ARTICLE 1. DEFINITIONS

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

1.2. City Attorney means the chief legal counsel for the City appointed by the City Commission.

1.3. City Auditor means the City Auditor appointed by the City Commission.

1.4. City’s Contract Administrator means the Director of Finance, or other person designated in writing by City’s Director of Finance or the City Manager.

1.5. City’s Purchasing Director means City’s Chief Procurement Officer.

1.6. **Services** means all work required of PACA under this Agreement, including without limitation all deliverables, and other services specified in the Scope of Services attached as Exhibit A.

1.7. **Subcontractor** means an entity or individual providing Services to PACA. The term “Subcontractor” includes all subconsultants.

ARTICLE 2. EXHIBITS

Exhibit A	Scope of Services
Exhibit B	City Land Contribution

ARTICLE 3. SCOPE OF SERVICES

3.1. Scope of Services. For the Term (as defined in Section 4.1), PACA shall perform all Services, including, without limitation, the work specified in Exhibit A (the “Scope of Services”) and capital improvement projects for the Center to provide cultural attractions and other activities subject to the tri-party agreement between the City, PACA, and the County. Unless stated otherwise, such capital improvement services shall include, without limitation, all labor, materials, and tasks, whether or not enumerated in this Agreement, which are such an inseparable part of the improvement of the Center that exclusion would render PACA’s performance impractical, illogical, or unconscionable.

3.2. Subcontracting. PACA may subcontract any portion of the Services required for improvement of the Center as appropriate in its reasonable business judgment without any prior or subsequent consent from the other Parties.

3.3. Change of Scope of Services. PACA acknowledges that City’s Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services, except as expressly provided herein.

3.4. PACA’s Chief Financial Officer. PACA’s Chief Financial Officer is responsible for administering this Agreement on behalf of PACA.

ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1. Term. The term of this Agreement shall be for a period of seven (7) years, with a retroactive effective date beginning on October 1, 2023 (the “Effective Date”) and shall end on September 30, 2030 (“Initial Term”), unless otherwise terminated or extended as provided in this Agreement. The Initial Term, Extension Term(s), and any Additional Extension as defined in this article are collectively referred to as the “Term.”

4.2. Extensions. PACA and City may jointly extend this Agreement by written consent of both Parties on such rates, terms and conditions as the Parties may mutually agree. The City Manager may administratively agree to an initial extension up to five (5) years.

4.3. Fiscal Year. The continuation of this Agreement beyond the end of any City fiscal year is subject to both the appropriation and the availability of funds pursuant to Chapter 129 and, if applicable, Chapter 212, Florida Statutes.

4.4. Time of the Essence. Time is of the essence for all performance required by this Agreement.

ARTICLE 5. FUNDING, COMPENSATION, AND USE OF FUNDS

5.1. The contingent grant of land made by City to PACA for the capital improvement of the Center pursuant to this article shall be accepted by PACA as full compensation on behalf of the City for such capital improvements.

5.2. City's Contribution to PACA.

5.2.1. City's Land Contribution. City has agreed to donate land, legally described in Exhibit B ("Land Contribution"), to PACA to meet its match requirements under this agreement and the Tri-Party Grant Agreement, contingent on the conditions described in Article 6. The Parties agree that the value of such land for purposes of match credit under this agreement is \$2,100,000. A City credit amount of \$250,000 annually is hereby established for purposes of annual County-City Match (as defined therein) under the Tri-Party Grant Agreement, including extensions. The balance of \$850,000 (\$2,100,000 less \$1,250,000), adjusted, if applicable, pursuant to Section 6.1.3, shall be available to the City and shall be applied by PACA to (i) rent credits at PACA facilities up to three hundred fifty thousand dollars (\$350,000) as available and as modified by Section 6.1.3., (ii) annual capital matches of County capital contributions under any amendment or extension of the Tri-Party Grant Agreement, (iii) annual capital matches of PACA capital contributions under this City Supplemental Grant Agreement or other agreements between City and PACA, or (iv) any combination of the foregoing. The remaining City's balance with PACA shall survive three (3) years beyond the termination of the Agreement if not spent by the termination date.

5.3. Selection and Compensation of Independent Auditor. Chapter 2005-335 of the Laws of Florida requires City to retain, employ, and compensate independent certified public accountants to audit the records or book of account of PACA. The Parties have a separate agreement for independent auditing services with PACA's independent auditor for fiscal years 2022 through 2026, which is separately funded and is in addition to the amounts paid by City pursuant to Sections 5.2 above.

5.4. Breach of Agreement. In the event PACA fails to comply with or perform any of the conditions to be complied with or any of the covenants or obligations to be performed by PACA

under the terms and provisions of this Agreement, City may send a written notice to PACA demanding performance of the unfulfilled obligation. If PACA fails to cure such non-performance within thirty (30) calendar days of the delivery of such notice, City, in City's sole discretion, shall be entitled to (i) exercise any and all rights and remedies available to City at law and in equity, including without limitation the right of specific performance and injunction; or (ii) terminate this Agreement; or both. The invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

ARTICLE 6. LAND CONTRIBUTION DISBURSEMENT

6.1. City's Land Contribution Transfer Conditions and Process. During the Term, City will provide capital improvement funding to PACA as follows:

6.1.1 Within sixty (60) days after the date the Tri-Party Agreement is fully executed by the Parties, City shall place a quitclaim deed, the form of which must be approved in writing in advance by PACA, to transfer to PACA the real property described in Exhibit B ("Donated Parcel"), in escrow with Garry Johnson or other person approved by the Parties in writing ("Escrow Agent"), pursuant to the escrow agreement attached to the Tri-Party Agreement as Exhibit E ("Escrow Agreement"), which Escrow Agreement must be fully executed no later than the execution date of the Tri-Party Agreement. Any changes to the form of the Escrow Agreement must be approved in advance by all parties to the Tri-Party Agreement. City Manager is authorized to execute the Escrow Agreement in substantially the form attached as Exhibit E to the Tri-Party Agreement and to approve any changes thereto.

6.1.2 The Escrow Agreement must provide for the release and recordation of the quitclaim deed for the Donated Parcel only and specifically as set forth in this Section 6.1.2: Escrow Agent shall release and record the quitclaim deed to PACA upon written notice from County ("Release Notice"). County shall issue the Release Notice upon the first to occur of the following three events: (i) October 1, 2028, (ii) PACA has demonstrated to County's satisfaction that PACA has expended at least Two Million Five Hundred Thousand Dollars (\$2,500,000) in capital expenditures for Permitted Uses (as defined in the Tri-Party Agreement) during the term of the Tri-Party Agreement (excluding funds received from County); or (iii) termination of the Tri-Party Agreement. The obligations of this section shall survive the termination or expiration of this Agreement.

6.1.3 In the event PACA qualifying capital expenditures that qualify for the County-PACA Match under the Tri-Party Agreement are less than \$2,500,000, then the City credit amount of \$250,000 annually (totally \$1,250,000) as referenced in Section 5.2.1 shall be reduced in the same proportion such deficiency bears to \$2,500,000 and the amount of such reduction added to the City's remaining balance account (presently \$850,000 per Section 5.2.1) for additional rent credits. PACA will comply with Section 5.3.3. of the Tri-Party Agreement regarding the certification of capital expenditures.

6.2. No interest shall be due to PACA on any amount(s) payable by City.

ARTICLE 7. RECORDS, REPORTS, AND AUDITS

7.1. PACA shall keep financial records in accordance with generally accepted accounting principles.

7.2. PACA shall submit to City a calendar quarterly financial report consisting of a statement of net position, a statement of revenue and expenses, a working capital statement, a cash flow schedule and forecast, and a schedule of all operating expenditures that were made from any funds received and disbursed during the calendar quarter for which the report is prepared. Such quarterly reports shall be submitted within forty-five (45) days after the end of each calendar quarter. PACA shall also prepare and submit an annual financial report with the same details as the quarterly reports (except that the annual report will provide details for the entire fiscal year) to City within one hundred twenty (120) days after the end of the applicable fiscal year. PACA's obligations under this section shall survive the expiration of the Term.

7.3. The financial statements (including a cash flow statement), accounts, and records of PACA shall be audited annually by an independent certified public accountant licensed in the State of Florida. Such audit report shall be submitted by PACA to City no later than one hundred twenty (120) days after the end of the first year of the Initial Term (i.e., October 1, 2022-September 30, 2023) and annually thereafter during the Term, with a final audit provided within one hundred twenty (120) days after the end of the Term or after such earlier termination of this Agreement. PACA's obligations under this section shall survive the expiration of the Term.

7.4. The audit report shall contain disclosures as to the amount of subsidy remitted by County, the amount expended for capital improvements of the Center, and an opinion that the funds received have been expended in accordance with the terms of this Agreement. PACA's obligations under this section shall survive the expiration of the Term.

ARTICLE 8. INSURANCE

PACA is a governmental entity and is fully responsible for the acts and omissions of its agents or employees, subject to any applicable limitations contained within Section 768.28, Florida Statutes, for claims against state agencies or subdivisions.

Upon request by City, PACA must provide the requesting Party with written verification of liability protection that meets or exceeds any requirements of Florida law. If PACA holds any excess liability coverage, PACA must ensure that "City of Fort Lauderdale" is named as an additional insured and certificate holder under such excess liability policy and provide evidence of same to City.

If PACA maintains broader coverage or higher limits than the minimum coverage required under Florida law, City shall be entitled to such broader coverage and higher limits on a primary and

non-contributory basis. City's insurance requirements shall apply to PACA's self-insurance, if applicable.

If PACA contracts with a Subcontractor to provide any of the Services set forth herein, PACA shall require that each Subcontractor procure and maintain insurance coverage that adequately covers each Subcontractor's exposure based on the Services provided by that Subcontractor. PACA must ensure that all Subcontractors name "City of Fort Lauderdale" as and additional insures and certificate holder under the applicable insurance policies. PACA shall not permit any Subcontractor to provide Services until the insurance requirements of the Subcontractor under this section are met. If requested by City, PACA shall furnish evidence of insurance of all such Subcontractors. City reserves the right, but not the responsibility, to periodically review any and all insurance policies and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the Term.

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY

No Party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. PACA shall include the foregoing or similar language in its contracts with any subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

ARTICLE 10. TERMINATION

10.1. Termination for Cause. In the event of an alleged breach of any provision of this Agreement, a nonbreaching Party shall provide written notice of the breach to the alleged breaching Party with a copy to the other Party. If the breach is not cured within thirty (30) days after written notice of the breach, this Agreement may be terminated for cause upon ten (10) days' prior written notice by the nonbreaching Party that provided notice of breach.

If the breach is not corrected within the required time after notice by City pursuant to this section, City's Contract Administrator in their sole discretion will determine whether PACA's inability to correct the breach is excusable in light of the circumstances causing the breach. If the inability to correct is excusable in the sole discretion of City's Contract Administrator and if they are satisfied that reasonable progress is being made by PACA in its endeavor to correct the breach, City's Contract Administrator may grant further written extensions of time for correction. If, however, City's Contract Administrator determines that the failure to correct is not excusable or that the continued breach is not excusable after a written extension has been granted, then City may terminate in accordance with this section.

In the event of issuance of any notice of breach from City to PACA, City may withhold any further disbursements to PACA (without any obligation to pay interest). Additionally, the City will not be obligated to compensate PACA for any benefit received under this Agreement when it was performing.

10.2. Notice of termination shall be provided in accordance with the “Notices” section in Article 12.

10.3 Effect of Termination or Expiration. In the event of termination or expiration of this Agreement, PACA and City shall remain obligated for any obligations that accrued on or before the effective date of termination or expiration. The rights and obligations of the Parties under the Tri-Party Agreement shall survive termination or expiration of this Agreement in accordance with the terms of the Tri-Party Agreement.

ARTICLE 11. REPRESENTATIONS AND WARRANTIES

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

11.2. Warranty of Performance. PACA represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform under this Agreement, and that each person and entity that will provide Services under this Agreement is duly qualified to perform such Services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render Services. PACA represents and warrants that the Services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all Services shall equal or exceed prevailing industry standards for the provision of such Services.

ARTICLE 12. MISCELLANEOUS

12.1. Rights in Documents and Work. Any and all reports, photographs, surveys, documents, materials, data, or other work created by PACA in connection with performing Services, whether finished or unfinished (“Documents and Work”) under this Agreement, shall be owned by PACA.

12.2. Public Records. PACA and City are public entities. Each Party is responsible for complying with its public records requests and the public records laws in accordance with Chapter 119, Florida Statutes, including Section 119.0701.

In addition to any responsibility of PACA (as a separate public entity) to directly respond to each request it receives for records made or received by PACA in conjunction with this Agreement and to provide the applicable public records in response to such request, PACA shall notify City of the receipt and content of such request by sending an e-mail to City at lshort@fortlauderdale.gov

(with a simultaneous copy to finance@fortlauderdale.gov) within one (1) business day after receipt of such request.

12.3. Audit Rights and Retention of Records. City shall have the right to audit the books, records, and accounts of PACA and its Subcontractors that are related to this Agreement. PACA and its Subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts of PACA and its Subcontractors 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, PACA and its Subcontractors, as applicable, shall make same available in written form at no cost to City.

PACA and its Subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and PACA expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with City. Audits and inspections pursuant to this section may be performed by any City representative (including any outside representative engaged by City) and/or by any City representative (including any outside representative engaged by City). City reserves the right to conduct such audit or review at PACA's place of business, if deemed appropriate by City, with seventy-two (72) hours' advance notice. PACA shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by City.

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

PACA shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s) relating to the performance of this Agreement.

12.4. Independent Contractor. PACA and City are independent entities from each other. Each of the Parties and its agents shall not act as officers, employees, or agents of the other Parties. None of the Parties shall have the right to bind a Party from any obligation not expressly undertaken by the other Party.

12.5. Regulatory Capacity. Notwithstanding the fact that County and City are each a political subdivision with certain regulatory authority, County's and City's performance under this Agreement is as a party to this Agreement and not in their regulatory capacity. If County or City exercise regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's and/or City's regulatory authority as a governmental body separate and apart from this Agreement and shall not be attributable in any manner to County and/or City as parties to this Agreement.

12.6. Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by any of the Parties nor shall anything included herein be construed as consent by the Parties to be sued by third parties in any matter arising out of this Agreement.

12.7. Third-Party Beneficiaries. The Parties acknowledge 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.

12.8. Notices. Unless otherwise stated herein, in order for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as stated in this section unless and until changed by providing notice of such change in accordance with this section.

FOR CITY:

City of Fort Lauderdale
Attn: Director of Finance
1 E. Broward Blvd., Suite 444
Fort Lauderdale, Florida 33301
E-mail: finance@fortlauderdale.gov
With simultaneous e-mail copy to: lshort@fortlauderdale.gov

With a copy to:

City of Fort Lauderdale
Attn: City Attorney
1 E. Broward Blvd., Suite 1320
Fort Lauderdale, Florida 33301
Email: dsponce@fortlauderdale.gov

FOR PACA:

Performing Arts Center Authority
Attn: Catherine Carter, CFO
Broward Center for the Performing Arts
201 Southwest Fifth Avenue
Fort Lauderdale, Florida 33312

E-mail: ccarter@browardcenter.org

With simultaneous e-mail copy to: tsutton@browardcenter.org

12.9. Assignment. Except for subcontracting in accordance with Article 2, neither this Agreement nor any right or interest herein may be assigned, transferred, or encumbered by PACA without the prior written consent of City, and any such prohibited action shall be deemed null and void. If PACA violates this provision, City shall have the right to immediately terminate this Agreement by providing written notice.

12.10. Conflicts. Neither PACA nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with PACA's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the Term none of PACA's officers or employees shall serve as an expert witness against City in any legal or administrative proceeding in which they or PACA are not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing as an expression of such person's expert opinion that is adverse or prejudicial to the interests of City 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 PACA or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If PACA utilizes Subcontractors to perform any Services required by this Agreement, PACA shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as PACA.

12.11. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. PACA's or City'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. To be effective, any waiver must be in writing signed by an authorized signatory of the Party.

12.12. Compliance with Laws. PACA must comply with all Applicable Law, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

12.13. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

12.14. Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against any Party.

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

12.16. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

12.17. Law, 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. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

Prior to the filing of any litigation relating to this Agreement, the Parties will participate in a non-binding mediation, with each Party to bear its own attorneys’ fees and costs; however, each Party shall pay equally on a 50:50 basis its share of the mediator’s fees and, if applicable, any pre-approved cost(s) incurred by the mediator.

12.18. Amendments. No modification, amendment, or alteration in the terms and conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by City and PACA or others delegated authority to or otherwise authorized to execute same on their behalf except as otherwise expressly stated (including as stated in Section 4.2), and approved in writing by the County Administrator. City (through its City Commission or City Manager) may approve and execute amendments on behalf of City as long as such amendment(s) do not increase City’s funding or financial obligations.

12.19. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements,

and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

12.20. Payable Interest

12.20.1. Payment of Interest. Unless prohibited by Applicable Law, City shall not be liable for interest to PACA for any reason, whether as prejudgment interest or for any other purpose, and PACA waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

12.20.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by City under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

12.21. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

12.22. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

12.23. Verification of Employment Eligibility. PACA represents that PACA and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If PACA violates this section, City may immediately terminate this Agreement for cause and PACA shall be liable for all costs incurred by City due to the termination.

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

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: City of Fort Lauderdale, signing by and through its Mayor and Acting City Manager, duly authorized to execute same; and Performing Arts Center Authority, signing by and through its Chair or Vice Chair, duly authorized to execute same.

CITY

ATTEST:

CITY OF FORT LAUDERDALE

DAVID SOLOMAN, CITY CLERK

By _____
DEAN J. TRANTALIS, MAYOR

____ day of _____, 20____

(SEAL)

RICKELLE WILLIAMS, CITY MANAGER

____ day of _____, 20____.

APPROVED AS TO FORM AND CORRECTNESS:
D'WAYNE SPENCE, INTERIM CITY ATTORNEY

By _____
SHAUN N. AMARNANI, ESQ.
ASSISTANT CITY ATTORNEY

____ day of _____, 20 ____.

PACA

ATTEST:

PERFORMING ARTS CENTER AUTHORITY

Secretary

By _____
Chair

Print name

Print name of Chair above

(SEAL)

____ day of _____, 20____

Exhibit A

Scope of Services

1. Capital Program Summary

The capital grant funding will be allocated towards a variety of capital improvement projects falling under three main categories: facilities, production, and technology. These projects aim to enhance the functionality, safety, and efficiency of our organization's infrastructure and operations.

All funding will be allocated to capital projects at the Broward Center for the Performing Arts located at 201 SW 5th Avenue, Fort Lauderdale, FL 33312 including the Au-Rene theater, the Amaturio theater, the Abdo New River Room, the Rose Miniaci Arts Education Center, the Mary N. Porter Riverview Ballroom, the Peck Courtyard, and all ancillary spaces.

2. Services Description

General capital projects fall within three broad categories: Facilities, Production, and Technology. Funding will be utilized for capital improvements, including but not limited to projects in each of these categories.

Facilities: Facilities projects (> \$10,000) include replacement of equipment & systems, scheduled replacement/refurbishment (elevators, fire protection, HVAC), replacement of tile, wood, doors, carpet, flooring, structural repairs, architectural and engineering projects (design fees, construction documents and administration), stucco repair (replacement, waterproofing, painting), safety and security.

Production: Production projects (>\$10,000) include theatrical lighting systems, acoustical systems (performance and audio-visual), rigging, theatrical equipment, seating, and stage renovations (finishes to stage floor, walls, and ceiling).

Technology: Technology projects (>\$10,000) include technology repairs, replacement, upgrades, hardware replacement, network upgrades, software systems and enhancements, and network and cloud security.

Each project within these categories is aimed at improving our facilities, enhancing production capabilities, and upgrading technological infrastructure to better serve our organization's mission and stakeholders. By strategically investing in these areas, we aim to ensure the long-term sustainability and effectiveness of our operations.

The capital plan includes the following capital projects by location:

Broward Center Campus

Facilities Projects - Scheduled replacement or refurbishment of elevators, the freight elevator, the fire system, and the HVAC rooftop units. Structural repairs to the back of house facilities including refurbishing tiles, fixtures, partitions, and walls. Replacement of equipment and systems that have reached the end of their useful life or are no longer functioning properly including the facility work

golf cart used for landscaping and outside maintenance, replacement of pneumatics vav boxes, replacement of catering equipment and furniture, and repainting the auditorium floors.

Technology Projects – Technology repairs, replacement and upgrades including Uninterruptible Power Supply (UPS) for the network Main Distribution Frame (MDF) and Intermediate Distribution Frame (IDF) to ensure reliable power backup, desktop and laptop replacement, hardware replacement that supports the virtual environment, and digital signage replacement and upgrades. This also includes replacement of critical software including Microsoft Dynamics, the current Finance and Accounting system, point of sale equipment, replacement of security camera hardware (networking, cameras, servers) and screening devices.

Broward Center Exterior

Facilities Projects – Replacement of tile, wood, doors, carpet, and flooring including replacement of exterior doors and hardware, repair and replacement of tile in the upper level of the Courtyard to enhance safety, replacement of wood handrails and refurbishment of outdoor fixtures. Replacement of the courtyard sound system and resurfacing of the Courtyard tile to reduce maintenance and improve safety. Structural repairs of the front drive and the upper courtyard, stucco repair, replacement, waterproofing and painting including soffit repairs, mullion repairs and recaulking.

Production & Technology Projects - In addition, there is a security need to replace the gate at the south backstage lot entrance and a need for an exterior lighting package to enhance the appearance and safety of the building.

Au-Rene & Amaturro Theaters

Facilities Projects – Replacement of theater seats in the Au-Rene theater that have reached the end of their useful life. New equipment and systems in the Amaturro wardrobe room and new house lights in the Amaturro theater.

Production Projects – Theatrical light, sound and stage systems including cleaning, re-flameproofing, and re-certification of all soft goods for all venues, replacement of one-ton chain motors, a new floating moving light package, an upgraded projector and video monitor package. Replacement of the Au-Rene lighting console, new LED cyc lights in the Au-Rene, new Thomas pre-rig double truss in the Au-Rene, a new curtain motor in the Au-Rene and an acoustic curtain control in the Amaturro, an LED video wall, and replacement and upgrades to various sound and lighting systems in both the Au-Rene and Amaturro theaters.

Ancillary Spaces

Facilities Projects – Replacement of tile, wood, doors, carpet, flooring including replacement of the Einstein Room floor, repair and replacement of administration office furnishings and flooring. Scheduled replacement / refurbishment of the skywalk elevator and the administration elevator.

Production Projects - Theatrical light, sound and stage system projects including lighting system, audio console, wireless comm, projector and stage replacement in the Abdo New River Room.

Technology Projects - Technology repairs, replacements, and upgrades for each of the conference rooms to support virtual meetings and multi-media presentations.

Education Center

Facilities Projects – Replacement of equipment and systems including seating in the JM Studio and replacement of the floors in the JM Studio and each of the classrooms.

Production Projects – Theatrical light, sound and stage systems including replacement of the lighting system in the JM Studio to LED, updates to the JM lighting and audio console, replacement of the JM Studio PA and the JM Studio projector, replacement of the Thomas Classroom projector, and the Harlow Classroom audio system.

Pavillion

Facilities Projects – Replacement of equipment and systems including replacement of the ballroom lighting grid to reduce sky light heat on theatrical lighting, replacement of catering equipment and scheduled replacement of the pavilion HVAC rooftop units.

Production Projects – Theatrical light, sound and stage systems including replacement of the ballroom lighting system and lighting console, the audio system and audio console, the ballroom projector, the creston, and the lectern with confidence monitor.

3. Five Year Capital Plan

The five-year capital plan will be updated annually and forwarded to both the County and the City along with the annual fiscal year budget.

Exhibit B
City Land Contribution

The City Land Contribution will consist of the following property:

Lot 15 in Block 19 of Bryan Subdivision of Blocks 5, 8 & 19, of Town of Fort Lauderdale, according to the Plat thereof, Recorded in Plat Book 1, Page 18, of the Public Records of Dade County, Florida; said lands situate, lying and being in Broward County, Florida and Lot 16 and the north one-half of Lot 17 in Block 19 of Bryan Subdivision of Blocks 5, 8 & 19, of Town of Fort Lauderdale, according to the Plat thereof, Recorded in Plat Book 1, Page 18, of the Public Records of Dade County, Florida; said lands situate, lying and being in Broward County, Florida, together with the East one-half of the vacated alley (vacated per Official Record Book 17657, Page 545, of the public records of Broward County Florida) lying West of and adjacent to said lots.