

AGREEMENT

Between

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE, FLORIDA

for

BROWARD CULTURAL COUNCIL
CULTURAL INCENTIVE PROGRAM

FY 2016

<u>INCENTIVE PROGRAM</u>	<u>INCENTIVE NUMBER</u>	<u>AMOUNT</u>
Tourist Development Tax Capital Challenge Grant (TDT-CCGP)	TDT-CCGP01-2016	\$377,016

This Agreement ("Agreement") is entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida ("County"), and CITY OF FORT LAUDERDALE, FLORIDA, a municipal organization in the State of Florida ("Recipient" or "City").

RECITALS

The Broward Cultural Council recommends funding to assist the Recipient with services and approved expenses as specifically set forth in Article 4 and Exhibit A.

The Broward County Board of County Commissioners ("Board") has determined that these expenditures serve a public purpose.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

- 1.1 Agreement - Agreement shall mean this document, the exhibits attached hereto, and any documents expressly incorporated by reference.

Broward and Fort Lauderdale

FY 2016 TDT Agreement

- 1.2 Contract Administrator - The Director of the County's Cultural Division, or his or her successor as designated by the County in writing.

ARTICLE 2 SCOPE OF SERVICES

- 2.1 Scope of Services. Recipient shall perform all work specified in this Agreement inclusive of Exhibit A. Unless stated otherwise in this Agreement, the work required of Recipient includes all labor, materials, and tasks, whether or not enumerated in the Agreement, that are such an inseparable part of the work expressly stated in the Agreement that exclusion thereof would render Recipient's performance impractical, illogical, or unconscionable.

The project(s) consists of the services described in Exhibit A. Recipient shall provide a Project Evaluation Report on the form attached as Exhibit B for each project funded through this Agreement. Recipient shall provide the completed form to the Contract Administrator no later than thirty (30) calendar days after the completion of the term of the project or program on Exhibit A, the expiration or earlier termination of the Agreement, or at the time of the submittal of the final invoice, whichever is earliest. The required completed form shall be submitted along with any and all other documentation that is required under the Agreement but has not previously been submitted. Failure of the Recipient to timely submit a completed Project Evaluation Report shall disqualify the Recipient from consideration for any future grants under the County's Cultural Incentive Program and shall entitle the County to withhold payment of the final invoice without accrual of interest until Recipient has met all requirements of this Agreement and the specific program guidelines under which the Recipient qualified for the funding for the project.

- 2.2 Recipient shall not subcontract any portion of the required services except as may be expressly provided in Exhibit A or as approved in advance by the Contract Administrator, in his or her sole discretion, through a written Change Order or written contract amendment.
- 2.3 Change of Scope Procedures. Recipient acknowledges that Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of services to be provided under this Agreement except as expressly provided herein.

Upon written request by the Recipient, the Contract Administrator may, if authorized by the County's Administrative Code, approve in writing changes in the categories of expenditures listed in Exhibit A; however, the total amount payable to Recipient may not be modified except pursuant to a written amendment executed by the County Administrator after any required Board approval of funding.

ARTICLE 3
TERM AND TIME OF PERFORMANCE

- 3.1 Term. The Agreement shall become effective on October 1, 2015 (the "Effective Date"), and shall end on September 30, 2020 ("Term"). The construction capital improvement phase activities as provided on Exhibit A ("Construction Phase") shall commence on October 1, 2015 through June 30, 2018. The programming phase activities as provided on Exhibit A ("Programming Phase") shall commence on June 30, 2018 through September 30, 2020.
- 3.2 Extensions. The County Administrator is authorized to enter in a written amendment extending this Agreement.
- 3.3 Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with Chapter 129, Florida Statutes. The County's fiscal year commences on October 1 and ends September 30 of the following year.
- 3.4 Time is of the essence for all performance required under this Agreement.

ARTICLE 4
COMPENSATION

- 4.1 For the Term as defined in Article 3, County will pay Recipient up to a maximum of Three Hundred Seventy-seven Thousand Sixteen Dollars (\$377,016). Payment shall be made only for services actually performed and completed pursuant to this Agreement, as set forth in this Article and Exhibit A, which amount shall be accepted by Recipient as full compensation for all such services. The Recipient acknowledges that the amounts set forth herein are the maximum amounts payable and constitute a limitation on County's obligation to compensate the Recipient for its services under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Recipient's obligation to perform all items of services required under this Agreement. Recipient agrees to provide matching funds as more specifically shown in Exhibit A.

4.2 METHOD OF BILLING AND PAYMENT

- 4.2.1 Invoices. Recipient may submit invoices only for services completed in accordance with Exhibit A. An original of each invoice shall be submitted no more than once monthly, except that the final invoice must be submitted no later than sixty (60) days after all services are completed. Payments will be made only on a reimbursement basis after expenses incurred for any required services performed, and the required documentation in Exhibit A submitted with proper invoice to the County.

There is no reimbursement for travel expenses or expenses which are not approved expenses as shown on Exhibit A. Invoices shall be submitted on an approved invoice form provided by the County. If Exhibit A contains a match requirement, the County's obligation under the Agreement is conditioned upon Recipient obtaining and providing that match.

4.2.2 County shall pay Recipient within thirty (30) 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 and codified in Section 1-51.6, Broward County Code of Ordinances). To be deemed proper, an invoice must comply with all requirements set forth in this Agreement and must be submitted pursuant to any instructions prescribed by the Contract Administrator. County shall have the right to withhold payment of the invoice based on Recipient's failure to comply with any term, condition, or requirement of this Agreement. The parties agree that any amounts so withheld shall not be subject to payment of any interest by County.

4.3 Payment shall be made to Recipient at:

City of Fort Lauderdale, Florida
Attn: Gina Rivera, Grants & Special Projects Coordinator
1350 West Broward Blvd.
Fort Lauderdale, FL 33312

Recipient may change the information in this section by providing written notice of such change to the Contract Administrator in accordance with the "Notices" Section in Article 9.

ARTICLE 5 FINANCIAL STATEMENTS

The Recipient shall submit to the County all information required by the Agreement, including the Project Evaluation Report, Exhibit B, and any financial information required by Exhibit B within thirty (30) calendar days after completion of the project or the conclusion of the term of the project or program period, as described in this Agreement. The Recipient is not subject to audited annual financial statement requirements. The Contract Administrator shall be responsible for verifying that services are provided in accordance with any required documentation and the requirements of the Agreement prior to the issuance of any payment to Recipient.

ARTICLE 6
GOVERNMENTAL IMMUNITY

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, and Recipient agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is to be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract.

ARTICLE 7
INSURANCE

- 7.1 Recipient represents that it is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and agrees to furnish the County, upon execution of this Agreement, with written verification of liability protection in accordance with state of Florida laws. 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 holder and included as an additional named insured on the certificate.
- 7.2 If Recipient hires subcontractor(s) to perform services, its subcontractor(s) shall be required to endorse "Broward County" as an additional insured on any general liability and excess liability policies.

ARTICLE 8
TERMINATION

- 8.1 This Agreement may be terminated for cause based on any breach that is not cured within ten (10) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board or County Administrator upon providing written notice to Recipient of the termination date, which shall be not less than thirty (30) days after the date such written notice is provided. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, to the full extent permissible under applicable law, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.
- 8.2 County may terminate this Agreement if Recipient is found to have submitted a false certification pursuant to Section 287.135, Florida Statutes, if Recipient has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or if Recipient has failed to promptly implement corrective action for audit deficiencies upon reasonable notice by County. Notwithstanding anything contained in this Agreement to the contrary, the rights and obligations of the

parties under this paragraph shall be governed by Section 287.135, Florida Statutes, to the full extent applicable.

- 8.3 Recipient represents that neither it nor any of its affiliates has been placed on the discriminatory vendor list, as defined by Section 287.134, Florida Statutes. County may terminate this Agreement effective immediately, without any further obligation to Recipient, upon learning that such representation is false or if Recipient or any of its affiliates is placed on the discriminatory vendor list.
- 8.4 This Agreement may also be terminated as provided in Sections 9.4 (Public Entity Crime Act), 9.8 (Assignment and Performance), 9.21 (Contingency Fee), and 9.23 (Force Majeure).
- 8.5 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.
- 8.6 In the event this Agreement is terminated for convenience by County, Recipient shall be paid for any services properly performed through the termination date specified in the written notice of termination. Recipient acknowledges 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, and Recipient hereby waives, to the full extent permissible under applicable law, any and all rights to challenge the adequacy of such consideration or the validity of County's right to terminate for convenience.

ARTICLE 9 MISCELLANEOUS

- 9.1 Rights in Documents and Work. Any and all reports, photographs, surveys, media, and other data and documents provided, created or funded in connection with this Agreement shall be and remain the property of County and, if a copyright is claimed, Recipient hereby grants to County a non-exclusive perpetual license to use the copyrighted item(s), to prepare derivative works, and to make and distribute copies to the public. In the event of expiration or earlier termination of this Agreement, any reports, photographs, surveys, media, 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 expiration or earlier termination of this Agreement by either party.
- 9.2 Audit Right and Retention of Records. Recipient shall, by written contract, require its subcontractors to agree to all the requirements and obligations contained in this section.

- 9.2.1 County shall have the right to audit the books, records, and accounts of Recipient and its subcontractors that are related to this Agreement. Recipient 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. Recipient and its subcontractors 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, if applicable, or for three (3) years after termination of this Agreement, whichever is longer. If any audit has been initiated and audit findings have not been resolved at the end of the applicable retention period, the books, records, and accounts shall be retained until resolution of the audit findings.
- 9.2.2 As applicable or as may be required by Chapter 119, Florida Statutes, the Recipient shall comply with Florida's Public Records Law. Specifically, the Recipient shall: (a) keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the service; (b) provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; (d) meet all requirements for retaining public records; and (e) transfer to the County, at no cost, all public records in possession of the Recipient upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. The failure of Recipient to comply with the provisions of this section shall constitute a default and breach of this Agreement, entitling the County to exercise any remedy available under this Agreement or under applicable law.
- 9.3 Truth-In-Negotiation Representation. Recipient represents that the information supplied is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent such representation is untrue.
- 9.4 Public Entity Crime Act. Recipient represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Recipient further represents that

there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, 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. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to Recipient under this Agreement.

- 9.5 Independent Contractor. Recipient is an independent contractor under this Agreement. Recipient shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.
- 9.6 Third Party Beneficiaries. The parties acknowledge that there are no third party beneficiaries under this Agreement.
- 9.7 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

Notice to County:

Broward County, Cultural Division
Attn: Earl Bosworth, Director
100 S. Andrews Ave., 6th Floor
Fort Lauderdale, Florida 33301
Email address: EBosworth@broward.org
With simultaneous copy of e-mail to JShermer@broward.org

Notice to Recipient:

City of Fort Lauderdale, Florida
Parks and Recreation Department
Attn: Phil Thornburg, Director of P&RD
1350 West Broward Blvd.
Fort Lauderdale, FL 33312
Email address: pthornburg@fortLauderdale.gov
With simultaneous copy of e-mail to GRivera@fortLauderdale.gov

- 9.8 Assignment and Performance. Except for subcontracting approved by County as provided in Article 2 or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Recipient without the prior written consent of County. If

Recipient violates this provision, County shall have the right to immediately terminate this Agreement. Recipient represents 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. Recipient agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

- 9.9 Conflicts. Recipient agrees that neither it nor its employees will 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 the judgment and care required to perform 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, 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 person from in any way representing themselves, including giving expert testimony in support thereof, in any administrative or legal proceeding. Recipient agrees that each of its contracts with subcontractors performing under this Agreement shall contain substantively identical language to ensure that each subcontractor and its officers and employees meet the obligations contained in this paragraph.
- 9.10 Waiver of Breach. The failure of either party 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 under this Agreement shall not be deemed a waiver of any subsequent breach.
- 9.11 Compliance With Laws. Recipient shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement.
- 9.12 Severability. In the event 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.
- 9.13 Joint Preparation. This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against either party.

- 9.14 Headings and Interpretation. The 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 the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.
- 9.15 Governing Law, Venue, and 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 parties agree that 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 parties agree that 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. **BY ENTERING INTO THIS AGREEMENT, RECIPIENT AND COUNTY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.**
- 9.16 Amendments. No modification or amendment to this Agreement shall be effective unless it is in writing and executed by authorized representatives of each party, including as provided in Exhibit A if applicable. Without limiting the foregoing, the terms of this Agreement shall prevail over and against any additional or contrary terms and conditions in any format or medium unless expressly agreed to in writing by an amendment hereto executed by authorized representatives of each party.
- 9.17 Prior Agreements. This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.
- 9.18 Payable Interest.
- 9.18.1 Payment of Interest. County shall not be liable to pay any interest to Recipient 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 arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim interest, including for post-judgment interest, if such application would be contrary to applicable law.

- 9.18.2 Rate of Interest. If, for whatever reason, Section 9.18.1 is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).
- 9.19 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.
- 9.20 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.
- 9.21 Contingency Fee. Recipient represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Recipient, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to Recipient. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due Recipient under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.
- 9.22 Nondiscrimination. Recipient may not 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, except that any project assisted by U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26. Recipient shall include substantially similar language in its contracts with any and all permitted subcontractor(s) or sub-consultants.
- 9.23 Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reasons of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by law, order, proclamation, regulation, or ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance provided that the party so affected shall first have taken reasonable steps to

avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever and to the full extent such causes are removed. However, if such non-performance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to immediately terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

The Contract Administrator, in his or her sole discretion, may approve in writing payment for reasonable and documented expenses on Exhibit A which were incurred by Recipient up to and including the date of the event resulting in the non-performance by Recipient.

- 9.24 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.

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

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE,
FLORIDA, FOR BROWARD CULTURAL COUNCIL, TDT-CCGP01-2016

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY, 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
County Administrator

Signature above
Print Name: _____

By _____
County Administrator

Signature above
Print Name: _____

____ day of _____, 2016

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 _____
Andrea S. Froome (Date)
Senior Assistant County Attorney

Print Name and Title above

ASF:dp
2016-04-04 TDT 01-2016 City of Fort Lauderdale Broward.A01
04/04/16
#16-110

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE,
FLORIDA, FOR BROWARD CULTURAL COUNCIL TDT-CCGP01-2016

RECIPIENT

CITY OF FORT LAUDERDALE,
FLORIDA

WITNESSES:

Signature above

Print Name: _____

Signature above

Print Name: _____

(Authorized Signature)

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

____ day of _____, 2016

ATTEST:

Reviewed and approved as to form:

City Clerk

City Attorney

(SEAL)

EXHIBIT A
SCOPE OF SERVICES

FOR AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE, FLORIDA, FOR BROWARD CULTURAL COUNCIL TDT-CCGP01-2016

CITY OF FORT LAUDERDALE, FLORIDA ("Recipient" or "City"), has been awarded incentive funds under the following incentive program and in the amount specified:

Tourist Development Tax	
Capital Challenge Grant (TDT-CCGP)	\$377,016
TDT-CCGP01- 2016	

Funding for the program shall be paid to Recipient by County in accordance with the following:

Project Start Date: October 1, 2015 - Project End Date: September 30, 2020

Construction Phase - As defined in Section 3.1. - Commencing on October 1, 2015 through June 30, 2018.

Programming Phase - As defined in Section 3.1. - Commencing on June 30, 2018 through September 30, 2020.

- I. Project Title: Renovation and expansion of the War Memorial Auditorium Project.
- II. SCOPE OF SERVICES: During the Construction Phase of the Term (as defined in Section 3.1), the Recipient shall provide for, and complete, a construction project for the municipal-owned and operated War Memorial Auditorium Project, located at 800 NE 8th St., Fort Lauderdale, Florida 33304.

The Tourist Development Tax Capital Challenge award will be used to support the replacement of the auditorium's electrical and lighting systems, and a new telescopic seating system component.

Auditorium: War Memorial Auditorium (WMA or Auditorium) is a multi-disciplinary, multi-purpose facility located within the City's Holiday Park. The venue is owned and operated by the City of Fort Lauderdale. The auditorium was built in 1948 and opened to the public on January 14, 1950. Historic War Memorial Auditorium is an asset to the community and continues to generate tourists, visitors, and revenue. The existing 39,954 square foot facility can accommodate a capacity of 2,100 event patrons. The venue currently hosts tradeshow, seminars, boxing and wrestling events, graduations, and concerts.

Interior renovations will allow the facility to be used for a wider variety of cultural arts events, attract a greater number of tourists to Broward County and enhance the auditorium's position as a tourist destination. This project will include replacements of the electrical, lighting and seating systems. The new telescopic seating will allow the venue to accommodate 2,110 patrons in combination with the existing floor seating.

Phase One: Funds will be used to replace the existing platform seating with new semi-automatic operation chairs (i.e., portable retractable seating unit fold-down and fold-up space-saving systems) with an estimated capacity of 1,698 patrons. In total, the auditorium will be able to accommodate 2,110 patrons.

Phase Two: Funds will be used to upgrade the electrical services to the building including re-wiring and lighting replacement with low-energy efficient LED lighting fixtures for the entire building.

Part (A) of Construction Phase One: REPLACEMENT OF THE EXISTING PLATFORM SEATING WITH NEW SEMI-AUTOMATIC OPERATION CHAIRS WITH ESTIMATED CAPACITY 1,698 people. The seating system at the War Memorial Auditorium was installed in the summer of 1983. In September 2000, the seating system had major repair work. Seats have been replaced as needed, but the entire system will eventually need to be replaced as the mechanics which operate the system are beginning to wear out. Staff has had to condemn entire blocks of seats as unsellable/unusable due to this hazard. This detracts from the ability to rent the auditorium and negatively affects revenue. The City will purchase a retractable seating system to replace the current aging system. Hours will also be saved using the mechanical system versus manually setting up or breaking down seating for events. The existing seating consists of risers capable of seating 1,700 people. Floor seating can accommodate 400 persons. The replacement of the existing telescopic seating system is estimated to cost \$660,000 and will accommodate 1,698 visitors. In total, the new seating systems when combined with the existing floor seating will be able to accommodate 2,110 patrons. During the Term, the City shall ensure that the attendance capacity for the Auditorium (WMA) does not exceed 4,999 patrons unless a written amendment is executed between the City (through its City Commission or City Manager) and the County (through its Board or its County Administrator) after the Contract Administrator's review and discussions with the County Administrator's management level staff and the Office of the County Attorney.

Part (B) of Construction Phase Two: UPGRADE OF THE EXISTING ELECTRICAL SYSTEMS IN THE BUILDING INCLUDING RE-WIRING AND INTERIOR LIGHTING REPLACEMENT WITH LOW-ENERGY EFFICIENT LED LIGHTING FIXTURES. The project includes the re-wiring and various electrical upgrades due to 60+ years of deterioration and continuous use. The lighting will consist of low-energy efficient LED lighting. The electrical upgrades also include

three phase 600 amps service upgrade. The budget for the electrical system upgrade is \$1,019,612.

CONSTRUCTION PHASE (as defined in Section 3.1): The Recipient shall ensure that the required construction-related activities are completed within the Construction Phase as follows:

Parts A and B: - Project Start Date: October 1, 2015 through September 30, 2020.

Project timeline:

October 2015 - TDT-CCGP funding period begins.

October 2015 - June 2016 - Planning: Evaluate the existing systems, preliminary estimation of the costs for seating and electrical upgrades.

June 2016 - November 2016 - Seating replacement, design of electrical upgrades.

October 2016 - December 2017 - Bidding phase for the electrical improvements.

December 2017 - January 2018 - Contract award phase for the electrical improvements.

January 2018 - January 2019 - Construction phase for the electrical improvements.

January 2019 - WMA TDT-CCGP project complete.

September 2020 - TDT-CCGP funding period ends.

Except as stated herein, the Recipient shall provide for, and be responsible for, the capital expenses associated with the design, development of the architectural engineering services, site preparation, construction costs, and programs for the new construction of the War Memorial Auditorium Project.

III. FUNDS:

- a. County's maximum not-to-exceed total funds: \$377,016.
- b. Recipient's total funds: \$754,032.
- c. Match requirements: Dollar for dollar (two dollars of Recipient's cash-to-every one dollar cash match of County).

The Recipient shall provide for a minimum cash match in funds in the amount of Seven Hundred Fifty-four Thousand Thirty-two Dollars (\$754,032).

- a. County's maximum not-to-exceed total funds: Three Hundred Thousand Seventy-seven and Sixteen Dollars (\$377,016).
- b. Recipient's total funds: Seven Hundred Fifty-four Thousand Thirty-two Dollars (\$754,032) (two-to-one cash match).
- c. Match requirements: Recipient shall provide a two-to-one cash match.

The Recipient shall provide a two-to-one cash match in any combination of the following forms: The cash matching portion shall be used solely for the project for which the County's TDT Capital Challenge Grant funds are awarded to Recipient. The cash match may include: Recipient's available cash-on-hand earmarked for the project (as determined on the date the Recipient filed its incentive (grant) application with the County on February 16, 2015) and any additional received or added after such date; irrevocable contributions of cash that will be received by the Recipient and obligated by the end of the project period as shown above; the cost of site acquisition (for City-owned property) if acquired within three (3) years prior to the date of the incentive (grant) application filed on February 16, 2015, or the Broward County Property Appraiser's official assessed valuation if acquired more than three (3) years prior to the date of application filed on the date stated above.

The budgeted funds shall be committed by the Recipient for at least three (3) years after the project start date provided in this Agreement in order to guarantee that the matching funds will be available to complete the "project." The County's funding shall only be paid on a reimbursable basis after receipt by Contract Administrator of proper documentation as further provided in Article 4.

The Recipient shall first expend required match and County's funds before invoicing for the County's reimbursement share. The County shall not make advance payments to Recipient. No County grant may be used as matching funds for another County grant. Recipient must show proof of spending on qualified expenses described in the Paragraph IV below.

Unless such expenditures are specifically authorized in the program guidelines or in this Agreement, funding restrictions are applicable to this Agreement, which is one of the Broward Cultural Council's incentive programs. Recipient may use certain cost categories, as approved in writing by the Contract Administrator, as Recipient's match. Recipient shall refer to the eligible project funding categories described in the table in Section VI of this Exhibit.

IV. DEFINITION OF UNIT(S) OF SERVICE(S):

The County agrees to purchase and will reimburse Recipient for reimbursable project and construction expenses associated with the project up to \$377,016, as

described above in Section II. Part (A) and Part (B) reimbursements will only be available after the Recipient has satisfied its two-to-one cash match obligation and provided written documentation as proof to County of such satisfaction.

Grant funds will be used to support:

Part (A): \$194,000 REPLACEMENT OF THE EXISTING PLATFORM SEATING WITH NEW SEMI-AUTOMATIC OPERATION CHAIRS (i.e., portable retractable seating unit fold-down and fold-up space-saving systems) WITH AN ESTIMATED CAPACITY OF 1,698 patrons (Total cost \$660,000).

Part (A) of Construction Phase: The County will purchase and reimburse Recipient for reimbursable project construction expenses associated with Part (A) up to \$194,000 for Part (A) as described above in Section II. Part (A) reimbursements will only be available after the Recipient has satisfied its two-to-one cash match obligation and provided written documentation as proof to County of such satisfaction for County's review and approval in the discretion of its Contract Administrator.

Part (B): \$183,016 UPGRADE OF THE EXISTING ELECTRICAL SYSTEMS IN THE BUILDING INCLUDING RE-WIRING AND INTERIOR LIGHTING REPLACEMENT WITH LOW-ENERGY EFFICIENT LED LIGHTING FIXTURES (Total cost \$1,019,612).

Part (B) of Construction Phase: The County will purchase and will reimburse Recipient for reimbursable project construction expenses associated with Part (B) up to \$183,016, as described above in Section II. Part (B) reimbursements will only be available after Recipient has satisfied its two-to-one cash match obligation and provided written documentation as proof to County of such satisfaction for County's review and approval in its discretion of its Contract Administrator.

	TDT Funds	Recipient Cash Match 2:1	Total Project
Part A. Seating system	\$194,000	\$388,000	\$660,000
Part B. Auditorium, Stage electrical and lighting systems	\$183,016	\$366,032	\$1,019,612
Total	\$377,016	\$754,032	\$1,679,612

During the Construction Phase of the Term (as defined in Section 3.1), the County will purchase and will reimburse Recipient for reimbursable project and construction expenses associated with the project, as described in Section II, up to \$377,016 for the construction phase(s) as described above in Section II, only after the Recipient has satisfied its funds' (cash) match obligation, and provided written documentation as proof to County of such satisfaction for County's review and approval in its discretion of its Contract Administrator.

The award of the funds by County and the expenditures by the Recipient of the awarded funds (consisting of tourist development tax funds) shall comply with the express authorized use(s) of such funds pursuant to Section 125.0104, Florida Statutes. The Recipient shall ensure that the actual use of the awarded funds are solely used for the expenditures approved by the County under this Agreement as expressly permitted by Section 125.0104, Florida Statutes. The Recipient shall provide documentation sufficient to substantiate same to County upon request.

Additionally, the Recipient shall promote and advertise tourism locally within Broward County and the state of Florida and nationally (within the United States of America) and internationally (outside the United States of America). Such promotion and advertisement of tourism may be performed through the Recipient's website and internet, the ArtsCalendar.com, other electronic medium, or other advertising medium. If Recipient uses any of the awarded funds for any activity, service, venue, or event as specifically approved by the County in this Agreement, then the Recipient shall ensure that such activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.

V. REQUIRED DOCUMENTATION OF SERVICES RENDERED:

Additionally, Recipient shall document the expenditure of the TDT incentive funds and the Recipient's equivalent two-to-one cash match in the qualifying funding categories for each unit of service expended.

Recipient 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 paid invoices for the costs associated with each of the project's construction phases: (i.e., building construction; architectural; engineering; site preparation; structural).

Recipient shall provide a detailed outline of the activities tied to each construction phase completed and invoiced, along with the copies of paid invoices, and corresponding materials documenting the work completed, and provided, during the period covered in the Units of Service invoice.

The Recipient's cash match, in the qualifying funding categories for each unit of service expended, be grouped by the same activity 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 as provided in Article 2.

VI. FUNDING CATEGORIES FOR WHICH COUNTY'S AND RECIPIENT'S MATCHING FUNDS MAY BE USED:

FUNDING CATEGORIES	
County's TDT-CCGP Program Funds	Recipient's Funds or Match
Outside Professional Services	Outside Professional Services
Outside Professional Services	Outside Professional Services
Architectural	Architectural
Engineering	Engineering
Site Preparation	Site Preparation
Exterior Work	Exterior Work
HVAC and/or Plumbing	HVAC and/or Plumbing
Electrical and/or Fire Protection	Electrical and/or Fire Protection
Structural and/or Doors and Windows	Structural and/or Doors and Windows
Special Systems, and/or Conveying Systems	Special Systems and/or Conveying Systems
Acoustical and/or Finishes and/or Woods and/or Plastics	Acoustical and/or Finishes and/or Woods and/or Plastics
Furniture and/or Equipment	Furniture and/or Equipment
Thermal and Moisture Protection	Thermal and Moisture Protection
General Conditions	General Conditions
Interior Work	Interior Work
HVAC and/or Plumbing	HVAC and/or Plumbing
Electrical and/or Fire Protection	Electrical and/or Fire Protection
Structural and/or Doors and Windows	Structural and/or Doors and Windows
Special Systems, Lighting Systems, and/or Conveying Systems	Special Systems, Lighting Systems, and/or Conveying Systems
Acoustical and/or Finishes and/or Woods and/or Plastics	Acoustical and/or Finishes and/or Woods and/or Plastics
Furniture and/or Seating Systems, and/or Equipment	Furniture, and/or Seating Systems, and/or Equipment
Thermal and Moisture Protection	Thermal and Moisture Protection
General Conditions	General Conditions
MAXIMUM NOT-TO-EXCEED TOTAL:	TOTAL:

\$377,016.	\$754,032.
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- VII. FUNDED ACTIVITIES: All funded activities are to occur exclusively in Broward County and solely for the construction-related activities for the Construction Phase of the Term as stated in Section 3.1 except if otherwise expressly stated herein. Notwithstanding the date that this Agreement is fully executed by both parties, the Agreement (including all payment obligations) shall commence on the Effective Date stated in Section 3.1 but only after it is fully executed by both parties. The County represents that the Recipient cannot rely upon the funding provided in this Agreement until the Recipient is in receipt of a fully executed Agreement executed by the County, through its County Administrator or Board.

County will not make any payments to the Recipient for the programming activities relating to the Programming Phase; however, the programming requirements are essential terms of this Agreement, and Recipient shall comply with them.

If at any time after the commencement of the Programming Phase (as defined in Section 3.1), the Recipient does not cooperate with the County's GFLCVB as required herein, the County (in the sole discretion of its Contract Administrator) may withhold all or part of any funds due to Recipient in grant agreement or other agreements processed through the County's Cultural Division.

Recipient shall notify in writing (by e-mail or otherwise) the following two (2) County representatives of all meetings, project communications, and reports throughout the Term (including the Construction Phase and the Programming Phase): Earl Bosworth, Cultural Division's Director (Contract Administrator (ebosworth@broward.org), and Kim Butler, Greater Fort Lauderdale Visitors and Convention Bureau ("GFLCVB") (KimButler@broward.org).

- VIII. PROGRAMMING PHASE (as defined in Section 3.1): The Recipient shall conduct the following activities in order to ensure that there is sufficient programming available during the post construction period, including the following:

Program Marketing: In order to ensure sufficient programming (including tourist-related activities) upon final completion of the construction project(s) (facility), Recipient will design and provide a national, regional, and local marketing and advertising campaign to support and promote the project (facility) and the related programming activities and events. Recipient will provide: International marketing which may be performed through the Recipient's website, the internet, and the ArtsCalendar.com website. Recipient will be required by the County to track room night data as a result of the project and to cooperate with the GFLCVB to increase room nights generated by the project.

Market Research: With assistance of the GFLCVB, the Recipient shall perform market research, evaluation and development services, including, but not limited to, survey of patrons and tourists, program attendees, and the local general public, in order to monitor the number of hotel nights generated from the funded project and its subsequent activities and events, to evaluate how the promotional, advertisements activities and events impacted tourists and tourism during the period as described in Section 3.1, and to develop an evaluation report with relation to the programs and project (facility).

The goal of the marketing research is to strengthen the Recipient's ability to work with Broward's county-wide cultural community hospitality interests, tourism industry, and commercial establishments.

Additionally, the Recipient shall use any subsequent funding through the County's Cultural Tourism Program (CTP), if awarded, by the County to promote and advertise tourism locally within Broward County and the state of Florida and nationally (within the United States of America) and internationally (outside the United States of America). Such promotion and advertisement of tourism may be performed through the Recipient's website and internet, the ArtsCalendar.com, other electronic medium, or other advertising medium. If Recipient uses any of the subsequently awarded funds for any activity, service, venue, or event as specifically approved by the County in this Agreement, or in another County Agreement, then the Recipient shall ensure that such activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.

IX. AMENDMENTS IN ACCORDANCE WITH ARTICLE 9:

In accordance with the "Amendments" section in Article 9, amendments to the Agreement (including Exhibit A, Section 3.1, and Section 4.1) may be approved and executed by the County, (through the County Administrator or the Board) and by the Recipient or City (through its City Commission or City Manager).

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EXHIBIT B
BROWARD CULTURAL COUNCIL
Tourist Development Tax (TDT-CCGP) PROJECT EVALUATION REPORT

The Recipient shall submit to the County all information required by the Agreement, including the Project Evaluation Report, Exhibit B, and any financial information required by Exhibit B within thirty (30) calendar days after completion of the project or the conclusion of the term of the project/program period, as described in this Agreement.

Organization:	
Mailing address:	
Project Director: Title:	Telephone: _____ Ext. _____ Fax: _____
Award: \$ _____	BCC Project # _____
Date project began:	Date project ended:

1. Describe the different construction, or renovation, phases that were completed during this reporting period.

Notes:

2. Provide a summary of the different amounts of TDT funds and match funds expended during the construction phase(s) during this reporting period.

Project Category, or Project Phase	TDT Funds	Recipient Cash Match Funds 2:1	Total Project

Notes:

3. What was the goal of the project? Was it met? If so, how? If not, why?

Notes:

4. What were the objectives to achieve this goal? Were they met? If so, how? If not, why?

Notes:

5. What do you anticipate being the long-term impact of this TDT grant project on your organization?

Notes:

6. Provide information on the personnel involved, and jobs created, as a result of the **Tourist Development Tax (TDT-CCGP)** project.

Provide the total Full-Time Equivalent (FTE) calculation for all positions involved (employees and contractual services personnel, consultants). (For the purposes of this calculation, use 2,080 hours as the definition of a full-time annual schedule).

Number	Construction Architectural	Administrative	Artistic	Consultants (Others)	TOTALS
Full-time					
Part-time					
Contractual					
TOTALS					

For Post Construction and Programming Phase Reporting, only:

Marketing: Upon final completion of the construction project(s) (facility), TDT Recipient will design and provide a national, regional, and local marketing and advertising campaign to support and promote the project (facility) and the related programming activities and events. Recipient will provide: International marketing may be done through the Recipient's website, the internet and the ArtsCalendar.com website. Recipient will be required by the County to track room night data as a result of the project and to cooperate with the Greater Fort Lauderdale and Visitors' Bureau (GFLCVB) to increase room nights generated by the project.

Market Research Evaluation: with assistance of the Greater Fort Lauderdale and Visitors' Bureau, the Recipient shall perform market research, evaluation and development services, including, but not limited to, survey of patrons and tourists, program attendees, and the local general public, in order to monitor the number of hotel nights generated from the funded project and its subsequent activities and events, to evaluate how the promotional, advertisements activities and events impacted tourists and tourism during the project period.

1. 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.

Notes:

2. What were the most effective elements of your marketing plan? Did you find that particular media placements generated better response?

Notes:

3. Describe your organization's marketing activities specifically designed to attract tourists. Please be inclusive. Indicate whether your organization, the Greater Fort Lauderdale Convention and Visitors Bureau, or another agency was responsible for each activity.

Marketing Activity	Responsible Party

4. What were the most effective elements of your marketing plan? Did you find that particular media placements generated better response? Identify.

Notes:

AUDIENCE AND TOURISM IMPACT INFORMATION

5. How many individuals attended the organization's TDT project activities? _____
6. What percentage of these attendees were tourists? _____ %
7. How did you determine each of these statistics? Describe the method of computing total attendance and the method for determining the percentage tourists

Notes:

Number of programs, or events: (Be sure to count the different events, or programs, not performances of the same event).	Programs:
---	------------------

Number of performances: (For example, a musical performed 10 times is one event, listed above, with 10 performances that the audience participated). List the total number of ALL funded performances.	Performances:
--	----------------------

8. 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				

9. How did you determine each of these statistics?

10. REQUIRED ATTACHMENTS:

_____ 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 media buys, including print ads and recordings of electronic media ads.

_____ Copy of the organization's promotional materials with the Broward County logo Greater Fort Lauderdale and Visitors' Bureau logos and funding statement.

_____ Attach the geographic location template (excel).

CERTIFICATION

It is certified by the undersigned that the information provided is true and correct, and the expenditures were incurred solely for the purpose of the approved referenced grant activity.	
Signature	Signature
(Name Typed)	(Name typed)
Chief Administrative Officer	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>](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>

EXHIBIT C
Minimum Insurance Requirements

Commercial General Liability Insurance

Combined single limit for bodily injury and property damage:

\$1,000,000.00 (One Million Dollars) minimum limits per occurrence

\$2,000,000.00 (Two Million Dollars) minimum limits per aggregate



CITY OF
FORT LAUDERDALE

December 28, 2015

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

Re: Cultural Tourism Program

Dear Mr. Shermer:

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 any questions or need additional information.

Sincerely,

Guy Hine
Risk Manager

