

SECOND AMENDMENT TO THE AGREEMENT BETWEEN PALM BEACH COUNTY ON BEHALF OF THE TOURIST DEVELOPMENT COUNCIL AND CULTURAL COUNCIL OF PALM BEACH COUNTY, INC.

THIS SECOND AMENDMENT (Amendment) is made and entered into this 20th day of AUGUST, 2024, to the Agreement dated September 13, 2022 (Agreement) (R2022-1017), by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (COUNTY), and the Cultural Council of Palm Beach County, Inc (CULTURAL COUNCIL) (collectively, Parties).

WITNESSETH:

WHEREAS, the COUNTY and CULTURAL COUNCIL entered into the five-year Agreement, as amended on September 19, 2023 (R2023-1354), whereby CULTURAL COUNCIL develops and implements an Annual Marketing Plan for attracting cultural tourism in Palm Beach County; and

WHEREAS, the Agreement requires an amendment to provide for certain revised Exhibits; and

WHEREAS, the Parties have agreed that this Amendment is in the best interest of CULTURAL COUNCIL and the COUNTY's Tourism promotion program.

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

1. The above recitations are true and correct and incorporated herein.
2. Exhibits "A", "E", "H", "J", "L", "M", and "N" of the Agreement, as amended, are hereby deleted in their entirety and replaced with Exhibit "A" (Annual Budget), Exhibit "E" (Performance Measures), Exhibit "H" (Organizational Chart), Exhibit "J" (Insurance), Exhibit "L" (Procurement Policy), Exhibit "M" (Overhead), and Exhibit "N" (Diversity Schedule) all attached hereto and made a part hereof.
3. This Amendment shall become effective when executed by the Parties hereto.
4. All other terms and conditions of the Agreement, dated September 13, 2022, as amended, shall remain in full force and effect.

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IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment on the day and year first written above.

ATTEST:

JOSEPH ABRUZZO
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida, by and
through its
Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Maria Sachs, Mayor

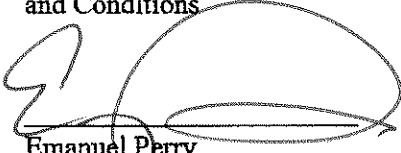
ATTEST:

CULTURAL COUNCIL OF PALM
BEACH COUNTY, INC.

By: 
Daryn M. Kirchfeld, Chair

By: 
David B. Lawrence, President and CEO

Approved as to Terms
and Conditions



Emanuel Perry
TDC Executive Director

Approved as to Form and
Legal Sufficiency

Yelizaveta B. Herman,
Assistant County Attorney

PALM BEACH COUNTY
Cultural Council of Palm Beach County, Inc.
Exhibit "A"
Annual Budget

Cultural Council FY25 Contract	Actual FY 2022	Actual FY 2023	Adopted Budget FY 2024	Modified Budget FY 2024	Forecast FY 2024	Budget FY 2025
Total Cultural Council Contract Expenses	\$ 2,343,645	\$ 2,469,614	\$ 4,712,223	\$ 4,712,223	\$ 4,712,223	\$ 4,853,590
Marketing Stimulus	\$ 902,517	\$ 1,957,673	\$ -	\$ -	\$ -	\$ -
County Direct	\$ 318,753	\$ 289,232	\$ 413,085	\$ 413,085	\$ 420,470	\$ 442,106
CAT B Grants	\$ 3,975,955	\$ 4,046,224	\$ 5,344,108	\$ 5,544,108	\$ 5,544,108	\$ 5,544,108
CII Grants	\$ 598,077	\$ 1,008,504	\$ 2,006,649	\$ 1,606,649	\$ 1,606,649	\$ 1,606,649
Beach Payback	\$ -	\$ 414,400	\$ -	\$ -	\$ -	\$ -
Special Projects Payback	\$ -	\$ 414,400	\$ -	\$ -	\$ -	\$ -
Total Cultural Council Expenses	\$ 8,138,947	\$ 10,600,047	\$ 12,276,065	\$ 12,276,065	\$ 12,283,450	\$ 12,446,453
Reserves	\$ 6,505,072	\$ 7,789,972	\$ 5,115,156	\$ 6,330,684	\$ 7,008,926	\$ 6,070,919
Total Cultural Council Expense Budget	\$ 14,644,019	\$ 18,390,019	\$ 17,391,221	\$ 18,606,749	\$ 19,292,376	\$ 18,517,372

Exhibit "A" continued

CULTURAL COUNCIL
TDC BUDGET 2025

Department	Actual	Adopted	Modified	Proposed	Budget Var	% inc(dec)	Budget Var	% inc(dec)	
	FY 2023	Budget	Budget	Forecast	FY 25 Budget vs FY 24 Modified Budget	FY 25 Budget vs FY 24 Modified Budget	FY 25 Budget vs FY 24 Forecast	FY 25 Budget vs FY 24 Forecast	
Salaries & Related									
Salary and Wages	867,686	1,091,250	1,091,250	1,061,250	1,164,633	73,383	6.72%	103,383	9.74%
PR Taxes	64,985	88,151	88,151	78,151	92,845	4,694	5.33%	14,694	18.80%
Benefits	123,958	182,358	182,358	182,358	273,305	90,947	49.87%	90,947	49.87%
Total Staffing	1,056,609	1,361,759	1,361,759	1,321,759	1,530,783	169,024	12.41%	209,024	15.81%
Marketing and Related									
Advertising	797,034	2,543,354	2,543,354	2,607,854	2,419,811	(123,543)	-4.86%	(188,043)	-7%
Agency Services/Web Design	119,705	64,860	64,860	64,860	65,509	649	1.00%	649	1%
Events, Meetings & Conferences/Innovation	56,773	172,500	172,500	172,500	166,500	(6,000)	-3.48%	(6,000)	-3%
Freight & Delivery	-	-	-	-	27,300	27,300	100.00%	27,300	100.00%
Postage	609	5,000	5,000	5,000	5,000	-	0.00%	-	0%
Printing	7,947	29,500	29,500	29,500	33,000	3,500	11.86%	3,500	12%
Surveys & Studies	30,974	30,000	30,000	30,000	30,000	-	0.00%	-	0%
Travel	20,277	21,500	21,500	21,500	21,715	215	1.00%	215	1%
Video/Radio & Other	-	-	-	-	-	-	0.00%	-	0%
Public Relations	89,675	209,950	209,950	209,950	210,000	50	0.02%	50	0%
Community Engagement/Cultural Concierge	2,304	11,900	11,900	11,900	99,000	87,100	731.93%	87,100	731.93%
Total Marketing & Related	1,125,299	3,088,564	3,088,564	3,153,064	3,077,835	(10,729)	-0.35%	(75,229)	-2.39%
General & Administrative									
Equipment Rental	3,948	7,000	7,000	5,000	5,000	(2,000)	-28.57%	-	0%
Membership & Subscriptions	34,827	42,000	42,000	36,000	37,080	(4,920)	-11.71%	1,080	3%
Outside Professional Services	97,984	50,000	50,000	35,000	38,000	(12,000)	-24.00%	3,000	9%
Repairs & Maintenance (incl software updates)	6,781	8,900	8,900	8,900	9,167	267	3.00%	267	3%
Supplies	13,456	10,000	10,000	10,000	10,000	-	0.00%	-	0%
Equipment	7,739	10,000	10,000	10,000	10,000	-	0.00%	-	0%
IT Service	11,676	16,000	16,000	16,000	16,000	-	0.00%	-	0%
Telephones/Internet	6,890	10,000	10,000	7,500	7,725	(2,275)	-22.75%	225	3%
Insurance	24,138	26,000	26,000	27,000	30,000	4,000	15.38%	3,000	11%
Other Office Expense	5,056	7,000	7,000	7,000	7,000	-	0.00%	-	0%
Building Overhead	75,000	75,000	75,000	75,000	75,000	-	0.00%	-	0%
Total General & Administrative	287,506	261,900	261,900	237,400	244,972	(16,928)	-6.46%	7,572	3%
Total TDC Contract Expense	2,469,614	4,712,223	4,712,223	4,712,223	4,853,586	141,367	3.00%	141,367	3.00%
Marketing Stimulus/Investment Plan									
ERM Beaches F20	414,400	-	-	-	-	-	-	-	-
Special Projects	414,400	-	-	-	-	-	-	-	-
Culture Reserves	1,957,673	-	-	-	-	-	-	-	-
Total Marketing Stimulus/Investment Plan	2,786,473	-	-	-	-	-	-	-	-
County Direct									
Category B Grants	4,046,224	5,144,108	5,144,108	5,144,108	5,544,108	400,000	7.78%	400,000	7.78%
Category C II Grants	1,008,504	2,006,649	1,606,649	1,606,649	1,606,649	-	0.00%	-	0.00%
TDC Chargeoff	107,641	223,921	223,921	221,228	248,585	24,664	11.01%	27,357	12.37%
Inspector General Fee	8,807	19,766	19,766	19,766	20,754	988	5.00%	988	5.00%
ISS Enterprise Services	-	-	-	-	-	-	0.00%	-	0.00%
BOCC Indirect Cost	-	-	-	-	-	-	0.00%	-	0.00%
Tax Collector Fees	172,784	169,398	169,398	171,040	172,767	3,369	1.99%	1,727	1.01%
Total County Direct	5,343,960	7,563,842	7,163,842	7,162,791	7,592,863	429,021	5.99%	430,072	6.00%
Total Expense	10,600,046	12,276,064	11,876,064	11,875,013	12,446,453	570,389	4.80%	571,440	4.81%
Reserves	7,789,972	5,115,156	6,330,684	7,008,926	6,070,919	(259,765)	-4.10%	(938,007)	-13.38%
Total Cultural Council	18,390,018	17,391,221	18,206,748	18,883,940	18,517,372	310,623	1.71%	(366,568)	-1.94%

* Contract Line Items

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O:\Finance\BudgetBook Ledger\Budgetbook FY24\Cultural Council Budget FY2024\TDC Budget 2025 V9 EP.xlsx\Budget 2025

Exhibit E

Cultural Council for Palm Beach County

Palm Beach County, FL

FY 2025 OBJECTIVES & PERFORMANCE MEASURES	Actual FY22	Actual FY23	Forecast FY24	Projected FY25	Type
• Lead Palm Beach County's tourism marketing program by serving as expert to the cultural sector, stewarding funds and strategies that attract key audiences.¹					
<i>Number of non-resident audiences (out-of-county)</i>	968,375	895,760	940,548	1,034,602	Demand
<i>Number of resident audiences (in-county)²</i>	N/A	2,259,811	2,372,801	2,610,081	Demand
<i>Total number of cultural audiences</i>	3,299,338	3,155,571	3,313,349	3,644,683	Demand
<i>Room nights for creative professionals employed by cultural organizations³</i>	13,285	16,739	17,575	19,332	Demand
• Increase awareness of Palm Beach County as a cultural destination through integrated advertising, marketing, and public relations efforts.					
<i>Website sessions (paid and organic)</i>	813,812	1,128,719	950,000	1,045,000	Outcome
<i>Tourism email database growth</i>	44,686	61,804	55,000	67,500	Outcome
<i>Partner referrals (clicks to organizations or tourism agencies)</i>	72,388	92,547	80,000	88,000	Outcome
<i>Earned PR impressions³</i>	N/A	4,223,165,058	85,310,000	86,000,000	Outcome
<i>Paid broadcast and influencer marketing³</i>	N/A	N/A	N/A	900,000	Outcome
<i>Social media impressions (organic)</i>	N/A	681,901	550,000	600,000	Outcome
• Expand co-op opportunities for cultural organization partners to increase their reach and market the destination.					
<i>Co-op program packages sold</i>	51	60	65	75	Outcome
• Promote the Robert M. Montgomery, Jr. building as a cultural destination and informational hub for the county.					
<i>Visitors to the Cultural Council</i>	4,786	5,000	6,000	6,500	Demand

EXHIBIT "L"

PROCUREMENT POLICY

Contracts entered into by Culture in accordance with this Agreement shall be subject to the following guidelines and requirements. It shall be the responsibility of Culture's President & CEO to educate staff who make purchases as to the Culture's obligations under this Agreement. Failure to follow these guidelines may result in non-reimbursement of Culture's Operating Expenses.

I. General

- a. Fully Budgeted. Culture shall only procure goods or services that are fully budgeted and appropriated as per the Board of County Commissioners' annual approved budget.
- b. Awards to Bidders and Proposers. Awards will be made to the lowest responsive, responsible bidder, or responsive, responsible proposer, whose bid or proposal is determined to be the most advantageous to Culture in its performance of its duties in accordance with the terms of this Agreement.
- c. Evaluation Criteria. Evaluation of bids, offers and proposals shall be based upon the criteria established by Culture in the solicitation and any other relevant information obtained through the evaluation process. Proposal criteria may include but need not be limited to price. Discussions or negotiations with the most qualified vendor based upon its offer may be conducted for the purpose of obtaining a contract which is in Culture's best interests in the performance of its duties, obligations and functions as provided in this Agreement.
- d. Vendor List. Culture will maintain a vendor list of those providers of goods or services who desire to be placed on the list. Such list shall include small business enterprises certified by the COUNTY. Culture will solicit bids, quotes, or proposals from responsible prospective suppliers, vendors or contractors obtained from Culture's or the COUNTY's vendor list, publications, catalogues, suggestions from the TDC or its staff, previous suppliers, and the like.
- e. Dollar Limits. All purchasing procedures and dollar limits will be determined by the initial term of the contract multiplied by the annual contracted dollar amount and no contract will exceed five (5) years in duration. No contract or purchase shall be subdivided to avoid the purchasing guidelines and dollar limit requirements provided for in this Agreement.
- f. Written Contracts/Purchase Orders. All contracts and purchase orders, including those for professional or consulting services, shall be evidenced by a written agreement which shall specify the services to be performed and/or the goods to be received, the time period during which such services will be performed, the amount and form or method of compensation (e.g.,

retainer, expense reimbursement, direct cost, hourly or fixed fee, etc.), the method of cancellation or termination, remedies for non-performance, ownership of the product, and contain other standard contract language.

II. Approval Authority

- a. Approval authority of purchases or contracts for goods or services is subject to compliance with the procurement requirements set forth in Section III herein.
- b. Up to \$50,000. Culture holds approval authority and may execute contracts for all purchases up to \$50,000.
- c. Between \$50,000 and up to \$100,000. Culture shall obtain the approval of the Executive Director of the TDC prior to executing contracts or proceeding with purchases.
- d. Over \$100,000. Culture shall obtain approval from the Executive Director of the TDC and the TDC Board prior to executing contracts or proceeding with purchases. Following approval by the TDC Board and execution of the associated contract by Culture, Culture will provide the TDC Director a copy of same for submission to the Palm Beach County Clerk of the Circuit Court & Comptroller (Clerk). Per its standing procedure, the Clerk will assign a record number ("R Number") to the contract in order to allow for reimbursements to be processed in compliance with the provisions of this Agreement.
 - i. Advertising/Marketing Purchases. Considering that, per the County's standard procedures for the annual budget approval cycle, Culture's budget is submitted for the approval of the Executive Director of the TDC and the TDC Board prior to being submitted for approval by the Board of County Commissioners (Board), Sole Source purchases for advertising media and marketing/sales partnership agreements that are specifically detailed in Culture's approved Marketing Plan and budget, shall be deemed authorized by the TDC Board and the Board upon approval of the County's annual budget.
 1. Should Culture seek approval of a Sole Source purchase for advertising media or marketing/sales partnership agreements, either of which is in excess of the amount approved by the Board in the County's annual budget, Culture shall submit the additional funding request to the Executive Director of the TDC and the TDC Board. Upon approval by the TDC Board, the Executive Director of the TDC will place the request on the agenda for action by the Board. The determination of the Board of County Commissioners shall be final. If Culture's request is approved by the Board, Culture may proceed to execute the associated contract, in compliance with the Agreement.

III. Procurement Processes

- a. Less than \$5,000. In order to purchase goods and services of less than \$5,000, Culture may obtain oral quotes. A competitive process, that takes into consideration small/minority/women-owned business enterprises and Local Preference, is encouraged but not required when making these purchases.
- b. Between \$5,001 and up to \$50,000. To purchase goods or services between \$5,001 and up to \$50,000 Culture must obtain a minimum of three (3) written quotes for each item or group of items needed. To solicit quotes, Culture will develop a Request for Quotes (RFQ) detailing the specifications of the good or services to be procured. RFQ will be mailed, faxed, or emailed to prospective bidders, as identified by Culture. Should Culture be unable to obtain the required minimum of three (3) written quotes, it shall provide adequate justification to the satisfaction of the Executive Director of the TDC as to the need to proceed with the purchase.
- c. Between \$50,001 and up to \$100,000. To purchase goods and services between \$50,001 and up to \$100,000 Culture must obtain a minimum of three (3) written proposals/bids thorough an Invitation to Bid (IFB) or Request for Submittal (RFS). Advertisements for IFB/RFS will be posted on Culture's website under a public page and published no less than one time in a trade publication, or other appropriate vehicle distributed in Palm Beach County or the locale where the service will be provided, as appropriate. Culture may elect to conduct direct outreach by emailing or mailing prospective bidders/respondents a copy of the IFB/RFS. Should Culture be unable to obtain the required minimum of three (3) written proposals/bids, it shall provide adequate justification to the satisfaction of the Executive Director of the TDC as to the need to proceed with the purchase.
- d. Exceeding \$100,001. To purchase goods or services over \$100,000 Culture shall:
 - i. Draft a request for proposals (RFP) or invitation for bids (IFB) detailing the specifications of the good or services to be procured.
 - ii. The draft RFP or IFB shall be submitted to the Executive Director of the TDC.
 - iii. The Executive Director of the TDC will review and must approve the RFP/IFB to ensure that it meets the applicable requirements of this Agreement.
 - iv. Culture will not proceed to advertise the RFP/IFB prior to obtaining approval by the Executive Director of the TDC.
 - v. Culture will advertise the RFP/IFB on Culture's website on a public page and publish it no less than one time in a trade publication, or other appropriate vehicle distributed in Palm Beach County or the locale where the service will be provided.

- vi. Culture may elect to conduct direct outreach by emailing or mailing prospective bidders/respondents a copy of the RFP/IFB.
 - vii. Responses will be evaluated by a Selection Committee. The Selection Committee members will be: (1) Culture President & CEO, (2) TDC Executive Director, (3) Culture Chair or designee, (4) TDC Board member, (5) Culture Staff member, and (6) County Administrator or Designee.
 - viii. Once the Selection Committee for a specific procurement has been chosen, the Committee may convene to evaluate the responses received and make a recommendation provided a majority of members are present.
 - ix. The Committee's recommendation will be referred for further action to Culture's Executive Committee or Culture's Board, as dictated by the its By-Laws.
 - x. Following a recommendation of approval by Culture's Executive Committee or Board, its recommendation will be placed on the agenda for the next scheduled meeting of the TDC Board. If Culture's Executive Committee or Board does not recommend approval, or the TDC Board does not approve a recommended contract, then the matter will be referred back to the Selection Committee, which may select the second choice, cancel, or re-advertise the RFP/IFB.
 - xi. Upon approval by the TDC Board, Culture is authorized to proceed with execution of the associated contract.
- e. Sole Sources. A sole source designation means there is only one (1) good or service that meets the need of Culture, and that good or service is available through only one (1) source as determined by a reasonably thorough analysis of the marketplace.
- i. Culture may purchase or contract for goods and services without competitive solicitation only if it has provided to the Executive Director of the TDC evidence in writing demonstrating that the proposed purchase or contract meets the definition of sole source herein. The evidence must be independent from the vendor.
 - ii. The request for, and approval of, a proposed Sole Source purchase must be made prior to contract execution.
 - iii. The purchase of services with key industry associations for advertising media and/or marketing/sales partnerships, are authorized to be procured as sole source purchases, based on the unique characteristics that each key industry association has, including, but not limited to, readers, broadcast's audience, and media reach.
- f. Government/Cooperative Price Agreements. Culture may procure goods and services hereunder from vendors who provide pricing that is equal to or better (less) than existing price agreements with the State of Florida, Palm

Beach County, the municipalities of Palm Beach County, the Palm Beach County School Board and other TDC agencies or Florida tourism agencies or bureaus, provided that:

- i. such governmental entity, agency or bureau utilized a competitive process;
- ii. Culture accepts the same terms and conditions specified in the originating contract; and
- iii. the contractor extends the same terms and conditions of the contract to the Culture.

IV. Emergency Purchases

- a. Definition. An emergency purchase is a procurement made in response to a need for goods or services when the delay associated with complying in the requirements of Section III herein would be detrimental to the interests, health, safety or welfare of Culture. Purchases made under the provisions of a State of Emergency issued for the County or the entire State of Florida will constitute an Emergency Purchase.
 - i. Culture may purchase or contract for goods and services only if it has provided written justification to, and obtained approval of, the Executive Director of the TDC as to the conditions warranting the emergency purchase.
 - ii. When proceeding under an emergency purchase, Culture may purchase goods or services through direct negotiations with the vendor, and without obtaining oral quotations, written quotations, or written bids or proposals.

EXHIBIT M

Cultural Council of Palm Beach County
Overhead Allocation to County
FYE 2025

	FTE %	total sq footage	County Square footage	
<u>Staff space</u>				
1 Exec. Director	40%	180	72.0	
2 VP Marketing & Program	85%	150	127.5	
3 AVP Development	0%	84	0.0	
4 AVP Community Investments (fka Grants)	75%	115	86.3	
5 Grants Assistant	95%	46	43.7	
6 AVP Marketing & Cultural Tourism	95%	115	109.3	
7 Director of Community Engagment	95%	46	43.7	
8 Director of Artist Services	0%	115	0.0	
9 Director of Stewardship	25%	115	28.8	
10 Marketing Coordinator	95%	46	43.7	
11 Bookkeeper I	90%	70	63.0	
Bookkeeper II	75%	-	0.0	
12 CFO	85%	128	108.8	
13 Accounting Manager	75%	70	52.5	
14 Accounting Clerk	90%	59	53.1	
15 Visitor Services	100%	-	0.0	
16 Receptionist/Adminstrative Assistant	50%	46	23.0	
17 Activations and Event Coord	95%	46	43.7	
18 Creative Lead	95%	46	43.7	
19 Director of Marketing	90%	46	41.4	
20 Grants Assistant/coord	90%	78	70.2	
21 IT room	70%	48	33.6	
22 Office supply storage	70%	30	21.0	
23 Intern/Marketing supply storage	100%	46	46.0	
24 Intern/community relations supply storage	95%	46	43.7	
25 Intern/Supply storage	50%	46	23.0	
Designated square footage		1,817	1,221.55	67%
Common areas		3,014	2,026.28	67%
Total square footage 2nd floor & mezzanine		4,831	3,247.83	67%
Storage 3rd floor		842	566.07	67% allocated %
First floor space	*	6,848	5,820.80	85% apply %
Total square footage		12,521	9,634.70	77% estimate-archived grants, marketing and contract reimb files, finance files and other agency/county related functions
Estimated CAM			\$ 130,000.00	
County %			X 76.95%	not including capital reserves; current depreciation rate approx \$90k/yr
Budget Potential			\$ 100,033	
Monthly invoice to County Potential			\$ 8,336	
Overhead Allocation Allowed per Contract			\$ 100,033	
Budget as per Exhibit A line item			\$ 75,000	

