



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F15

9/17/2019

Subject:

Legislative intent and permission to advertise for an amendment to Section 102119(3) of Brevard County Code and approval of the Cocoa Village Playhouse expansion project \$250,000 grant agreement.

Fiscal Impact:

FY 20192010: Funding of \$250,000 is in Capital Facilities Fund 1443. Cost to advertise Public Hearing for Board's consideration of the Ordinance.

Dept/Office:

Tourism Development

Requested Action:

It is requested that the Board of County Commissioners approve:

- (1) permission to advertise for an amendment to Section 102119(3) of Brevard County Code;
- (2) authorize the Chair to execute the grant agreement with the Historic Cocoa Village Playhouse, Inc., upon amendment of County Code 102119(3) and County Attorney and Risk Management approval; and
- (3) authorize the County Manager to execute necessary Budget Change Requests.

Summary Explanation and Background:

The Tourism Development Office requests the Board's permission to advertise for an amendment to Section 102119(3) of the Brevard County Code to include authority within the 35% of the first two pennies dedicated to capital facilities, the authority to fund auditoriums that are publicly owned but operated by organizations exempt from federal taxation pursuant to 26 United States Code Section 501(c)(3). This authority is present in section 125.0104(5)(a)1.b, Florida Statutes, but has not been incorporated into Brevard County's code.

The TDC Capital Facilities Committee at their May 30, 2019 and the Tourist Development Council at their July 24 meeting unanimously recommended the Board's approval of funding \$250,000 for the Cocoa Village Playhouse expansion project. It is also requested the Board's approval of the Cocoa Village Playhouse expansion project \$250,000 contract contingent upon amendment of the County Code to allow for the funding to come from the 35% of the first two pennies dedicated to capital facilities.

The Cocoa Village Playhouse \$2.5 million expansion project will include creating a multipurpose studio theater and event space in the adjacent R.M. Rembert Building in Cocoa Village. The expansion will allow the Cocoa Village Playhouse to diversify its programming, including hosting

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events and conventions, as well as creating a space for a dinner theater, smaller performances and bands. The expansion into the twostory building will include a box office, a catering kitchen, a bar area, restrooms, offices and storage space.

The \$250,000 in funding support will enable the Cocoa Village Playhouse to apply for matching grants through Florida's Division of Cultural Affairs and the Division of Historic Resources. For example, a \$250,000 investment could equate an additional \$437,500 from matching grants through the state.

The Cocoa Village Playhouse expansion project already has received \$986,500 in donations, pledges and matching grants for the \$2.5 million project, and plans to undertake the public phase of its capital fund raising campaign which will begin this fall.

The creation of a studio theater in the Rembert Building is estimated to bring in an additional 9,672 patrons a year, including 1,228 out of county attendees, and would generate \$495,924 a year in direct and indirect spending locally.

Clerk to the Board Instructions:

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: Cocoa Village Playhouse	
2. Fund/Account #: 1443/293200	3. Department Name: Tourism Development
4. Contract Description: \$250,000 Grant for City Funded Playhouse Renovations	
5. Contract Monitor: Jeff Baron	7. Contract Type: GRANT
6. Dept/Office Director: Peter Cranis	

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cranis, Peter <small>Digitally signed by Peter Cranis, Date: 2019.09.10 10:24:41 -0400</small>	09/10/2019
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lairsey, Matt <small>Digitally signed by Matt Lairsey, Mail Date: 2019.09.10 10:21:05 -0400</small>	09/10/2019
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Schverak, Christine <small>Digitally signed by Christine Schverak, Date: 2019.09.10 10:21:05 -0400</small>	09/09/2019

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

<u>CM DATABASE REQUIRED FIELDS</u>	<u>Complete</u> ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

September 18, 2019

M E M O R A N D U M

TO: Peter Cranis, Tourism Development Office Director

RE: Item F.15., Legislative Intent and Permission to Advertise Amendment to Section 102-119(3) of Brevard County Code; and Approval of Grant Agreement of \$250,000 for Cocoa Village Playhouse Expansion Project

The Board of County Commissioners, in regular session on September 17, 2019, approved legislative intent and granted permission to advertise for an amendment to Section 102-119(3) of Brevard County Code; approved and authorized the Chair to execute the Grant Agreement with Historic Cocoa Village Playhouse, Inc., upon amendment of County Code 102-119(3), and County Attorney and Risk Management approval; and authorized the County Manager to execute necessary Budget Change Requests.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

cc: Finance
Budget

**GRANT AGREEMENT BETWEEN
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AND
THE HISTORIC COCOA VILLAGE PLAYHOUSE, INC. FOR
CONSTRUCTION OF STUDIO THEATRE**

This Grant Agreement (hereinafter the "Agreement") is made and entered into by and between the following Parties: The Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "GRANTOR"), and the Historic Cocoa Village Playhouse, Inc., a Florida not-for-profit corporation (hereinafter the "GRANTEE").

RECITALS

WHEREAS, pursuant to the Local Option Tourist Development Act, the GRANTOR has by resolution and ordinance, Ordinance No. 86-25, and subsequent amendments thereto, levied and imposed tourist development taxes throughout Brevard County, Florida; established the Brevard County Tourist Development Council; and implemented a tourist development plan for the use of funds derived from such taxes as set forth in Sections 102-116 through 102-125, Brevard County Code of Ordinances; and

WHEREAS, pursuant to Section 125.0104(5)(a)(1)(b), Florida Statutes; and Section 102-119(3)(c) of the Brevard County Code, the GRANTOR may authorize tourist development tax revenues out of the 35 percent of first two pennies of the levy earmarked to fund construction, remodeling, and improving an auditorium that is publicly owned but operated by an organization that is exempt from federal taxation pursuant to 26 United States Code 501(c)(3) and open to the public, within the boundaries of the County where the tax is levied; and

WHEREAS, the GRANTEE has requested a \$250,000 grant to assist its ability to apply for State matching funds in GRANTEE's efforts to raise to total of \$2,500,000 to remodel and expand the Historic Cocoa Village playhouse and increase the number of Tourists brought to Brevard County; and

WHEREAS, the tourism grant funding will be used for construction, remodeling, and improvements only to the portion of the Historic Cocoa Village Playhouse that is publicly owned by the City of Cocoa; and

WHEREAS, the Tourist Development Council recommended GRANTOR approve the \$250,000 Grant at its meeting on July 24, 2019; and

WHEREAS, on September 17, 2019, the GRANTOR found that the GRANTEE's facility is a publicly owned auditorium, operated by a 501(c)(3), and open to the public within the boundaries of the County; and

WHEREAS, on September 17, 2019, the GRANTOR approved GRANTEE for a \$250,000 grant to expand and remodel the venue.

NOW, THEREFORE, the Parties agree as follows:

1. **Recitals.** The Recitals above are true and correct and incorporated into this Grant.
2. **Definitions.** The Parties agree to the following definitions:
 - a. The TOURIST DEVELOPMENT COUNCIL refers to the advisory council appointed by the Board of County Commissioners of Brevard County, Florida, pursuant to Section 125.0104(4)(e), Florida Statutes, and Section 102-120, Brevard County Code of Ordinances.
 - b. The SPACE COAST OFFICE OF TOURISM, refers to the Brevard County Tourist Development Office, a department of the Brevard County government. The Space Coast Office of Tourism will administer this grant on behalf of GRANTOR.
 - c. The term PROJECT refers to the Project described in paragraph 3 of this Agreement.
3. **Description of Project.** This grant is given for construction, remodeling, and improvements made to the Historic Cocoa Village Playhouse at 300 Brevard Avenue, as part of a larger effort to create a Studio Theatre in an adjacent building, the R.M. Rembert Building at 302 Brevard Avenue, Cocoa Florida. The R.M. Rembert Building is immediately adjacent to the south side of GRANTEE's Playhouse. The GRANTEE proposes to construct a Studio Theatre to diversify programming by hosting events, conventions, and providing a space for a dinner theatre, smaller performances, bands and international artists. The GRANTEE is projecting the studio theatre to bring in an additional 9,672 patrons, of which it expects 1,228 to be out-of-county attendees. The project cost is estimated to be \$2,500,000. As of May 2019, GRANTEE had raised \$986,500 through donations, pledges, and matching grants. GRANTEE may use award of GRANTOR's grant to meet match requirements if GRANTEE applies for further grants. GRANTEE's Studio Theatre, which is owned by the GRANTEE will be connected to the Historic Cocoa Village Playhouse building, which is owned by the City of Cocoa. **The Parties agree that this grant funding will only be used for the portion of the construction, remodeling, and improvements being made to the building at 300 Brevard Avenue, which is publicly owned by the City of Cocoa.**

The GRANTEE'S Playhouse scope of work is as follows:

Location 1, Main Lobby - The opening between the two buildings at this location will require structural reinforcement to the existing playhouse wall. The required 3-hour fire rated building separation needs to remain as open as possible to allow for the two buildings to flow together. This will be accomplished with an automatic roll-down fire shutter.

Location 2, Mezzanine Connection - This opening is for a standard size door. The opening into the existing playhouse will require structural reinforcement, and a new fire rated door assembly and associated hardware.

Location 3, Stage Connection - This opening will provide direct access between the two theaters for the passage of stage sets and other performance items. The opening into the existing playhouse will require structural reinforcement, and a new fire rated door assembly and associated hardware. An electrical panel on the playhouse side of the opening will be relocated to the opposite side of the stage.

Location 4, Underpinning Playhouse Foundation - With the construction of the addition to the rear of the Rembert Building, the structural engineer anticipates needing to underpin the existing playhouse wall foundation for the entire length of the new addition.

4. Grant.

- a. Grant Award and Expiration Date. On or before September 30, 2023, GRANTEE may submit to GRANTOR for the reimbursement of its expenses to construct, remodel and improve the building at 300 Brevard Avenue (as part of a larger studio theatre construction project) in an amount not to exceed \$250,000.00. GRANTEE may request an extension of the expiration date from GRANTOR in writing. After the expiration date, the grant is expired and GRANTOR owes no further obligation to GRANTEE of any kind.
- b. GRANTEE agrees (1) to make or cause to be made capital investments in the Historic Cocoa Village Playhouse to create a studio theatre adjacent to the Playhouse as described in paragraph three in the amount of approximately \$2,500,000.00; (2) to use the facility as a Studio Theatre from its receipt of the Certificate of Completion; and (3) to advertise its venue and its programming to out-of-County Tourists.
- c. This Agreement is contingent upon the availability of adequate funding in the 35% of the first two pennies of capital facility tourist development tax funds and subject to any limitations provided by Section 125.0104, Florida Statutes, and Section 102-117(a) and Section 102-119(3)c of the Brevard County Code, as both may be amended from time to time. Should funds no longer be available, the GRANTOR shall provide written notice

thereof to the GRANTEE. The Parties agree that this grant shall NOT be paid from GRANTOR's non-tourist development related revenues.

- d. GRANTEE agrees and understands that all funding authorized through this Agreement shall be used only for eligible activities in accordance with State and local law, and this Agreement. GRANTEE further warrants that it is an organization exempt from federal taxation pursuant to 26 United States Code 501(c)(3).
- e. That the City of Cocoa is the fee simple owner of the real property upon which the GRANTEE will perform, or cause to be performed, the construction, remodeling, and improvements which are the subject of this grant. GRANTEE warrants that the City of Cocoa has given GRANTEE all necessary permissions to make the construction, remodeling, and improvements to The Historic Cocoa Playhouse.
- f. Should GRANTEE enter into a loan or other financial indebtedness to construct the Project, in the event of a default or other breach on the loan by GRANTEE, the GRANTOR shall not be held responsible for any default payments, accelerated payments, or any other penalties or fees.
- g. Termination of Grant. Upon payment of the full amount of the grant, the Parties agree that the Agreement is terminated and the Parties owe no further obligations to each other, except as follows. All provisions survive that are necessary to enforce paragraph 4.b., 12 and 13 for five years following payment of the grant.

5. Payment Procedures.

- a. The payout schedule for the Grant is contingent on the occurrence of the following events detailed below. GRANTEE must submit adequate documentation to the Space Coast Office of Tourism as follows:
 - i. An executed copy of this Agreement.
 - ii. Documentation of receipt of all necessary permitting from all appropriate regulatory bodies evidencing that all construction activities at the Project Site have conformed to applicable law.
 - iii. Submission of Adequate Documentation showing the work was performed on the publicly owned Historic Cocoa Village Playhouse at 300 Brevard Avenue. GRANTOR will not reimburse GRANTEE for work performed on the R.M. Rembert Building. Documentation will be submitted as required by the Office of Tourism's payment policies listed in v. below.

- iv. Documentation/Photograph of installation of a sign, as described in paragraph 6b, that the project was partially funded with a grant from the Brevard County Tourist Development Council through Tourist Development Tax.
 - v. GRANTEE Reimbursement Process - GRANTEE may apply for reimbursement upon submission of Tourism supplied cover invoice and detailed backup showing proof of payment to include design, materials, subcontract, labor, or other related construction costs.
- b. Project Completion Requirements. Upon completion of the entirety of the project, GRANTEE will provide GRANTOR with the following documentation.
- i. A copy of the Certificate of Completion allowing occupancy of the studio theatre.
 - ii. Photographs of the completed construction of the City owned Playhouse renovations and studio theatre in a .jpg or .tif format.
 - iii. A final project report (1-2 pages) that shall at a minimum include the GRANTEE's name, Project name, Project location/address, final cost and Tourism Grant amount, and a brief Project summary that includes how the venue is or will be marketed to Tourists.
- c. If a question arises as to the sufficiency of GRANTEE's documentation, the Parties agree that the Space Coast Office of Tourism Executive Director shall make the final determination on the sufficiency of the documentation.
- d. The Parties agree the GRANTOR will reject submissions for reimbursement for items not related to studio theater construction. Funds may not be used to prepare grant applications or for routine maintenance.
6. **Promotion & Reporting Requirements.**
- a. The Parties agree that both Parties may advertise, promote or otherwise list this Project in either Party's promotional materials.
 - b. GRANTEE shall erect a permanent sign, size and design approved by the Tourism Development Office Executive DIRECTOR, in a prominent location at the completed project site which indicates the that the project was partially funded with a grant from the Brevard County Tourist Development Council through Tourist Development Tax. In the event that GRANTEE erects a temporary construction sign, this shall also recognize the GRANTOR's participation in the project. All signs shall comply with all applicable laws and permitting procedures

- c. All marketing and promotional advertising, including website or internet advertising of the GRANTEE that contains sponsorship information, shall refer to the Space Coast Office of Tourism as a sponsor of the GRANTEE.
- d. The GRANTEE will provide GRANTOR with quarterly reports to show how the overall Project is progressing. The Parties agree that any reports given to GRANTOR are public records.

7. Miscellaneous Provisions.

- a. This Agreement shall not obligate or make GRANTOR or the GRANTEE liable to any Party other than the Parties to this Agreement. Oversight of GRANTEE staff will be the responsibility of the GRANTEE board of directors.
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- b. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected if such remainder continues to conform to the terms and requirements of applicable law.
 - c. The Parties agree that, in the case of a dispute, the parties will first work to resolve the dispute informally. In case of legal action, each Party agrees to the following terms: To bear its own attorney's fees and costs; that venue is in a court of competent jurisdiction in Brevard County; to waive any right to a jury trial; and that this Agreement is governed according to the laws of the State of Florida.
 - d. GRANTEE agrees to comply with all federal, state and local laws, and is responsible for any and all permits, fees, and licenses necessary to perform the Grant. GRANTEE will ensure all Contractors are appropriately licensed to do the work required. Nothing in this Agreement shall be construed as a waiver by GRANTOR of any requirements for local permits, fees, and licenses.
 - e. GRANTEE shall perform the services independently under this Agreement and nothing contained in this Agreement shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to make GRANTEE, or any of its agents, or employees to be the agent, employee or representative of the GRANTOR.
 - f. GRANTEE shall not engage the services of any person or persons now employed by Brevard County, to provide services relating to this agreement without written consent from Brevard County. GRANTEE agrees it shall not knowingly engage the services of any person who is an unauthorized alien worker, thus constituting a violation of the

employment provisions contained in 8 U.S.C. Section 1324e (Section 274A(e) of the Immigration and Nationality Act "INA"). GRANTOR shall consider GRANTEE's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

g. The waiver by the GRANTOR of any of GRANTEE's obligations or duties under this Agreement shall not constitute a waiver of any other obligation or duty of the other party under this Agreement, nor shall a waiver of any such obligation or duty constitute a continuing waiver of that obligation of duty.

8. **Indemnification and Hold Harmless.** The GRANTEE shall indemnify, defend, and hold harmless Brevard County for the negligent acts and omissions of the GRANTEE's own employees and agents in the performance of this Agreement, to the extent permitted by law, and against any and all third-party claims, suits, proceedings, losses, liabilities, damages, fees and expenses (including reasonable attorney's fees and expenses) related to the GRANTEE's project. The GRANTEE expressly agrees that Brevard County has no liability to the GRANTEE for GRANTEE's operation of the Project. The County's indemnity and liability obligations hereunder shall be subject to the County's right of sovereign immunity and limited to the extent of the protections of and limitations on damages as set forth in Section 768.28, Florida Statutes. Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. Nothing herein shall constitute a waiver of the County's sovereign immunity. The Parties acknowledge specific consideration has been exchanged for this provision.

9. **Amendment, Assignment of Agreement.** Amendments to this Agreement may be initiated by either Party. Amendments shall be formally ratified and approved by written amendment to this Agreement by both Parties. The GRANTEE shall not assign any portion of this agreement without the written permission of GRANTOR.

10. **Insurance.** GRANTEE agrees to procure and maintain, at its own expense and without cost to GRANTOR, the following types of insurance. The policy limits required are to be considered minimum amounts:

a. **General Liability Insurance** policy with a **\$1,000,000** combined single limit for each occurrence to include personal injury, contractual liability, and errors and omissions coverage.

- b. Auto Liability Insurance policy which includes coverage for all owned, non-owned and rented vehicles with a \$1,000,000 combined single limit for each occurrence, as well as Full Coverage Vehicle Insurance to include Liability (as above), Collision, Comprehensive, PIP and Uninsured Motorists.
- c. Workers' Compensation and Employers Liability Insurance policy covering all employees of GRANTEE that work on this Grant, as required by law. Coverage shall be for all employees directly or indirectly engaged in work on this Grant, with limits of coverage as required by State law.
- d. Employee Dishonesty/Crime Insurance – The applicant/facility operator will provide coverage greater than or equal to sixty-five percent (65%) of the amount of the TDT funding, specifically to insure against TDT funding loss.
- e. Builders' Risk/Installation Floater – The contractor shall provide “all risk” property insurance on any construction, additions, and machinery and equipment. The amount of the insurance shall be no less than the estimated replacement value at the time of the applicant/facility operator’s final acceptance of said improvements. In the event that the grantee does not work with a contractor on the funded project, the applicant/facility operator must purchase or add Builders' Risk to their current property program (Commercial General Liability). The Builders Risk policy must remain active throughout all current work related to the proposed project and must not terminate until the final acceptance of a contractor’s work, all vendors’ installations, final release of occupancy, and final acceptance at completion of the project has been made by the applicant/facility operator.
- f. GRANTEE will provide certificates of insurance to GRANTOR demonstrating that the insurance requirements have been met prior to the commencement of work under this Grant. The insurance coverage enumerated above constitutes the minimum requirements and shall in no way lessen or limit the liability of GRANTEE under the terms of the Grant. The General Liability insurance policy shall provide that Brevard County Board of County Commissioners be an additional insured.

11. **Termination.** If either Party fails or refuses to perform any of the provisions of this Agreement, or otherwise fails to timely satisfy the Grant provisions, either Party may notify the other Party in writing of the nonperformance and terminate this Agreement or such part of the agreements as to which there has been a delay or a failure to properly perform.

Such termination is effective upon the Party's receipt of the Notice of Termination. Upon termination, GRANTOR has no further obligation to GRANTEE.

12. **Right to Audit Records.** In performance of this Agreement, GRANTEE shall keep books, records, and accounts of all activities related to this Agreement, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by GRANTEE in conjunction with this Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by GRANTEE for a period of three (3) years after termination of this Agreement, unless returned to GRANTOR upon completion of the contract.
13. **Public Records Disclosures.** GRANTEE agrees that Florida has broad public disclosure laws, and that any written communications with the GRANTEE, to include emails, email addresses, a copy of this Agreement, and any supporting documentation related to this Agreement are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute.

Public records are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. In this case, the portion of the GRANTEE's records relating to the acceptance and use of the GRANTOR grant are public records that may be subject to production upon request. The GRANTEE agrees to keep and maintain these public records until completion of the contract. Upon completion of the Agreement, GRANTEE will transfer, at no cost, to the GRANTOR, any public records in its possession.

Upon a request for public records related to this Agreement, GRANTEE will forward any such request to the GRANTOR. The GRANTOR will respond to any public records request. Upon request, the GRANTEE will provide access or electronic copies of any pertinent public records related to this Agreement to the GRANTOR within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes.

The GRANTEE agrees that Brevard County will consider all documentation the GRANTOR submits to Brevard County to support payment of this grant to be subject to public records disclosure.

IF GRANTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO GRANTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE OFFICE OF TOURISM, C/O ADMINISTRATIVE SECRETARY, 430 BREVARD AVENUE, SUITE 150, COCOA, FLORIDA 32922, PHONE (321) 433-4470.

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14. **Notices.** Any notices required or permitted by this Agreement shall be in writing and shall be deemed delivered upon hand delivery, or three (3) days following deposit in the United States postal system, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

GRANTEE:
The Historic Cocoa Village Playhouse Inc.

Anastacia Hawkins, Executive Director
300 Brevard Avenue
Cocoa, Florida 32922
Phone: (321) 636-5050

GRANTOR:
Brevard County Space Coast Office of
Tourism
c/o Executive Director
430 Brevard Avenue, Suite 150
Cocoa, Florida 32922
Phone: (321) 433-4470

15. **Remedies.** The GRANTEE's remedy for default by GRANTOR shall be a claim for funds for which the GRANTOR's obligation to pay has ripened by virtue of the GRANTEE's compliance with all conditions precedent established under the terms of this Agreement. Such claims do not include consequential or special damages, and shall not exceed the total value of the Grant. The GRANTOR's remedies for default by the GRANTEE shall include, but shall not be limited to, a claim for repayment of the grant, if any funds have been extended by the GRANTOR to the GRANTEE.
16. **Effective Date.** This Agreement shall be effective on the last day the Parties execute this Grant Agreement (the "Effective Date") and the Parties shall commence the performance of their obligations under this Agreement as of such date.
17. **Entirety, Construction of Agreement, and Counterparts.** This Agreement represents the understanding between the Parties in its entirety and no other agreements, either oral or written, exist between the GRANTOR and the GRANTEE. The Parties acknowledge that they fully reviewed this agreement and had the opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the

IN WITNESS WHEREOF, the Parties have executed this Grant Agreement on the last date written below.

THE HISTORIC COCOA VILLAGE PLAYHOUSE,
INC.

Chris Beavers 11/20/19

Witness

Date

Dr. Anastacia Hawkins 11/20/19

Signature and Date

Dr. Anastacia Hawkins

Print/Type Name

Chief Executive Officer

Title

ATTEST:

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

Scott Ellis

Scott Ellis, Clerk

Kristine Isnardi

Kristine Isnardi, Chair

As approved by the Board: 9-17-19

drafter of this Agreement. This Agreement may be executed in counterparts all of which, taken together, shall constitute one and the same Agreement. GRANTEE warrants that it is possessed with all requisite lawful authority to enter into this Agreement, and the individual executing this Agreement is possessed with the authority to sign and bind GRANTEE. All conditions and assurances required by this Agreement are binding on Parties and their authorized successors in interest.

(Signature Page Follows)

The Historic Cocoa Village Playhouse, Inc.

Brief History, May 27, 2019

- The *Aladdin Theatre* opened its doors to the public on August 18, 1924 showing silent movies. Brevard's first "talkie" movie house became known as "the showplace of the Indian River Section" as quoted in the *Cocoa Tribune*, August 1924.
- The "Aladdin" grew as entertainment changed and became a vaudeville house. It served many community purposes such as a center for the Red Cross during wartime, the crowning of the Orange Jubilee King and Queen, and later became a movie house known as the "State" Theatre.
- During difficult economic times, the theatre could not survive.
- Several owners and several decades later, the building was acquired by the City of Cocoa and renamed the Cocoa Village Playhouse.
- In 1985, The City negotiated with Brevard Community College President, Dr. Maxwell C. King and the Board of Trustees to take ownership of the building for \$1 with the understanding that the college would take responsibility for the building and make the theatre operate in the best interest of the community.
- The Trustees immediately established a 501(c)(3) not for profit Direct Support Organization with its own Board of Directors of 8 founding members who were given the responsibility of raising funds to make the Playhouse self-supporting. Part of the agreement was that College Funds would not be spent to operate the Playhouse.
- Through the efforts of college liaison Walt Gilfilen and the Board, donations from individuals, organizations, corporations and grants from Foundations, as well as, the State of Florida, the Playhouse was restored and made operational.
- The Aladdin Theatre required four years of renovation to make it ready to receive audiences.
- Hawkins was hired in 1989 with the understanding that she would have to raise the funds to pay her salary through the college even though she remained a college employee.
- The College moved the World Travel Film series and Lyceum Performing Arts series to CVP. This did not prove to be cost effective as the new King Center for the Performing Arts opened with a new performing arts series. The Lyceum Series was dissolved at that time.
- It became obvious that we needed community involvement to keep our doors open.
- In 1990, CVP presented its first community-based performance. The musicals became very popular and quickly earned the name "Broadway on Brevard" due to the quality of the productions.
- The musicals and fundraising also raised enough money to begin funding employees and making theatrical improvements such as the installation of a double purchase fly system over the stage allowing scenic pieces to be safely flown over the stage.
- In 1991, the Playhouse was accepted onto the National Register of Historic Places and the official corporate name became The Historic Cocoa Village Playhouse, Inc.
- In 1992, the *Stars of Tomorrow* youth program was founded beginning with 8 young people. Now there are over 200 participants each year ages 7 through high school graduation. This program is designed to develop life management skills, as well as, skills in the performing arts.
- The Playhouse rapidly became a place of growth for students, as well as, lifelong education for adults through the arts.

- The Playhouse grew to a volunteer base of over 600 individuals with a core performer base known as the "Gold Star Performers."
- The Playhouse serves over 55,000 audience members each year.
- Due to the growth of the programs and the need for space, a Capital Campaign to raise \$1.9 million dollars to build a three-story Technical Support Annex east of the historic building. The property was donated by Harrison Vanderslice. The construction of the three story Technical Support Annex was completed in 2008 and immediately became fully operational providing a scenic workshop, a costume construction area, expanded dressing rooms, a designated hair and makeup area, and a rehearsal studio.
- In the Spring of 2011, Brevard Community College returned ownership of the Playhouse to the City of Cocoa. Theatrical operations continued to be managed by the same 501(c)(3) not-for-profit organization, The Historic Cocoa Village Playhouse, Inc., while The City of Cocoa took the responsibility of maintaining the building. The Board of Directors had grown to 17 members.
- The City and the Playhouse jointly undertook a dynamic million-dollar renovation project resulting in the Playhouse opening its 23rd season on September 28, 2012 with a newly renovated auditorium, expanded orchestra pit, and enlarged balcony.
- In the summer of 2014, a \$500,000 renovation project was conducted funded by a Cultural Facilities Grant through the State of Florida upgrading the lobby and mezzanine areas of the theatre.
- The live orchestras have a pool of over 40 paid musicians who rotate through the musicals. Many student musicians also launch into the professional arena through participation in our orchestra.
- In 2016, the Board of Directors took the opportunity to purchase the historic R.M. Rembert Building adjacent to the south of the Playhouse. It is intended for this acquisition to better serve our patrons and assist in the mission of the Playhouse. With the addition of a small studio theatre, the Playhouse will be able to expand programming. Plans for the building are underway and a Capital Campaign will be launched to raise the necessary funds.
- The Board now has 21 members and two Board Emeritus members (one deceased).
- The current fundraising has raised \$986,500 from donors, pledges, and grants offered through the Division of Cultural Affairs, (of which our project scored the highest of all projects over the past two years).
- The annual operating budget is \$2 million dollars per year, with \$296,000 being in-kind support.

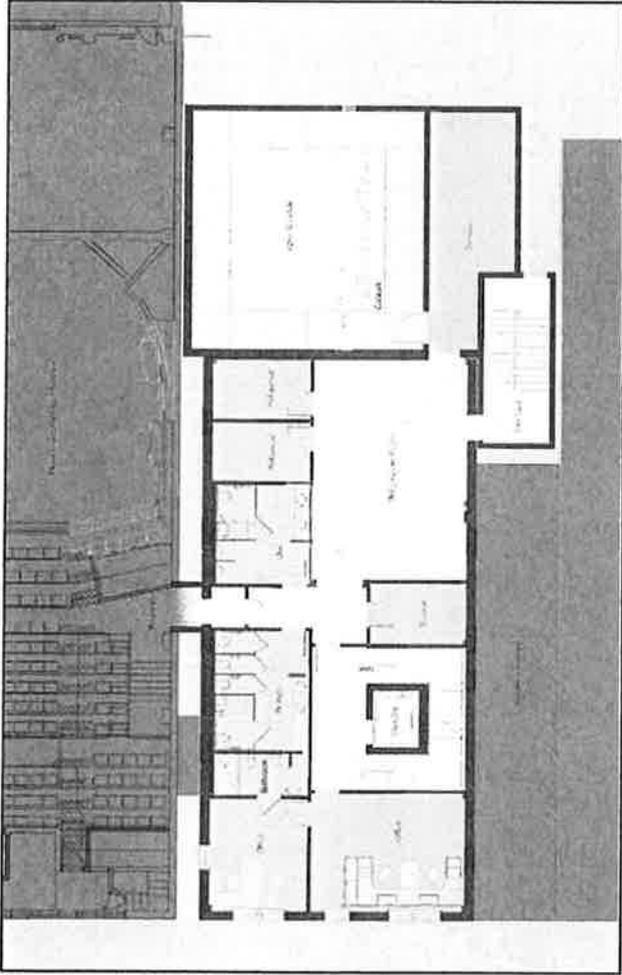
The Historic Cocoa Village Playhouse, Inc.

Expanding the Dream: Studio Theatre Fact Sheet

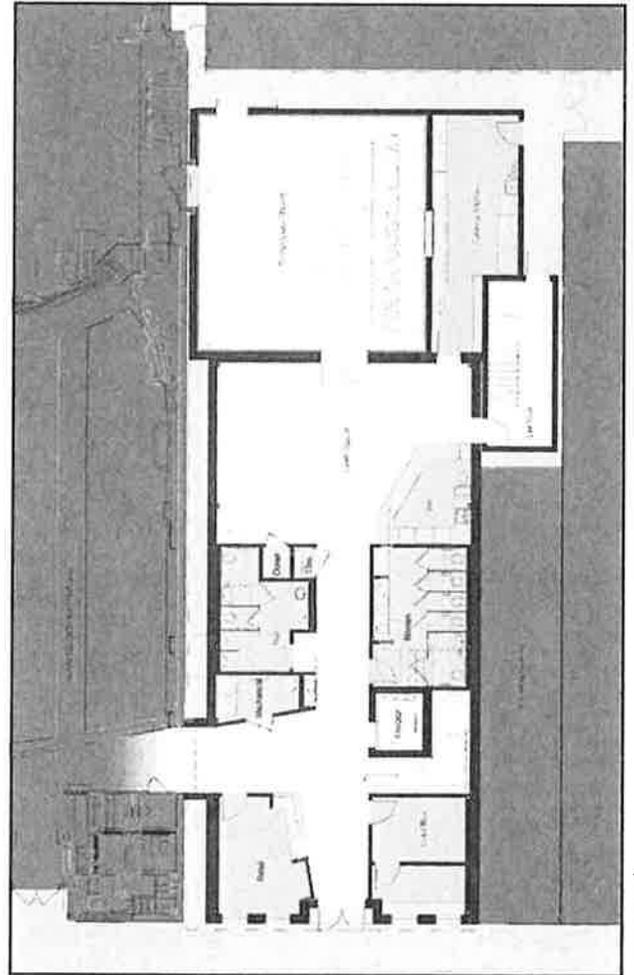
May 27, 2019

- Each year the Playhouse attracts over 55,000 individual patrons.
- An economic impact survey conducted by the City of Cocoa found that each patron spends an average of \$51.02 in the local economy when attending a performance.
- The same survey found the Playhouse represents \$2,710,000 in indirect and direct spending annually.
- After the successful completion of a \$1.9 million dollar Capital Campaign for a 3-Story Technical Support Annex the Playhouse's operation rapidly grew.
- The Playhouse provides employment for over 123 local residents and provides 69.2 Full Time Equivalent positions.
- According to the Arts and Economic Prosperity Calculator provided by The National Endowment for the Arts the Playhouse contributes \$123,874 in Local Government Revenue and \$141,777 in State Government Revenue each year.
- The City of Cocoa reported in a 2015 survey of events in the area that the Playhouse accounts for 1,930 overnight stays each year.
- 12.7% (6,985 individuals) attendees of the Playhouse reside out-of-county.
- It is our goal to increase our international and out-of-county audiences.
- The Playhouse's continued growth necessitates expansion for the needs of our patrons and to assist in making the Space Coast a cultural destination.
- In 2016 the Board of Directors of the Playhouse authorized the acquisition of the historic R.M. Rembert Building immediately adjacent to the south side of the Playhouse.
- The studio theatre will allow us to diversify programming such as hosting events and conventions, a space for dinner theatre, smaller performances, bands, and international artists.
- The studio theatre is projected to bring in an additional 9,672 patrons resulting in the following:
 - a. 1,228 out-of-county attendees
 - b. An additional 353 overnight stays
 - c. \$22,668 in annual Local Government Revenue
 - d. \$25,944 in annual State Government Revenue
 - e. \$495,924 in annual direct and indirect spending in the local economy
- The Public Phase of our Capital Campaign is about to commence this fall.
- The cost of the project is estimated to be \$2,500,000
- Currently we have acquired \$986,500 through donations, pledges, and matching grants.
- Any support of the TDC will enable us to apply for additional matching grants through the Division of Cultural Affairs and the Division of Historic Resources.
- EXAMPLE: A \$250,000 investment in the project could equate an additional \$437,500 from matching grants through the State of Florida.
- TDC support will encourage others to join in supporting the creation of the Playhouse and the Space Coast as a cultural destination.

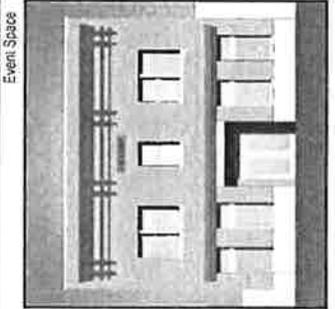
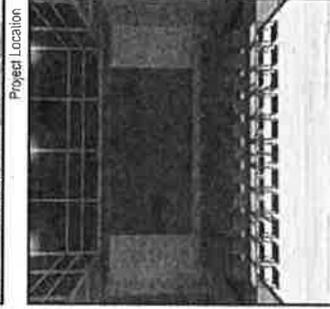
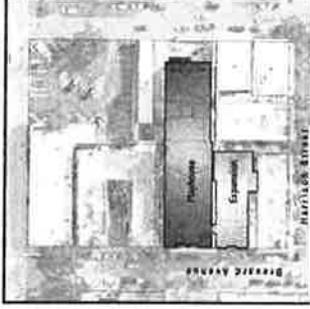
Historic Cocoa Village Playhouse Expansion



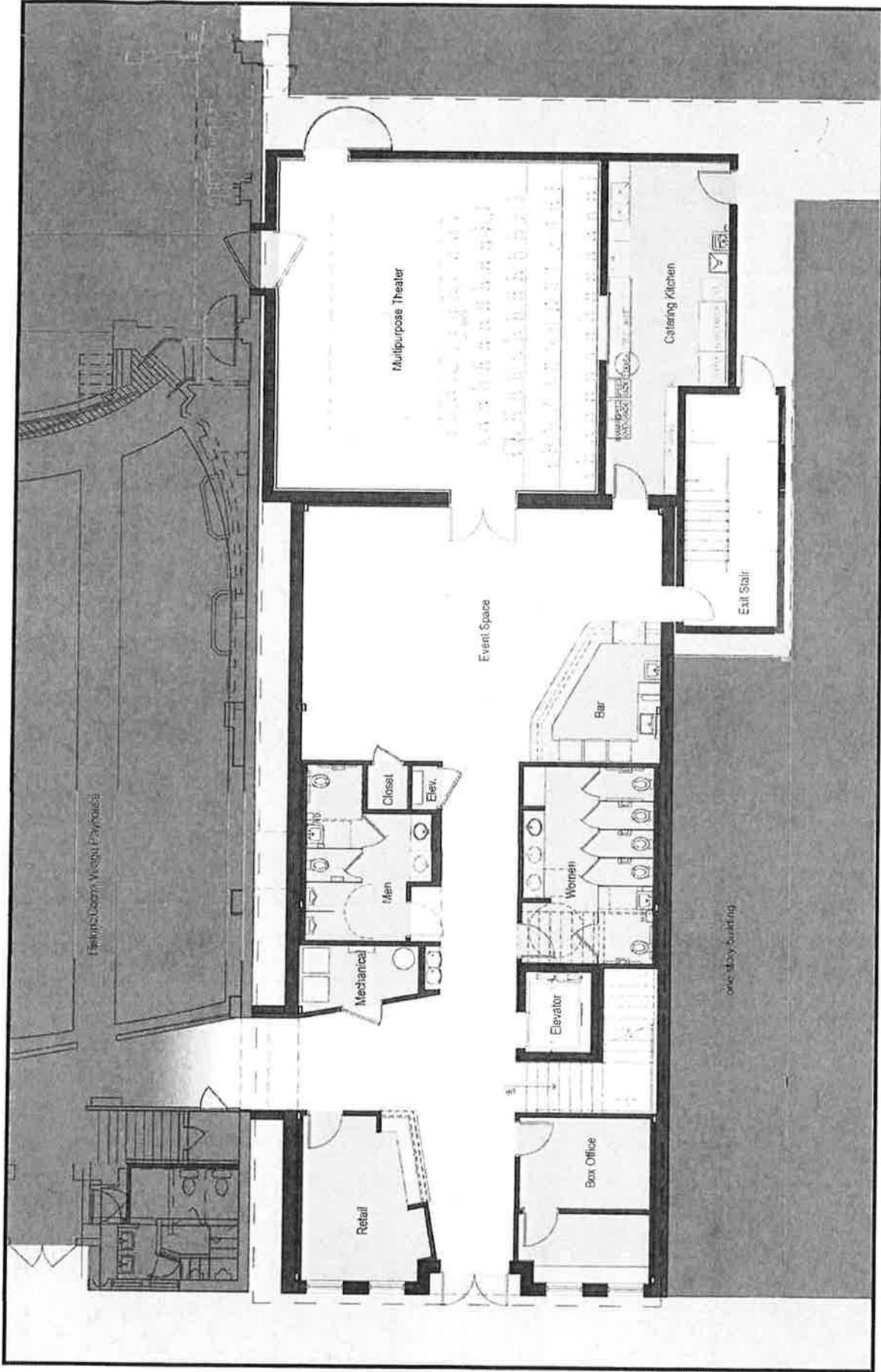
Second Floor



First Floor

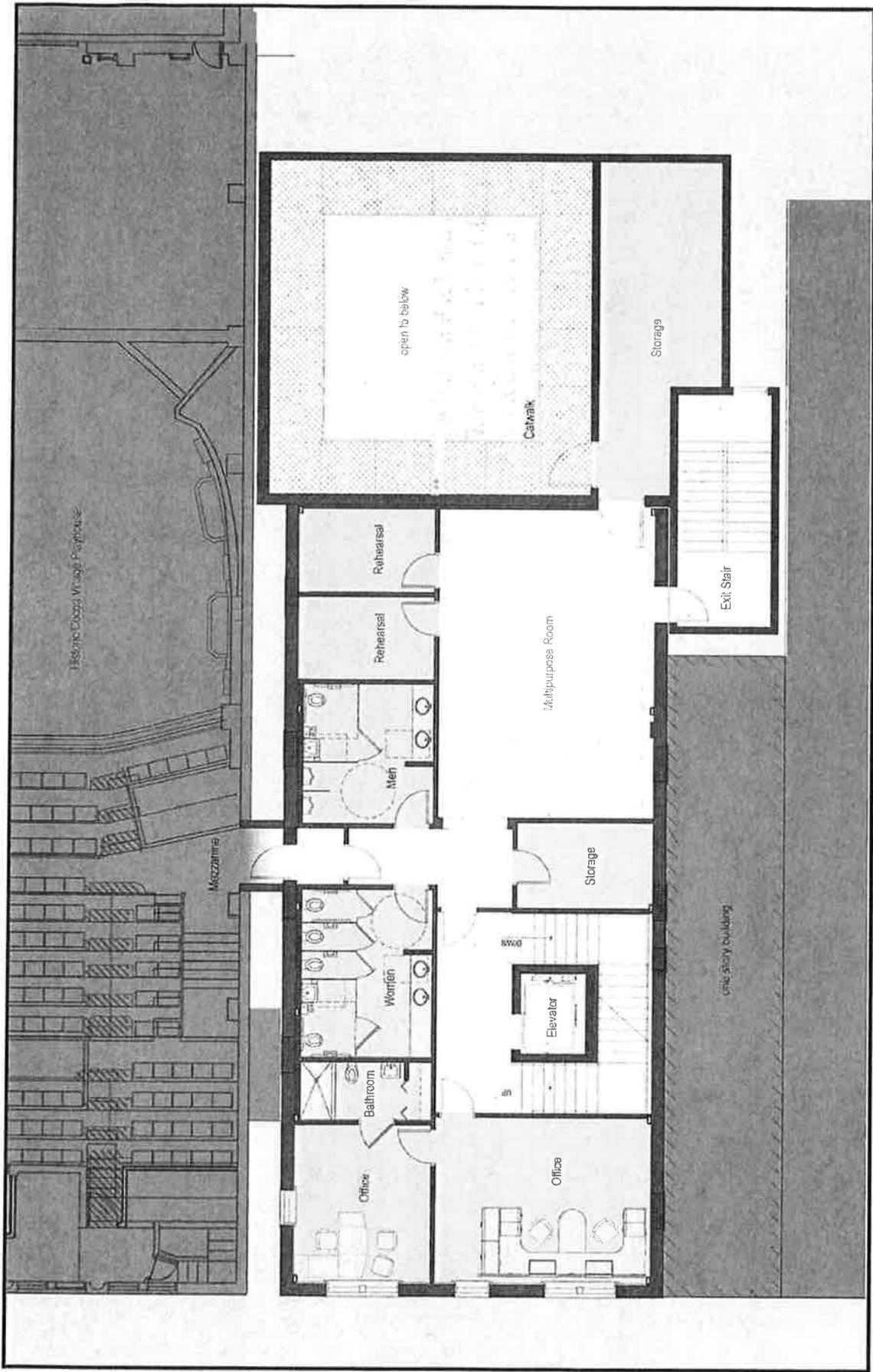


Front Elevation



10 ft.

First Floor



10 ft.

Second Floor

NO
Signature
NEC;
on Counsel

ORDINANCE NO. 2019-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 102, ARTICLE III, SECTION 102-119(3), CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, AMENDING LANGUAGE TO ALLOW FOR FUNDING AUDITORIUMS THAT ARE PUBLICALLY OWNED BUT OPERATED BY ORGANIZATIONS EXEMPT FROM FEDERAL TAXATION PURSUANT TO 26 UNITED STATES CODE SECTION 501(C)(3); PROVIDING AN EFFECTIVE DATE; PROVIDING FOR AREA ENCOMPASSED; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, section 125.0104, Florida Statutes requires the tourist development tax to be levied and imposed pursuant to an ordinance containing the county tourist development plan, enacted by the Board of County Commissioners; and

WHEREAS, Brevard County met all the requirements to authorize the levy and imposition of the tax when the Board of County Commissioners approved the local option tourist development tax by Ordinance 86-25 on August 18, 1986, and the voters approved the tourist development tax by a referendum vote on November 4, 1986; and

WHEREAS, section 125.0104(5)(a)1.b, Florida Statutes allows tourist tax funding to allocated to auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 United States Code section 501(c)(3) and open to the public, within the boundaries of the County in which the tax is levied; and

WHEREAS, Brevard County code 102-119(3)c. only allows tourist tax funding for auditoriums that are publicly owned and operated; and

WHEREAS, the Board desires to update its code to include the expanded flexibility in the state statute.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida as follows:

SECTION 1. Chapter 102, Article III, Section 102-119 – Budget Plan, Code of Ordinances of Brevard County, Florida is amended, as follows:

The Board of County Commissioners adopts the following plan of the advisory tourist development council for tourist development:

- (1) Under the provisions of, and pursuant to, the Act, a two-percent tax is levied and imposed throughout the county beginning on the first day of the month following elector approval of this article and its tourist development tax by referendum as provided by this article.
- (2) The anticipated net revenue from the tourist development tax to be derived by the county for the 24-month period beginning on the date of levy, December 1, 1986 to December 1, 1988, is estimated to be approximately \$2,200,000.00. The County budget, adopted annually at a public hearing, includes the anticipated net tourist development tax revenue.
- (3) The proposed uses of the tax revenue, generated pursuant to F.S. § 125.0104(3)(c), in order of priority, by special use category, shall be allocated as follows:
 - a. At least 25 percent of the net revenue would be budgeted and disbursed to promote and advertise county tourism in the state, nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the 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.
 - b. Thirty percent of the net revenue would be budgeted and disbursed to finance beach park facilities or beach improvement, maintenance, renourishment and erosion control.
 - c. Up to 35 percent of the net revenue in accordance with F.S. § 125.0104(5)(a)1. and (5)(b), would be budgeted and disbursed generally to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the county; and further including museums, zoological parks, aquariums, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public within the county; and to further include auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 United States Code section 501(c)(3) and open to the public within the county.
 - d. Up to ten percent of the net revenue be budgeted and disbursed to promote county tourism by funding tourist-oriented cultural and special events such as visual and performing arts including theater, concerts, recitals, opera, dance, art exhibitions, festivals and other tourist-related activities.
 - e. There shall be an annual amount established by the board of county commissioners for administrative and overhead expenses of the board and council which shall be expended in order to properly coordinate and implement the tourist development plan.

- f. Pursuant to F.S. § 125.0104(4)(d), the above-stated plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the board. The council shall, from time to time, make recommendations to the board for the effective operation of the special projects or for uses of the tax revenue.
 - g. The setting forth of the anticipated net revenues to be derived from levying the tax during the first 24 months following levy, as required by the Act, shall in no way be interpreted as indicating an intent by the board, through this article, to in any way limit the plan or the tax to said period and the plan and tax shall continue, once duly enacted, until amended or repealed, according to this article and the Act or until it automatically expires pursuant to F.S. § 125.0104(7), if applicable.
- (4) Under the provisions of, and pursuant to F.S. § 125.0104(3)(d) and subsection 102-117(b), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of tax revenue from this additional one percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
- a. Sixty-five percent of the net revenue would be utilized as provided in F.S. § 125.0104(5)(a)(5), to finance beach park facilities or beach, estuary, or lagoon improvement, maintenance, renourishment, restoration and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, estuary, lagoon, or river. However, any funds identified by the county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan for the state's beach management plan, pursuant to F.S. § 161.091, or funds contractually obligated by the county in the financial plan for federally authorized shore protection project may not be used or loaned for any other purpose. Beach improvement and maintenance projects are to receive full funding as the top priority. As the second priority, lagoon- and estuary-related projects shall only receive up to \$1,000,000.00 per year starting in fiscal year 2019, and any such project with a total expected cost that exceeds \$50,000.00 must obtain matching funds from one or more source(s) at a minimum ratio of 3/4:1, 75 percent match prior to receiving tourist development tax revenue. The County may apply for the lagoon grants. Subject to the limitations provided for in this subsection, the remaining amount of the net revenue shall be used for acceptable purposes identified in F.S. § 125.0104(5)(a)5.
 - b. Twenty-five percent of the net revenue would be used in accordance with F.S. § 125.0104(5)(b) to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote a zoological park. These revenues are specifically

designated to finance the design and construction of capital projects at the Brevard Zoo.

- c. Ten percent of the net revenue would be budgeted and disbursed generally, in accordance with F.S. § 125.0104(5)(a)4, to fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency.
 - d. There shall be an annual amount established by the board for administrative and overhead expenses of the board and council which tourist development plan for the additional one-percent tourist development tax shall be expended in order to properly coordinate and implement the additional one-percent tourist development tax.
- (5) Under the provisions of, and pursuant to, F.S. § 125.0104(3)(1) and subsection 102-117(c), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of the net revenue from this additional one-percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:
- a. At least \$350,000.00 of the net revenue per year and up to the entire remaining amount of the net revenue, minus the planned renovations, improvements, and maintenance budgeted in the annual plan for capital maintenance and renovation, shall be budgeted and disbursed to promote and advertise tourism in the state and nationally and internationally. In addition, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall 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.
 - b. Up to \$500,000.00 of the net revenue per year shall be allocated for capital renovations, improvements, and maintenance of the Space Coast Stadium Complex or other professional sports facility, in accordance with an annual plan for the capital maintenance and renovation approved by the board of county commissioners. In order to receive such funds, the Space Coast Stadium Complex or other professional sports facility shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the venue to tourists.
- (6) Under the provisions of, and pursuant to, F.S. § 125.0104(3)(n) and subsection 102-117(d), an additional one-percent tourist tax is hereby levied and imposed throughout the county as provided by this article. The proposed uses of the tax revenue from this additional one-percent tourist development tax, in order of priority, by special use category, shall be allocated as follows:

- a. One hundred percent of the net revenue per year would be budgeted and disbursed to promote and advertise tourism in the state and nationally and internationally; however if the tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall 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.
 - b. There shall be an annual amount established by the board for administrative and overhead expenses of the board and council which tourist development plan for the additional one-percent tourist development tax shall be expended in order to properly coordinate and implement the additional one-percent tourist development tax.
- (7) Such anticipated revenue shall be administered by the board of county commissioners through established county government administration, county agencies, existing or hereafter created, or by contract with chambers of commerce or similar nonprofit associations within the county in a manner prescribed by subsequent ordinance or resolution.
- (8) The clerk to the board of county commissioners is hereby directed to establish a county tourist development trust fund. All collections received by the tax collector from the tax imposed and levied by this article shall be placed in such trust fund.

SECTION 2. SEVERABILITY. If any section, subsection, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance, provided the remaining portions effectuate purpose and intent of this ordinance.

SECTION 3. CONFLICTING PROVISIONS. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other applicable federal, state, or county law, rule, code or regulation, the more restrictive shall apply, unless preempted by law.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption and filing as provided by law. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

SECTION 5. AREA ENCOMPASSED. The area encompassed by the local option tourist development tax is unchanged, including both the incorporated and unincorporated areas of Brevard County, Florida.

SECTION 6. INCLUSION IN THE CODE. It is the intention of the Board of County Commissioners that the provisions of this ordinance is part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions. To facilitate access to individuals with disabilities, the sections of the code will be amended to spell out abbreviations and acronyms such as "\$" to section and "Fla. Stat." to Florida Statutes.

Adopted by the Brevard County Board of County Commissioners during regular session on the ____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Clerk

BY: _____
Kristine Isnardi, Chair

As approved by the Board on _____

Deborah Thomas

From: Baron, Jeffrey <Jeffrey.Baron@visitspacecoast.com>
Sent: Friday, January 17, 2020 1:10 PM
To: Deborah Thomas; Tammy Rowe
Cc: Narmore, Candace L
Subject: \$250K Capital Facilities Contract from Tourism for CV Playhouse
Attachments: CV Playhouse Capital Grant Agreement Staci Signed 11-20-19.pdf

Importance: High

Hi Deborah and Tammy

I believe this \$250K grant agreement for CV Playhouse was approved in November 2019. May I have the Board memo?

Also, the Playhouse signed the grant agreement (see attached). Did the Board Chair and Clerk sign the contract?

Thanks,
Jeff



Jeff Baron, Finance Manager
Florida's Space Coast Office of Tourism
430 Brevard Avenue | Suite 150
Cocoa, FL 32922
p: 321-349-2988
f: 321-433-4476
c: 321-795-3625
tf: 1-877-57-BEACH





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