

**PROPOSED**

RESOLUTION NO. 2020-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO CULTURAL DIVISION GRANT PROGRAMS; REPEALING AND REPLACING SECTIONS 29.14 THROUGH 29.17 OF THE BROWARD COUNTY ADMINISTRATIVE CODE ("ADMINISTRATIVE CODE") RELATING TO CULTURAL GRANT AWARDS AND SPONSORSHIPS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE ADMINISTRATIVE CODE, AND AN EFFECTIVE DATE.

WHEREAS, one of the Values of the Broward County Board of County Commissioners ("Board") is the cultivation of community culture, arts, recreation, and lifelong learning, with Goals of providing diverse artistic, cultural, educational, and historical amenities and programs that contribute to a vibrant, multicultural, and economically-viable community;

WHEREAS, Sections 29.14 through 29.17 of the Broward County Administrative Code ("Administrative Code") prescribe the manner by which art and cultural grants are awarded by Broward County;

WHEREAS, the Board desires to support arts and culture events and activities that occur throughout the year, including events and activities that may not necessarily coincide with the annual grant application schedule; and

WHEREAS, the Board desires to amend the Administrative Code to modify the County's arts and cultural grant programs to permit the programs to operate more efficiently and to expand opportunities for individuals and organizations who have traditionally not participated in these grant programs, NOW, THEREFORE,

1 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
2 BROWARD COUNTY, FLORIDA:

3  
4 Section 1. Sections 29.14 through 29.17 of the Administrative Code are hereby  
5 repealed in their entirety, and new Sections 29.14 through 29.17 are hereby created to  
6 read as follows:

7 [Underlining omitted]

8 **29.14. General Information for Grant Programs.**

9 (a) Grants Generally. To assist in the promotion of the arts and to foster cultural  
10 development in Broward County, and subject to the provisions of this section and other  
11 policies adopted by the County pursuant hereto, the County authorizes the award of  
12 monetary grants ("Grant Awards") to various entities (each a "Recipient"), including  
13 individuals, cultural nonprofit organizations, and other types of entities, to support their  
14 activities by funding: (i) a portion of the Recipient's annual operating expenses;  
15 (ii) cultural or artistic projects; and (iii) capital projects supporting cultural or artistic  
16 facilities. All grant programs described below are collectively referred to as "Grant  
17 Programs."

18 (b) Definitions. As used herein, the following terms shall have the following  
19 meanings:

20 *Arts and culture* (and derivates thereof) means any and all cultural disciplines,  
21 which include, but are not limited to: music; dance; drama; theater programs; films;  
22 festivals; creative writing; literature; architecture; painting; sculpture; folk arts;  
23 photography; crafts; public media; history; archeology and natural sciences museums;

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1 and the execution and exhibition of other allied and major cultural art forms, including  
2 interdisciplinary and multidisciplinary work.

3 *Board* means the Broward County Board of County Commissioners.

4 *Council* means the Broward County Cultural Council.

5 *Division* means the Broward County Cultural Division.

6 *Fiscal year* means the County's fiscal year, which commences on October 1 of  
7 each calendar year and ends on September 30 of the following calendar year.

8 *Grant Guidelines* means, for each Grant Program, the published guidelines that  
9 include the terms and conditions for that Grant Program, the specific approved uses for  
10 the applicable Grant Award, and the Grant Award application deadlines.

11 (c) Grant Program Categories. The general categories of Grant Programs are:

12 (1) *General Operating Support*: Grant Awards to assist and support Recipients  
13 with eligible general operating expenses during the applicable fiscal year;

14 (2) *Program Support*: Grant Awards to assist and support individual artists and  
15 organizational Recipients with eligible expenses associated with one or  
16 more specific cultural or artistic programs, activities, events, or  
17 performances on the specified date(s) or time frame(s); and

18 (3) *Cultural and Artistic Facilities ("C&A Facilities") Capital Support*: Grant  
19 Awards providing capital project assistance and support to Recipients for  
20 the acquisition, development, construction, renovation, expansion, or  
21 improvement of new or existing cultural or artistic facilities located in  
22 Broward County. C&A Facilities Capital Support Grant Awards may be  
23 funded from general revenue and/or Tourist Development Tax.

24 (d) Eligibility Generally; Funding.

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1 (1) Applicants must satisfy all general eligibility requirements noted in  
2 Section 29.15 below, as well as the specific eligibility requirements stated  
3 in the Grant Guidelines for the applicable Grant Program. Applications  
4 failing to satisfy both the general eligibility requirements and the applicable  
5 Grant Guidelines, including timely submission of all required  
6 documentation, will be considered incomplete and the applicant will be  
7 ineligible for consideration for that Grant Program.

8 (2) If a Grant Award is funded in whole or in part with Tourist Development Tax  
9 funds, the project must meet the eligibility requirements of, and the  
10 Recipient must comply with, Section 125.0104, Florida Statutes, and any  
11 applicable policies, procedures, and guidelines imposed by the Division.

12 (3) Each Grant Award is subject to the availability of funds from County, as  
13 provided in Chapter 129, Florida Statutes, as amended. Funding for each  
14 Grant Program is subject to the amounts approved by the Board each fiscal  
15 year.

16 (e) All Grant Awards shall be considered and awarded on an annual cycle. The  
17 Division shall publish the Grant Guidelines, approved by the County Administrator, for  
18 each Grant Program at least sixty (60) days prior to the applicable application deadline(s).  
19 The Division shall review all timely submitted applications to confirm compliance with the  
20 applicable terms of the Grant Guidelines and to ensure the applicants have included all  
21 required documentation.

22 **29.15. Eligibility; Evaluation; and Recommendations of Grant Awards.**

23 (a) Review Panels; Composition and Process.

24 (1) General Operating Support Awards.

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- a. Applications for General Operating Support Awards will be reviewed by a seven (7) member review panel and scored based on the criteria described in the Grant Guidelines.
  - b. The review panel shall be composed of one (1) member of the Council and six (6) members of the Broward County community selected by the Council.
- (2) Program Support Grant Awards.
- a. Applications for Program Support Grant Awards seeking more than Five Thousand Dollars (\$5,000) in funding will be reviewed by a seven (7) member review panel and scored based on the criteria described in the Grant Guidelines. The review panel shall be composed of one (1) member of the Council and six (6) members of the Broward County community selected by the Council.
  - b. Applications for Program Support Grant Awards seeking Five Thousand Dollars (\$5,000) or less in funding will be reviewed by two (2) to five (5) members of the arts and cultural community selected by the Division and approved by the Council. Each application shall be scored based on the criteria described in the Grant Guidelines.
- (3) C&A Facilities Capital Support Grant Awards.
- a. Applications for C&A Facilities Capital Support Grant Awards will be reviewed by a five (5) member review panel and scored based on criteria described in the Grant Guidelines.
  - b. The review panel will be composed of: one (1) person who is the Tourist Development Council liaison to the Council; two (2)

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1 members of the Broward County arts and cultural community, as  
2 selected by the Council; the Division Director; and the Broward  
3 County Convention and Visitors Bureau Director or designee.

4 (4) Review Panels must comply with the following:

5 a. No panelist may have a Conflict of Interest as defined by any  
6 applicable Florida laws, Section 1-234 of the Broward County Code  
7 of Ordinances, or by any other applicable County Ordinance(s).

8 b. For all applications for Grant Awards, the applicable review panel  
9 shall document in writing, using the factors described in the Grant  
10 Guidelines: a recommendation to approve or deny the Grant Award;  
11 and, if approval is recommended, the details of the proposed Grant  
12 Award, including the monetary amount recommended to be  
13 provided, any benefits that the Recipient should be required to  
14 provide to Broward County as a condition of the Grant Award, and  
15 any other conditions related to the recommendation.

16 (b) Prior to final approval of any proposed Grant Award in excess of  
17 Five Thousand Dollars (\$5,000) by the applicable award authority pursuant to  
18 Section 29.17, the Council shall review the application and recommendation of the  
19 applicable review panel and provide the Director of the Division, for provision to the  
20 applicable award authority, a list of recommended Recipients, along with the Grant Award  
21 amount being recommended by the Council.

22 **29.16. Arts and Cultural Event Sponsorships.**

23 (a) To assist in the promotion of Broward County as a supporter of cultural and  
24 artistic events, and subject to the provisions of this section, the Division is authorized to

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1 provide monetary and nonmonetary sponsorships ("Sponsorships") to organizations and  
2 entities (each a "Sponsorship Recipient") to support events that (i) are not being funded  
3 by a Grant Award because they were not currently scheduled at the time when  
4 applications were due for that fiscal year; and (ii) are open to the public and support the  
5 County's value of cultivating community culture and the arts (collectively, "Eligible  
6 Events"). The Sponsorships funded pursuant to this section may be awarded on a rolling  
7 basis throughout the fiscal year, subject to the Division's budget for Sponsorships, or with  
8 any unused Grant Award funding in the Division's budget for that fiscal year after funding  
9 all Grant Awards awarded that fiscal year, provided that a single Sponsorship, and the  
10 total of all Sponsorships to any Sponsorship Recipient or for any Eligible Event, shall not  
11 exceed Fifty Thousand Dollars (\$50,000).

12 (b) The Division may provide Sponsorships after internally evaluating the  
13 proposed Eligible Event using the following factors to determine eligibility for a  
14 Sponsorship and, if eligible, the amount of the Sponsorship:

- 15 (1) The anticipated number of attendees;
- 16 (2) The time of year of the Eligible Event;
- 17 (3) The quantity and quality of marketing and promotional efforts that the host  
18 organization represents it will make to attract attendees;
- 19 (4) Potential positive economic impact to Broward County; and
- 20 (5) Other County funding provided to the host organization.

21 (c) Evaluation of Eligible Events. For all proposed Sponsorships, the Division  
22 shall document in writing: (1) the recommendation to approve or deny any proposed  
23 Sponsorship; and (2) if approval is recommended, the details of the proposed  
24 Sponsorship, including the monetary amounts to be provided, any nonmonetary or in-kind

1 benefits to be provided (and the fair market value of same), any benefits the Sponsorship  
2 Recipient will be required to provide to Broward County as a condition of the Sponsorship  
3 (e.g., promoting the County as a sponsor of the Eligible Event, etc.), and any other  
4 conditions related to the recommendation.

5 (d) The Division Director and the County Administrator are authorized to  
6 approve Sponsorships in accordance with the limitations stated in Section 29.17(d).

7 **29.17. Agreements; Award Authority; and Reports to the Board.**

8 (a) All Grant Awards and Sponsorships must be documented in a written  
9 agreement executed by the Recipient (for Grant Awards) or Sponsorship Recipient (for  
10 Sponsorships) and a representative of the County authorized to execute the agreement  
11 per subsection (d) below. The form of the agreement must be approved as to legal  
12 sufficiency by the Office of the County Attorney.

13 (b) The timing and method of payment of the Grant Award or Sponsorship must  
14 be included in the written agreement. Advance payment of all or part of a Grant Award or  
15 Sponsorship may be made up to the following amounts: for Program Support Grant  
16 Awards, up to fifty percent (50%) of the estimated program cost (which amount may be  
17 up to the full amount of the Grant Award); for General Operating Support Grant Awards,  
18 up to twenty-five percent (25%) of the Recipient's annual operating budget (which amount  
19 may be up to the full amount of the Grant Award); for Sponsorships, up to one hundred  
20 percent (100%) of the total Sponsorship amount; and for C&A Facilities Grant Awards, up  
21 to the full amount of the Grant Award.

22 (c) All Grant Award and Sponsorship agreements must include a right of the  
23 County to audit the Recipient's or the Sponsorship Recipient's operations and use of any  
24 funding provided by the County.



1 (d) After receipt and review of the recommendations of the applicable review  
2 panels and the Council (if required) pursuant to Section 29.15 for Grant Awards, and  
3 Division staff review as provided in Section 29.16 for proposed Sponsorships, the  
4 following individuals are authorized to approve Grant Awards and Sponsorships, whether  
5 as recommended or as modified by the approving authority:

6 (1) The Director of the Division, for proposed Grant Awards (excluding C&A  
7 Facilities Capital Support Grant Awards) in amounts up to Five Thousand  
8 Dollars (\$5,000); and for Sponsorships in amounts up to Twenty-five  
9 Thousand Dollars (\$25,000);

10 (2) The County Administrator, for proposed Grant Awards (excluding C&A  
11 Facilities Capital Support Grant Awards) in amounts greater than Five  
12 Thousand Dollars (\$5,000) and up to Two Hundred Fifty Thousand Dollars  
13 (\$250,000); and for Sponsorships in amounts up to Fifty Thousand Dollars  
14 (\$50,000); and

15 (3) The Board for all C&A Facilities Capital Support Grant Awards and any  
16 proposed Grant Award greater than Two Hundred Fifty Thousand Dollars  
17 (\$250,000).

18 (e) Once approved pursuant to Section 29.17(d), the following individuals are  
19 authorized to approve and execute agreements for Grant Awards and Sponsorships as  
20 follows:

21 (1) The Director of the Division, for General Operating Support and Program  
22 Support Grant Awards in amounts up to Two Hundred Fifty Thousand  
23 Dollars (\$250,000); and Sponsorships in amounts up to Twenty-five  
24 Thousand Dollars (\$25,000);

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1 (2) The County Administrator, for General Operating Support and Program  
2 Support Grant Awards in amounts up to Five Hundred Thousand Dollars  
3 (\$500,000); and Sponsorships in amounts up to Fifty Thousand Dollars  
4 (\$50,000); and

5 (3) All C&A Facilities Capital Support Grant Awards and any Grant Award or  
6 Sponsorship in excess of the amounts stated above shall require Board  
7 approval and signature by the Mayor, Vice-Mayor, or other delegated  
8 authority.

9 (f) Breach of County Agreements. If any Recipient or Sponsorship Recipient  
10 is deemed by the Director, the County Administrator, or the Board to have breached any  
11 agreement for a Grant Award, a Sponsorship, or any other agreement between the  
12 Recipient or the Sponsorship Recipient and the County, the County Administrator has the  
13 authority to take any or all of the following actions, after giving written notice to the  
14 Recipient or the Sponsorship Recipient: (i) withhold any remaining payment of a Grant  
15 Award or Sponsorship and set off such amount, in full or in part, to satisfy any financial  
16 obligation owed to the County by the Recipient or the Sponsorship Recipient; (ii) terminate  
17 the Grant Award or Sponsorship agreement with the Recipient or the Sponsorship  
18 Recipient and not pay any unpaid amounts; and/or (iii) prohibit the Recipient or the  
19 Sponsorship Recipient from being considered for future Grant Awards and/or  
20 Sponsorships for a period of time, which may be up to the three (3) annual cycles or until  
21 the Recipient or the Sponsorship Recipient has satisfied all obligations to the County  
22 under the applicable agreement, as the County Administrator deems appropriate. Any  
23 Recipient or Sponsorship Recipient who has been prohibited from being considered for  
24 future Grant Awards or Sponsorships pursuant to this section may request reinstatement,

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1 which may be allowed by the County Administrator or the Board as either determines  
2 appropriate in their sole discretion. The remedies provided in this section are in addition  
3 to any legal or other remedies that the County may pursue against the Recipient.

4 (g) Reports. Semiannual reports shall be filed by the Division with the Board  
5 no later than August 31 and February 28 of each year. Each semiannual report shall  
6 include the following: the Grant Awards and Sponsorships approved during the reported  
7 period and, for each such Grant Award or Sponsorship, the approving authority, and the  
8 final approved amount; the execution dates for all agreements for Grant Awards and  
9 Sponsorships executed during the reporting period; for each Grant Award and  
10 Sponsorship, the amount paid to date; and for the Division, the total amount paid during  
11 the reported period.

12 Section 2. Severability.

13 If any portion of this Administrative Code Resolution is determined by any court to  
14 be invalid, the invalid portion will be stricken, and such striking will not affect the validity  
15 of the remainder of this Administrative Code Resolution. If any court determines that this  
16 Administrative Code Resolution, in whole or in part, cannot be legally applied to any  
17 individual, group, entity, property, or circumstance, such determination will not affect the  
18 applicability of this Administrative Code Resolution to any other individual, group, entity,  
19 property, or circumstance.

20 Section 3. Inclusion in the Broward County Administrative Code.

21 It is the intention of the Board of County Commissioners that the provisions of this  
22 Administrative Code Resolution become part of the Broward County Administrative Code  
23 as of the effective date. The sections of this Administrative Code Resolution may be  
24 renumbered or relettered and the word "resolution" may be changed to "section, "article,"

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1 or such other appropriate word or phrase to the extent necessary in order to accomplish  
2 such intention.

3 Section 4. Effective Date.

4 This Administrative Code Resolution is effective upon adoption and shall apply to  
5 Grant Awards starting in the County's 2022 Fiscal Year.

6

7 ADOPTED this            day of            , 2020.

8

**PROPOSED**

9 Approved as to form and legal sufficiency:  
10 Andrew J. Meyers, County Attorney

11 By /s/ Sara F. Cohen            11/18/2020  
12 Sara F. Cohen            (date)  
13 Assistant County Attorney

14 By /s/ Nathaniel A. Klitsberg            11/18/2020  
15 Nathaniel A. Klitsberg            (date)  
16 Senior Assistant County Attorney

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