

A G R E E M E N T

Between

BROWARD COUNTY

and

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

for

BROWARD CULTURAL COUNCIL
CULTURAL GRANT PROGRAM

GOVERNMENTAL ENTITY

FY 2012

GRANT PROGRAM

GRANT NUMBER

AMOUNT

Education and Community
Development Program a/k/a
Community Arts Education
Partnership Program

CAEP01-2012

\$20,000

AGREEMENT

Between

BROWARD COUNTY

and

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

for

BROWARD CULTURAL COUNCIL

Education and Community Development Program
a/k/a Community Arts Education Partnership Program

This Agreement, made and entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

and

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, a public entity in the State of Florida, hereinafter referred to as "SCHOOL BOARD."

WHEREAS, the Broward Cultural Council recommends funding to assist the SCHOOL BOARD with approved expenses as specifically set forth in Exhibit "A" of this Agreement; and

WHEREAS, the Broward County Board of County Commissioners has determined that these expenditures serve a COUNTY and public purpose and are authorized by Section 1-90 of the Broward County Code of Ordinances, as amended; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, COUNTY and SCHOOL BOARD agree as follows:

ARTICLE 1 DEFINITIONS AND IDENTIFICATIONS

- 1.1 Agreement - Agreement shall mean this document and other terms and conditions which are included in the exhibits and documents that are expressly incorporated by reference
- 1.2 Board - The Broward County Board of County Commissioners.
- 1.3 Contract Administrator - The Broward County Administrator, the Director of the Broward County Cultural Division, or the individual acting in such capacity as Director. The primary responsibilities of the Contract Administrator are to coordinate and communicate with SCHOOL BOARD and to manage and supervise execution and

completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Contract Administrator. After the execution of this Agreement by COUNTY, the Contract Administrator may be changed from time to time using the notice procedure under Section 10.7, "Notices."

- 1.4 County Attorney – The chief legal counsel for COUNTY who directs and supervises the Office of County Attorney, pursuant to Section 2.10 of the Broward County Charter.
- 1.5 Project - The Project consists of the services described in Article 2.

ARTICLE 2 SCOPE OF SERVICES

SCHOOL BOARD shall perform all services identified in this Agreement and its grant application as amended in Exhibit "A," attached hereto. SCHOOL BOARD shall provide to the COUNTY a Project Evaluation Report for each Project funded through this Agreement on the form Exhibit "B." The Project Evaluation Report shall be filed with the Contract Administrator no later than thirty (30) calendar days after the completion of the Project, or with the final invoice and documentation of all items not previously submitted. Failure of the SCHOOL BOARD to submit a completed Project Evaluation Report within the time stated shall disqualify the SCHOOL BOARD for all grant consideration and awards under the Cultural Division and shall entitle the COUNTY to withhold payment of final invoice without accrual of interest until all requirements of the specific program guidelines and this Agreement have been met.

ARTICLE 3 TERM AND TIME OF PERFORMANCE

- 3.1 The term of this Agreement shall begin on August 1, 2012, through July 26, 2013. If the term of this Agreement extends beyond a single fiscal year of COUNTY, the continuation of this Agreement beyond the end of any fiscal year shall be subject to the appropriation and availability of funds by the Board in accordance with Chapter 129, Florida Statutes, as may be amended from time to time. COUNTY's fiscal year commences on October 1 of each year and ends on September 30 of the following year. The County Administrator may execute written amendment(s) with SCHOOL BOARD to change the term of this Agreement.
- 3.2 All duties, services, obligations, and responsibilities of SCHOOL BOARD required by this Agreement shall be completed no later than the time specifically stated in this Agreement. Time shall be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4 COMPENSATION

4.1 COUNTY agrees to pay SCHOOL BOARD, in the manner specified in Exhibit "A" and Article 4 herein, the maximum not-to-exceed amount of Twenty Thousand Dollars (\$20,000) for work actually performed and completed pursuant to this Agreement, which amount shall be accepted by SCHOOL BOARD as full compensation for all such work. It is acknowledged and agreed by SCHOOL BOARD that this amount is the maximum payable and constitutes a limitation upon COUNTY's obligation to compensate SCHOOL BOARD for services and expenses related to this Agreement.

4.2 SCHOOL BOARD agrees to provide matching funds as more specifically shown in Exhibit "A."

4.3 METHOD OF BILLING AND PAYMENT

4.3.1 SCHOOL BOARD may submit an invoice for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. A final invoice must be received no later than sixty (60) calendar days after this Agreement expires.

4.3.2 Documentation as required in Exhibit "A" must accompany any request for reimbursement. Invoices shall be certified by the SCHOOL BOARD's executive director or an authorized officer.

4.3.3 COUNTY shall pay SCHOOL BOARD within thirty (30) calendar days of receipt of SCHOOL BOARD's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49, as may be amended from time to time). To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator.

4.3.4 Notwithstanding any provision of this Agreement to the contrary, COUNTY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to Contract Administrator or failure of SCHOOL BOARD to comply with a term, condition or requirement of this Agreement. The amount withheld shall not be subject to payment of interest by COUNTY.

4.3.5 Payment shall be made to SCHOOL BOARD at:

The School Board of Broward County, Florida
Attn: Damian Huttenhoff, Director
600 Southeast Third Avenue
Fort Lauderdale, FL 33301

SCHOOL BOARD may change any of the information provided under Section 4.3.5 herein by providing written notice of such change to Contract Administrator using the notice procedure under Section 10.7, "Notices." SCHOOL BOARD shall provide its federal identification number on the form provided by COUNTY's Contract Administrator at the time of SCHOOL BOARD's execution of this Agreement.

ARTICLE 5
CHANGE IN SCOPE OF SERVICES AND FORCE MAJEURE

- 5.1 Upon written request by the SCHOOL BOARD, the Contract Administrator may approve in writing changes in the categories of expenditures listed in Exhibit "A."
- 5.2 The Contract Administrator and/or County Administrator may be authorized to approve certain changes in writing or by amendment as authorized by the provisions of this Agreement or by the Broward County Administrative Code (including Section 29.17). If the Broward County Administrative Code allows the Contract Administrator to make changes to the dollar amount for the unit of service, then, the Contract Administrator may also simultaneously make any necessary changes or adjustments to the number of units of service when the Contract Administrator changes the dollar amounts for the units of service as long as such changes and adjustments are not inconsistent with the provisions of the Broward County Administrative Code.
- 5.3 Changes to the Scope of Services or categories of expenditures pursuant to this Article shall be in writing, signed by the SCHOOL BOARD and the Contract Administrator using a mutually approved and executed grant change request form unless the changes require written amendment pursuant to Section 29.17 of the Broward County Administrative Code and/or by Section 10.15, "Amendments," herein.
- 5.4 Force Majeure: Notwithstanding anything to the contrary in this Agreement, in the event that the COUNTY's Contract Administrator, in his/her sole discretion, determines that any service, production, or performance was prevented, or rendered impossible due to labor disputes, strike, fire, act of God (including earthquake, named storm or threat of named storm occurring or predicted to occur within a five hundred (500) mile radius of Broward County, Florida, within seven (7) calendar days before or within seven (7) calendar days after the date of the service, production, or performance), war, act of terrorism, action of local, state or federal governmental authorities, or for any other reason determined solely by COUNTY's Contract Administrator in his/her sole discretion to be beyond the reasonable control of the SCHOOL BOARD, it is understood and agreed that there shall be no claims by SCHOOL BOARD against COUNTY except that SCHOOL BOARD may submit proper invoices for expenses already incurred by SCHOOL BOARD up to and including the dates of any such event. All further obligations of SCHOOL BOARD to, for, or toward the proper provision of the requested service(s), production(s), or performance(s) may be waived in writing by COUNTY's Contract Administrator in his/her sole discretion. In the event of submittal of a proper invoice by SCHOOL BOARD, COUNTY's Contract Administrator, in his/her sole discretion, may approve payment for actual

expenses already incurred by SCHOOL BOARD up to and including the date of the event resulting in the non-performance by SCHOOL BOARD.

ARTICLE 6 GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. SCHOOL BOARD represents to COUNTY for COUNTY's reliance that SCHOOL BOARD is a state agency or political subdivision as defined in Chapter 768.28, Florida Statutes, as amended from time to time), and SCHOOL BOARD agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

ARTICLE 7 INSURANCE

- 7.1 SCHOOL BOARD represents to COUNTY for its reliance that SCHOOL BOARD is a state agency or political subdivision as defined by Section 768.28, Florida Statutes (as amended), and SCHOOL BOARD agrees to furnish the COUNTY with written verification of liability protection in accordance with state law prior to final execution of this Agreement. Additionally, if SCHOOL BOARD elects to purchase any additional liability coverage including excess liability coverage, SCHOOL BOARD agrees that "Broward County" shall be listed as the certificate holders and included as additional insureds on the certificate.
- 7.2 COUNTY reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work or specifications that affect the applicability of coverage for all General Liability and Excess Liability coverage only. The certificate holder shall read "Broward County" at the address: 115 South Andrews Avenue, Fort Lauderdale, Florida 33301. The official title is Broward County. This official title shall be used in all insurance documentation.
- 7.3 In the event that SCHOOL BOARD is permitted to utilize subcontractors to perform services in accordance with Section 10.9 of this Agreement, subcontractor shall be required to comply with the insurance requirements of this Agreement.

ARTICLE 8 TERMINATION

- 8.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) calendar days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board or County Administrator. Termination for convenience by the COUNTY, through its Board or County

Administrator shall be effective on the termination date stated in the written notice provided by the COUNTY's Contract Administrator, which termination date shall be not less than thirty (30) calendar days after the date of such written notice. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety or welfare. Any such notice shall be provided by the Contract Administrator. The parties agree that if the COUNTY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) calendar days after such notice of termination for cause is provided.

- 8.2 This Agreement may be terminated for cause for reasons including, but not limited to, SCHOOL BOARD's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.
- 8.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section in Article 10 of this Agreement.
- 8.4 In the event this Agreement is terminated for convenience by COUNTY, SCHOOL BOARD shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. SCHOOL BOARD acknowledges and agrees that it has received good, valuable and sufficient consideration from COUNTY, the receipt and adequacy of which are, hereby acknowledged by SCHOOL BOARD, for COUNTY's right to terminate this Agreement for convenience.
- 8.5 In the event this Agreement is terminated for any reason, any amounts due SCHOOL BOARD shall be withheld by COUNTY until all documents are provided to COUNTY pursuant to the "RIGHTS IN DOCUMENTS AND WORK" section in Article 10.

ARTICLE 9 FINANCIAL STATEMENTS

- 9.1 If SCHOOL BOARD receives less than Twenty-Five Thousand Dollars (\$25,000.00) for general operating support in any one COUNTY fiscal year, SCHOOL BOARD must submit all required information, including financial information, required by the grant agreement within thirty (30) calendar days after completion of the project.
- 9.2 Any grantee receiving Twenty-five Thousand Dollars (\$25,000.00) or more for general operating support from the COUNTY in any one COUNTY fiscal year, the

grantee must submit a Special Report including audited and certified financial statements prepared in accordance with Generally Accepted Accounting Principles and audited by an independent Certified Public Accountant. SCHOOL BOARD shall provide to the Contract Administrator two (2) copies of each of the annual financial statements as required in this section. Said annual financial statements shall be submitted to Contract Administrator within one hundred eighty (180) calendar days after the close of the SCHOOL BOARD's fiscal years in which the SCHOOL BOARD accounts for funds received under this Agreement. No extensions will be granted for the audited and certified financial statements. The special report shall be prepared by an independent certified public accountant or the governmental entity's internal auditor in a form acceptable to the Broward County Auditor.

9.3 If the Special Report is prepared by an independent certified public accountant, it shall be in accordance with Section 623 of the Codification of Statements on Auditing Standards as promulgated by the American Institute of Certified Public Accountants. If the special report is prepared by a governmental entity's internal auditor, it shall be as nearly in accordance with those sections as the status of the internal auditor permits, realizing that the internal auditor may not issue the opinions required therein. A transmittal letter signed by the governmental entity's internal auditor must accompany the special report. The special report shall include:

- a. The statement, "no funds, including interest earned on such funds, are due back to the County;" or, a listing of funds, including interest earned on such funds, which are due back to the COUNTY.
- b. An opinion (finding, in the case of an internal auditor) as to whether the funds received under the applicable grant agreement with the COUNTY have been expended in accordance with this Agreement.
- c. A schedule of project revenues and expenditures including:
 - i. all revenues relating to the services and/or project classified by the source of the revenues; and
 - ii. all expenditures relating to the services and/or project classified by the type of expenditures, to include the classifications as set forth in Exhibit "A" of this Agreement.

9.4 The Special Report shall include all financial requirements for the entire scope of the services or project covered by the Agreement, even if a part of the services or project was performed during the previous fiscal year(s) or continue past the end of SCHOOL BOARD's current fiscal year.

- 9.5 Any corrections to the special report requested by the COUNTY shall be made and submitted to the COUNTY within sixty (60) calendar days after written request is received.
- 9.6 Failure of the SCHOOL BOARD to meet these financial reporting requirements shall result in suspension of payment under this or any subsequent grant agreement in effect and disqualify the SCHOOL BOARD from obtaining future grant awards until such financial statements are received and accepted by COUNTY.
- 9.7 SCHOOL BOARD acknowledges submission of financial statements and/or special report to any other Broward County office, agency, or division does not constitute compliance with requirements to submit that material to Contract Administrator for this Agreement.
- 9.8 SCHOOL BOARD agrees to reimburse COUNTY any and all funds not used in strict compliance with this Agreement.

ARTICLE 10 MISCELLANEOUS

10.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of COUNTY; and, if a copyright is claimed, SCHOOL BOARD grants to COUNTY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by SCHOOL BOARD, whether finished or unfinished, shall become the property of COUNTY and shall be delivered by SCHOOL BOARD to the Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to SCHOOL BOARD shall be withheld until all documents are received as provided herein.

10.2 AUDIT RIGHT AND RETENTION OF RECORDS

COUNTY shall have the right to audit the books, records (including financial receipts), and accounts of SCHOOL BOARD that are related to this Agreement. SCHOOL BOARD shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of SCHOOL BOARD shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, SCHOOL BOARD shall make same available in written form at no cost to COUNTY.

SCHOOL BOARD shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents,

statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after earlier termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained by SCHOOL BOARD until final resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to SCHOOL BOARD's records, SCHOOL BOARD shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by SCHOOL BOARD. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry.

In the event that SCHOOL BOARD is permitted to utilize subcontractors to perform services in accordance with Section 10.9 of this Agreement, SCHOOL BOARD shall, by written contract, require its subcontractors to agree to the requirements and obligations of this Section 10.2.

10.3 PUBLIC ENTITY CRIME ACT

SCHOOL BOARD represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes, as amended, which essentially provides that a person or affiliate who is a SCHOOL BOARD, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to COUNTY, may not submit a bid on a contract with COUNTY for the construction or repair of a public building or public work, may not submit bids on leases of real property to COUNTY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with COUNTY, and may not transact any business with COUNTY in excess of the threshold amount provided in Section 287.017, Florida, as amended, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

In addition to the foregoing, SCHOOL BOARD further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida, as amended from, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether SCHOOL BOARD has been placed on the convicted vendor list.

10.4 EEO COMPLIANCE

SCHOOL BOARD shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, familial status, disability, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work in the performance of this Agreement and shall not otherwise unlawfully discriminate in violation of the Broward County Code, Chapter 16½, as may be amended from time to time. SCHOOL BOARD shall include the foregoing or similar language in its contracts with any subcontractors or subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as COUNTY deems appropriate.

SCHOOL BOARD shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. SCHOOL BOARD shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, SCHOOL BOARD shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

By execution of this Agreement, SCHOOL BOARD represents that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes, as amended). COUNTY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from SCHOOL BOARD all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

10.5 INDEPENDENT CONTRACTOR

SCHOOL BOARD is an independent contractor under this Agreement. Services provided by SCHOOL BOARD pursuant to this Agreement shall be subject to the supervision of SCHOOL BOARD. In providing such services, neither SCHOOL BOARD nor its agents shall act as officers, employees, or agents of the COUNTY. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to SCHOOL BOARD or SCHOOL BOARD's agents any authority of any kind to bind COUNTY in any respect whatsoever.

10.6 THIRD PARTY BENEFICIARIES

Neither SCHOOL BOARD nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

10.7 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgment of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

Director
Broward County Cultural Division
100 S. Andrews Avenue
Fort Lauderdale, Florida 33301-1829

FOR SCHOOL BOARD:

Robert W. Runcie
Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, FL 33301

With Copy To:
Director
ATTN: Damian Huttenhoff
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, FL 33301

Either party may change its information provided in Section 10.7 herein by providing written notices to the other party using the notices procedures in Section 10.7, "NOTICES" herein. As authorized in Section 1.3, the Contract Administrator may also be changed using the notices procedure in Section 10.7, "NOTICES" herein.

10.8 CONFLICTS

Neither SCHOOL BOARD nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with SCHOOL BOARD's loyal and conscientious exercise of judgment related to its performance under this Agreement.

SCHOOL BOARD further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against COUNTY in any legal or administrative proceeding in which he, she, or SCHOOL BOARD is not a party, unless compelled by court process. Further, SCHOOL BOARD agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of COUNTY in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude SCHOOL BOARD or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event SCHOOL BOARD is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, SCHOOL BOARD agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as SCHOOL BOARD.

10.9 ASSIGNMENT

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the prior written consent of the other party. For the COUNTY, such written consent shall be given by action of the Board. In addition, SCHOOL BOARD shall not subcontract any portion of the work required by this Agreement, except as provided in Exhibit "A" and/or approved in advance in writing by the Contract Administrator in his/her sole discretion.

SCHOOL BOARD represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

SCHOOL BOARD shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of SCHOOL BOARD=s performance and all interim and final product(s) provided to or on behalf of COUNTY shall be comparable to the best local and national standards.

10.10 MATERIALITY AND WAIVER OF BREACH

COUNTY and SCHOOL BOARD agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

COUNTY=s failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

10.11 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or SCHOOL BOARD elects in writing to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

10.12 JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

10.13 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision contained in Articles 1 through 10 of this Agreement, the provisions in this Agreement will first govern, followed by the terms in the exhibits.

10.14 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, SCHOOL BOARD AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

10.15 AMENDMENTS

Except for the provisions set forth in Article 3, Article 5, or in the Broward County Administrative Code (including Section 29.17), no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the SCHOOL BOARD and the COUNTY through its Board; however, the County Administrator or the Contract Administrator may also execute amendments to this Agreement on behalf of the

COUNTY if authorized by previous Board action, including as approved in this Agreement, Board's resolution or in the Broward County Administrative Code.

10.16 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

10.17 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits "A," "B," and "C" are incorporated into and made a part of this Agreement.

10.18 COMPLIANCE WITH LAWS

SCHOOL BOARD shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations and as such may be amended from time to time, in performing its duties, responsibilities, and obligations pursuant to this Agreement.

10.19 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

10.20 NO INTEREST

10.20.1. Payment of Interest. Except as required by the Broward County Prompt Payment Ordinance, COUNTY shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof SCHOOL BOARD waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

10.20.2. Rate of Interest. In any instance where the prohibition or limitations of Section 10.20.1 are determined to be invalid or unenforceable, the annual rate of interest payable by COUNTY under this Agreement, whether as prejudgment interest or

for any other purpose, shall be .025 percent simple interest (uncompounded).

10.21 WAIVER OF CLAIMS

SCHOOL BOARD hereby waives any claim against COUNTY, and its agents, servants, and employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment of award in any suit or proceeding declaring this Agreement null, void or voidable, delaying the same or any part thereof, from being carried out.

10.22 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of any entity does hereby represent and warrant that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party.

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

AGREEMENT BETWEEN BROWARD COUNTY AND THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA FOR BROWARD CULTURAL COUNCIL GRANT
CAEP01-2012

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through the County Administrator, authorized to execute same by Board action, and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, signing by and through its _____, duly authorized to execute same.

COUNTY

WITNESSES:

BROWARD COUNTY, through its
Broward County Administrator

Signature above
Print Name: _____

By _____
County Administrator

Signature above
Print Name: _____

_____ day of _____, 20____.

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Office of the County Attorney
Broward County, Florida
JONI ARMSTRONG COFFEY,
County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By _____
Authorized Signor (Date)

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

ASF:dp
06/26/12
School Board -BCD2012-GOV.a01-[06-26-12]
#12-110.02

AGREEMENT BETWEEN BROWARD COUNTY AND THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA, FOR BROWARD CULTURAL COUNCIL GRANT
CAEP01-2012

SCHOOL BOARD

WITNESSES:

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

Signature above

(Authorized Signor)

Print Name: _____

Ann Murray, Chair

(Print name and title of
Authorized Signor for SCHOOL BOARD
above)

Signature above

____ day of _____, 20____.

Print Name: _____

ATTEST:

Approved as to Form and Legal Content:

Robert W. Runcie
Superintendent of Schools



Office of the General Counsel

EXHIBIT A

Funding for each program shall be paid to SCHOOL BOARD by COUNTY in accordance with the following:

**Education and Community Development Program
a/k/a Community Arts Education Partnership Program
CAEP01-2012 - \$20,000**

- I. Project title: Arts in Education Program
- II. Project Budget – total project budget is \$40,000
 - A. COUNTY's total maximum-not-to-exceed funds: \$20,000.
 - B. MATCH requirements of SCHOOL BOARD: \$20,000.
 - C. SCHOOL BOARD's (GRANTEE's) total funds: \$20,000.
- III. Scope of project: In collaboration with the Contract Administrator, SCHOOL BOARD agrees to provide the following deliverables:
 - A. Professional Development Presentations and Workshops for Artists and Educators - not to exceed Twenty-five Thousand Dollars (\$25,000).
 1. Workshops for artists and educators that promote the development of the following:
 - (a) Cognitive, behavioral and affective learning in one or more arts disciplines; and/or
 - (b) Knowledge and skills in the theories and/or methods of arts instruction and/or arts integration.
 2. Presentations, workshops, and locations must be approved in advance by the Contract Administrator in accordance with Article 5 of this Agreement.
 3. Instructors and Presenters - Artists and educators with approved skills and qualifications as determined jointly by the COUNTY (through its Cultural Division hereinafter "Cultural Division") and SCHOOL BOARD are eligible to provide professional development presentations and workshops.
 4. The SCHOOL BOARD will advertise this grant program to all of its schools and provide in-service credits and/or independent study credits for all Broward County school based teachers including

charter schools participating in any professional development presentation or workshop as part of this Agreement.

- B. Artist Residency Program – in an amount not to exceed Fifteen Thousand Dollars (\$15,000).
1. A maximum of three (3) arts in education artist residency programs in different schools and/or innovation zones. Each program will impact a minimum of one hundred (100) students.
 - i. Artist residencies that promote the development of cognitive, behavioral, or affective learning in one or more arts disciplines.
 - ii. Artist residencies that promote the development of cognitive, behavioral, or affective learning in any subject through arts integration.
 2. During the term of the Agreement, each school or zone may apply for funds not to exceed Five Thousand Dollars (\$5,000).
 3. Applications to the Artist Residency Program
 - i. The SCHOOL BOARD and Cultural Division will jointly develop the application to be completed by schools to participate in the Program.
 - ii. The SCHOOL BOARD will provide the application to participate in the Artist Residency Program to all schools.
 4. Eligibility
 - i. The artist selected for the residency must be a participant in the COUNTY's Arts Education Directory Program administered by the Cultural Division.
 - ii. Applicants are required to participate in a community arts education needs assessment with their school.
 5. The SCHOOL BOARD will convene a panel composed of equal representation from its staff or their designees and Cultural Division staff or their designees. The panel will review project grant applications and allocate grant funds.
 6. The SCHOOL BOARD will advertise this incentive program to all of its schools and provide in-service credits and/or independent study

credits for all Broward County school based teachers including charter schools participating in any professional development presentation or workshop as part of this agreement.

IV. Definition of Unit(s) of Service(s):

A unit of service shall be defined as one (1) dollar worth of allowable project-related expenses as set forth in Section II.

The COUNTY agrees to purchase from among the goods and services described in Section II A (1-5) above, twenty thousand (20,000) units at a cost not to exceed one dollar (\$1) per unit during the term of this Agreement, to the extent those units are supported by actual, direct expenses incurred for the project.

V. INVOICES - Invoices must be submitted on the proper form and include all of the required documentation identified in Sections VI and VII below. In the event that this Agreement is fully executed after August 1, 2012, it shall be deemed to be effective August 1, 2012; however, the provisions herein shall not be deemed to obligate the COUNTY to pay any invoices for services performed or expenses incurred for the period commencing August 1, 2012, until after this Agreement is fully executed by both parties.

VI. Required documentation of services rendered:

Documentation with each invoice:

- A. Invoices shall be submitted on the proper Cultural Division "Units of Service Invoice" form;
- B. Documentation of grant expenditures and match;
- D. A brief narrative summary of activities during the invoice period;
- E. Copies of programs, flyers, or other materials with the correct attribution requirements, if applicable; and
- F. Digital versions of replicable teaching units in the case of arts integration workshops.

VII. All consultants hired by SCHOOL BOARD shall sign a standard SCHOOL BOARD's Consultant Agreement form with the SCHOOL BOARD. Payments from the Community Arts Education Partnerships (CAEP01-2012) require approval from the CONTRACT ADMINISTRATORS representing the SCHOOL BOARD and the COUNTY .

VIII. Background Screening for Contract Incentive Program Number CAEP01-2012

COUNTY agrees to comply with all applicable requirements of Sections 1012.32 and 1012.465, Florida Statutes (as amended).The COUNTY and all of its

personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SCHOOL BOARD in advance of COUNTY, its personnel, its volunteers/evaluators, and/or the CAEP instructors providing any services under the conditions described in the previous sentence. SCHOOL BOARD will solely bear all the costs of acquiring the background screening required by Sections 1012.32 and Section 1012.465, Florida Statutes (as amended), and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to COUNTY and its personnel, its volunteers/evaluators, and/or the C instructors. The failure of COUNTY to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SCHOOL BOARD to terminate immediately with written notice in accordance with the "TERMINATION" and the "NOTICES" sections of the Agreement in order to protect the public health, safety, and/or welfare with no further responsibilities or duties to perform under this Agreement. Subject to Florida's laws and the limitations of Section 768.28, Florida Statutes, as amended, COUNTY agrees to be responsible for physical or mental injury, death or property damage resulting solely from COUNTY's failure to comply with the requirements of this section of the Agreement of Sections 1012.32 and 1012.465, Florida Statutes (as amended). Nothing herein is intended to serve as a waiver of sovereign immunity by COUNTY nor shall anything included herein be construed as consent by COUNTY to be sued by third parties in any matter arising out of this Agreement or any other contract. COUNTY is a state agency or political subdivision as defined in Chapter 768.28, Florida Statutes (as amended), and agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by Florida's law.

- IX. EXHIBIT B - Project Evaluation Report is due in accordance with Article 2. The report shall confirm, at a minimum, the deliverables required by the Scope of Services as follows:
 - A. Professional Development Presentations and Workshops for Artists and Educators – documentation of presentations and workshops conducted along with participant surveys.
 - B. Assessment of Arts Education Occurring in Broward County Public Schools – final, published report
- X. Funding Categories for which COUNTY funds may be used.

Community Arts Education Partnership Funds	School Board's Funds or Match
Outside Professional Services - Artistic	Outside Professional Services – Artistic
Outside Professional Services - Technical/Production	Outside Professional Services - Technical/Production
Outside Professional Services - other	Outside Professional Services - other
Supplies	Supplies
Marketing	Marketing
Total: \$20,000	Total: \$20,000

(The remainder is left blank.)

EXHIBIT B
BROWARD CULTURAL COUNCIL
Community Arts Education Partnerships Incentive Program
PROJECT REPORT: School Board Block Grant

This project report must be filed with the Cultural Division with the final invoice and no later than thirty (30) days after the completion of the project.

Part A: Summary Report on Activities

I. Professional Development Workshops and Presentations

- A. Describe the Professional Development Workshops and Presentations funded through this incentive program.**
- B. Describe the audiences served for each of the activities implemented (professional development and the artist residencies)**

II. Artist Residency Program

- A. Provide an overview of the Artist Residencies funded through this incentive program.**
- B. Provide an overview of the results of Community Arts Education Needs Assessments conducted as part of the Artist Residencies.**

III. Attendance and Staff / Outside Professionals Engaged

- A. What was the total number served as part of this incentive program?**
- B. In the table below, insert the number of staff/outside professionals engaged in the project.**

IV. Required Attachments

Number	Artists	Program / Professionals	Administrative	Other Staff	Board	Totals
Full-time						
Part-time						
Volunteers						
Totals						

- _____ Enclose EITHER two (2) quality black and white OR two (2) color first generation (an original, not a copy) photographs. Electronic/digitized images that clearly document the organization's or individual artist's grant activity are preferred.
- _____ Copies of programs and other promotional materials showing the Broward County funding statement and logo.

V. CERTIFICATION: It is certified that the information provided is true and correct, and grant expenditures were incurred solely for the purpose of the approved grant activity.

Signature – School Board Representative:
Typed Name of School Board Representative:
Date:

EXHIBIT B
BROWARD CULTURAL COUNCIL
Community Arts Education Partnerships Incentive Program
PROJECT REPORT: School Board Block Grant

This project report must be filed with the Cultural Division with the final invoice and no later than thirty (30) days after the completion of the project.

Part B: Professional Development Workshops and Presentations

Workshop/Presentation Title:

Presenter:

Your Name (Optional): _____ Date: _____

1. What information did you find most valuable?

2. What improvements or changes would you suggest?

3. Name one action you will take as a result of taking this program:

4. What additional classes/workshops/presentations would you like offered to enhance your performance as an artist and/or arts educator?

5. Would you recommend this program to other employees? ____ Yes ____ No
Why? _____

6. Other
comments: _____

Circle a number for each statement indicating your level of agreement

1=Strongly Disagree 2=Disagree 3=Neither Agree nor Disagree 4=Agree 5=Strongly Agree

7. My expectations of this course were met. 1 2 3 4 5

8. This offering improved my knowledge of
the concepts and principles presented. 1 2 3 4 5

9. I will be able to use and apply the
information I learned. 1 2 3 4 5

10. Overall, this offering was relevant to my
responsibilities and activities as an artist,
educator and/or stakeholder/advocate. 1 2 3 4 5

11. The instructor delivered the material in an
effective manner. 1 2 3 4 5

Community Arts Education Partnerships Incentive Program PROJECT REPORT: School Board Block Grant

Part C: Artist Residency Program: Residency Report

1. Applicant Information

School:	
Mailing Address:	
Project Director: Title:	Telephone: Ext. Fax:
Project Title:	BCC Grant #: CAEP01-2012
Date project began: Date project ended:	Total Cost of Project: \$ Amount of Grant Award: \$

2. Staff/Outside Professionals engaged in the project.

Number	Artists	Program / Professionals	Administrative	Other Staff	Board	Totals
Full-time						
Part-time						
Volunteers						
Totals						

3. School Narrative Report (this should be completed by a representative from administration familiar with the residency project)

- a. How did the residency connect with your other activities (programs, curricula, concern/need, etc.)?
- b. Please share any stories, favorite moments, or quotes from those involved (i.e. students, teachers, parents, audience, others) that express the benefit of this artist experience. This can be at a personal or community level – anything that made you glad you went to all this work!

4. The residency contributed to students/participants' knowledge and skills in the art form(s) offered.

Circle a number for each statement indicating your level of agreement

1=Strongly Disagree 2=Disagree 3=Neither Agree nor Disagree 4=Agree 5=Strongly Agree

1	2	3	4	5
---	---	---	---	---

COMMENTS	

5. The artist succeeded in engaging the students in the workshop activities so that the students enjoyed both the artist and the art form.

<p align="center">Circle a number for each statement indicating your level of agreement</p> <p align="center">1=Strongly Disagree 2=Disagree 3=Neither Agree nor Disagree 4=Agree 5=Strongly Agree</p>				
1	2	3	4	5

COMMENTS

6. The students experienced the art form(s) by doing them. It was hands on for everyone.

<p align="center">Circle a number for each statement indicating your level of agreement</p> <p align="center">1=Strongly Disagree 2=Disagree 3=Neither Agree nor Disagree 4=Agree 5=Strongly Agree</p>				
1	2	3	4	5

COMMENTS

- 7. The artist had the students reflect on their process in order to learn how to assess the quality of their own work and the work of their peers.**

<p>Circle a number for each statement indicating your level of agreement</p> <p>1=Strongly Disagree 2=Disagree 3=Neither Agree nor Disagree 4=Agree</p> <p>5=Strongly Agree</p>				
1	2	3	4	5

COMMENTS	

- 8. The students were engaged in constructing and demonstrating understanding as opposed to just memorizing and reciting knowledge.**

<p>Circle a number for each statement indicating your level of agreement</p> <p>1=Strongly Disagree 2=Disagree 3=Neither Agree nor Disagree 4=Agree</p> <p>5=Strongly Agree</p>				
1	2	3	4	5

COMMENTS	

EXHIBIT B
BROWARD CULTURAL COUNCIL
Community Arts Education Partnerships Incentive Program
PROJECT REPORT: School Board Block Grant

This project report must be filed with the Cultural Division with the final invoice and no later than thirty (30) days after the completion of the project.

**Part D: Artist Residency Program: Community Arts Education
 Needs Assessment**

The Community Arts Education Needs Assessment must be completed in conjunction with representatives from the School Board of Broward County and Broward Cultural Division and should address the following:

- I. Community Partnerships
- II. Public Awareness, Participation and Media Support
- III. Planning, Resources and Facilities
- IV. Curriculum, Standards and Assessments
- V. Student Awareness, Participation and Graduation Requirements
- VI. Faculty, Staffing and Professional Development

The remainder of this page is intentionally left blank.)