

**AMENDMENT ONE**  
*to*  
**REIMBURSEMENT FOR  
CAPITAL IMPROVEMENTS**

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**SOUTH FLORIDA MUSEUM  
MANATEE COUNTY**

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**THIS AMENDMENT** (“Amendment”), is made and entered into as of March 7, 2017 by and between the South Florida Museum and Bishop Planetarium, LLC., a Florida non-profit corporation (hereinafter, the “Museum”) and Manatee County, a political subdivision of the State of Florida (hereinafter the “County”).

**W I T N E S S E T H**

**WHEREAS**, the County levies and collects a tourist development tax pursuant to Section 125.0104, Florida Statutes (the “Act”), and has adopted a tourist development plan that authorizes the use of proceeds of the tourist development tax for, among other things, reimbursement to the Museum to fund the costs of capital improvements to the publicly-owned land on which the South Florida Museum facilities are located at 201 10<sup>th</sup> Street West, Bradenton, Florida; and

**WHEREAS**, the County and the Museum entered into a REIMBURSEMENT AGREEMENT FOR CAPITAL IMPROVEMENTS, dated as of August 25, 2015; and

**WHEREAS**, the County and the Museum wish to amend the Agreement as provided in this Amendment.

***NOW, THEREFORE, the County and the Museum, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, agree as follows:***

**1. AMENDMENT OF AGREEMENT.** The Agreement is hereby amended as follows:

A. Replacement of Exhibit “A”: Exhibit “A” to the Agreement is hereby replaced with Exhibit “A” attached hereto and incorporated herein by reference.

**2. ALL OTHER PROVISIONS UNAFFECTED.** All provisions of the Agreement not expressly amended hereby shall remain unaffected by this Amendment, and in full force and effect as they are set forth in the Agreement.

**3. VALIDITY.** Each of the County and the Museum represents and warrants to the other its respective authority to enter into this Amendment.

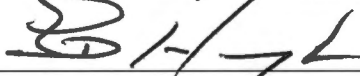
4. **SEVERABILITY.** The provisions of this Amendment are declared by the parties hereto to be severable. In the event any term or provision of this Amendment shall be held invalid by a Court of competent jurisdiction, such invalid term or provision should not affect the validity of any term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Amendment; provided, however, if any term or provision of this Amendment is held to be invalid due to the scope or extent here thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

5. **EFFECTIVE DATE.** This Amendment shall take effect as of the date set forth above.

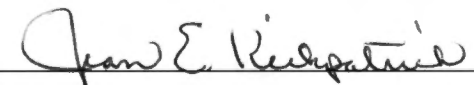
*WHEREFORE, the parties hereto have executed this Amendment as of the date and year first above written.*

**MANATEE COUNTY, a political subdivision of  
the State of Florida**

By: Board of County Commissioners

By:   
Ed Hunzeker, County Administrator

**SOUTH FLORIDA MUSEUM AND BISHOP  
PLANETARIUM, INC.,**  
a Florida Non-Profit Corporation

By: 

**EXHIBIT "A"**  
**Description of the Project**

County shall reimburse South Florida Museum for the following costs:

- Creation of new spaces:
  - The Mosaic Backyard Universe
  - The Commons
  - Special Exhibition Gallery
  - Education Center
  - New Aquatic Exhibits
- Renovating current exhibitions
- Upgrading portions of the Aquarium
- Planetarium upgrade
- Developing a pilot for the innovative *Pathways* program
- Related soft costs such as permitting, architectural design, and engineering related to such components.
- Costs incurred to review branding of the Museum

March 7, 2017 - Regular Meeting  
Agenda Item #26

Subject

Amendment One to Reimbursement Agreement for Capital Improvements with South Florida Museum

Briefings

None

Contact and/or Presenter Information

Presenter: Elliott Falcione, Executive Director, CVB x5913

Contact: Monica Luff, Sr. Admin. Spec., CVB x5913

**APPROVED** in Open Session  
March 7, 2017  
Manatee County Board of County  
Commissioners

Action Requested

Authorization for County Administrator to execute Amendment One to Reimbursement Agreement for Capital Improvements with South Florida Museum.

Enabling/Regulating Authority

Code of Laws 2-29-25 Tourist Development Plan

F.S.S. 125.0104 Authorized uses of Resort Tax Funds

Background Discussion

- On August 25, 2015, the BCC approved an agreement with the South Florida Museum to reimburse 50% of the actual and direct costs incurred by the Museum (up to \$200,000 per year for 5 years) for capital improvements to the Museum's Facility.
- To fulfill the original agreement we are requesting to add language to Exhibit A in order to reimburse the Museum for 50% of the costs incurred to review the Museum's branding by a third party contractor or higher education institution. The original agreement requires the Museum to review their brand; however, we neglected to include that as a reimbursable cost on Exhibit A. We have now added this language to Exhibit A.
- This change does not affect the original reimbursable amount being paid to the South Florida Museum - up to \$200,000 per year for up to 5 years.
- All funds involved are tourism taxes, not ad valorem taxes.

County Attorney Review

Formal Written Review (Opinion memo must be attached)

Explanation of Other

Reviewing Attorney  
Clague

Instructions to Board Records

Send 1 signed original to Monica Luff, CVB

Copy of approved agenda memo to Monica Luff, CVB ([monica.luff@mymanatee.org](mailto:monica.luff@mymanatee.org)) and Eva Galler, CVB ([eva.galler@mymanatee.org](mailto:eva.galler@mymanatee.org))

3/10/17 QA emailed to Eva G and Monica at CVB; originals placed in interoffice mail to Monica

Cost and Funds Source Account Number and Name  
n/a

Amount and Frequency of Recurring Costs  
n/a

Attachment: [So Fla Mus - Cap Improve - Amend One 2017.pdf](#)

Attachment: [CAO Memo - So Fla Mus Amend 1.pdf](#)

## Monica Luff

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**From:** William Clague  
**Sent:** Thursday, February 02, 2017 8:40 AM  
**To:** Monica Luff  
**Cc:** Mitchell Palmer; Elliott Falcione; Juliet Shepard; Eva Galler  
**Subject:** RE: South Florida Museum Agreement Amendment; RLS-2017-0053

Monica:

It looks good. I have no changes, and no objection from a legal standpoint to the Amendment being scheduled for consideration by the Board.

Bill Clague  
Assistant County Attorney  
Manatee County, Florida  
ph. 941-745-3750  
fx. 941-749-3089  
[william.clague@mymanatee.org](mailto:william.clague@mymanatee.org)

**From:** Monica Luff  
**Sent:** Tuesday, January 31, 2017 12:33 PM  
**To:** William Clague  
**Cc:** Mitchell Palmer; Elliott Falcione; Juliet Shepard; Eva Galler  
**Subject:** RE: South Florida Museum Agreement Amendment; RLS-2017-0053

Bill:

Attached here is the draft of the amendment to the So Fla Museum agreement and a revised exhibit A. Please review.

Thanks.

**Monica Luff**  
*Executive Assistant*  
Bradenton Area CVB  
One Haben Blvd. Palmetto, FL 34221  
(941) 729-9177 Ext. 231  
[Monica.Luff@BACVB.com](mailto:Monica.Luff@BACVB.com)

**From:** William Clague  
**Sent:** Tuesday, January 31, 2017 11:43 AM  
**To:** Monica Luff  
**Cc:** Mitchell Palmer; Elliott Falcione; Juliet Shepard  
**Subject:** South Florida Museum Agreement Amendment; RLS-2017-0053

Monica:

Pursuant to the above Request for Legal Services, you have asked whether it is necessary to amend the above referenced agreement (Agreement) in order to reimburse the South Florida Museum (Museum) for costs incurred to

“review branding” of the Museum. As noted in the RLS, paragraph 1.C of the Agreement requires the Museum to conduct the review. Paragraph 1.B defines reimbursable costs by reference to an Exhibit “A”, which itemizes various costs. Exhibit “A” does not list the cost of review of branding as a reimbursable cost. Nor does paragraph 1.C indicate that the County will reimburse the Museum for such costs. Therefore, the Agreement must be amended to add this cost to Exhibit “A” if the County is to reimburse the Museum for such cost.

Please prepare an initial draft of the amendment and a revised exhibit, and run them past me for review prior to scheduling them for Board approval. Please utilize the format of the attached document from a prior transaction, deleting paragraph 1.A (extension) and retaining paragraph 1.B (replacement of exhibit).

There were no specific legal issues raised in the RLS. Therefore, I have limited my response to identifying legal issues that could give rise to claim or case against the County. I express no opinion as to the business judgment of entering into the Amendment.

This concludes my response to the RLS. Please let me know if you have any questions or concerns.

Bill Clague  
Assistant County Attorney  
Manatee County, Florida  
ph. 941-745-3750  
fx. 941-749-3089  
[william.clague@mymanatee.org](mailto:william.clague@mymanatee.org)