

# MEMORANDUM

Agenda Item No. 11(A)(17)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

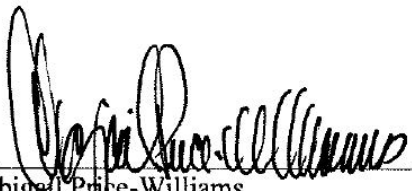
**DATE:** July 21, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution authorizing establishment of a \$5,000,000.00 business grant program for hospitality industry relief from the 2020 Coronavirus Aid, Relief, and Economic Security Act Coronavirus Relief fund, to provide financial support and assistance to local independently owned and operated restaurants, hotel restaurants, bars and caterers impacted by the coronavirus disease 2019 (COVID-19) pandemic; approving form of grant agreement by and among Miami-Dade County, the South Beach Wine & Food Festival, and Florida International University Chaplin School to provide an amount not to exceed \$5,000,000.00 in funds from the business grant program to the Hospitality Industry Relief Fund to assist eligible establishments that have had to temporarily cease operations, lay off or furlough employees, or whose businesses have been severely diminished due to the COVID-19 pandemic; and directing County Mayor to negotiate and execute the grant agreement and to provide reports

Resolution No. R-756-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.

  
Abigail Price-Williams  
County Attorney

APW/smm

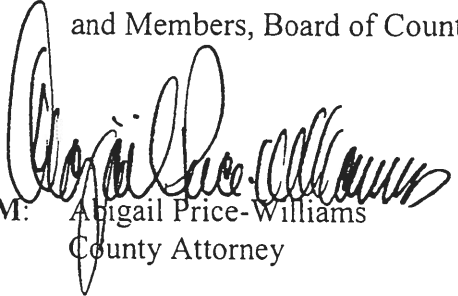


# MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

DATE: July 21, 2020

FROM:   
Abigail Price-Williams  
County Attorney

SUBJECT: Agenda Item No. 11(A)(17)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 11(A)(17)

7-21-20

RESOLUTION NO.      R-756-20

RESOLUTION AUTHORIZING ESTABLISHMENT OF A \$5,000,000.00 BUSINESS GRANT PROGRAM FOR HOSPITALITY INDUSTRY RELIEF FROM THE 2020 CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT CORONAVIRUS RELIEF FUND, TO PROVIDE FINANCIAL SUPPORT AND ASSISTANCE TO LOCAL INDEPENDENTLY OWNED AND OPERATED RESTAURANTS, HOTEL RESTAURANTS, BARS AND CATERERS IMPACTED BY THE CORONAVIRUS DISEASE 2019 (COVID-19) PANDEMIC; APPROVING FORM OF GRANT AGREEMENT BY AND AMONG MIAMI-DADE COUNTY, THE SOUTH BEACH WINE & FOOD FESTIVAL, AND FLORIDA INTERNATIONAL UNIVERSITY CHAPLIN SCHOOL TO PROVIDE AN AMOUNT NOT TO EXCEED \$5,000,000.00 IN FUNDS FROM THE BUSINESS GRANT PROGRAM TO THE HOSPITALITY INDUSTRY RELIEF FUND TO ASSIST ELIGIBLE ESTABLISHMENTS THAT HAVE HAD TO TEMPORARILY CEASE OPERATIONS, LAY OFF OR FURLOUGH EMPLOYEES, OR WHOSE BUSINESSES HAVE BEEN SEVERELY DIMINISHED DUE TO THE COVID-19 PANDEMIC; AND DIRECTING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO NEGOTIATE AND EXECUTE THE GRANT AGREEMENT AND TO PROVIDE REPORTS

**WHEREAS**, coronavirus disease 2019 ("COVID-19") is an infectious disease caused by severe acute respiratory syndrome coronavirus 2, a novel coronavirus that was first identified in December 2019; and

**WHEREAS**, on March 9, 2020, Governor Ron DeSantis issued Executive Order No. 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

**WHEREAS**, on March 11, 2020, Mayor Carlos A. Gimenez declared a state of emergency for Miami-Dade County as a result of COVID-19; and

**WHEREAS**, these orders have since been extended; and

**WHEREAS**, the disease has spread globally, and on March 11, 2020, the World Health Organization officially declared COVID-19 a pandemic; and

**WHEREAS**, as of July 14, 2020, the total number of confirmed cases of COVID-19 worldwide is over 13 million, with more than 3.4 million of those in the United States; and

**WHEREAS**, to help curb the spread of COVID-19, many state and local governments throughout the country ordered non-essential businesses to close and strongly urged residents to be safe and stay at home; and

**WHEREAS**, consequently, many small businesses, and in particular independently owned and operated restaurants and non-home based caterers, are now facing a dire threat to their survival, and an increasingly large number of employees have been laid off or furloughed; and

**WHEREAS**, indeed, more than 44.2 million Americans have filed for unemployment since March 2020; and

**WHEREAS**, to help blunt the impact of the economic downturn set in motion by the COVID-19 pandemic, the United States Congress passed, and on March 27, 2020 President Donald Trump signed into law, H.R. 748, the “Coronavirus Aid, Relief, and Economic Security Act” (the “CARES Act”); and

**WHEREAS**, the CARES Act is a \$2 trillion stimulus package which provided, among other things:

- one-time checks of \$1,200 to Americans earning a certain income;
- \$349 billion in loans to small businesses;
- \$17 billion of assistance to companies deemed crucial to national security;

- grants of \$25 billion for passenger air carriers, \$4 billion for air-cargo carriers, and \$3 billion for certain contractors; and
- a \$150 billion Coronavirus Relief Fund for local governments; and

**WHEREAS**, the CARES Act requires that the payments to local governments from the Coronavirus Relief Fund only be used to cover expenses that:

- are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
- were not included in the budget most recently approved as of March 27, 2020 for the state or local government; and
- were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

**WHEREAS**, the State of Florida was allocated \$8.328 billion from the Coronavirus Relief Fund, of which the County received \$474 million; and

**WHEREAS**, the Coronavirus Relief Fund monies must be used by December 30, 2020, and any residual must be returned to the federal government; and

**WHEREAS**, the public health emergency caused by COVID-19 has had an immediate and serious economic impact in the County, particularly the hospitality industry which has been impacted by lost revenues due to (i) mandatory closures, (ii) travel restrictions and cancellations, and (iii) quarantine and stay at home orders, as well as increased costs incurred to comply with the cleaning, spacing and operational requirements in order to reopen or operate; and

**WHEREAS**, the hospitality industry is a vital cog in the County's economy; and

**WHEREAS**, this Board is concerned about the short-term and long-term economic impacts of the COVID-19 pandemic to these businesses in the County; and

**WHEREAS**, the South Beach Wine & Food Festival (“SOBEWFF”), and Florida International University (“FIU”) Chaplin School have created a Hospitality Industry Relief Fund (the “HIRF Fund”), to provide immediate financial support to independently owned and operated restaurants, hotel restaurants, bars, and caterers impacted by the COVID-19 pandemic in the County, and help their laid off or furloughed employees; and

**WHEREAS**, to assist in the economic sustainability of independently owned and operated restaurants and non-home based caterers in the County, this Board desires the County Mayor or County Mayor’s designee to (i) establish a \$5 million business grant program, and (ii) negotiate and execute a grant agreement by and among the County, SOBEWFF, and FIU Chaplin School to provide \$5 million in program funds for use by the HIRF Fund,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that:

**Section 1.** The foregoing recitals are adopted as if fully set forth herein.

**Section 2.** This Board authorizes the establishment of a business grant program in an amount not to exceed \$5,000,000.00 for hospitality industry relief, from the 2020 CARES Act Coronavirus Relief Fund allocation to the County. The total of the not to exceed amount will be used by the HIRF Fund through a grant agreement by and among the County, SOBEWFF, and FIU Chapman School (the “Agreement”).

**Section 3.** This Board approves the Agreement in substantially the form attached hereto as Exhibit A, in an amount not to exceed \$5,000,000.00 in business grant program funds for use by the HIRF Fund, to assist eligible establishments that have had to temporarily cease operations, lay off or furlough employees, or whose businesses have been severely diminished due to the COVID-19 pandemic.

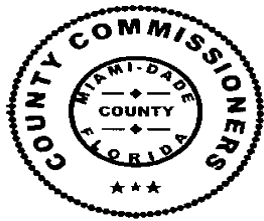
**Section 4.** This Board directs the County Mayor or County Mayor's designee to negotiate and execute the Agreement. The Agreement shall include terms that are consistent with such other customary grant provisions in County grant agreements, including, but not limited to, provisions related to the Florida Public Records Act and the County's right to audit, review and monitor the expenditure of the grant funds.

**Section 5.** This Board directs the County Mayor or County Mayor's designee to provide a written report within 30 days of the effective date of this resolution detailing the status of the development and implementation of the program or explaining why it has not been developed or implemented. Upon implementation, the County Mayor or County Mayor's designee shall provide a written report to this Board every 60 days thereafter, detailing the status of the hospitality industry applicants that have received assistance from the MDC HIRF Fund as a result of the \$5,000,000.00 business grant program, until funding for the program is exhausted. The completed reports shall be placed on agendas of the Board pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Dennis C. Moss. It was offered by Commissioner **Jean Monestime**, who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

Audrey M. Edmonson, Chairwoman	<b>aye</b>
Rebeca Sosa, Vice Chairwoman	<b>aye</b>
Esteban L. Bovo, Jr.	<b>aye</b>
Jose "Pepe" Diaz	<b>aye</b>
Eileen Higgins	<b>aye</b>
Joe A. Martinez	<b>aye</b>
Dennis C. Moss	<b>aye</b>
Xavier L. Suarez	<b>absent</b>
Daniella Levine Cava	<b>aye</b>
Sally A. Heyman	<b>aye</b>
Barbara J. Jordan	<b>aye</b>
Jean Monestime	<b>aye</b>
Sen. Javier D. Souto	<b>aye</b>

The Chairperson thereupon declared the resolution duly passed and adopted this 21<sup>st</sup> day of July, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

**Melissa Adames**

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

dsh

David Stephen Hope



**GRANT AGREEMENT BETWEEN  
MIAMI-DADE COUNTY, FLORIDA  
AND  
SOUTH BEACH WINE & FOOD FESTIVAL  
AND  
FLORIDA INTERNATIONAL UNIVERSITY CHAPLIN SCHOOL OF HOSPITALITY &  
TOURISM MANAGEMENT**

This Grant Agreement (“Agreement”) is entered into by and between Miami-Dade County, Florida (“MDC” or the “County”), and South Beach Wine & Food Festival (“SOBEWFF”) and Florida International University (“FIU”) Chaplin School of Hospitality & Tourism Management (collectively, the “Grantee” or “SOBEFIU”).

**WHEREAS**, MDC has awarded a grant to Grantee in the amount of \$5,000,000.00 (the “Grant”) for Grantee’s Hospitality Industry Relief Fund (the “SOBEFIU Fund”), to provide immediate financial support to independently owned and operated restaurants, hotel restaurants, bars, and caterers impacted by the COVID-19 pandemic in the County, and help their laid off or furloughed employees,

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

- 1. Grant Purpose.** The sole purpose of the Grant is to enable the Grantee provide financial assistance to eligible establishments that have had to temporarily cease operations, lay off employees, or whose businesses have been severely diminished due to locally mandated closure orders. Financial support will enable those owners to provide continuity of compensation and other benefits to employees who have been furloughed, laid off or whose incomes have been significantly reduced due to the COVID-19 pandemic.
- 2. Eligible Use of Grant Funds.** Grant funds shall be used exclusively to fund the SOBEFIU Fund. The SOBEFIU Fund will support independently owned and operated restaurants, hotel restaurants, bars, and caterers impacted by the COVID-19 pandemic in Miami-Dade County, and use the Grant funds to: (i) distribute \$500 per laid-off or furloughed employee, with a maximum of up to **\$15,000** per restaurant/bar owner or restaurant/hospitality group; and (ii) award grants to a maximum of two (2) establishments per restaurant/hospitality group.
- 3. Payment of Grant and Accounting for Grant Funds.** The Grant funds shall be disbursed to the Grantee upon the execution by both parties of this Agreement. The Grantee agrees that Grant funds, upon receipt by Grantee, shall be transferred to, and be administered by Grantee from, a separate account and shall continuously be held, tracked and administered from such separate account for the duration of this Agreement and in accordance with the purposes and restrictions set forth in this Agreement. Additionally, Grantee shall track the performance of the grants disbursed from the Grant funds. Grantee shall invest or deposit the Grant funds in accordance with the Grantee’s investment policy, and all investment earnings will become part of the SOBEFIU Fund. In the event the Grantee becomes subject to dissolution, bankruptcy protection, or is otherwise unable to continue

managing the SOBEFIU Fund, Grantee shall contact the County, and return the remaining, undispersed Grant funds to the County within ten (10) business days from the date of such notification.

**4. Eligibility Criteria and SOBEFIU Fund Documents.** The Grantee agrees that as a prerequisite to an establishment receiving funds from the SOBEFIU Fund, the establishment must provide a sworn affidavit that states: (i) each of its laid off or furloughed employees will receive \$500.00 per employee, with a maximum of up to \$15,000 per establishment; (ii) the SOBEFIU Fund request is for a maximum of two (2) independently owned and operated hotels, hotel restaurants, bars, or caterers; (iii) payments shall be made to employees by either check or money order; and (iv) copies of the checks/money orders and supporting payroll documentation will be submitted to SOBEFIU within ten (10) business days after receipt of the SOBEFIU Funds. The Grantee has sole responsibility to determine the establishment's eligibility to receive the SOBEFIU Funds. The Grantee will be responsible for approving, and distributing the SOBEFIU Funds. Grantee further agrees to use its best efforts to (i) market the availability of the SOBE Funds in all thirteen (13) County commission districts as equitably as reasonably possible, and (ii) ensure that SOBEFIU funds are loaned across all thirteen (13) County commission districts as equitably as reasonably possible.

**5. Length of Agreement.** This Agreement shall become effective upon its execution by both parties and shall remain in effect until the Grantee has exhausted the SOBEFIU Fund for eligible establishments pursuant to this Agreement unless earlier terminated in accordance with the provisions of Section 23 of this Agreement.

**6. Contract Administration.** The parties are legally bound by the requirements of this Agreement. The parties' respective grant managers, named below, will be responsible for monitoring their performance under this Agreement, and will be the official contact for their organization. Any notice(s) or other communications regarding this Agreement shall be directed to or delivered to the other party's grant manager by utilizing the information below. Any change in the contact information below should be submitted in writing to the grant manager within ten (10) days of the change.

**For the County:**

Edward Marquez, Deputy Mayor/Finance Director  
Miami-Dade County Florida  
Office of the Mayor  
111 NW 1st Street, Suite 2900  
Miami, Florida 33128  
Phone: 305.375.1451  
Email: Edward.marquez@miamidade.gov

**For the Grantee:**

Lee Brian Schrager, Festival Founder & Executive Director  
South Beach Wine & Food Festival

Miami, Florida  
Phone: 305.625.4171 ext. 1040  
Email: leeschrager@sgws.com

**7. Required Information Needed with Return of Signed Agreement.** Prior to the disbursement of Grant funds, the Grantee must provide the following with the return of the signed Agreement.

- a. A copy of the Grantee's Florida Substitute Form W-9;
- b. Electronic funds transfer information; and
- c. Grantee's charter number.

**8. Grant Expenditure Deadline and Recapture of Funds.** The Grant funds originated from funds appropriated to the County as part of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), and concomitant Coronavirus Relief Fund allocation, and have an expenditure deadline of **December 30, 2020** (the "Grant Expenditure Deadline"). Any Grant funds not disbursed or otherwise encumbered by the Grant Expenditure Deadline, shall be returned to the County by the Grantee in the form of an electronic transfer to the County's general fund account maintained at Wells Fargo Bank. The County shall provide the Grantee with its wire transfer account information in writing prior to the Grant Expenditure Deadline.

**9. Grant Reporting Requirements.** The Grantee shall submit to the County's Small Business Development Director on a bi-monthly (every two weeks) basis, a summary report detailing the activity of the SOBEFIU Funds until such time as all the Grant funds have been distributed or recaptured by the County. Such report shall include, but not be limited to, a geographical breakdown by zip code of each establishment application received and each SOBEFIU Funds disbursed to an establishment.

- a. **First Project Progress Report** is due by August 15, 2020 with subsequent reports due on the 5th and 20th day of each month thereafter. To the extent that the reporting obligation falls on a day other than a County business day, then the due date of the report shall automatically be extended to the next succeeding County business day.
- b. **Final Bi-Monthly Report.** The Grantee must submit a final report with a complete accounting of the expenditure of the Grant funds on January 5, 2021.
- c. **Additional Reports.** At the request of the County, the Grantee agrees to provide the County with status updates on the progress of the SOBEFUI Funds.

**10. Extension of the Grant Expenditure Deadline.** The Grant Expenditure Deadline may be extended in the event the federal government extends the date upon which the County must expend the CARES Act funds. Any extension of the Grant Expenditure Deadline must be memorialized in writing in the form of a letter from the County Mayor's office to the Grantee (the "Extension Letter"). If the Grant Expenditure Deadline is extended, the Grantee shall continue to provide the County the bi-monthly reports detailed in Section 9 above until the expiration of the date set forth in the Extension Letter.

**11. Federal Audit.** If the County is subject to a federal audit of the CARES Act funds, including funds later granted by the County to the Grantee, the Grantee shall provide any and all records in its possession needed by the County to comply with the audit requirements. Grantee shall be given reasonable advance notice to gather the requested documentation, but no later than the notice provided to the County by the CARES Act auditors.

**12. Retention of Accounting Records.** Financial records, supporting documents, statistical records, and all other records including electronic storage media pertinent to the expenditure of the Grant funds shall be retained for a period of five (5) years after payment of the Grant. If any litigation or audit is initiated, or claim made, before the expiration of the five-year period, the records shall be retained until the litigation, audit, or claim has been resolved.

**13. Florida Public Records Act.** As it relates to this Agreement and any subsequent agreements and other documents related to the Grant, the Grantee, pursuant to Section 119.0701 of the Florida Statutes, shall:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform its obligations under this Agreement.
- b. Upon request from the County's custodian of public records identified herein, provide the County with a copy of the requested records or allow the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in the Florida Public Records Act, Miami-Dade County Administrative Order No. 4-48, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of the obligations under this Agreement if the Grantee does not transfer the records to the County.
- d. Meet all requirements for retaining public records and transfer to the County, at no cost to County, all public records created, received, maintained and/or directly related to the performance of this Agreement that are in possession of the Grantee upon termination of this Agreement. Upon termination of this Agreement, the Grantee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements, except to the extent prohibited by record retention requirements applicable to federal credit unions.

For purposes of this Section, the term "public records" shall mean 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 of the County. In the event the Grantee does not comply with the public records disclosure requirements set forth in Section 119.0701 of the Florida Statutes and this Section of this

Agreement, the Grantee's obligations under this Section of this Agreement shall survive the termination of this Agreement.

**14. Independent Private Sector Inspector General Reviews.** Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Subject to all applicable laws, upon written notice from the County, Grantee shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the interest rate of the loans provided by Grantee be inclusive of any charges relating to these IPSIG services. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of Grantee in connection with, and as and when provided under, this Agreement.

**15. Miami-Dade County Inspector General Review.** According to Section 2-1076 of the Code of Miami-Dade County, Florida, as amended by Ordinance No. 99-63, the County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The audit cost shall be assumed by the County, and Grantee shall have no liability to pay the cost therefore.

a. Nothing contained above shall in any way limit the powers of the Miami-Dade County Inspector General to perform audits on all County contracts, provided that neither the Miami-Dade County Inspector General nor IPSIG shall be entitled to receive, review or copy any documents that are privileged, confidential or proprietary to Grantee. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County contracts, transactions, accounts, records and programs. In addition, the Miami-Dade County Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs, all at no cost or expense to Grantee. The Miami-Dade County Inspector General is empowered to retain, at no expense or cost to Grantee, the services of an IPSIG to, subject to all applicable laws, audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement processes, including but not limited to project design, specifications, proposal submittals, activities of Grantee, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with the Agreement and to detect fraud and corruption.

b. Subject to all applicable laws and the terms and conditions herein, upon written notice to Grantee from the Inspector General or IPSIG retained by the Inspector General, Grantee shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying, at no cost or expense to Grantee. The Inspector General and IPSIG shall have the right to inspect and, at no cost or expense to Grantee, copy all such documents and records in the Grantee's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Agreement.

**16. Accounting Requirements.** The Grantee must maintain an accounting system that provides a complete record of the use of all Grant funds as follows:

- a) The accounting system must be able to specifically identify and provide audit trails that trace the receipt, maintenance, and expenditure of Grant funds.
- b) The Grantee's accounting records must have effective control over and accountability for all grant funds, property, and other assets.
- c) Accounting records must be supported by source documentation and be in sufficient detail to allow for a proper pre-audit and post-audit (such as invoices, bills, and canceled checks).

**17. Independent Contractor Status of Grantee.** The Grantee agrees that its officers, agents and employees, in performance of this Agreement, shall act in the capacity of independent contractors and employees of Grantee and not as officers, agents, or employees of the County.

**18. Grantee's Subcontractors.** The Grantee shall be responsible for all work performed and all expenses incurred in connection with this Agreement. The Grantee may subcontract, as necessary, to perform the services and to provide commodities required by this Agreement. The County shall not be liable to any subcontractor(s) for any expenses or liabilities incurred under the Grantee's subcontract(s), and the Grantee shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under its subcontract(s) except those expenses authorized under this Agreement to cover the costs and fees incidental to Collection Litigation. The Grantee must take the necessary steps to ensure that each of its subcontractors will be deemed to be "independent contractors" and will not be considered or permitted to be agents, servants, joint venturers, or partners of the County.

**19. Liability.** The County will not assume any liability for the acts, omissions to act, or negligence of, the Grantee, its agents, servants, or employees; nor may the Grantee exclude liability for its own acts, omissions to act, or negligence, to the County.

- a. The Grantee shall be responsible for claims of any nature, including but not limited to injury, death, and property damages of any kind arising out of activities related to this Agreement by the Grantee, its agents, servants, employees, and subcontractors except for claims arising out of or resulting from the willful misconduct or gross negligence of the County. The Grantee shall indemnify and hold the County harmless from such claims and shall investigate all such claims at its own expense.
- b. Neither the County nor any agency or subdivision of the state waives any defense of sovereign immunity, or increases the limits of its liability, by entering into this Agreement.
- c. The County shall not be liable for attorney fees, interest, late charges or service fees, or cost of collection related to this Agreement.

**20. Strict Compliance with Laws.** The Grantee shall perform all acts required by this Agreement in strict conformity with all applicable laws and regulations of the local, state and federal law.

**21. No Discrimination.** The Grantee may not discriminate against any employee employed under this Agreement, or against any applicant for employment because of race, religion, gender, national origin, age, handicap or marital status. The Grantee shall insert a similar provision in all of its subcontracts for services under this Agreement.

**22. Breach of Agreement.** The County will demand the return of Grant funds already received, will withhold subsequent payments, and/or will terminate this Agreement if the Grantee improperly expends and manages Grant funds, fails to prepare, preserve or surrender records required by this Agreement, or otherwise violates this Agreement.

**23. Termination of Agreement.** The County will terminate or end this Agreement if the Grantee fails to fulfill its obligations herein. In such event, the County will provide the Grantee a notice of its violation by letter and shall give the Grantee fifteen (15) calendar days from the date of receipt to cure its violation. If the violation is not cured within the stated period, the County will terminate this Agreement. The notice of violation letter shall be delivered to the Grantee's Contract Manager, personally, or mailed to his/her specified address by a method that provides proof of receipt. In the event that the County terminates this Agreement, Grant funds previously advanced and not disbursed in accordance with this Agreement shall be returned to the County, with any accumulated interest, within thirty (30) days after termination of this Agreement. The County does not waive any of its rights to additional damages, if Grant funds are returned under this Section.

**24. Preservation of Remedies.** No delay or omission to exercise any right, power, or remedy accruing to either party upon breach or violation by either party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or omission be construed as a waiver of any such breach or default, or any similar breach or default.

**25. Non-Assignment of Agreement.** Neither the County nor Grantee may assign, sublicense or otherwise transfer its rights, duties or obligations under this Agreement without the prior written consent of the other party, which consent shall not unreasonably be withheld. The agreement transferee must demonstrate compliance with the requirements of the SOBEFIU Fund. If the County approves a transfer of the Grantee's obligations, the Grantee shall remain liable for all work performed and all requirements in connection with this Agreement.

**26. Parties in Interest; Limitation on Rights of Others.** The terms of this Agreement shall be binding upon, inure to the benefit of and be enforceable solely by the parties and their permitted successors and assigns, and nothing in this Agreement or by virtue of the transactions contemplated hereby, whether express or implied, shall be construed to constitute, create or confer rights, remedies or claims in or upon any person (as third-party beneficiary or otherwise) not a party hereto, or to create obligations or responsibilities of the parties to such persons, or to permit any person other than the parties and their respective successors and assigns to rely upon or enforce the covenants, conditions and agreements contained herein.

**27. Binding of Successors.** This Agreement shall bind the successors, assigns and legal representatives of the Grantee and of any legal entity that succeeds to the obligations of the Grantee.

**28. Severability.** If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder will remain in full force and effect, and such term or provision shall be deemed stricken.

**29. Governing Law.** This Agreement shall be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Venue or location for any legal action arising under this Agreement will be in Miami-Dade County, Florida.

**30. Expenses.** Each Party shall bear its own expenses in connection with the negotiation and preparation of this Agreement, and the performance of all of its obligations under this Agreement.

**31. Entire Agreement.** This Agreement and its schedules, exhibits and appendices constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior written and oral agreements and understandings with respect to such subject matter. Neither this Agreement nor any of the terms hereof may be amended, supplemented, waived or modified orally. All such amendments, supplements, waivers and modifications must be in writing signed by the party against which the enforcement of the amendment, supplement, waiver or modification shall be sought.

**32. Headings.** Any heading preceding the text of the several sections of this Agreement shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Agreement. In the event of any conflict between any such heading and the text thereunder, the text shall control.

**In acknowledgment of the grant of the funds awarded herein to Grantee by Miami-Dade County for use by the SOBEFIU Fund to provide financial support and assistance to eligible hospitality industry establishments, the Parties hereby certify that they have read this entire Agreement, and will comply with all of its requirements.**

Miami-Dade County, Florida:

South Beach Wine & Food Festival  
FIU Chaplin School:

By: \_\_\_\_\_  
Edward Marquez, Deputy Mayor/Finance  
Director

By: \_\_\_\_\_  
Lee Brian Schrager  
Title: Festival Founder & Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

By: \_\_\_\_\_  
David Stephen Hope  
Assistant County Attorney



## **EXHIBIT 1 – SOBEFIU ELIGIBILITY CRITERIA**

- For-profit business headquartered in the County and with at least fifty (50) percent of the owners having a primary residence in the County
- Evidence of having a Miami-Dade County and/or municipal Local Business Tax Receipt for the last two (2) years (year to date)
- Business must be an independently owned and operated restaurant, hotel restaurant, bar, or caterer located in Miami-Dade County
- Business information (name, address, EIN, type, employees)
- Personal information (name, address, SSN/ITIN, partners)
- Ownership information (proof of ownership structure)
- Signed affidavit