RESOLUTION NO. 16-121

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RATIFYING THE ATTACHED INTERLOCAL GRANT AWARD AGREEMENT WITH THE MONROE COUNTY TOURIST DEVELOPMENT COUNCIL (TDC) FOR FUNDING IN THE AMOUNT OF UP TO $2,000,000.00 FOR THE TRUMAN WATERFRONT PARK AMPHITHEATER AND PUBLIC PARKING PROJECT; APPROVING A FIRST AMENDMENT TO AGREEMENT TO APPROVE AN EXTENSION OF THE TERMINATION DATE TO SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West submitted an application for TDC funding on April 29, 2013, and received a 2014 Bricks and Mortar Capital Project grant in support of design and construction of the Truman Waterfront Park Amphitheater and Public Parking Project; and

WHEREAS, pursuant to a request from City staff, the District I Advisory Committee approved on March 2, 2016, a request for time extension of the grant from September 30, 2016 to September 30, 2017; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Interlocal Grant Award Agreement, for TDC funding in the amount of up to $2,000,000.00, for the Truman Waterfront Park Amphitheater and Public Parking Project is hereby ratified.

Section 2: That the First Amendment to Agreement, granting a time extension for the project to September 30, 2017, is hereby approved.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 5th day of April, 2016.

Authenticated by the Presiding Officer and Clerk of the Commission on 6th day of April, 2016.

Filed with the Clerk on April 6, 2016.

Mayor Craig Cates	Yes
Vice Mayor Clayton Lopez	Yes
Commissioner Sam Kaufman	Yes
Commissioner Richard Payne	Yes
Commissioner Margaret Romero	No
Commissioner Billy Wardlow	Yes
Commissioner Jimmy Weekley	Yes

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

AMENDMENT (1st AMENDMENT) TO AGREEMENT

THIS AMENDMENT to agreement dated the 5th day of April 2016, is entered into by and between the Board of County Commissioners for Monroe County, on behalf of the Tourist Development Council, and **The City of Key West** a Government agency organized and operating under the laws of the state of Florida (Grantee).

WHEREAS, there was an agreement entered into on October 16, 2013 between the parties, awarding $2,000,000 to Grantee for the **Truman Waterfront Park Amphitheater and Public Parking Project**; and

WHEREAS, it has become necessary to revise the termination date of the agreement to September 30, 2017 to allow completion of the project due to unforeseen delays , and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to the amended agreement as follows:

1. Paragraph 1 of the agreement shall be revised to read as follows: This agreement is for the period of **October 16, 2013 through to September 30, 2017**. This agreement shall remain in effect for the stated period unless one party gives to the other written notification of termination pursuant to and in compliance with paragraphs 7, 12 or 13 of the original agreement dated October 17, 2014.

2. Any references to the date of September 30, 2016 shall be revised to read September 30, 2017.

3. The remaining provisions of the agreement dated October 16, 2013 shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

(SEAL)
Attest: Amy Heavilin, Clerk

Board of County Commissioners
of Monroe County

Deputy Clerk

Mayor/Chairman

The City of Key West

Attest:

By: Cheryl Smith
City Clerk

By
Mayor

Cheryl Smith
Print Name

Craig Cates
Print Name

Date: 4-7-2016

Date: 4/7/2016

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
CHRISTINE M. LIMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
Date 3/10/16

THE CITY OF KEY WEST
Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

January 27, 2016

Monroe County Tourist Development Council
District I Advisory Committee
1201 White Street, Suite 102
Key West, FL 33040

RE: Truman Waterfront Park Amphitheater and Public Parking Project
Contract ID# 1212; $2,000,000 in capital funding
Request for time extension to grant award agreement & change in project manager

Dear District I Advisory Committee:

The City of Key West respectfully requests a 1-year time extension to the Grant Agreement Period of the Truman Waterfront Park Amphitheater and Public Parking Project. Currently, the agreement ends September 30, 2016. Approval of the 1-year extension to September 30, 2017 will facilitate project completion as anticipated below:

Milestones	Timeline
Design complete	July 31, 2016
Bids received	September 30, 2016
Bid Award/Contract Execution	November 30, 2016
Begin construction	December 31, 2016
Construction complete/contract close out	September 30, 2017

Development of the Truman Waterfront Property has been a priority of the City of Key West for over 15 years. The City of Key West Naval Properties Local Redevelopment Authority (LRA) has taken action on several items in more recent years critical to the development of this property: obtained the services of a Professional Landscape Architectural/Engineering/Architectural/Land Surveyor firm, finalized the Master Plan (including a conceptual design for the Truman Waterfront Park Amphitheater), and approved a Major Development Agreement. Since the execution of Contract ID# 1212, the LRA has authorized Phase I design/preparation of construction bid documents, awarded the bid for the construction of Phase IA, and approved a task order for the design and construction document preparation of the amphitheater.

With as large of an undertaking it has been to move forward with the development of the Truman Waterfront Property, an additional 12 months are needed to complete the amphitheater component of the project. Information provided in a report prepared by the design consultant titled "Truman Waterfront Park Amphitheater Programming & Budget Development Assessment Draft Report" and discussions with professional stage management, amphitheater operators, the City Planning Department and the Mayor of Key West, have led to the direction Engineering was given to provide an Amphitheater Facility for a construction budget of $4,000,000.00. The approval of the time extension will allow for the construction of this project.

In addition to the time extension request, the City is notifying the TDC of a change in project manager. The new Project Manager for the Truman Waterfront Park Amphitheater and Public Parking Project is James Bouquet. He may be contacted at telephone (305) 809-3962; email: jbouquet@cityofkeywest-fl.gov, 3140 Flagler Avenue, Key West, FL 33040.

Thank you for considering our request for additional time to construct this project. If you have any questions about our proposed timeline, please don't hesitate to contact me (305) 809-3741 or via email csheldon@cityofkeywest-fl.gov.

Sincerely,

Carolyn D. Sheldon

Carolyn D. Sheldon
Senior Grants Administrator

RESOLUTION NO. 15-344

A RESOLUTION OF THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY OF THE CITY OF KEY WEST (LRA) APPROVING A TASK ORDER FOR BERMELLO AJAMIL AND PARTNERS, INC. FOR TRUMAN WATERFRONT PARK AMPHITHEATER DESIGN AND CONSTRUCTION DOCUMENT PREPARATION IN THE AMOUNT OF $302,184.00; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY NECESSARY DOCUMENTS UPON ADVICE AND CONSENT OF THE CITY ATTORNEY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 11-261, the LRA awarded RFQ No. 11-004 for Professional Landscape Architectural/ Engineering/Architectural/Land Surveyor Services for Truman Waterfront Upland Design and Construction to Bermello Ajamil and Partners, Inc. (BA); and

WHEREAS, in Resolution No. 12-065 under Task Order #1, BA finalized the Master Plan and obtained approval of the Major Development Agreement for the Park; and

WHEREAS, in Resolution No. 14-095 under Task Order #2, BA designed and prepared construction bid documents for construction of Phase I of the Park, and accordingly submitted construction documents for Phase IA on August 20, 2015; and

WHEREAS, the amphitheater is an additional component of the Truman Waterfront Project, for which BA submitted in April, 2015 a report titled "Truman Waterfront Park Amphitheater Programming and Budget Development Assessment Draft Report; and

WHEREAS, the Monroe County Tourism Development Council (TDC) awarded a grant for the design and construction of the Truman Waterfront Park Amphitheater and Public Parking; and

WHEREAS, City staff recommends approval of the Task Order for amphitheater design and construction document preparation in order to remain eligible for the TDC grant funding, and so that amphitheater construction can commence concurrent with Phase IA construction in FY 2017; and

NOW, THEREFORE, BE IT RESOLVED BY THE NAVAL PROPERTIES LOCAL REDEVELOPMENT AUTHORITY, AS FOLLOWS:

Section 1: That the attached Task Order for Bermello Ajamil and Partners, Inc. for Truman Waterfront Park Amphitheater Design and Construction Document Preparation, in the amount of $302,184.00, is hereby approved.

Section 2: That the City Manager is hereby authorized to execute necessary documents on behalf of the LRA, upon advice and consent of the City Attorney.

Section 3: : That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 17 day of November, 2015.

Authenticated by the Presiding Officer and Clerk of the Commission on 18 day of November, 2015.

Filed with the Clerk on November 18, 2015.

Mayor Craig Cates	Yes
Commissioner Sam Kaufman	Yes
Commissioner Clayton Lopez	Yes
Commissioner Richard Payne	Yes
Commissioner Margaret Romero	No
Commissioner Billy Wardlow	Yes
Commissioner Jimmy Weekley	Yes

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

THE CITY OF KEY WEST
Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

EXECUTIVE SUMMARY

TO: James K. Scholl, City Manager
Sarah Hannah-Spurlock, Assistant City Manager

FROM: Carolyn Sheldon, Senior Grants Administrator

DATE: March 9, 2016

RE: **Ratifying the acceptance of the attached Tourist Development Council (TDC) Inter-local Grant Award Agreement for the Truman Waterfront Park Amphitheater and Public Parking Project in the amount of $2,000,000.00 and approving to extend the termination date to September 30, 2017.**

ACTION STATEMENT:
This resolution will ratify the acceptance of the attached Tourist Development Council (TDC) Inter-local Grant Award Agreement for the Truman Waterfront Park Amphitheater and Public Parking Project in the amount of $2,000,000.00 and approve the attached *1st Amendment to Agreement* to extend the termination date to September 30, 2017.

BACKGROUND:
The City of Key West submitted an application on April 29, 2013 for the TDC 2014 Bricks and Mortar Capital Projects funding cycle to support design and construction of the Truman Waterfront Park Amphitheater and Public Parking Project. Grant funding in the amount of $2,000,000.00 was awarded with the Board of County Commissioners approving the inter-local grant award agreement at their October 16, 2013 meeting.

The current termination date of the agreement is September 30, 2016. A request for a time extension to September 30, 2017 (see attachment) was approved by the District I Advisory Committee on March 2, 2016. The time extension request includes milestones and anticipated dates of completion.

PURPOSE AND JUSTIFICATION:
The TDC grant will be used to help fund the design and construction of the Truman Waterfront Park Amphitheater and Public Parking Project as described in Exhibit A of the grant award agreement. The proposed scope of work and cost estimate in Exhibit A of the grant were based on a conceptual plan and represent the best knowledge of the project at the time of the original application. TDC has

been advised the current target total project cost is approximately $4,000,000.00 of which their cost share is 50% or $2,000,000.00. TDC will be provided scope and cost estimate details as the design progresses.

FINANCIAL IMPACT:
The design phase, approved by the Local Redevelopment Authority (LRA) under Resolution 15-344, is in progress. Expenditures for the design and construction of this project are budgeted in 101-4303-543-6300/Project TR1502. Revenues are budgeted in 101-0000-3377-001.

RECOMMENDATION:
Staff recommends the City Commission ratify the acceptance of the attached Tourist Development Council (TDC) Inter-local Grant Award Agreement for the Truman Waterfront Park Amphitheater and Public Parking Project and approve the attached 1st Amendment to Agreement to extend the agreement termination date to September 30, 2017.

Inter-local Grant Award Agreement

THIS AGREEMENT (agreement) is entered into this 16 day of Oct, 2013 by and between MONROE COUNTY, a political subdivision of the State of Florida (County or Grantor) and the **City of Key West** a Government organized and operating under the laws of the state of Florida (Grantee).

WHEREAS, the district pennies of Tourist Development Tax may be used to acquire, construct, extend, enlarge, remodel, repair or improve, convention centers, sports stadiums, sports arenas, coliseums, auditoriums, aquariums, fishing piers, museums, zoological parks, nature centers, beach improvements and beach park facilities which are publicly owned and operated or owned and operated by not-for-profit corporations, and

WHEREAS, Grantee has applied to TDC District I for funding for the Truman Waterfront Park Amphitheater and Public Parking project; and

WHEREAS, the Grantor and Tourist Development Council (TDC) have determined that it is in the best interest of the County, for purposes of promoting tourism and preserving the heritage of the community, to attract tourists, and construct the property for use as a coliseum and auditorium open to the public;

NOW, THEREFORE, in consideration of the mutual covenants and payments contained herein, the Grantee and the Grantor have entered into this agreement on the terms and conditions as set forth below.

1. GRANT AGREEMENT PERIOD. This agreement is for the period of **October 16, 2013 through to September 30, 2016**. This agreement shall remain in effect for the stated period unless one party gives to the other written notification of termination pursuant to and in compliance with paragraphs 7, 12 or 13 below.

2. SCOPE OF AGREEMENT. The representations made by the Grantee in its proposal submitted to the TDC are incorporated herein by reference. The Grantee shall provide the following scope of services: Materials and labor requited to complete the Truman Waterfront Park Amphitheater and Public Parking project. Segment(s) of the work is/are more particularly described in Exhibit(s) A, detailing the work and the cost allocable to each segment, attached hereto, and incorporated herein by reference. **Anything not referenced within exhibit A will not be reimbursed.** All work for which grant funds are to be expended must be completed by the stated termination date of **September 30, 2016** and all invoices pertaining to this project shall be submitted to the Finance Department of Monroe County no later than **September 30, 2016** to be considered for payment. Acknowledgement: Grantee shall be required to permanently display and maintain at Grantee's expense, public acknowledgement of the support of the Monroe County Tourist Development Council in a publicly prominent area of their facility in the following form: "This project was made possible with the financial support of the Monroe County Tourist Development Council." If the Grantee has already complied with

this requirement through previous funding, said acknowledgement fulfills this condition. A photograph of said acknowledgment shall be provided with the final request for reimbursement outlined in Exhibit A of this agreement.

a.) There shall be a project manager to acknowledge receipt of goods or work performed. This Project Manager shall be Bob Vitas, City Manager, 3132 Flagler Ave, Key West, FL 33040 (email: bvitas@keywestcity.com /Tel: (305) 809-3888). Should there be a change in the project manager specified in the Grantee's application, a new project manager shall be designated, and notice with new contact information shall be provided in writing to the TDC administrative office.

b.) If, and to the extent that, Grantee contracts for any of the work funded under this agreement to be performed or completed, Grantee shall give notice to County of the contractual relationship, provide County with a copy of any and all contracts and shall require the contractor(s) to comply with all the terms of this contract. Should Grantee contract the work and then decrease the scope of work to be performed by a contractor, Grantee shall provide County with an amended contract executed by Grantee and its contractor.

(i) A Grantee which is a governmental entity shall comply with the procurement regulations and policies to which it is subject, and shall provide Grantor documentation of the procurement requirements applicable to the project and compliance therewith.

(ii) A Grantee which is a not-for-profit entity shall use procurement processes for those parts of the project to be contracted (not performed by the entity's employees) as follows. For work expected to be under $50,000, the not-for-profit shall document in the file two written quotes or a notarized statement as to why such written quotes were not feasible for the goods or services. For work expected to be $50,000 or more, a competitive bid process must be performed following Monroe County's procurement policies and procedures must be followed, unless the commodities or services will be provided by a "sole source" provider, in which case the not-for-profit must submit a notarized statement with its request for payment explaining why the vendor is the only source for the commodities or services.

c.) Grantee shall exercise good internal controls to assure that the project as described in the funding application shall be completed on a timely basis within the proposed budget and shall provide to County any certifications, including those by the architect, engineer, contractor or an independent consultant if necessary, required to establish that materials which are purported to be applied to the project are in fact so applied. Further verification shall be required to show that equipment and other fixtures and personal property covered by this agreement are delivered to and installed in the project site. When any permit is required by any governmental agency, copies of plans and other documents which are submitted to the applicable agency shall be submitted to the County Engineering Division to enable verification that the scope of services under this agreement has been provided.

3. AMOUNT OF AGREEMENT AND PAYMENT. The Grantor shall provide an amount not to exceed **$2,000,000** (TDC District I funding) (no in-kind funding was noted within the application for this project) for materials and services used to construct the property. Reimbursement request must show that Grantee has paid in full for materials and services relating to the segment prior to seeking the 50% (fifty percent) reimbursement from Grantor. Payment shall be 50% (fifty percent) reimbursement of the total cost of the segment, subject to the cap on expenditures for that segment as set forth in Exhibit A. Reimbursement can be sought after each segment of the agreement is completed and signed by the Monroe County Engineering Department as outlined in 3.a. The Board of County Commissioners and the Tourist Development Council assume no liability to fund this agreement for an amount in excess of this award. Monroe County's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the BOCC.

a.) Payment shall be made upon the completion of a specific segment as outlined in the Scope of Services and Exhibit A. Payment for expenditures permissible by law and County policies shall be made through reimbursement to Grantee upon presentation of Application for Payment Summary, AIA Document G702 or similar certification as required below for governmental entities and not-for-profit entities, invoices, canceled checks and other documentation necessary to support a claim for reimbursement. Included in said documentation shall be proof that the Grantee has received the property, realty or personally, for each segment of agreement as outlined in Exhibit A and paid an amount equal to or greater than the amount invoiced to the Grantor. It shall be necessary for the Grantee to contact the County Engineering Division and to arrange for inspections upon the completion of each segment. The documentation needed to support the payment request shall be in the form necessary for submission and available to the County Engineer at the time of inspection. All submissions for payment shall have a proposed schedule of values for segment(s) and indicate the percentage of completion of the overall project as of the submission. This document should be signed by the project architect, engineer, general contractor or project manager. Photos of the progress of the work shall also be submitted with the payment application. It shall be the responsibility of the project architect, engineer, general contractor or project manager to initiate the communication with the Monroe County Engineering Division to facilitate the inspection(s) of the segment of the project. All submissions requesting payment shall be approved in writing, and signed, by the Monroe County Engineering Division as to the completion of the segment of the project for which payment is requested. The application for payment document must be certified through a statement signed by an officer of the organization and notarized, declaring that representations in the invoice are true and factual. Grantee shall also provide partial releases of liens or certifications of non-lien if applicable. Grantor shall retain 10% of any payment on work in progress until the Grantee has provided a Final Release of Lien for each vendor/Contractor for whom payment is requested. For projects exceeding $50,000 in TDC funding under this agreement, final payment will not be made until the following documents are complete and submitted to the Grantor:

AIA Document G-702 Application for Payment Summary

AIA Document	G-704 Certificate of Substantial Completion
AIA Document	G-706 Contractor's Affidavit of Debts & Claims
AIA Document	G-706A Contractor's Affidavit of Release of Liens
AIA Document	G-707 Consent of Surety to Final Payment (when applicable)

Final Release of Lien or Affidavit and Partial Release of Lien

For projects for which TDC funding under this agreement is $50,000 or less, the AIA documentation is not required, but sufficient documentation must be submitted to County to provide similar assurances that the work has been completed and contractors/suppliers paid.

All payment requests must be submitted no later than the completion of project of **September 30, 2016**. Invoices received after **September 30, 2016** will not be considered for payment.

b.) If in-kind services were noted within your application, and you are applying them to this project, documentation shall be submitted to the TDC Administrative Office to show the receipt and application of in-kind donations of goods, professional services, and materials. Said documentation should include invoices, bills of lading, etc., and be verified as received and applied to the project through a notarized statement of the project architect, engineer, general contractor or project manager. The receipt and application to the project of volunteer labor are to be documented and verified by notarized signature of the project architect, engineer, general contractor, or project manager, and said documentation submitted to the TDC Administrative Office. All submissions shall identify the items included in Exhibit A and Grantee shall complete the Application for Payment form which is provided within the payment/reimbursement kit provided to the Grantee, listing the schedule of values which are sought to be reimbursed and shall indicate the percentage of completion of the overall project as of the submission. This document should be signed by the project architect, engineer, general contractor or project manager.

Photographs showing progress on project shall be included in any payment request. The Project Manager shall certify delivery to the project site and installation therein of any goods or services provided other than through an architect, engineer or contractor. All work performed and goods received on site and incorporated into the project shall be verified by one of the foregoing. Submission of any documentation which is untrue, falsified, or otherwise misrepresents the work which has been completed, paid, or donated shall constitute a breach of agreement, for which breach the contract may be immediately terminated at the discretion of the County, whose decision shall be final.

c.) Grantee must submit all documentation for final payment on or before the termination date of this grant of **September 30, 2016**. Invoices received after **September 30, 2016** will not be considered for payment.

d.) At any time that the documentation requirement policies of Monroe County are revised, such as to require annual inventory reports for equipment purchased under a TDC capital project grant, Grantee shall comply thereafter with such increased requirements, or further funding under the agreement may be terminated by County.

e.) Upon successful completion of this Grant agreement, the Grantee may retain ownership of the real and personal property acquired and/or improved with funding under this Grant agreement. However, the Grantee shall maintain, preserve, and operate the property which was acquired or improved under this agreement for the uses and purposes which qualified the Grantee for tourist development tax funding. Grantee shall complete and sign a Property Reporting Form (provided within payment/reimbursement package) for personal property and forward said completed form with the appropriate invoice to the TDC Administrative Office. Real property acquired or improved through funding under this agreement shall remain dedicated for the purposes set forth herein or for other purposes which promote tourism and ownership of said property shall be retained by the Grantee. The following terms shall apply:

(i) The Grantee shall have the use of the property, including both realty and personally acquired with funding under this agreement, at the project site for so long as the facility is operated by Grantee, open to the public, and has a primary purpose of promoting tourism. At such time as any of the conditions in the preceding sentence shall cease to exist, the Grantee shall transfer ownership and possession of equipment and personal property to a local government or another not-for-profit organization which is a facility for which tourist development taxes may be used pursuant to Florida Statute with prior approval from TDC and BOCC.

(ii) At any time that the Grantee: (a) elects to stop the project or otherwise decide not to place into service for tourist-related purposes the facility acquired, constructed, or renovated with tourist development tax funding, (b) demolishes the project facility or divests itself of ownership or possession of the real property, or (c) ceases the use of the property with a primary purpose of promoting tourism, Grantee shall, pursuant to the formula set forth hereafter, refund to the County the Tourist Development funding. This provision shall survive the termination date of all other provisions of this contract for a period of ten years. Should the demolition, transfer of ownership, or change to a non-tourist related purpose occur after the facility has been used for tourist-related purposes for at least three (3) years, the amount of refund shall be pro-rated based on a useful life of ten (10) years.

(iii) The Grantee is responsible for the implementation of adequate maintenance procedures to keep the real and personal property in good operating condition.

(iv) The Grantee is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, real or personal property or equipment purchased through funding under this agreement.

4. RECORDS AND REPORTS. The Grantee shall keep such records as are necessary to document the performance of the agreement and expenses as incurred, and give access to these records at the request of the TDC, the County, the State of Florida or authorized agents and representatives of said government bodies. The Grantee shall also provide such access to the personal property and equipment purchased under this agreement. It is the responsibility of the Grantee to maintain appropriate records in accordance with generally accepted accounting principles consistently applied to insure a proper accounting of all funds and expenditures. The Grantee understands that it shall be responsible for repayment of any and all audit exceptions which are identified by the Auditor General for the State of Florida, the Clerk of Court for Monroe County, the Board of County Commissioners for Monroe County, or their agents and representatives. In the event of an audit exception, the current fiscal year grant award or subsequent grant awards will be offset by the amount of the audit exception. In the event the grant is not renewed or supplemented in future years, the Grantee will be billed by the Grantor for the amount of the audit exception and shall promptly repay any audit exception.

a.) Public Access. The County and Grantee shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and Grantee in conjunction with this agreement; and the County shall have the right to unilaterally cancel this agreement upon violation of this provision by Grantee.

5. MODIFICATIONS AND AMENDMENTS. Any and all modifications of the terms of this agreement shall be only amended in writing and approved by the Board of County Commissioners for Monroe County. The terms, covenants, conditions, and provisions of this agreement shall bind and inure to the benefit of the County and Grantee and their respective legal representatives, successors, and assigns.

6. INDEPENDENT CONTRACTOR. At all times and for all purposes hereunder, the Grantee is an independent contractor and not an employee of the Board of County Commissioners of Monroe County. No statement contained in this agreement shall be construed as to find the Grantee or any of its employees, contractors, servants or agents to the employees of the Board of County Commissioners of Monroe County, and they shall be entitled to none of the rights, privileges or benefits of employees of Monroe County.

a.) No Personal Liability. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this agreement or be subject to any personal liability or accountability by reason of the execution of this agreement.

7. COMPLIANCE WITH LAW. In carrying out its obligations under this agreement, the Grantee shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the provisions of this agreement, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this agreement and shall entitle the Grantor to terminate this agreement immediately upon delivery of written notice of termination to the Grantee.

8. RESTRICTIONS ON AGREEMENTS ENTERED PURSUANT TO THIS AGREEMENT. The Grantee shall include in all agreements funded under this agreement the following terms:

a.) Anti-discrimination. Contractor agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this agreement because of their race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

b.) Anti-kickback. Contractor warrants that no person has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the Contractor has any interest, financially or otherwise, in County. For breach or violation of this warranty, the County shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, the full amount of such commission, percentage, brokerage or contingent fee. Contractor acknowledges that it is aware that funding for this agreement is available at least in part through the County and that violation of this paragraph may result in the County withdrawing funding for the Project.

c.) Hold harmless/indemnification. Contractor acknowledges that this agreement is funded at least in part by the County and agrees to indemnify and hold harmless the County and any of its officers and employees from and against any and all claims, liabilities, litigation, causes of action, damages, costs, expenses (including but not limited to fees and expenses arising from any factual investigation, discovery or preparation for litigation), and the payment of any and all of the foregoing or any demands, settlements or judgments (collectively claims) arising directly or indirectly from any negligence or criminal conduct on the part of Contractor in the performance of the terms of this agreement. The Contractor shall immediately give notice to the County of any suit, claim or action made against the Contractor that is related to the activity under this agreement, and will cooperate with the County in the investigation arising as a result of any suit, action or claim related to this agreement.

d.) Insurance. Contractor agrees that it maintains in force at its own expense a liability insurance policy which will insure and indemnify the Contractor and the County from any suits, claims or actions brought by any person or persons and from all costs and expenses of litigation brought against the Contractor for such injuries to persons or damage to property occurring during the agreement or thereafter that

results from performance by Contractor of the obligations set forth in this agreement. At all times during the term of this agreement and for one year after acceptance of the project, Contractor shall maintain on file with the County a certificate of the insurance of the carriers showing that the aforesaid insurance policy is in effect. The following coverage's shall be provided:

1. Workers Compensation insurance as required by Florida Statutes.

2. Commercial General Liability Insurance with minimum limits of $500,000 per occurrence for bodily injury, personal injury and property damage.

3. Comprehensive Auto Liability Insurance with minimum limits of $300,000 combined single limit per occurrence.

The Contractor, the County and the TDC shall be named as additional insured, exempt workers compensation. The policies shall provide no less than 30 days notice of cancellation, non-renewal or reduction of coverage.

At all times during the term of this agreement and for one year after acceptance of the project, Contractor shall maintain on file with the County a certificate of insurance showing that the aforesaid insurance coverage's are in effect.

e.) Licensing and Permits. Contractor warrants that it shall have, prior to commencement of work under this agreement and at all times during said work, all required licenses and permits whether federal, state, County or City.

f.) Right to Audit. The Contractor shall keep such records as are necessary to document the performance of the agreement and expenses as incurred, and give access to these records at the request of the TDC, the County, the State of Florida or authorized agents and representatives of said government bodies.

9. HOLD HARMLESS/INDEMNIFICATION. The Grantee hereby agrees to indemnify and hold harmless the BOCC/TDC and the 3406 North Roosevelt Blvd. Corporation or any of its officers and employees from and against any and all claims, liabilities, litigation, causes of action, damages, costs, expenses (including but not limited to fees and expenses arising from any factual investigation, discovery or preparation for litigation), and the payment of any and all of the foregoing or any demands, settlements or judgments arising directly or indirectly under this agreement. The Grantee shall immediately give notice to the Grantor of any suit, claim or action made against the Grantor that is related to the activity under this agreement, and will cooperate with the Grantor in the investigation arising as a result of any suit, action or claim related to this agreement.

a.) Non-Waiver of Immunity. Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of the County and the Grantee in this agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

b.) Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the County, when performing their respective functions under this agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the County.

10. NONDISCRIMINATION. County and Grantee agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Grantee agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patent records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this agreement.

11. ANTI-KICKBACK. The Grantee warrants that no person has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the County or TDC has any interest, financially or otherwise, in the said funded project, except for general membership. For breach or violation of this warranty, the Grantor shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

12. TERMINATION. This agreement shall terminate on **September 30, 2016**. Termination prior thereto shall occur whenever funds cannot be obtained or cannot be continued at a level sufficient to allow for the continuation of this agreement pursuant to the terms herein. In the event that funds cannot be continued at a level sufficient to allow

the continuation of this agreement pursuant to the terms specified herein, this agreement may then be terminated immediately by written notice of termination delivered in person or by mail to Grantee. The Grantor may terminate this agreement without cause upon giving written notice of termination to Grantee. The Grantor shall not be obligated to pay for any services or goods provided by Grantee after Grantee has received written notice of termination.

13. TERMINATION FOR BREACH. The Grantor may immediately terminate this agreement for any breach of the terms contained herein. Such termination shall take place immediately upon receipt of written notice of said termination. Any waiver of any breach of covenants herein contained to be kept and performed by Grantee shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the Grantor from declaring a forfeiture for any succeeding breach either of the same conditions or of any other conditions. Failure to provide Grantor with certification of use of matching funds or matching in-kind services at or above the rate of request for reimbursement or payment is a breach of agreement, for which the Grantor may terminate this agreement upon giving written notification of termination.

14. ENTIRE AGREEMENT. This agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements with respect to such subject matter between the Grantee and the Grantor.

15. GOVERNING LAW, VENUE, INTERPRETATION, COSTS, AND FEES. This agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. This agreement is not subject to arbitration. Mediation proceedings initiated and conducted pursuant to this agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

a.) Venue. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this agreement, the County and Grantee agree that venue shall lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

b.) Severability. If any term, covenant, condition or provision of this agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this agreement would prevent the accomplishment of the original intent of this agreement. The County and Grantee agree to reform the agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

c.) Attorney's Fees and Costs. The County and Grantee agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, court costs, investigative, and out-of-pocket expenses in appellate proceedings.

d.) Adjudication of Disputes or Disagreements. County and Grantee agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this agreement or by Florida law. This agreement shall not be subject to arbitration.

e.) Cooperation. In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this agreement, County and Grantee agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this agreement or provision of the services under this agreement. County and Grantee specifically agree that no party to this agreement shall be required to enter into any arbitration proceedings related to this agreement.

16. ETHICS CLAUSE: Grantee warrants that he has not employed, retained or otherwise had act on his behalf any former County officer or employee in violation of Section 2 or Ordinance No. 10-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For breach or violation of the provision the Grantor may, at its discretion terminate this agreement without liability and may also, at its discretion, deduct from the agreement or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former or present County officer or employee. The County and Grantee warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of the provision, the Grantee agrees that the County shall have the right to terminate this agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

a.) Covenant of No Interest. County and Grantee covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this agreement, and that only interest of each is to perform and receive benefits as recited in this agreement.

b.) Code of Ethics. County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

17. PUBLIC ENTITY CRIME STATEMENT: A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on an agreement to provide any goods or services to a public entity, may not submit a bid on an agreement with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under an agreement with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By executing this document grantee warrants that it is in compliance with this paragraph.

18. AUTHORITY: Grantee warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described. Each of the signatories for the Grantee below certifies and warrants that the Grantee's name in this agreement is the full name as designated in its corporate charter (if a corporation); they are empowered to act and contract for the Grantee, and this agreement has been approved by the Board of Directors of Grantee or other appropriate authority.

19. LICENSING AND PERMITS: Grantee warrants that it shall have, prior to commencement of work under this agreement and at all times during said work, all required licenses and permits whether federal, state, County or City.

20. INSURANCE: Grantee agrees that it maintains in force at its own expense a liability insurance policy which will insure and indemnify the Grantee and the Grantor from any suits, claims or actions brought by any person or persons and from all costs and expenses of litigation brought against the Grantee for such injuries to persons or damage to property occurring during the agreement or thereafter that results from performance by Grantee of the obligations set forth in this agreement. At all times during the term of this agreement and for one year after acceptance of the project, Grantee shall maintain on file with the Grantor a certificate of the insurance of the carriers showing that the aforesaid insurance policy is in effect. The following coverage's shall be provided:

1. Workers Compensation insurance as required by Florida Statutes.

2. Commercial General Liability Insurance with minimum limits of $500,000 Combined Single Limit (CSL) If split limits are provided, the minimum limits acceptable shall be $250,000 per Person $500,000 per occurrence $50,000 property damage.

3. Comprehensive Auto Liability Insurance with minimum limits of $300,000 combined single limit per occurrence.

The Grantee, the Grantor and the TDC shall be named as additional insured, except workers compensation. The policies shall provide no less than 30 days' notice of cancellation, non-renewal or reduction of coverage. Grantee shall provide to the County, as satisfactory evidence of the required insurance, including the insurance policy application and either:

- Original Certificate of Insurance, OR
- Certified copy of the actual insurance policy, OR
- Certificate of Insurance e-mailed from Insurance Agent/Company to County Risk Management - Telephone Maria Slavik at (305) 295-3178 for details (Certificates can be e-mailed directly from the insurance agency to: Slavik-Maria@MonroeCounty-FL.Gov – The e-mail must state that this is a certificate for a TDC project and should be forwarded to Maxine Pacini at the TDC administrative office)

An original certificate or a certified copy of any or all insurance policies required by this contract shall be filed with the Clerk of the BOCC prior to the contract being executed by the Clerk's office. The Insurance policy must state that the Monroe County BOCC and Monroe County TDC is the Certificate Holder and additional Insured for this contract (certificate only for worker's compensation coverage). Insurance information should be mailed to:

Monroe County Board of County Commissioners
c/o Risk Management
P.O. Box 1026
Key West, FL 33041

21. NOTICE. Any notice required or permitted under this agreement shall be in writing and had delivered or mailed, postage prepaid, to the other party by certified mail, returned receipt requested to the following:

For Grantee: Bob Vitas, City Manager
3132 Flagler Ave
Key West, FL 33040

For Grantor: Lynda Stuart
Monroe County Tourist Development Council
1201 White Street, Suite 102
Key West, FL 33040

and

Cynthia Hall, Asst. County Attorney
P.O. Box 1026
Key West, FL 33041-1026

22. CLAIMS FOR FEDERAL OR STATE AID. Contractor and County agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

23. NON-DELEGATION OF CONSTITUTIONAL OR STATUTORY DUTIES. This agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the County, except to the extent permitted by the Florida constitution, state statute, and case law.

24. NON-RELIANCE BY NON-PARTIES. No person or entity shall be entitled to rely upon the terms, or any of them, of this agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Grantee agree that neither the County nor the Grantee or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this agreement.

25. ATTESTATIONS. Grantee agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

26. NO PERSONAL LIABILITY. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this agreement or be subject to any personal liability or accountability by reason of the execution of this agreement.

27. FORCE MAJEURE. The Grantee shall not be liable for delay in performance or failure to complete the project, in whole or in part, due to the occurrence of any contingency beyond its control or the control of its contractors and subcontractors, including war or act of war whether an actual declaration thereof is made or not, act of terrorism impacting travel in the United States, insurrection, riot or civil commotion, act of public enemy, epidemic, quarantine restriction, storm, flood, drought or other act of God, or act of nature (including presence of endangered animal species which cannot be timely removed in a safe manner or any act of any governmental authority which prohibits the project from proceeding as described in the scope of services and incorporated references and which the Grantee has exercised reasonable care in the prevention thereof. However, lack of planning for normal and expected weather conditions for the time of year the project

is to be executed shall not constitute an act of God excusing a delay. Any delay or failure due to the causes stated shall not constitute a breach of the agreement; however, the BOCC shall have the right to determine if there will be any reduction to the amount of funds due to the Grantee after consideration of all relevant facts and circumstances surrounding the delay in performance or failure to complete the project within the contract period. Upon demand of TDC or BOCC, the Grantee must furnish evidence of the causes of such delay or failure. BOCC shall not pay for any goods received or services provided after the date(s) described in paragraph 1 and Scope of Services.

28. EXECUTION IN COUNTERPARTS. This agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this agreement by signing any such counterpart.

29. SECTION HEADINGS. Section headings have been inserted in this agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this agreement and will not be used in the interpretation of any provision of this agreement.

30. MISCELLANEOUS: As used herein, the terms "contract" and "agreement" shall be read interchangeably.

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IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

(SEAL)
Attest: Amy Heavilin, Clerk

Deputy Clerk

Board of County Commissioners
of Monroe County

Mayor/Chairman

(CORPORATE SEAL)
Attest:

By. Cheryl Smith
City Clerk

By
Mayor

Cheryl Smith
Print Name

Date: 7/30/2013

Craig Cates
Print Name

Date: 7/30/2013

FILED FOR RECORD
2013 OCT 28 PM 3:39
CLERK CIR CT
MONROE COUNTY FL

OR TWO WITNESSES (only necessary when Mayor does NOT sign)

(1)_____ (2)_____

(1)_____
Print Name

Date: _____

(2)_____
Print Name

Date: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

CYNTHIA L. HALL
ASSISTANT COUNTY ATTORNEY
Date 7-15-2013

Truman Waterfront Park
FY 2014 Funding
Contract ID#: 1212

EXHIBIT A

NAME OF ENTITY: **City of Key West**
NAME OF PROJECT: **Truman Waterfront Park Amphitheater and Public Parking**

NUMBER OF SEGMENTS TO PROJECT: 1

***Note*: County signoff and submission for reimbursement only allowed after completion of each segment as documented in this exhibit. Grantee must apply for reimbursement utilizing the 'Application for Payment' form included within the Payment/Reimbursement Kit.**

Segment #:1 Description: Materials, equipment and labor (contractor fees), required to complete: • Design Development • Amphitheater Site Work including outdoor lawn space • An elliptical shaped one story amphitheater building to seat 250 persons; with dressing rooms; storage; loading; bathrooms; concession area; ticketing spaces • Public Parking for approximately 67vehicles (A general description about the intended work dated June 2013, is attached hereto for reference only – see Exhibit B) **(In order for this segment to be reimbursed, acknowledgement of TDC funding must be in place and proof in the form of pictures provided with submission for reimbursement of this segment. This acknowledgement shall not be covered as part of the TDC reimbursement – see contract paragraph 2)**	Total Cost: $6,982,062 **In-Kind**: No in-kind will be used towards reimbursement of this project.	TDC portion: $2,000,000

Exhibit B

Truman Amphitheater

June 2013

The overall vision of the Open-Air Truman Amphitheater is to create a one of a kind experience for a variety of outdoor events & venues for both the residence of Key West and tourists alike. The Amphitheater is designed to offer a wide array of small performances such as jazz, dance, chamber music, theater, pop music, and family events year round. The design includes a dynamic elliptical structure that is carefully integrated into the parks landscape and shaped terrain so that building and landscape become one.

The elliptical shaped one story amphitheater building houses both the outdoor stage along with a series of back of house functions including dressing rooms, storage, loading, bathrooms for both the general public and performers as well as concession and ticketing spaces. The amphitheater building totals approximately 4,000 square feet; 1,200 square feet dedicated to the stage and 2,800 square feet dedicated to all back of house / support spaces.

The roof consists of an elliptical sloped "disk" that overhangs beyond the building's footprint supported by a ring of cantilevered steel beams. This offers a column free stage and support area to maximize spatial and functional flexibility. The stage is approximately 3 feet above grade and the overall roof structure is no higher than 35 feet. To pay homage to the rich Naval history at the Truman Waterfront Park, there are (3) three "conning tower" supports that rise above the roof carrying both flap poles and rods to support the roof.

Directly in front of the stage is 250 fixed seats that are slightly depressed from the open lawn to insure unobstructed views no matter where you are sitting or standing.

The building has been carefully placed between a gentle curving "green wall" and the open seating lawn which is bounded by a curved landscaped berm. Both the green wall and berm "encapsulate" the overall amphitheater which functionally provides both sound and crowd control while giving a sense of privacy and intimacy to the overall experience.

The green wall "hugs" the backside of the amphitheater building and becomes a functional "green wall" with openings for ticketing and food & beverages concessions. Beyond the building the green wall becomes the primary entrance into the open seating lawn and berm, shutting out the adjacent street and parking lots.

The Truman Park Theater is designed to provide an opportunity for a wide range of events from small high school and community events to larger live entertainment and performance venues attracting both tourists and locals from a regional base.