

EXHIBIT A

FIRST AMENDMENT

TO THE GRANT AGREEMENT BETWEEN THE COUNTY OF DUPAGE
AND CHOOSE DUPAGE FOR A TOURISM-RELATED FEASIBILITY STUDY

WHEREAS, the County of DuPage ("County") is a body corporate and politic; and

WHEREAS, Choose DuPage ("Agency") is a not-for-profit corporation organized under Illinois law and Section 501(c)(6) of the Internal Revenue Code; and

WHEREAS, the County and the Agency are hereafter sometimes referred to individually as the "Party" and collectively known herein as the "Parties"; and

WHEREAS, by way of Resolution FI-R-0125-23, the Agency was originally granted an award amount of \$270,000.00 to develop two studies through the use of third-party experts to determine the feasibility of constructing a sports complex and a performing arts center in DuPage County to promote tourism in accordance with the objectives of the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2); and

WHEREAS, the County wishes to continue funding the study solely for a performing arts center in DuPage County; and

WHEREAS, the County wishes to decrease the grant amount by \$80,851.78, resulting in a new grant award amount of \$189,148.22, and extend the Agreement through June 30, 2025; and

WHEREAS, the Parties have prepared this amended Agreement to govern the distribution of the grant funds identified above.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereby agree as follows:

1. **Purpose of the Agreement.** The Purpose of this Agreement is to (1) govern the use of the grant funds appropriated for developing the performing arts center study, (2) establish a process for reimbursement, and (3) report on study findings.
2. **Eligible Uses.** Funds appropriated by the County Board for disbursement under this Agreement shall be used to reimburse the Agency for costs associated with developing a tourism-related feasibility study for a performing arts center in

DuPage County. This includes costs to engage a third-party expert to assist in the research, analysis, and preparation of the study. This also includes costs for the Agency's administrative expenses related to the development of the study in an amount not to exceed \$20,000. The Agency shall prepare invoices for: (1) payroll expenses including timesheets and payroll ledgers; and (2) non-payroll expenses including invoices, check stubs, bank statements, or any other relevant backup documents.

3. **Recitals.** The recitals to this Agreement are incorporated as though set forth fully herein.
4. **Term.** This Agreement shall remain in effect until June 30, 2025. Terms relating to indemnification and access to records shall survive indefinitely.
5. **Termination, Breach.** This Agreement may be terminated upon thirty (30) days' notice to the other Party. All terms of this Agreement shall be considered material terms and therefore all breaches shall be deemed material breaches. In the event of a breach of this Agreement by any Party, the non-breaching Party shall provide the breaching Party with written notice of the breach and shall provide a period of not less than thirty (30) days to cure said breach.
6. **Venue, Applicable Law.** The exclusive venue for disputes arising from this Agreement shall be the 18th Judicial Circuit Court, sitting in Wheaton, Illinois. This Agreement shall be governed by the laws of the State of Illinois.
7. **Reporting.** The Agency shall submit the final study and present the findings to the DuPage County Economic Development Committee no later than August 20, 2025. In addition, the Agency shall email all reports and presentations to ARPAExpenses@DuPageCounty.gov no later than August 20, 2025.
8. **Assignment.** Neither party shall assign performance under this Agreement, nor shall either party transfer any right or obligation under this Agreement without the express written approval of the County.
9. **Amendment.** Any amendment to the terms of this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who approved and executed the original Agreement or their successors in office.
10. **Waiver.** If the County fails to enforce any provision of this Agreement, that failure does not waive the provision or the County's right to enforce it.

11. **Sole Agreement.** This Agreement contains all negotiations between the County and the Agency. No other understanding regarding this grant Agreement, whether written or oral, may be used to bind either party.
12. **Liability.** The Agency agrees to indemnify, save, and hold the County, its officers, agents and employees, harmless from any claims or causes of action, including attorney's fees incurred by the County, arising from the performance of this Agreement by the Agency, its officers, agents or employees. This clause will not be construed to bar any legal remedies the Agency may have for the County's failure to fulfill any of the County's obligations under this Agreement.
13. **No Joint Venture or Partnership.** The County and the Agency are not partners or joint venturers with each other and nothing herein shall be construed so as to make them such partners or joint venturers or impose any liability as such on any Party.
14. **Liquidated damages.** In the event that the United States Department of Treasury or any other entity authorized by law, audits the County's disbursement of ARPA funds and determines that the funds disbursed to the Agency were used for purposes other than those permitted under ARPA, the Agency agrees to indemnify the County and hold the County harmless against any and all liabilities, including judgments, costs and reasonable counsel fees, related to the disbursement of ARPA funds to the Agency. The Agency expressly agrees to reimburse the County for the cost of any penalty, fine, or judgment should the United States Federal Government penalize the County for any improper disbursement of ARPA funds under this Agreement.
15. **Audit.** The use of these funds may be audited and reviewed by County Audit, external audit, single audit, and U.S. Department of the Treasury audit. The Agency shall maintain all records relating to the studies for a period of not less than seven years for audit purposes.
16. **Economic Impact.** The study shall include an inventory of existing facilities and complete an economic impact statement of the existing arts facilities.

[SIGNATURE PAGE TO FOLLOW]

THUS, in witness thereof, the parties have executed this Agreement on the date first written below.

The County of DuPage

By: _____
Print Name: Deborah A. Conroy
Title: County Board Chair
Date: June 25, 2024

Choose DuPage

By: _____
Print Name: _____
Title: _____
Date: _____