

PERFORMANCE AGREEMENT

Between

CITY of HALLANDALE BEACH, FLORIDA

and

THE HALLANDALE CHAMBER OF COMMERCE, INC.

This is a Performance Agreement (the "Agreement"), made and entered into by and between: the CITY OF HALLANDALE BEACH (the "CITY"), a Florida municipal corporation,

AND

THE HALLANDALE CHAMBER OF COMMERCE, a Florida not for profit corporation, hereinafter referred to as "GRANTEE."

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, CITY and GRANTEE agree as follows:

ARTICLE 1
TERM

1.1 The term of this Agreement shall begin retroactively from October 1, 2017 and shall end on September 30, 2018. The Agreement may be renewed for additional periods at the end of the term at the sole option of the City.

1.2 GRANTEE understands and acknowledges that the funding will only be for the Term stated herein. This Agreement is renewable at the sole discretion of the CITY, contingent upon but not limited to the following:

1.2.1 Continued demonstrated and documented proof of performance measures listing in Article 2.

1.2.2 Satisfactory performance by GRANTEE; and

1.2.3 The availability of funds from the CITY.

ARTICLE 2

PERFORMANCE MEASURES

2.1 The CITY hereby grants to GRANTEE an amount not to exceed \$25,000 in consideration of and on condition that the GRANTEE completes the following performance measures during the Term:

2.1.1 Community Business Directory - \$5,000

2.1.2 State of the City Luncheon - \$5,000

2.1.3 Business After Hours Events - \$5,000

2.1.4 Good Morning Hallandale, Lunch and Learn, and Developer Dais events - \$4,000

2.1.5 Community Reinvestment Act- Loan Guarantee Program - \$6,000.

GRANTEE shall be paid the designated amount shown above for successful completion of each performance measure in accordance with Article 3, Article 4, and Exhibit A to this Agreement.

ARTICLE 3

Reporting Requirement

3.1 GRANTEE shall provide to the CITY proof of completion of each performance measure listed in Exhibit A. Proof shall be submitted electronically to the CITY via email, and must be approved by the CITY for satisfactory completion. Upon receiving approval from the CITY, GRANTEE may submit invoice for the performance measure completed in the amount designated for said performance measure listed in Exhibit A.

ARTICLE 4

COMPENSATION

4.1 CITY agrees to pay GRANTEE, in the manner specified in Section 4.2, and amount not to exceed twenty five thousand Dollars (\$25,000) for performance measures actually performed and completed pursuant to this Agreement. It is acknowledged and agreed by GRANTEE that this amount is the maximum payable and constitutes a limitation upon CITY's obligation to compensate GRANTEE for its performance related to this Agreement. No amount shall be paid to GRANTEE to reimburse its expenses. The contract will not exceed the expenditure of \$25,000 during the contract term.

4.2 **METHOD OF BILLING AND PAYMENT**

4.2.1 Payment shall be due within thirty (30) days of date stipulated on the invoice, provided, invoice is accepted for payment. Payment shall be made only for approved invoices. The CITY retains the right to delay or withhold payment for services which have not been accepted by the CITY.

4.3 Notwithstanding any provision of this Agreement to the contrary, CITY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective performance which has not been remedied or resolved in a manner satisfactory to the City's Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by CITY.

4.4 Payment shall be made to GRANTEE at:
Hallandale Chamber of Commerce
400 S. Federal Highway
Hallandale Beach, FL 33009

ARTICLE 5

TERMINATION

5.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. All Articles in this contract are material and a breach of any Article shall be grounds for termination for cause. This Agreement may also be terminated for convenience by the CITY. Termination for convenience by the CITY shall be effective on the termination date stated in written notice provided by the CITY, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health or safety. The parties agree that if the CITY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

5.2 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the CITY Manager, which the CITY Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

5.3 In the event this Agreement is terminated for convenience, GRANTEE shall be paid for any performance measures properly performed under the Agreement through the termination date specified in the written notice of termination. GRANTEE acknowledges and agrees that it has received good, valuable and sufficient consideration from CITY, the receipt and adequacy of which are, hereby acknowledged by GRANTEE, for CITY's right to terminate this Agreement for convenience, and that GRANTEE shall not be entitled to any consequential damages or loss of profits.

ARTICLE 6
MISCELLANEOUS

6.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY; and, if a copyright is claimed, GRANTEE grants to CITY a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by GRANTEE, whether finished or unfinished, shall become the property of CITY and shall be delivered by GRANTEE to the City's Contract Administrator within seven (7) days of termination of this Agreement by either party. Any compensation due to GRANTEE shall be withheld until all documents are received as provided herein. Nothing herein shall create exclusive ownership of the above described materials by the CITY. GRANTEE shall retain full rights to use all materials in its normal course of business.

6.2 AUDIT RIGHT AND RETENTION OF RECORDS

CITY shall have the right to audit the books, records, and accounts of GRANTEE related to this Agreement. GRANTEE shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement. All books, records, and accounts of GRANTEE shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, GRANTEE, as applicable, shall make same available at no cost to CITY in written form.

GRANTEE shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books,

records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to GRANTEE's records, GRANTEE shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by GRANTEE or its subcontractors. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

If the GRANTEE has questions regarding the application of Chapter 119, Florida Statutes, to the GRANTEE'S duty to provide public records relating to the Agreement, contact the custodian of public records at City_Clerk_Office@hallandalebeachfl.gov; City of Hallandale Beach, City Hall, 400 South Federal Highway, Hallandale Beach, FL 33009, 954-457-1340.

6.3 **PUBLIC ENTITY CRIME ACT**

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

In addition to the foregoing, GRANTEE further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an

act defined as a "public entity crime" regardless of the amount of money involved or whether GRANTEE has been placed on the convicted vendor list.

6.6 **NOTICES**

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

City of Hallandale Beach

City Manager

400 South Federal Highway

Hallandale Beach, FL 33009

With Copy to:

Jeremy Earle, Assistant City Manager

400 S. Federal Highway

Hallandale Beach, FL 33009

And:

Procurement Department

400 South Federal Highway

Hallandale Beach, FL 33009

And:

City Attorney

400 South Federal Highway

Hallandale Beach, FL 33009

GRANTEE:

Executive Director
Hallandale Beach Chamber of Commerce
400 S. Federal Highway
Hallandale Beach, FL 33009

6.7 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other party. CITY may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by GRANTEE of this Agreement or any right or interest herein without CITY's written consent.

6.8 CONFLICTS

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

6.9 MATERIALITY AND WAIVER OF BREACH

CITY and GRANTEE agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

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

6.10 **COMPLIANCE WITH LAWS**

GRANTEE shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

6.11 **SEVERANCE**

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

6.12 **JOINT PREPARATION**

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

6.13 **PRIORITY OF PROVISIONS**

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 6 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 6 shall prevail and be given effect.

6.14 **JURISDICTION, VENUE, WAIVER OF JURY TRIAL**

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies

or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward CITY, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, GRANTEE AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the City pursuant to Section 768.28 Florida Statutes.

6.15 **AMENDMENTS**

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the CITY and GRANTEE or others delegated authority to or otherwise authorized to execute same on their behalf.

6.16 **PRIOR AGREEMENTS**

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

6.19 **REPRESENTATION OF AUTHORITY**

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all

necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

6.20 **MULTIPLE ORIGINALS**

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

[EXECUTION ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: CITY OF HALLANDALE BEACH through its City Manager and THE HALLANDALE CHAMBER OF COMMERCE, INC., signing by and through its President Elect duly authorized to execute same.

ATTEST:

M. Butwell
CITY CLERK

CITY

CITY OF HALLANDALE BEACH
By Roger M. Carlton
Roger M. Carlton, City Manager

8 day of Jan, 20 18.

Approved as to legal sufficiency and form by
CITY ATTORNEY

Jennifer Merino
Jennifer Merino, City Attorney
16 day of January, 20 18.

GRANTEE MUST EXECUTE THIS AGREEMENT AS INDICATED BELOW. USE CORPORATION OR NONCORPORATION FORMAT, AS APPLICABLE.

If the Authorized Officer does not sign the Agreement, there must be a Secretary's Certificate Form provided to the CITY of Hallandale Beach, Florida indicating designee signing, has the authority to sign.

(If incorporated sign below).

GRANTEE

ATTEST:

Hallandale Beach Chamber
(Name of Corporation) of Commerce

(Secretary)

By [Signature]
(Signature and Title) PRESIDENT ELECT

(Corporate Seal)

Barbara Vaigukskaite
(Type Name and Title Signed Above)

8 Day of January, 2018.

(If not incorporated sign below).

GRANTEE

WITNESSES:

Demetris F. Pearson
(PRINT NAME)

(PRESIDENT OR VICE-PRESIDENT)

[Signature]
(PRINT NAME)

(TYPE NAME & SIGNED ABOVE)

NOTARY SEAL

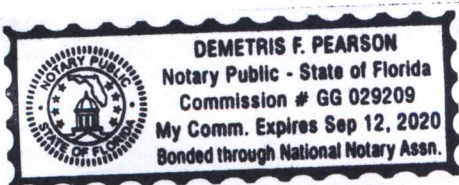


EXHIBIT A

Community Business Directory - \$5,000

Performance Measures

Grantee shall perform the following:

- Produce an annual Community Business Directory brochure in efforts to highlight City attractions and businesses
- Distribution of directory in the City's display racks
- Grantee will publicize, upon request, city-sponsored activities and functions (ongoing measure)
- An online copy of the directory will be available on the Grantee's website
- The directory will include a message from the City. Message will be provided by the City Manager's Office.

Required Reporting

- Grantee will provide a copy of the completed directory (hard copy)
- URL link to online directory
- Photos of directory displayed in city racks, with date and time stamp.
- Proof of publicized city-sponsored activities and functions

All reporting requirements must be fulfilled in order to submit invoice for payment. One invoice shall be submitted for this measure. Invoice must be submitted within 30 days of completion of all performance measures.

EXHIBIT A

Business After Hours Events - \$5,000

Performance Measures

Grantee shall perform the following:

- Grantee will host a minimum of two (2) business after hours mixers each quarter, that will provide opportunities to network and showcase local Hallandale businesses.
- The chamber will engage and encourage new registered business in Hallandale to participate in upcoming business networking opportunities.
- The Chamber will create digital marketing content for website, social media marketing, and e-news distributions pertaining to upcoming business networking opportunities host by the chamber.
- The chamber will maintain an active website, updated content regarding upcoming networking opportunities for business owners and the community at large.
- The chamber will publicize, upon request, city-sponsored activities and functions and distribute information regarding such activities at chamber business networking functions.
- The City of Hallandale is acknowledged as a supporting sponsor

Required Reporting

- Event Summary: (Date, Time, Location)
- Number of Business Networking Opportunities
- Number of participating businesses at networking functions with a minimum of 15 guest (sign in log)
- Copy of outreach efforts and promotion activities executed
- Copy of event flyer showcasing the City of Hallandale logo as a supporting partner.

All reporting requirements must be fulfilled in order to submit invoice for payment. Invoices will be submitted quarterly, each invoice amounting in a fourth (1/4) of the total for this measure. Final invoice must be submitted by no later than September 30, 2017.

EXHIBIT A

State of the City Address- 5,000 **Performance Measures**

Grantee shall perform the following:

- Grantee will organize one (1) State of the City Address.
- Grantee shall provide specific notification to the Parks and Recreation Department for setting arrangements and set-up.
- Grantee will create digital marketing content for website, social media marketing, and e-news distributions.
- Grantee will maintain an active website, updated content regarding upcoming networking opportunities for business owners and the community at large.
- The chamber will publicize, upon request, city-sponsored activities and functions and distribute information regarding such activities at Grantee business networking functions.
- The City is acknowledged as a supporting sponsor.

Required Reporting

- Event Summary: (Date, Time, Location)
- Number of participating businesses (sign-in log)
- Copy of outreach efforts and promotion activities executed
- Copy of event flyer showcasing the City of Hallandale logo as a supporting partner.

All reporting requirements must be fulfilled in order to submit invoice for payment. One invoice shall be submitted for this measure. Invoice must be submitted within 30 days of completion of all performance measures.

EXHIBIT A

Business Development Events - \$4,000

Performance Measures

Grantee shall perform the following:

- Grantee will organize a minimum of two (2) quarterly business development luncheon **or** breakfast.
- Grantee will organize a minimum of one (1) quarterly Developers Dias Roundtable
- Grantee will publicize, upon request, City-sponsored activities and functions and distribute information

Required Reporting

- Event Summary: (Date, Time, Location)
- Number of participating businesses (sign-in log)
- Copy of outreach efforts and promotion activities executed
- Copy of event flyer showcasing the City of Hallandale logo as a supporting partner.

All reporting requirements must be fulfilled in order to submit invoice for payment. Invoices will be submitted quarterly, each invoice amounting in a fourth (1/4) of the total for this measure. Final invoice must be submitted by no later than September 30, 2017.

EXHIBIT A

Community Reinvestment Act- Loan Guarantee Program - \$6,000

Performance Measures

Grantee shall perform the following:

- Grantee will work with Hallandale Beach banks, who are chamber members to organize and develop a Financial Empowerment seminar where those lenders can inform the community about CRA benefits.
- Grantee will conceptualize, plan, secure and activate meeting logistics.
- The meeting will be free and open to all Hallandale residents and Business Owners.
- Grantee will create digital marketing content for website, social media marketing, and e-news distributions.
- Grantee will work closely with the City's Innovation Technology department to assist with advertising the seminar to Hallandale Residents
- Banks will answer questions and provide rescuers for the following:
 - *affordable housing for low-and moderate-income individuals;*
 - *community services targeted to low-and moderate-income;*
 - *activities that promote economic development by financing small businesses & small farms;*
 - *activities that revitalize or stabilize low-and moderate-income geographies, distressed and underserved or designated FEMA – declared disaster areas.*

Required Reporting

- Event Summary: (Date, Time, Location)
- Number of participating businesses (sign-in log)
- Copy of outreach efforts and promotion activities executed
- Copy of event flyer showcasing the City of Hallandale logo as a supporting partner.

All reporting requirements must be fulfilled in order to submit invoice for payment. One invoice shall be submitted for this measure. Invoice must be submitted within 30 days of completion of all performance measures.