

① ✓ 12/9/14 ②

**DOCUMENT ROUTING FORM**

NAME OF DOCUMENT: **FY 2015 PARTICIPATION AGREEMENT WITH DOWNTOWN DEVELOPMENT AUTHORITY - \$100,000**

**Approved Comm. Mtg. on: November 4, 2014    CAM #: 14-1378    ITEM #: CM-8**

Routing Origin:  CAO      Also attached:     copy of CAM       Original Documents

1) **City Attorney's Office:** Approved as to Form # 1 Original and Delivered to City Manager on November 26, 2014.

**Cole J. Copertino** *cc*

2) **City Manager:** Please indicate if item is CIP Funded, sign where indicated, and forward 1 original to Mayor.

CIP FUNDED     YES     NO  
Capital Investment / Community Improvement Projects

**Capital Investment / Community Improvement Projects** defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

3) **Mayor:** Please sign as indicated and forward 1 original to Clerk for attestation and City seal.

**INSTRUCTIONS TO CLERK'S OFFICE**

4) **City Clerk:** Retains one original and forwards 1 copy of document to:

**CHARMAINE CRAWFORD, OFFICE OF BUDGET MANAGEMENT**

Original Route form to Carla Foster, CAO

**CITY OF FORT LAUDERDALE  
FY 2015 NOT FOR PROFIT GRANT PARTICIPATION AGREEMENT**

THIS AGREEMENT, entered this 14<sup>th</sup> day of November 2014 by and between:

**CITY OF FORT LAUDERDALE**, a municipal corporation of the State of Florida, herein after referred to as "City"

and

**DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE (DDA)**, a body politic and corporate established under the laws of Florida, whose usual place of business is 305 S ANDREWS AVENUE, SUITE 301, FORT LAUDERDALE, FL 33301, hereinafter referred to as "Participant".

**WHEREAS**, Participant seeks to provide a critical link between the economic development and physical development objectives of Downtown Fort Lauderdale; and

**WHEREAS**, that City is providing funding for Participant's program and authorized the City Manager to enter into this agreement ("Agreement"); and

**WHEREAS**, the Participant, an authorized officer of Downtown Development Authority of the City of Fort Lauderdale (hereinafter the "Organization"), acknowledges that he/she will receive and accept a contribution of public funds from the CITY OF FORT LAUDERDALE for the **2015** City fiscal year in the amount of **\$100,000.00** on behalf of the Organization.

NOW, THEREFORE, it is agreed between the parties hereto that;

**I. SCOPE OF SERVICE**

**A. Activities**

The Participant seeks to provide a critical link between the economic development and physical development objectives of Downtown Fort Lauderdale. Specifically, DDA will be an advocate for the City of Fort Lauderdale as the "Downtown of Broward County" that has entertainment, cultural and historic amenities of regional and state-wide significance. The DDA is also currently overseeing a downtown transportation project, which will develop a transit plan that provides various options for people coming to and traveling within the downtown region. Funding under this agreement will be utilized for security initiatives as identified by the DDA.

B. Deliverables

The City may request a summary of security initiatives that were supported by the City's contribution.

C. Use of Funds

The Funds will be distributed as one lump sum payment. The Participant shall maintain all records created during the ordinary course of business pertaining to the funds. All such records shall be made available as requested under Florida Statutes, Chapter 119.0701.

The City reserves the right to examine the records of the Organization. Any funds not expended during the term or for the Activities identified above, under I. A. Scope of Services/Activities above, shall be automatically be returned by the Organization to the City. The City reserves the right to conduct audits of the Organization, which shall be in accordance with Generally Accepted Government Auditing Standards (GAGAS).

**II. TERM AND TIME OF PERFORMANCE**

The effective date of this Agreement shall commence upon full execution by the City and the Participant. The Organization shall expend the funds by September 30, 2015.

**III. BUDGET**

Within ninety (90) days of the close of the Organization's fiscal year, a financial statement, prepared in accordance with generally accepted accounting principles, accounting for these funds and reporting upon the manner in which they were expended, shall be submitted to:

**CITY OF FORT LAUDERDALE**

City Manager's Office  
Budget/CIP and Grants Division  
101 NE 3<sup>rd</sup> Avenue, Suite 1400  
Fort Lauderdale, FL 33301

**IV. PAYMENT**

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed **\$100,000.00**.

**V. NOTICES**

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery. All notices and

other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

**City**

Lee R. Feldman  
City Manager

**Participant**

Chris Wren  
Executive Director

**As to the City:**

City Manager's Office  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

**As to the Participant:**

Downtown Development Authority of the  
City of Fort Lauderdale  
305 S Andrews Avenue, Suite 301  
Fort Lauderdale, FL 33301

**VI. GENERAL CONDITIONS**

A. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Participant shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Participant is an independent contractor.

B. Hold Harmless

Participant shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents, from and against any and all lawsuits, penalties, claims, damages, settlements, judgments, decrees, costs, charges and other expenses or liabilities of every kind, sort or description including, but not limited to, attorneys' fees at both the trial and appellate levels, in connection with or arising, directly or indirectly, out of or resulting from the Participant's acts or omissions in Participant's performance or nonperformance of its obligations or services under this Agreement. Without limiting the foregoing, any and all such claims, relating to personal injury, death, damage to property, defects in material or workmanship, actual or alleged infringement or any patent, trademark, copyright or of any other tangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, are included in the indemnity.

### C. Amendments

The City or Participant may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of the Organization and by the City Manager. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Participant from its obligations under this agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Participant.

### D. Public Records

Participant shall provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2014), as may be amended or revised, or as otherwise provided by law.

Participant shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

Participant shall meet all requirements for retaining public records and transfer, at no cost, to the City, all public records in possession of the contractor upon termination of this contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

### E. Default

The following events shall constitute an "Event of Default" pursuant to this Agreement:

1. The Participant fails to perform any covenant or term or condition of this Agreement; or any representation or warranty of the Participant herein or in any other grant documents executed concurrently herewith or made subsequent hereto, shall be found to be inaccurate, untrue or breached.
2. If the Participant or any endorser of the Agreement files a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation, wage earner's plan, assignment for the benefit of creditors, receivership, dissolution or similar relief under any present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other local law, or shall seek or consent to or acquiesce in the

appointment of any trustee, receiver or liquidator of Participant for all or any part of the properties of Participant; or if within ten (10) days after commencement of any proceeding against the Participant, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief or similar relief under any present or future Federal Bankruptcy Act or any other present or future federal, state or other local law, such proceeding shall not have been dismissed or stayed on appeal; or if, within ten (10) days after the appointment, without the consent or acquiescence of the Participant or of any endorser of the Agreement, of any trustee, receiver, or liquidator of the Participant or any endorser of the Note, or of all or any portion of the Property, such appointment shall not have been vacated or stayed on appeal or otherwise; or if within ten days after the expiration of any such stay, such appointment shall not have been vacated.

3. Participant's breach, violation or failure to perform any of the obligations or any of the covenants and conditions contained herein.

Upon the occurrence of any event of default, the City shall issue written notice in accordance with Article V and the Participant shall have thirty (30) days to cure such default. If Participant fails to cure the default within the 30 days, the Agreement will be deemed terminated and the City shall declare immediately due and payable, all monies advanced hereunder this Agreement.

#### E. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

#### VII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

#### VIII. TERMINATION OF AGREEMENT

No waiver by the City of any breach of any provision of this Agreement shall be deemed to be a waiver of any other provision or be construed to be a modification of the terms of this Agreement.

Upon the occurrence of any event of default, the City shall issue written notice in accordance with Article V and the Participant shall have thirty (30) days to cure such default. If Participant fails to cure the default within the 30 days, the Agreement will be deemed terminated and the City shall declare immediately due and payable, all monies advanced hereunder this Agreement.

**IX. WAIVER**

The City's failure to act with respect to a breach by the Participant does not waive its right to act with respect to subsequent or similar breaches. Failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**X. ENTIRE AGREEMENT**

This Agreement, along with attachments, shall constitute the entire Agreement between City and Participant for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Participant with respect to this Agreement. No prior written or contemporaneous oral promises or representations shall be binding. This Agreement shall not be amended except by written instrument signed by both parties.

**XI. AUTHORIZED SIGNATORY**

Only upon City Commission delegation, the City Manager is authorized to execute this Agreement on behalf of the City.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the 14<sup>th</sup> day of November 2014.

**PARTICIPANT**

WITNESSES:

Downtown Development Authority of the City of Fort Lauderdale, a Florida body politic and corporate

Chad Blue

By Chris Wren  
Chris Wren, Executive Director

Chadwick Blue  
[Witness print name]

Aynsley Bennett

Aynsley Bennett  
[Witness print name]

ATTEST:

(CORPORATE SEAL)

Matthew  
Secretary

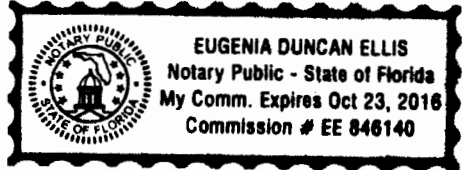
STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 14 day of November 2014, by Chris Wren, as Executive Director of Downtown Development Authority of the City of Fort Lauderdale, Who is  personally known to me or  has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

Eugenia Duncan Ellis  
Notary Public, State of Florida  
(Signature of Notary Taking Acknowledgment)

EUGENIA DUNCAN ELLIS  
Name of Notary Typed, Printed or Stamped



My Commission Expires:  
10/23/16  
Commission Number



CITY

WITNESSES:

CITY OF FORT LAUDERDALE

Miranda Scott

MIRANDA SCOTT  
(Witness print name)

Aika D. Penedo

Aika D. Penedo  
(Witness print name)

By Lee R. Feldman  
Lee R. Feldman, City Manager

Date 12/1/14

Approved as to form:

[Signature]  
Assistant City Attorney