

# Exhibit A

Org. 35

RESOLUTION NO. 2015- 442

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A PROFESSIONAL SERVICE AND LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND CREATIVE CITY COLLABORATIVE OF POMPANO BEACH, INC. TO PROVIDE CULTURAL ARTS PROGRAMMING, MANAGEMENT, AND MARKETING SERVICES FOR THE CITY'S AMPHITHEATER AND CULTURAL ARTS CENTER; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a Professional Service And License Agreement between the City of Pompano Beach and Creative City Collaborative of Pompano Beach, Inc., a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Creative City Collaborative of Pompano Beach, Inc.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this 21<sup>st</sup> day of September, 2015.

  
\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

  
\_\_\_\_\_  
**ASCELETA HAMMOND, CITY CLERK**

FP/ds

9/16/15

l:reso/2015-476f

**CITY OF POMPANO BEACH**

**PROFESSIONAL SERVICE AND LICENSE AGREEMENT**

**with**

**Creative City Collaborative of Pompano Beach, Inc.**



## TABLE OF CONTENTS

<u>Art.</u>	<u>Title</u>	<u>Page</u>
1	Purpose and Representations	1
2	Term and Renewal	2
3	Contractor's Rights and Responsibilities	3
4	City's Right and Responsibilities	6
5	Public Records, Recordkeeping, Inspection and Audit Procedures	8
6	Financial Accountability & Reporting	9
7	Price Formula, Invoice and Payments	12
8	Contract Administrators, Notices and Demands	13
9	Default and Dispute Resolution	14
10	Ownership of Documents and Information	15
11	Expiration and Termination	16
12	Force Majeure	17
13	Insurance	17
14	Indemnification	18
15	No Discrimination, Americans With Disabilities Act and Equal Employment	19
16	Non-Assignability and Subcontracting	19
17	Performance Under Law and Authority To Engage In Business	20
18	Staffing, Background Checks and Drug Free Workplace	20
19	Independent Contractor	22
20	Mutual Cooperation	22
21	Waiver and Modification	22
22	Absence of Conflict of Interests	23
23	Headings	23
24	Severability	23
25	Binding Effect	23
26	Attorneys' Fees and Costs	24
27	No Third Party Beneficiaries	24
28	Approvals	24
29	Sovereign Immunity	24
30	Public Entity Crimes Act	24
31	No Contingent Fee	24
32	Authority of Contractor	25
33	Entire Agreement and Interpretation	25

## **EXHIBITS**

Exhibit 1	Site Diagram for Amphitheater
Exhibit 2	Site Diagram of Cultural Arts Center on Civic Campus
Exhibit 3	Certificate of Resolution and Incumbency
Exhibit 4	Scope of Work
Exhibit 5	Timeline for Scope of Work
Exhibit 6	Quarterly Activity Report
Exhibit 7	City's Policy for Alcoholic Beverages
Exhibit 8	List of City-owned concession equipment at the Amphitheater
Exhibit 9	Projected Revenues and Expenses
Exhibit 10	Contractor's Internal Controls for Collection and Disbursement of Funds
Exhibit 11	Insurance Requirements
Exhibit 12	Contractor's ADA Policies
Exhibit 13	Key Personnel, Job Title and Description
Exhibit 14	City's Youth Program Background Screening Policy
Exhibit 15	Contractor's Drug-Free Workplace Policy

# PROFESSIONAL SERVICE AND LICENSE AGREEMENT

---

**THIS PROFESSIONAL SERVICE AND LICENSE AGREEMENT** is made and entered into this 25<sup>th</sup> day of September, 2015, by the CITY OF POMPANO BEACH ("City") and CREATIVE CITY COLLABORATIVE OF POMPANO BEACH, INC., a Florida not for profit corporation ("Contractor").

**WHEREAS**, City has determined it is in the public interest for Contractor to provide cultural arts programming, management and marketing for its existing Amphitheater and proposed Cultural Arts Center to be located on the Civic Campus depicted respectively in Exhibits 1 and 2 (collectively the "Property").

**WHEREAS**, Contractor is ready, willing and able to provide the aforesaid programming, management and marketing under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agree as set forth below.

## ARTICLE 1 PURPOSE AND REPRESENTATIONS

A. Purpose. City contracts with Contractor to provide cultural arts programming, management and marketing of its Property in a way and manner that best serves the interest and needs of the public.

B. Representations of City. City makes the following representations to Contractor, which City acknowledges Contractor has relied upon in entering into this Agreement.

1. This Agreement is a valid, binding and permissible activity within the power and authority of the City and does not violate any City Code, Charter provision, rule, resolution, ordinance, policy or agreement of the City or constitute a default of any agreement or contract to which the City is a party.

2. The individuals executing this Agreement on behalf of the City are duly authorized to take such action, which action shall be, and is, binding upon the City.

3. Contractor shall be entitled to rely upon the accuracy and completeness of any information supplied by City or by others authorized by the City's Contract Administrator.

C. Representations of Contractor. Contractor makes the following representations to City, which City relies upon in entering into this Agreement.

1. Contractor is a Florida non-profit corporation duly organized, existing and in good standing under the laws of the State of Florida with the power and authority to enter into this Agreement.

2. Contractor's execution, delivery, consummation and performance under this Agreement will not violate or cause Contractor to be in default of any provisions of its governing documents, rules and regulations or any other agreement to which it is a party or constitute a default thereunder or cause acceleration of any obligation of Contractor thereunder.

3. The individual executing this Agreement and related documents on behalf of Contractor is duly authorized to take such action which action shall be, and is, binding on Contractor as memorialized by Exhibit 3.

4. There are no legal actions, suits or proceedings pending or threatened against or affecting Contractor that Contractor is aware of which would have any material effect on its ability to perform its obligations under this Agreement.

5. Contractor represents it has the ability, skill and resources to complete its requisite responsibilities under this Agreement.

6. City shall be entitled to rely upon the professional administrative and management skills of Contractor or others authorized by Contractor under this Agreement.

7. Contractor represents and warrants it has and will continue to maintain all licenses and approvals required to conduct business and provide services under this Agreement and that it shall at all times conduct its activities in a professional, reputable manner.

## **ARTICLE 2 TERM AND RENEWAL**

A. Term. This Agreement shall be for a 12-month term to commence on October 1, 2015, and end on September 30, 2016, and includes all Exhibits and subsequent amendments thereto.

B. Renewal. In the event City determines Contractor's performance hereunder satisfactory, City shall have the option to renew this Agreement for up to an additional one (1) year term. If City elects to renew this Agreement, it shall provide Contractor written notification of such renewal by April 1, 2016, and Contractor shall advise in writing within fourteen (14) days thereafter if it agrees to said renewal.

If both parties desire to renew this Agreement, they shall promptly confer as to the necessity of any modification(s) hereto so that the City Commission of Pompano Beach shall have sufficient time to formally review and approve any such revision by formal amendment prior to expiration of the initial term.

If either or both parties do not to consent to renewal of this Agreement, they shall timely act in accordance with the provisions of Articles 10 and 11 herein. Except as set forth in this Article, this Agreement is not subject to renewal.

### **ARTICLE 3**

#### **CONTRACTOR'S RIGHTS AND RESPONSIBILITIES**

A. Retention of Contractor. City agrees to retain Contractor to provide, and Contractor agrees to provide the programming, managing and marketing services described in Exhibit 4, which is entitled "Scope of Work" (the "Work") in accordance with Contractor's rights and obligations as set forth in this Agreement and Exhibit 5 entitled "Timeline for Scope of Work."

B. For the purpose of this Agreement, the terms identified below shall be defined as set forth below.

1. "Event" shall mean each and every occurrence at the Property organized and managed by Contractor for which it charges an admission fee or otherwise invites persons to attend.

2. "Performance" shall mean any occurrence at the Property organized and managed by City for which Contractor shall receive no compensation or be obligated to provide any Work.

C. Protection of Property. Contactor shall take no action which will cause damage to the Property and, in this regard, shall place all booths, stages, vendors, port-o-lets and other facilities in locations which will not cause damage to the landscaping, foliage, or other parts of the Property.

If the Property or any portion thereof, including any structure attached thereto, or any equipment, fixture or other item located thereon, including the grass, landscaping and asphalt, shall be destroyed, damaged, marred, altered or physically changed as a result of Contractor's Work hereunder, Contractor agrees to repair any such damage within ten (10) business days or such other time as mutually agreed upon by the parties. If Contractor does not timely repair the damage to the satisfaction of the City's Contract Administrator, then City shall perform any and all such repairs and Contractor shall be required to reimburse City for said costs within two (2) weeks of City's detailed invoice for same.

D. Exclusive Rights regarding Concessions, Security and Parking. Contractor shall have the exclusive right to provide concession, security and parking services, including valet parking, for the Property during its Events subject to the terms and conditions of this Agreement. In addition, Contractor may provide temporary stands at its own expense for the sale of concession items provided that their size, construction and location shall not impede the normal and safe flow of vehicular and pedestrian traffic and otherwise comply with all applicable laws and regulations.

Contractor may sell food, beverages, confections, refreshments and novelties at the Property and agrees the concession area shall be operated whenever an Event occurs at the Property. Operation of concessions during City-sponsored performances shall be the obligation of the City and City may utilize any equipment owned by Concessionaire for this purpose.

Contractor acknowledges it has inspected the existing concession facilities and equipment at the Amphitheater and accepts them "as is." With regard to the concession facilities yet to be constructed at the Cultural Arts Center, the parties' Contract Administrators agree to subsequently inspect, document and ultimately provide written "sign off" on same once constructed, equipped and ready for service provided they are satisfied with their condition.

In providing the concession service, Contractor or any person, firm or corporation with whom it subcontracts for such purpose (collectively "Concessionaire") shall comply with all terms and conditions of this Agreement.

1. Concessionaire shall, prior to commencing any activities, obtain any and all permits and licenses.

2. All food, drinks, beverages, confections, refreshments, etc. sold or kept for sale shall be good quality and in conformance with all applicable laws and regulations.

3. Concessionaire may sell alcoholic beverages at the Property subject to proper licensure and compliance with all applicable laws, regulations and the City policies identified in Exhibit 7 and the City Contract Administrator's written approval to do so. The City's Contract Administrator, in his/her sole discretion, shall have authority to prohibit the sale of alcoholic beverages at any Event or performance. If the City's Contract Administrator does not agree to provide Contractor the aforesaid written consent, either or both parties may appeal to the City Manager whose decision to sell or prohibit the sale of alcoholic beverages shall be final.

4. Concessionaire may, at its sole expense, furnish additional equipment and fixtures to be utilized in the concession. Concessionaire shall submit plans and specifications concerning fixtures and equipment to City for approval prior to installation of any items. Fixtures furnished by Concessionaire shall become the property of City and Concessionaire shall not have the right at any time to remove any fixtures erected or installed. For the purposes of this Agreement, "fixture" shall be defined as anything annexed or affixed to the building or structure or which appears to be so affixed or annexed regardless of whether it is capable of being removed.

5. Concessionaire shall provide all maintenance, repair and service required on all equipment it owns and City shall provide all maintenance, repair and service on any equipment it owns in the concession area as identified in Exhibit 8. Insofar as sanitation and appearance is involved, City shall have the right to direct Concessionaire to perform reasonably necessary repairs and maintenance to Concessionaire-owned equipment.



6. No equipment owned by City shall be removed, replaced or altered in any manner by the concessionaire without prior written approval of City and, if consent is secured, such removal, replacement or alteration shall be at Concessionaire's sole cost and expense.

7. Concessionaire shall keep all fixtures, equipment and personal property, whether owned by Concessionaire or City, in a clean and sanitary condition and shall cleanse, fumigate, disinfect and deodorize as necessary and whenever directed to do so by City. All state health laws and state health department regulations must be strictly complied with. All janitorial services necessary in concession areas shall be provided by Concessionaire at its sole expense.

8. Concessionaire shall dispose of all refuse and garbage in waste receptacles provided by City.

E. Emergency and other City Access. In accordance with the Public Event Application, Contractor agrees to provide any and all emergency access required by City and its employees for the safety and welfare of the community and those attending any Event, including entrance into any gates which may be locked. Toward this end, forty-eight (48) hours or prior to each Event, City shall provide Contractor a written list of its representatives or other agents authorized to be on the Property for said Event that also identifies which Parks and Recreation employee is authorized to serve as the City's lead representative for each Event.

If, in the course of Contractor's performance hereunder, City, its employees or other authorized agents become aware of any condition on the Property which may be dangerous, upon being notified, Contractor shall immediately correct such condition or cease operations so as not to endanger persons or property.

F. Recycling. Contractor agrees to utilize its best efforts to recycle materials in the containers provided by City for this purpose.

G. No illegal or immoral use of the Property. Contractor shall not allow, suffer, or permit the Property to be used for any purpose, business or activity, use or function to which the City objects, including gambling.

H. No leasehold: Property "As Is." Contractor understands and agrees that, among other contractual right and obligations, this Agreement shall be interpreted as a license and privilege and that no leasehold or other interest in the Property is conferred upon Contractor hereunder. Contractor takes the Property in "as is" condition.

I. Articles Left on Premises. Contractor understands and agrees that City shall not in any way be responsible for personal property of Contractor, its subcontractors or other agents, including Event patrons, left on the Property and that Contractor shall bear any and all risks of loss. Other than as described in Article 3K. herein, any articles remaining on the Property after an Event shall become the property of the City.

J. Scheduling Events and Conflicts. Provided there shall at all times be a mixture of free and paid Events to the public, Contractor shall have the exclusive right to schedule Events at

the Property subject only to City's right to review the nature and content as set forth herein for conflict with City activities. Prior to scheduling Events at the Property, Contractor shall check with City to ascertain whether the proposed programming will conflict with its right to use the Property.

Toward this end, City shall provide Contractor advance written notice of any City performance to be held at the Property. In addition, both parties shall attend bi-weekly meetings to discuss the Work required hereunder and also maintain a shared calendar of Events and performances scheduled at the Property. Contractor also acknowledges and agrees that requests to utilize the Property from various community and not-for-profit groups shall not be unreasonably withheld.

Further, City shall be authorized to schedule and utilize the Property for City performances provided that said City programming does not conflict with Events previously scheduled by Contractor. Contractor shall receive no compensation for City's use nor shall Contractor have any obligations to provide Work for any City performance.

K. Use of Property. Contractor shall be entitled to use and rent the Property and may also temporarily store article(s) thereon to provide the Work required hereunder. Contractor shall not knowingly interfere with the public's enjoyment and use of the Property nor use it for any purpose not reasonably related to its Work hereunder.

L. Time and Noise Restrictions. No performance shall end later than 11:00 p.m. on any evening except with City Manager approval. Contractor and any subcontractors utilizing the Property shall strictly comply with all City and State ordinances and statutes regarding noise limitations.

M. Alterations, Additions, Improvements and Fencing. Contractor shall not make any alterations, additions or improvements to the Property or any part thereof without City's prior written approval. However, Contractor shall have the right to erect fencing, barricades or other appropriate methods of limiting access on the Property providing that such methods receive approval from the appropriate City departments, including any construction permits that may be necessary. Contractor also agrees to remove any such methods of crowd control and to restore to its original condition all property that may have been altered or damaged. Any fence or barricade that crosses any walking/biking/jogging path must contain a gate or other opening at that location so as to permit the path to be safely and freely utilized by Park patrons, except on the day of the Event when the gate/opening may be closed.

#### **ARTICLE 4 CITY'S RIGHTS AND RESPONSIBILITIES**

City agrees to act in accordance with its rights and obligations under this Agreement to include those rights and obligations further detailed below.

A. Parking. City shall provide free parking on the shaded areas depicted in Exhibits 1 and 2 for Events organized by Contractor hereunder.

B. Recycling and Waste Containers. City shall provide sufficient recycling and waste containers to accommodate Contractor's best efforts to properly dispose of and recycle materials resulting from Events at the Property.

C. City's Right to Make Improvements and Modify the Property and Number/Manner of Street Closures. Throughout the term of this Agreement, City shall retain the authority to enter and inspect the Property, and to perform structural repairs and maintenance as City deems necessary of the building and its appurtenances and may make changes and alterations therein and in the grounds of same as may be determined by City. City shall provide Contractor with reasonable notice prior to making any change or alteration in the Property, its building and appurtenances, attendant green/open space areas and the public right-of-way and consult with Contractor regarding the timing of such repairs or alterations provided the final decision as to timing shall be in the City's sole discretion. City shall endeavor to schedule any work contemplated under this subsection so as to not disrupt any programming at the Property and Contractor agrees to make any adjustment to any such repairs or changes implemented by City.

D. City's Right to Pre-Approve Events and Content. Prior to scheduling any proposed Event or programming at the Property, including festival rides and concerts, Contractor shall provide City written notice to include relevant details. Within five (5) business days of City's receipt of such notice, City shall provide Contractor a written determination as to whether said Event or programming is authorized or disapproved. City specifically reserves the right, in its sole discretion, to determine if the proposed Event or programming poses a risk to the public health, safety or welfare or contains content of an obscene, immoral, lewd or otherwise objectionable nature and City's decision shall be final in this regard. In return, City agrees it shall not unreasonably withhold approval and shall withhold approval only when it determines that said Event or programming poses a risk to the public health, safety and welfare or contains content of an obscene, immoral, lewd or otherwise objectionable nature.

E. Provision of Utilities Except for Telecommunications. Except for telecommunication, City, at its sole expense, shall provide all utilities to the Property, including water, electricity and alarm charges.

F. Ejectment from Property. City, at all times reserves the right to eject or cause to be ejected from the Property any person(s) violating or attempting to violate any rules or regulations of the Property, City, County, State or Federal laws, and neither City nor any of its agents or employees shall be liable in any manner to Contractor, its agents or employees for any damages which may be sustained by Contractor through City's exercise of this right.

G. City's Right to Provide Services at the Property. City shall have the exclusive right to provide concessions, security and parking services at the Property at any performance it sponsors and to keep any and all revenues generated from same.

H. Website Domain and Marketing Materials. All website domains used by Contractor relating to the Work shall be owned by City who agrees to grant Contractor exclusive

use of same as necessary for programming and marketing by pointing them to specified servers. If at any time, City, in its sole discretion, determines the content conflicts with the City's best interests, City shall have the right to reassert control over the domain's content. If requested by Contractor, at City's sole discretion and cost, the City may purchase additional domains for Contractor's use, which Contractor shall maintain and operate.

In addition, City, in its sole discretion, reserves the right to disapprove any marketing materials of Contractor.

I. City's Right to Enter and Inspect. City, its authorized agents and employees shall have the right to enter upon the Property at any and all reasonable times for the purpose of inspection and observation of Contractor's operation to assure that the requirements of this Agreement are upheld and that no violations of the rules, statutes, ordinances or regulations have occurred or are occurring. Toward this end, forty eight (48) hours prior to each Event, City shall provide Contractor a written list of its representatives or other agents authorized to be on the Property for said Event that also identifies which Parks and Recreation employee is authorized to serve as the City's lead representative for each Event. During said inspections and without disrupting any programming, City shall have the right to utilize photographic devices and any other instruments for recording conditions and Events taking place upon the Property.

## **ARTICLE 5**

### **PUBLIC RECORDS, RECORDKEEPING, INSPECTION AND AUDIT PROCEDURES**

A. Public Records. Contractor acknowledges that City is a public agency subject to Chapter 119, Florida Statutes, and shall comply with Florida's Public Records Law by making available to City for examination all records related to this Agreement and its performance hereunder. Specifically, Contractor shall (1) keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the Scope of Work; (2) provide City with access to such public records at any time during normal business hours and as often as the City deems reasonably necessary; (3) ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law; (4) meet all requirements for retaining and/or destroying public records; and (5) include the provisions of this Article in any subcontracts Contractor enters into for the Work hereunder.

B. All records stored electronically by Contractor shall be provided to City in a format compatible with the information technology systems of the City.

C. Recordkeeping, Inspection and Audit Procedures. Contractor, its subcontractors and agents shall be required to record, preserve and make available at all reasonable times for City's local inspection, examination and audit, complete and accurate records for all activities, revenues, and expenditures hereunder, including all financial records, books, statistical records, federal/state tax returns, and any other documents attendant to their provision of goods and services for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, if applicable, or if the Florida Public Records Act is not applicable, for a minimum period of five (5) years after termination or expiration of this Agreement.

However, upon written notice that City has initiated an audit and audit findings have not been resolved, Contractor, its subcontractor and agents hereunder shall be required to retain the aforesaid required documentation until resolution of the audit findings. Any incomplete or incorrect entry in such books, records and accounts shall be a basis for City's disallowance and recovery of any such payment.

Should the results of such an audit result in discrepancies or unauthorized expenditures and City requests the return of such funds, in writing, Contractor agrees to comply with said request and provide City said funds within sixty (60) days thereafter.

## **ARTICLE 6**

### **FINANCIAL ACCOUNTABILITY & REPORTING**

A. Contractor shall use such accounting methods and procedures as may be prescribed by City, in accordance with generally accepted accounting principles, which shall include, but not be limited to those specific methods and procedures as set forth in this Article.

B. Contractor shall adhere to a system of internal controls for collection and disbursement of all funds associated with this Agreement, including but not limited to, ticketing, donations, sponsorships and grant awards, as well as the disbursement of funds for eligible activities. Contractor shall obtain and provide City a Federal Employment Identification Number for Creative City Collaborative of Pompano Beach, Inc. within sixty (60) days of execution of this Agreement.

C. Contractor shall be responsible to prepare and submit to the Internal Revenue Service by December 31, 2015, an application seeking approval of the Pompano Beach Arts Foundation, Inc. (the "Foundation") as a tax exempt 501(c)(3) not for profit corporation. Contractor shall provide City written proof of the aforesaid filing by January 15, 2016. Contractor shall obtain and provide City a Federal Employment Identification Number for the Foundation within sixty (60) days of execution of this Agreement.

The purpose of the Foundation shall be for the sole purpose of soliciting donations, sponsorships and grants to further cultural arts within the City of Pompano Beach exclusively. The parties agree the Foundation's directors shall be comprised of a minimum of fifty one percent (51%) of City residents and/or persons or entities operating a business in the City of Pompano Beach.

If Contractor solicits contributions on behalf of the Foundation during the term of this Agreement, Contractor shall be responsible to register the Foundation with the Florida Department of Agriculture and Community Services (the "Department") and thereafter annually renew and prepare any such required financial filings attendant to this requirement. Contractor shall provide City written proof of the aforesaid registration and renewal within fourteen (14) days of such filing(s).

D. Contractor shall maintain a dedicated bank account and separate ledger of accounts within its accounting system that separately accounts for all revenues and expenditures for its Work at the Amphitheater and Cultural Arts Center. On a monthly basis within five (5) weeks of each month's end, Contractor shall submit to the City's Contract Administrator, a copy of said monthly bank statement, bank reconciliation, and a detailed ledger activity report for all activity having flowed through said account.

E. Contractor shall maintain a dedicated bank account and ledger of accounts within its accounting system that separately accounts for all Foundation revenues and expenditures and, on a monthly basis within five (5) weeks of each month's end, submit to the City's Contract Administrator, a copy of said monthly bank statement, bank reconciliation, and a detailed ledger activity report for all activity having flowed through said account.

F. To the extent that the net revenues (including without limitation, revenues associated with ticketing, donations, sponsorships and grant awards) associated with any special Events, fund raising or other revenue generating activities for the Property exceed the revenue projections set forth in Exhibit 9 (the "Excess Revenues"), Contractor agrees that such Excess Revenues shall be transferred to the Foundation by December 1, 2016.

G. For any month that Contractor experiences a deficit position after factoring in the City's monthly payment under this Agreement, any revenues generated during that period for the Property, and any operating and Event expenditures, Contractor may provide an accounting for such deficit with its monthly payment request although City is under no obligation to fund any such deficit and shall have no responsibility to bear any overruns in expenditures or deficiency in revenue collections for any Event.

H. Contractor agrees that each ticket sold in connection with concerts, shows or other Events at the Properties shall include a minimum surcharge of \$3.00 (the "Guaranteed Surcharge") except that no surcharge shall be collected in connection with (i) Events or activities that are made available to the general public without charge; (ii) complimentary tickets that are distributed in connection with the marketing of certain Events or activities; and (iii) tickets that cost less than \$25. Contractor also agrees that all Guaranteed Surcharges shall be remitted to the Foundation within sixty (60) days of a performance or Event at the Property and that City shall not be responsible for any shortfall in revenues resulting from Contractor's Work hereunder.

I. Contractor shall provide City a separate monthly financial activity report for its Work related to the Amphitheater and Cultural Arts Center (contract year to date) to include a balance sheet, statement of gross revenues and expenses, and a budget to actual statement along with a separate monthly financial activity report for any and all Foundation activities for that period. If no Foundation activity exists for that period, then a statement to that effect shall be provided. The monthly financial activity reports shall be signed by Contractor's Contract Administrator certifying the accuracy of revenues and expenses. Said documents shall be presented to the City's Contract Administrator with monthly invoices in accordance with Article 7.

J. Sales Tax. Contractor, in accordance with regulatory requirements, shall be responsible to collect and remit to the Florida Department of Revenue any and all sales taxes and other charges of any nature or kind, which may be assessed against its provision of services or good hereunder.

K. By January 1, 2016, Contractor, at its sole expense, shall deliver (1) audited financial statements reflecting all Contractor's activity hereunder and (2) compiled financial statements for the Foundation, both of which shall be prepared by a certified public accountant. Said financial statements shall include the Balance Sheet and related Statements of Income, Earnings, and Cash Flows in accordance with standards established by the American Institute of Certified Public Accountants. A resulting year-end cash balance shall be reported and reconciled with the dedicated bank accounts described in required under subsections D and E of this Article.

The Statement of Income shall be required to separately break out all revenues, to include, but not be limited to, the City contributions, grant revenue by grant award, other miscellaneous revenues and operating revenues by source including educational, lease and rental fees; concession revenue; concerts, shows, film productions and net of excess revenues and surcharges from concerts, shows, film productions and all expenses of the same, including the line items listed in Exhibit 9.

In the event Contractor fails to comply with the requirements of this subsection, City, at Contractor's expense, may employ a certified public accountant to produce such an audit or compilation (as applicable) and Contractor shall pay for same within thirty (30) days from the date of City's invoice for said expenditure or City may deduct same from any sums due and owing Contractor at that time.

L. Should Contractor secure any grants related to the Work hereunder, Contractor agrees to comply with all grant agreement requirements. For federal grants, Contractor shall also comply with OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. For state grants, Contractor shall also comply with Florida Department of Financial Services, *State Projects Compliance Supplement*. Should Contractor be required to have a single audit be performed for its expenditure of grant funds, Contractor agrees to submit a copy of such audit to the City's Contract Administrator by January 1, 2017. Contractor agrees to bear sole responsibility for any instances of non-compliance noted or questionable costs, which could result in repayment of, grant funds to grantor agencies.

M. Ticket Sales and Refunds. Contractor shall have the exclusive right to sell tickets for all programming at the Property. As outlined in Exhibit 10, Contractor shall provide for full accountability over ticket sales through automated ticketing reports and controls for concerts, shows, festivals, etc. that details the Event dates, price per ticket, discounts, complimentary tickets, total number of tickets sold, total number of tickets not sold, surcharges, taxes, and refunds as may be reasonably required by the City in accordance with generally accepted accounting principles.

Contractor shall be required perform all ticket sales and refunds for an Event at the Property in strict compliance with this subsection and agrees to include provisions in any



subcontracts hereunder that guarantee a full refund of any ticket sale(s), including any City surcharge paid, for an Event that does not occur for any reason. All refunds shall be issued within sixty (60) days of said Event cancellation. Contractor shall deposit all ticket sale proceeds in, and issue all ticket sale refunds from, its bank account dedicated to track revenues and expenditures for the Work. If Contractor utilizes a ticketing agent, all ticket sale proceeds may be held by Contractor's ticketing agent who shall be obligated to process a full refund of all ticket sales, including any City surcharge paid, in compliance with this subsection.

Contractor may sell tickets from the Property's box office or from other locations. If City-sponsored programming requires the sale of tickets, Contractor agrees to sell tickets for the City and limit its charges for this Work to its actual costs for personnel at the box office on the day of the performance.

N. Marketing. As outlined in Exhibit 10, Contractor shall provide online controls over marketing and processes for all activities for the Properties via email, websites, social media, etc.

O. Quarterly Activity Reports. Contractor shall provide the City's Contract Administrator written Quarterly Activity Reports, in reasonable detail, regarding Contractor's performance of the Work required hereunder, including without limitation, the status of items identified in the Quarterly Activity Report attached as Exhibit 6.

P. Contractor's failure to comply with the provisions of this Article shall constitute a material default and breach of this Agreement.

## **ARTICLE 7**

### **PRICE FORMULA, INVOICES AND PAYMENTS**

A. Price Formula. For purposes of this Agreement, the payment schedule will correspond with the City's fiscal year, which commences on October 1<sup>st</sup> and concludes on September 30<sup>th</sup> annually. As consideration for Contractor's Work hereunder, City shall pay Contractor a monthly management fee and other operating expenses for the Property consistent with the activities set forth in Exhibit 6, the project timeline set forth in Exhibit 5 and the projected revenues and expenses set forth in Exhibit 9 (collectively the "Monthly Fee"). Payment of the Monthly Fee and corresponding dates of payment shall be as set forth below in this subsection.

1. For Fiscal Year 2016, which commences October 1, 2015 and ends September 30, 2016, the City's maximum commitment to provide financial support for Contractor's Work hereunder shall not exceed \$825,505.00. It is anticipated that Fiscal Year 2016 will be paid in monthly installments based on invoices Contractor submits to City in accordance with this Article along with detailed supporting documentation acceptable to City, which confirms reimbursement amounts, and advance payments related to contractual obligations hereunder.



2. Amounts billed to the City by the Contractor on the 1<sup>st</sup> of each month for services for the previous month shall be payable by the 15<sup>th</sup> of that month unless disputed by City in accordance with the provisions of subsection C below of this Article.

B. Invoices. Contractor's monthly invoices shall be itemized in a manner which outlines "administrative" and "programmatic" expenses and submitted to the City's Contract Administrator for Work performed the previous month.

C. Payments to Contractor and City's Right to Withhold Payment. All payments by City shall be made after the Work has been provided or in the case of advances, be supported by documentation from the appropriate vendor or subcontractor. All invoices submitted and payments made under this Agreement shall be in accordance with this Article.

The City may temporarily remove for review any disputed amount, by line item, from the invoice and shall notify Contractor of any disputed charge within seven (7) business days from the date on which City receives the invoice for same. Contractor shall provide clarification and a satisfactory explanation to City regarding the disputed charge(s) prior to payment of said charge(s). Payment for verified and authorized Work completed shall be made to Contractor within fifteen (15) days after the date on which a proper invoice as defined in § 218.72, Florida Statutes, is received by the City's Contract Administrator and any amount withheld shall not be subject to payment of interest by City.

In the event City has a claim against Contractor for Work performed hereunder which has not been timely remedied in accordance with the provisions of Article 9 herein, City may withhold payment for the contested amount, in whole or in part, to protect itself from loss on account of defective Work, claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor, and/or Contractor's failure to make proper payments to subcontractors or vendors for material or labor. When the reason(s) for withholding payment are removed or resolved in a manner satisfactory to the City's Contract Administrator, payment shall be made and any amount withheld shall not be subject to payment of interest by City.

## **ARTICLE 8**

### **CONTRACT ADMINISTRATORS, NOTICES AND DEMANDS**

A. Contract Administrators. During the term of this Agreement, the City's Contract Administrator shall be its Recreation Programs Administrator and the Contractor's Contract Administrator shall be its Executive Director (or their written designees) as further identified below.

B. Notices and Demands. A notice, demand, or other communication hereunder by either party to the other shall be given or delivered sufficiently if it is in writing and delivered personally, sent via email or facsimile, or dispatched by registered or certified mail, postage prepaid to the representatives named below or, with respect to either party, is addressed or delivered personally at such other address as that party, from time to time may designate in writing and forward to the other as provided herein.

If to Contractor: Alyona Ushe, President/CEO  
Creative City Collaborative of Pompano Beach, Inc.  
180 NE First Street  
Delray Beach, FL 33444  
561-450-6357  
alyona@ccc-arts.org

If to City: Mark Beaudreau, Recreation Programs Administrator  
Parks, Recreation and Cultural Arts Department  
1801 NE 6 Street  
Pompano Beach, Florida 33060  
954-786-4191  
mark.beaudreau@copbfl.com

With a copy to: City Manager  
100 West Atlantic Boulevard  
Pompano Beach, Florida 33060

## **ARTICLE 9 DEFAULT AND DISPUTE RESOLUTION**

A. Statement of Intent. Contractor acknowledges that this Agreement has been entered into to develop and implement strategic action plans to spur the highest and best use of the Properties and that Contractor's expressed professional ability to accomplish same has served as inducement for the City to enter into this Agreement.

Contractor also recognizes that the City, in entering into this Agreement, is accepting and relying on Contractor for the faithful performance of all undertakings and covenants contained hereunder in light of the importance of (i) providing cultural activities that best serve the public's needs and interests, public/private partnerships, strategic planning, producing and leveraging City resources and (ii) the substantial financing and other public aids that have been or may be made available by law and through the assistance of federal, state and local governments for the purpose of making these type of cultural activities possible.

B. Informal Dispute Resolution Process. If either party claims the other is in default of this Agreement, the parties may, but are not required to, timely schedule a conference or meeting and make every reasonable effort to reach an amicable resolution. Both parties shall be entitled to have representatives of their choice present at any such meeting or conference. The informal dispute resolution process described below is non-exclusive and without prejudice to the right of either party to pursue other remedies available at law.

If the parties' Contract Administrators are unable to reach an agreement regarding the default within ten (10) business days after written notice to the other, they may enlist the assistance of the City Manager, 100 West Atlantic Boulevard, Pompano Beach, Florida 33060. Upon the City Manager's receipt and timely review of said written appeal or demand, the City

Manager in his/her sole discretion, may make a decision or request additional information relating to the dispute from either or both parties which shall be timely provided.

If the City Manager issues a written decision regarding the alleged default as he/she deems appropriate under the circumstances and it is not implemented within the deadline set forth therein, the thirty (30) day advance written notice and remedy provisions set forth in subsection C of this Article shall apply. If the City Manager declines to make a written decision regarding the dispute, he/she shall advise both parties in writing and the thirty (30) day advance written notice and remedy provisions set forth in Subsection C below shall apply.

C. Notice of Default; Rights and Remedies Cumulative. If either party fails to perform any material covenant, undertaking or term hereunder, or if the parties' representations set forth herein are materially untrue or incorrect, then the party alleging default or breach shall give written notice, in which event the party alleged to be in default/breach shall have thirty (30) days to cure or resolve same. If such default or breach is not cured or otherwise resolved within the thirty (30) day cure period, the party not in default may institute such proceedings as may be necessary in its opinion, to cure and remedy such default or breach, including, but not limited to, the informal dispute resolution process set forth above, termination of this Agreement, proceedings to compel specific performance and for damages for breach of contract, and any other remedies provided by law, equity or hereunder.

Both parties' rights and obligations, whether provided by law, equity or hereunder, shall be cumulative and the exercise by either party of any one of more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or any of its remedies for any other default or breach at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach.

D. Jurisdiction, Venue and Waiver of Trial by Jury. This Agreement shall be governed by the laws of the State of Florida, both as to interpretation and performance. City and Contractor agree to submit to the jurisdiction of state and federal courts located in Florida. In the event of a dispute as to the interpretation or application of or an alleged breach or default, the parties agree that proper venue for any suit at law or in equity attendant to this Agreement shall be instituted and maintained only in courts of competent jurisdiction in Broward County, Florida, and that such dispute shall be heard by a judge, not a jury. In addition, both parties agree that nothing in this Article or otherwise shall preclude them from agreeing to submit to non-binding mediation or arbitration.

## **ARTICLE 10**

### **OWNERSHIP OF DOCUMENTATION AND INFORMATION**

All information, data, reports, plans or procedures developed, prepared, assembled or compiled by Contractor, whether complete or unfinished, shall be co-owned by both parties without restriction, reservation or limitation of their use and made available at any time and at no cost to City upon reasonable written request for its use and/or distribution as City deems appropriate provided City has compensated Contractor for said Work product.

City's re-use of Contractor's Work product shall be at its sole discretion and risk if done without Contractor's written permission. Upon completion of all Work contemplated hereunder or termination of this Agreement, copies of all of the above data shall be promptly delivered to the City's Contract Administrator upon written request.

## **ARTICLE 11 EXPIRATION AND TERMINATION**

A. General. City shall have the right to terminate this Agreement, in whole or in part, for convenience, cause, default or negligence on Contractor's part, upon thirty (30) days advance written notice to Contractor. Such Notice of Termination may include City's proposed Transition Plan and accompanying timeline for terminating the Work, requests for certain Work product documents and materials, and other provisions regarding winding down concerns and activities.

If there is any material breach or default in Contractor's performance of any covenant or obligation hereunder, which has not been remedied within thirty (30) calendar days after City's written Notice of Termination, City, in its sole discretion, may terminate this Agreement immediately. In such case, Contractor shall not be entitled to receive further payment for services rendered from the effective date of the Notice of Termination.

In the event of termination, City shall compensate Contractor for all authorized Work satisfactorily performed through the termination date under the payment terms set forth in Article 7 above and all Work product documents and materials shall be delivered to City within ten (10) calendar days from the Notice of Termination. If any Work or service hereunder is in progress but not completed as of the date of the termination, then upon City's written approval, this Agreement may be extended until said Work is completed and accepted by City.

B. Survival of Obligations. Upon expiration or termination of this Agreement, City shall assume all Contractor's obligations for Events or programming booked in the ordinary course of business scheduled to occur after such expiration or termination date provided, however, that Contractor shall not book any Events or programming beyond expiration of the term without City's prior written consent. If City elects to terminate contracts related to such Events or programming, City shall bear all costs, fees and penalties associated with such termination. The rights of termination identified in this Article are in addition to any other rights and remedies that either party may have.

C. Termination for Cause. This Agreement may be terminated by either party upon thirty (30) days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. Should it be necessary, in City's sole discretion, to protect the public health, safety, or welfare, verbal notice of this Agreement's termination may be provided to Contractor and thereafter promptly confirmed in writing.

In addition, City shall have the right to immediately terminate this Agreement and all its obligations hereunder (i) if Contractor is adjudicated as bankrupt by the United States District

Court or through any legal proceeding of any kind; (ii) if a receiver is appointed to take possession of Contractor's assets; (iii) if Contractor loses any licenses or permits required to perform the Work hereunder.

## **ARTICLE 12 FORCE MAJEURE**

A. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, war, civil disorder, sabotage, accident, flood, acts of God or by any reason of any other matter or condition beyond the control of either party which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall economic hardship or lack of funds be considered an event of force majeure.

B. If either party is unable to perform or delayed in their performance of any obligations hereunder by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for either party to correct the adverse effect of such event of force majeure.

C. In order to be entitled to the benefit of this provision, within five (5) days after the beginning of any such delay, a party claiming an event of force majeure shall have given the other party written notice of the cause(s) thereof, requested an extension for the period and also diligently proceeded to correct the adverse effect of any force majeure. The parties agree that, as to this subsection, time is of the essence.

## **ARTICLE 13 INSURANCE**

A. Contractor shall provide, pay for and maintain in force at all times during the term of this Agreement, such insurance with minimum coverage amounts acceptable to the City as set forth in Exhibit 11. Such policy or policies shall be issued by United States Treasury approved companies authorized to do business in the State of Florida that have agents upon whom service of process may be made in the State of Florida. The policies of insurance shall be primary and written on forms acceptable to the City's Risk Manager and meet a minimum financial A.M. Best and Company rating of no less than Excellent. Said insurance policies shall specify that they are issued on an "occurrence" basis and name City as an additional insured. No changes may be made to these specifications without prior written approval of the City's Risk Manager.

B. Contractor shall submit the certification or proof of insurance of all policies required hereunder for review to the City's Risk Manager and shall not commence Work under this Agreement until the City's Risk Manager has provided his written approval that said coverage(s) is acceptable.

In the event this Agreement is extended for an additional term, Contractor shall be required to submit annual renewal certificates of insurance. In addition, the City's Risk Manager

reserves the right at any time to review coverage, form and amount of insurance and also require a certified copy of such policies upon written request.

C. Contractor shall be solely responsible for insuring all stock, inventory or other items placed at the Property against damage or loss of any nature or kind, and expressly acknowledges and agrees that City assumes no responsibility whatsoever for any items placed at the Property. With the exception of damages or loss suffered as a result of City's sole negligence, City is hereby expressly released and discharged from any and all liability for any loss, injury or damage to persons or property, which may be sustained by reason of the Contractor's presence and occupancy at the Property.

D. Contractor shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Contract and shall be solely responsible for payment of all deductibles to which such policies are subject, whether or not the City is an insured under the policy.

E. No change(s) to the coverage(s) required under this Agreement shall be made without prior written approval of the City's Risk Manager. All endorsements and certificates shall state that prior to expiration or cancellation of any and all policies required hereunder, the City's Risk Manager shall be given thirty (30) days written notice by certified mail, return receipt requested to 100 West Atlantic Boulevard, Pompano Beach, Florida 33060.

F. Notice of Accident (occurrence) and Notice of Claims associated with services provided hereunder shall be provided to the Contractor's insurance company and the City's Risk Manager as soon as practical after notice to the Contractor.

#### **ARTICLE 14 INDEMNIFICATION**

A. Contractor shall at all times indemnify, hold harmless and defend the City, its Mayor and Commissioners, employees and other agents from and against any and all claims, demands, suit, damages, attorneys' fees, fines, penalties, defense costs or liabilities arising as a direct result of Contractor's officers, employees, agents, volunteers or contractors or other agents' negligence or misconduct under this Agreement. Contractor agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all other costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by Contractor for any causes of action Contractor has or may have for breaches or defaults by the City under this Agreement.

B. Contractor acknowledges and agrees that City would not enter into this Agreement without this indemnification of City by Contractor. The parties agree that one percent (1%) of the total compensation paid to Contractor hereunder shall constitute specific consideration to Contractor for the indemnification provided under this Article. These provisions shall survive expiration or early termination of this Agreement.

C. For Professional Liability claims, Contractor agrees this indemnification and hold harmless subsection shall survive the termination or expiration of this Agreement for a period of four (4) years, unless sooner terminated by the applicable statute of limitations. For General Liability claims, Contractor agrees this indemnification and hold harmless subsection shall survive the termination or expiration of this Agreement for a period of two (2) years, unless sooner terminated by the applicable statute of limitations.

## **ARTICLE 15 NO DISCRIMINATION, AMERICAN WITH DISABILITIES ACT AND EQUAL EMPLOYMENT**

A. No Discrimination. In the performance of this Agreement, Contractor and its subcontractors shall not discriminate against any vendor, concessionaire, employee, patron, visitor, attendee or customer because of race, age, color, religion, sex, gender identity or expression, national origin, age, disability, familial status, marital status or sexual orientation, political affiliation or any other factor which cannot lawfully or appropriately be used as basis for service delivery.

B. American with Disabilities Act ("ADA"). Contractor shall affirmatively comply with all applicable provisions of the ADA, including Titles I and II regarding nondiscrimination on the basis of disability and all applicable regulations, guidelines, and standards. Contractor shall also comply with Title I of the ADA regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. A copy of Contractor's written policies and procedures for compliance with accessibility requirements set forth in the ADA is attached hereto and made a part hereof as Exhibit 12.

## **ARTICLE 16 NON-ASSIGNABILITY AND SUBCONTRACTING**

A. Non-Assignability. This Agreement is not assignable and Contractor agrees it shall not sell, assign, transfer, merge or otherwise convey any of its interests, rights or obligations under this Agreement, in whole or in part, to any other person, corporation or entity without the formal written approval of the City Commission of Pompano Beach.

Any attempt by Contractor to assign or transfer any of its rights or obligations hereunder without first obtaining the aforesaid formal City approval shall not be binding on City and, at City's sole discretion, may result in City's immediate termination of this Agreement whereby City shall be released of any of its obligations hereunder.

This Agreement and the rights and obligations herein shall not be assignable or transferable by any process or proceeding in court, or by judgment, execution, proceedings in insolvency, bankruptcy or receivership. In the event of Contractor's insolvency or bankruptcy, City may, at its option, terminate and cancel this Agreement without any notice of any kind

whatsoever, in which event all rights of Contractor hereunder shall immediately cease and terminate.

B. Subcontracting and Vendors. Prior to subcontracting for Work to be performed on a consistent basis, Contractor shall be required to obtain the written approval of the City's Contract Administrator. If the City's Contract Administrator, in his/her sole discretion, objects to the proposed subcontractor or vendor, Contractor shall be prohibited from allowing that subcontractor or vendor to provide any Work.

Contractor shall not be required to obtain the prior written approval of the City's Contract Administrator on any subcontracts to provide Work on a single occasion or with vendors although City reserves the right to reject Contractor's proposed selection of said subcontractor or vendor and Contractor shall be prohibited from allowing that person or entity to provide any Work hereunder.

Toward this end, although Contractor may subcontract Work in accordance with this Article, Contractor nevertheless remains responsible for any and all attendant obligations hereunder. Contractor shall be responsible to ensure that none of its proposed subcontractors or vendors are listed on the *Convicted Vendors List* referenced in Article 30 herein.

C. Nothing herein shall be construed to create any personal liability on the part of City, its agents, officers or employees nor shall it be construed as granting any rights or benefits hereunder to anyone other than City and Contractor.

## **ARTICLE 17**

### **PERFORMANCE UNDER LAW AND AUTHORITY TO ENGAGE IN BUSINESS**

Contractor, in the performance of Work hereunder, shall be responsible to ascertain and comply with all applicable local, state and/or federal laws and ordinances as exist now or as may subsequently be enacted during the term of this Agreement, including, but not limited to, standards of licensing, permitting, annual filings, copyright law, conduct of business and other matters and ignorance on Contractor's part shall in no way relieve Contractor from this important responsibility.

City reserves the right to request in writing and receive within three (3) business days thereafter, copies of all documentation required under this Article.

## **ARTICLE 18**

### **STAFFING, BACKGROUND CHECKS AND DRUG FREE WORKPLACE**

A. Contractor shall employ qualified personnel whose work history includes successful employment in their respective position of hire and also ensure all employees and agents working at the Property maintain a neat and orderly personal appearance in keeping with the City's image. Contractor shall provide, and City does hereby approve, Contractor's employees identified in Exhibit 13 to perform the Work required hereunder.



Subject to the provisions of this Article and with the exception of the Contractor's Contract Administrator, Contractor, in its sole discretion, shall be entitled to replace any of the aforesaid employees without City's approval. Contractor's decision to replace its designated Contract Administrator requires modification of this Agreement, which shall require formal approval by the City Commission of Pompano Beach.

Contractor shall also train its employees in procedures appropriate for all Work required hereunder and be responsible to ensure that its employees and other agents are suitable to provide services in a municipal facility in terms of public relations, general character, knowledge and professional ability. Except as set forth in this Article, Contractor is responsible for hiring and managing its own employees, all of whom shall be a minimum of eighteen (18) years old, under Contractor's exclusive direction and control and not deemed agents or employees of the City.

B. Contractor shall be solely responsible for compensating its employees, representatives and other agents and complying with all federal, state and local laws, ordinances and regulations pertaining to employment of such persons including but not limited to, provision of worker's compensation insurance and any other benefits required by law.

C. Contractor shall provide sufficient background information to City should City, in its sole discretion and at its sole cost, desire to perform a background check on any subcontractor, vendor or other agent of Contractor hereunder. City, at its sole discretion, reserves the right to refuse to permit an employee of Contractor, or any of its contractors, subcontractors, volunteers, substitutes, or other agents to provide Work under this Agreement.

D. No employee, contractor, subcontractor, volunteer, substitute, or other agents shall provide services to children under the age of 18 unless City, at its sole cost, has performed mandatory screening in accordance with its *Youth Programs Background Screening Policy* attached as Exhibit 14 and the City's Contract Administrator has provided written authorization for that person to serve in this capacity.

E. Prior to any of Contractor's employees commencing Work hereunder, Contractor shall provide a completed application for employment, job title and description for each employee to the City's Contract Administrator who, at City's sole cost, shall conduct a background check and timely advise in writing whether that person is authorized to serve in such capacity.

F. A copy of Contractor's written policies and procedures along with any other documentation which evidences that Contractor operates a "Drug Free Workplace" in compliance with § 287.087, Florida Statutes, is attached as Exhibit 15.

## **ARTICLE 19 INDEPENDENT CONTRACTOR**

A. It is expressly understood between the parties that Contractor's relationship to City hereunder is that of an independent contractor and that this Agreement shall not constitute or make the parties a partnership or joint venture. Contractor shall have no authority to employ any person as an employee or agent on behalf of City for any purpose.

B. Neither Contractor nor any person engaging in any Work hereunder be deemed an employee or agent of City nor shall they represent themselves to others as an employee or agent of City. Should any person indicate by written or verbal communication that they believe Contractor and/or any of its employees or agents are employees or agents of the City, Contractor shall use its best efforts to correct or cause its employee or agent to correct said mistaken belief.

C. Contractor shall be deemed an independent contractor for all purposes, and the employees of the Contractor or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be employees of the City. As such, employees of the Contractor, its contractors or subcontractors, shall not be subject to any withholding for tax, Social Security or other purposes by the City, nor shall such contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation or the like from the City.

## **ARTICLE 20 MUTUAL COOPERATION**

Contractor recognizes that its performance under this Agreement is essential to successful programming, management and marketing of the Property and, as such, Contractor shall be required to maintain a cooperative and good faith attitude in all relations with City and shall actively foster a public image of mutual benefit to both parties. Contractor shall not make any statements or take any actions detrimental to this effort.

## **ARTICLE 21 WAIVER AND MODIFICATION**

A. No waiver made by either party with respect to the performance, manner, time, or any obligation of either party or any condition under this Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition beyond those expressly waived in writing or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

B. No Waiver by Delay. The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Agreement provided that any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights hereunder shall not operate as a waiver of such rights or limit them in any way. The intent of this provision is the City shall not be constrained to exercise such remedy at a time when it may still hope to otherwise resolve the problems created by the default

or risk being deprived of or limited in the exercise of the remedies provided in this Article because of concepts of waiver, laches, or otherwise. Further, nor shall any waiver in fact made by the City with respect to any specific default by Contractor be considered a waiver of the City's rights with respect to any other defaults by Contractor or with respect to the particular default.

C. Either party may request changes to modify certain provisions of this Agreement; however, unless otherwise provided for herein, any such changes must be contained in a written amendment executed by both parties with the same formality of this Agreement.

## **ARTICLE 22**

### **ABSENCE OF CONFLICT OF INTERESTS**

A. Contractor certifies that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with its performance hereunder. Contractor further represents that no person having any interest shall be employed or engaged by it for said performance.

B. Contractor shall promptly notify City in writing of all potential conflicts of interest for any prospective business association, interest or other circumstance that may influence or appear to influence Contractor's judgment or quality of Work being provided hereunder. Said notification shall identify the prospective business interest or circumstance and the nature of work that Contractor intends to undertake and shall request the City's opinion as to whether such association, interest or circumstance would, in the opinion of City, constitute a conflict of interest if entered into by Contractor.

## **ARTICLE 23**

### **HEADINGS**

The headings or titles of the Articles or subsections hereunder shall have no effect upon the construction or interpretation of any part of this Agreement.

## **ARTICLE 24**

### **SEVERABILITY**

Should any provision of this Agreement or the applications of such provisions be rendered or declared invalid by court action or reason of any existing or subsequently enacted legislation, the remaining provisions of this Agreement shall remain in full force and effect.

## **ARTICLE 25**

### **BINDING EFFECT**

The benefits and obligations imposed pursuant to this Agreement shall be binding and enforceable by and against both parties.

**ARTICLE 26**  
**ATTORNEYS' FEES AND COSTS**

In the event of any litigation involving the terms and conditions of this Agreement, it is understood and agreed that the prevailing party in such litigation shall be entitled to recover from the non-prevailing party reasonable attorney and paraprofessional fees as well as all out-of-pocket costs and expenses incurred thereby by the prevailing party in such litigation through all appellate levels.

**ARTICLE 27**  
**NO THIRD PARTY BENEFICIARIES**

Contractor and City acknowledge and agree that this Agreement and other contracts and agreements pertaining to Contractor's performance hereunder shall not create any obligation on the part of Contractor or City to third parties. No person not a party to this Agreement shall be a third-party beneficiary or acquire any rights hereunder.

**ARTICLE 28**  
**APPROVALS**

Whenever City approval is required for any action under this Agreement, either by the City Commission, City Manager or the City's Contract Administrator, said approvals shall not be unreasonably withheld. Provided the City does not incur any cost or liability for doing so, City shall cooperate with Contractor and timely execute any documents necessary to Contractor's performance of the Work hereunder.

**ARTICLE 29**  
**SOVEREIGN IMMUNITY**

Nothing in this Agreement shall be construed to waive or affect in any way the City's rights, privileges, and immunities as set forth in Section 768.28, Florida Statutes.

**ARTICLE 30**  
**PUBLIC ENTITY CRIMES ACT**

As of the full execution of this Agreement, Contractor certifies that in accordance with § 287.133, Florida Statutes, it is not on the *Convicted Vendors List* maintained by the State of Florida, Department of General Services. Should Contractor subsequently be listed on the *Convicted Vendors List* during the term of this Agreement, Contractor agrees it shall immediately provide City written notice of such designation in accordance with Article 8 herein.

**ARTICLE 31**  
**NO CONTINGENT FEE**

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, 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 for Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

In the event of Contractor's breach or violation of this provision, City shall have the right to terminate this Agreement without liability and, at City's sole discretion, to deduct from the Price Formula set forth in Article 7A. or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

## **ARTICLE 32 AUTHORITY OF CONTRACTOR**

By execution of this Agreement, Contractor does hereby certify to the City that the officer executing this Agreement has been duly authorized by proper resolution(s) of the Board of Directors to enter into, execute and deliver this Agreement and all other documents, certificates, agreements, consents and receipts, and to take any and all other actions of any kind whatsoever in order to accomplish the purposes and undertakings of this Agreement.

## **ARTICLE 33 ENTIRE AGREEMENT AND INTERPRETATION**

A. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and both parties agree there are no commitments, agreements or understandings concerning the subject matter herein that are not contained in this Agreement. Accordingly, both parties agree no deviation from the terms herein shall be predicated upon any prior representations or agreements, whether oral or written.

B. Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Contract, both City and Contractor and their respective counsel have had equal opportunity to contribute to and have contributed to its contents. This Contract shall be interpreted as drafted by both parties hereto equally and shall not be deemed to be the product of and, therefore, construed against either party.

C. Both parties agree the omission of a term or provision contained in an earlier draft of this Contract shall have no evidentiary significance regarding the contractual intent of the parties.

***\*\*\* Remainder of page intentionally left blank \*\*\****

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

**"CITY"**

Witnesses:

**CITY OF POMPANO BEACH**

Betty J. Thomas

By: [Signature]  
LAMAR FISHER, MAYOR

Shelley R. Bartholomew

By: [Signature]  
DENNIS W. BEACH, CITY MANAGER

Attest:

[Signature]  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

[Signature]  
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of September, 2015 by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

[Signature]  
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron  
(Name of Acknowledger Typed, Printed or Stamped)



Commission Number

**"CONTRACTOR"**

**CREATIVE CITY COLLABORATIVE OF  
POMPAÑO BEACH, INC.**

Witnesses:

[Signature]

SCOTT R. MOORE

Print Name

[Signature]

Denise Engstrom

Print Name

By: [Signature]

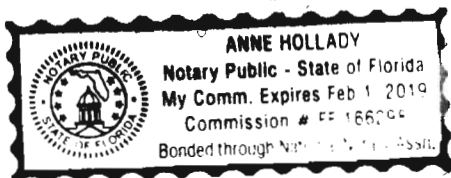
Print Name: AYONA USHE

Title: President & CEO

STATE OF FLORIDA  
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 16 day of Sept., 2015, by Alyona Ushe as President / CEO of Creative City Collaborative of Pompano Beach, Inc., a Florida not for profit corporation on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:



Anne Hollady  
NOTARY PUBLIC, STATE OF FLORIDA

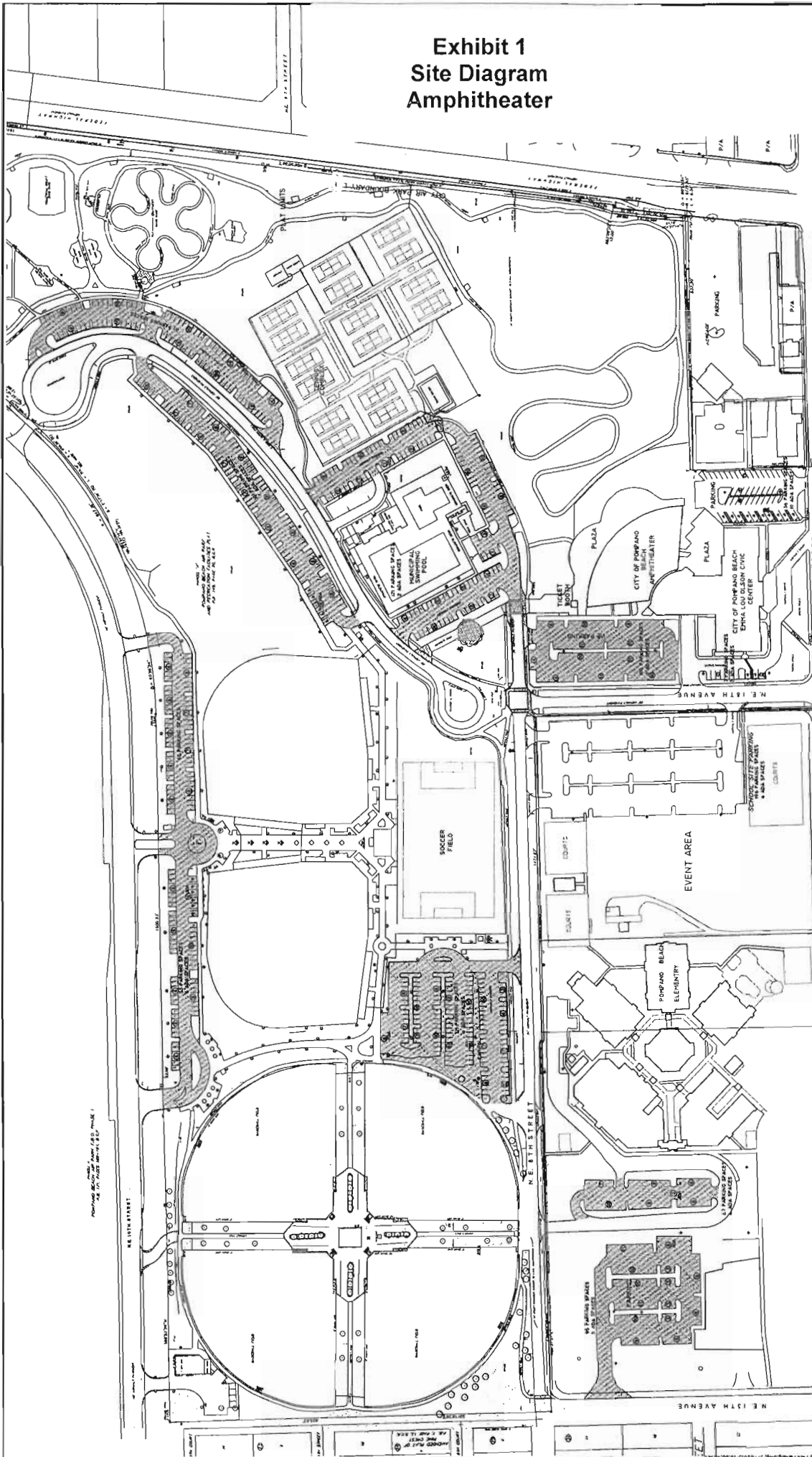
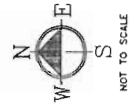
Anne Hollady  
(Name of Acknowledger Typed, Printed or Stamped)

FF 166298  
Commission Number

:jrm  
9/16/15  
L/agr/recr/2015-1616f



# Exhibit 1 Site Diagram Amphitheater





## Exhibit 2



**SOUTH PARKING AREA REVISED**

BITE ZONING INFORMATION	
1. SITE IS ZONED "B-3" GENERAL BUSINESS	
2. FOR ZONING AGENDAS SEE PLEASE SEE EXHIBIT SITE PLANS, SUMMARY OF AGENDAS ZONING AS PER BILLING	
A. SITES TO NORTH (ACROSS ATLANTIC BLVD) = "B-3" GENERAL BUSINESS WITH HISTORIC DISTRICT TRAVELATION OVERLAY	
B. SITES TO WEST (ACROSS SW 1ST AVENUE) = "T-1" COMMUNITY FACILITIES	
C. SITES TO SOUTH (ACROSS SW 2ND STREET) = "T-3" WALD HILLS FAMILY RESIDENTIAL	
D. SITES TO EAST (ACROSS CHERRY ROAD) = "T-3" WALD HILLS FAMILY RESIDENTIAL	
E. SITE TO SOUTHWEST (ACROSS IN SW 1ST TOWNSHIP AND SW 1ST CORNER) = "B-3" GENERAL BUSINESS	

SITE CALCULATIONS	
2. TOTAL NET INCREASE	198,549 SF = 4.56 ACRES
3. TOTAL GROSS SQUARE FOOTAGE FOR ALL BUILDINGS	47,816 CSF
3. TOTAL GROSS SQUARE FOOTAGE FOR: LIBRARY USE CULTURAL CENTER USE	25,536 CSF 21,980 CSF
4. TOTAL GROSS SQUARE FOOTAGE FOR: MAIN BUILDING CHILDREN BUILDING	47,254 CSF 560 CSF
5. TOTAL GROSS SQUARE FOOTAGE FOR: GROUND FLOOR SECOND FLOOR	24,688 CSF 13,128 CSF
6. SQUARE FOOTAGE OF NONVEHICULAR USE AREAS (TOTAL AND PERCENTAGE OF INTERIOR LANDSCAPING (TOTAL)	50,896 SF MAX (15.7% INTERIOR LANDSCAPING)
7. TOTAL SQUARE FOOT OF PERCENTAGE AND IMPERVIOUS AREA WITH PERCENTAGE OF TOTAL	198,549 SF TOTAL 142,524 SF OF TOTAL IMPERVIOUS AREA 37,049 SF TOTAL PAVEMENT AREA TOTAL SITE 58,687 SQUARE FEET
8. WATER & SEWER FLOW CALCULATIONS	WATER FLOW CALCULATIONS: 30 GALLONS/DAY X 47,816 CSF = 563,090 GALLONS SEWER FLOW CALCULATIONS: 20 GALLONS/DAY X 47,816 CSF = 374,528 GALLONS

<b>PARKING CALCULATOR</b> <small>AS PER CITY OF POMPANO BEACH ORDINANCE 8 &amp; RC 2610 ACCESSIBILITY</small>		<b>PARKING CALCULATIONS ADDED</b>
<b>WHOLE PARKING REQUIREMENTS</b>		
REQUIRED	PROVIDED	
<b>1. PUBLIC BUILDINGS:</b> 1 SPACE FOR 500 SQ. FT. OF BUILDING AREA 12 EMPLOYEES / 500 - 14 SPACES 1 SPACE FOR EACH 2 FULL TIME EMPLOYEES (12 EMPLOYEES / 2 = 6 SPACES)	<b>102 PARKING SPACES</b>  <b>CALCULATIONS:</b> 1 PARKING AREA 1 (PROMISED) 48 SPACES INCLUDING 3 ON SH 1ST COURT 2 PARKING AREA 2 (SHUTTLE) 10 SPACES 3 PARKING AREA 3 (DECKING) 16 SPACES 4 PUBLIC PARALLEL PARKING: SH 1ST AVENUE = 14 SH 2ND STREET = 8 SH 1ST TOWER = 8 <b>TOTAL = 142 PARKING SPACES</b>	
<b>2. ACCESSIBILITY:</b> MINIMUM NUMBER OF ACCESSIBLE SPACES 75 TO 250 = 1 250 TO 500 = 2 501 TO 750 = 3 750 TO 1000 = 4 1001 TO 1500 = 5	4 MC SPACES IN PWD AREA 1 1 MC SPACE IN PWD AREA 2 1 MC SPACE IN PWD AREA 3  4 MC SPACES IN PWD AREA 1 1 MC SPACE IN PWD AREA 2 1 MC SPACE IN PWD AREA 3	
<b>TOTAL PARKING PROVIDED:</b> PWD AREA 1 = 140 PWD AREA 2 = 12 PWD AREA 3 = 10		

**LEGAL DESCRIPTION**

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,  
PC 11, AND 22 OF BLOCK 38 OF SUTANAH UNIT 2 (PM 10, PC 45, BQ3)  
AND  
LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10 OF BLOCK 28 (RENUMBERED OF  
BLOCK 38 OF SUTANAH UNIT 2 (PM 21, PC 26, BQ3)  
AND  
ACU REMOVED BY ORDINANCE 2007-43 AS RECORDED IN OPI 40652  
PC 127, BQ4

Pompano Beach  
Fire Plan Review  
BP14-00006171  
4/28/2015

 **OVERALL SITE PLAN**  
SCALE: 1"=50'-0"



**pompano  
beach**



**BROWARD**  
COUNTY  
FLORIDA

ARCHITECT BY PROCORD  
**SILVA ARCHITECTS**  
135 SAN LORENZO AVE. SUITE 800  
CORAL GABLES, FL 33144  
305-444-8762 (F) 305-444-3770 (Fax)

MPdL STUDIO  
112 SHAWMUT AVE SUITE 4B  
BOSTON, MA 02118  
617-426-0995

**FLYNN ENGINEERING  
SERVICES**  
261 COMMERCIAL BOULEVARD  
LAUDERDALE-BY-THE-SEA, FL 33309  
954-372-1006

STRUCTURAL CHANGES  
**LAKDAS/YOHALEM**  
2211 NE 54 STREET  
FT. LAUDERDALE, FL 33308  
954-771-0630

ALPHABETIC, TYPE PROTECTION, & ELECTRONIC, PAPER & 3  
PROJECT CAINE  
1948 EAST SURPRISE BLVD SUITE 1  
FT. LAUDERDALE, FL 33304  
754-767-8884

**FRAGA ENGINEERS**  
139 SAN LORENZO AVE SUITE 270  
CORAL GABLES, FL 33144  
305-444-8210

**COEN+PARTNERS**  
400 1ST AVE NORTH SUITE 210  
MINNEAPOLIS, MN 55481  
612-341-8070  
LAWYERS ARCHITECTS & ENGINEERS

**CURTIS + ROGERS  
DESIGN STUDIO**  
3440 HOLLYWOOD BLVD SUITE 418  
HOLLYWOOD, FL 33021  
954-241-4213

[illegible]

Digitally signed by

**Roland  
o Silva**

CH 108

SITE PLAN

\_\_\_\_\_

Signature	DATE
	SEPT. 17, 201

PERMIT SE

SUBMITTA

total (1) 04, 000, 000

A-1.00

**Exhibit 3**  
**Certificate of Resolution**  
**And Incumbency**

CERTIFICATE OF RESOLUTION AND INCUMBENCY

STATE OF Florida

COUNTY OF Broward

I, ALYONA USHE, do certify that I am an authorized member of Creative City Collaborative of Pompano Beach, Inc., (the "Company"), a Florida not for profit corporation, and further certify that the following resolutions were validly and unanimously adopted:

RESOLVED, that the Company is hereby authorized to take any action it deems necessary or desirable to enter into, and perform under, its PROFESSIONAL SERVICE AND LICENSE AGREEMENT with the City of Pompano Beach (and the Company does hereby approve of same) to provide cultural arts programming, management and marketing of its Property in a way and manner that best serves the interest and needs of the public.

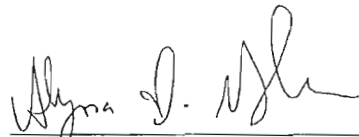
RESOLVED FURTHER, that the aforesaid authorized member acting with or without attestation is hereby authorized to execute any and all instruments necessary in connection with the aforesaid services, all upon such terms and conditions as such authorized member deems advantageous to the Company.

I do further certify that the foregoing resolutions were validly adopted, are within the powers of the Authorized Members of the Company, do not require shareholder action or approval, have not been repealed, rescinded, modified or amended, in whole or in part, and are now in full force and effect.

I do further certify that each of the persons named below, as of the date hereof, is the duly elected and qualified incumbent in the office of the Company set forth opposite his/her name.

Name:	Title:
Creative City Collaborative of Pompano Beach, Inc.	Authorized Member
Alyona Aleksandra Ushe	President & CEO

This Certificate is given under seal as of this 15 day of September, 2015.



ALYONA USHE, Authorized Member  
Creative City Collaborative of Pompano Beach, Inc.

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15 day of September, 2015, by ALYONA USHE, an authorized member of Creative City Collaborative of Pompano Beach, Inc., as an authorized member of LS Events LLC on behalf of the latter limited liability company, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:



  
NOTARY PUBLIC, STATE OF FLORIDA

Michelle Mary Gabriel  
(Name of Acknowledger Typed, Printed or Stamped)

FF134004  
Commission Number

## EXHIBIT 4 SCOPE OF WORK

1. With regard to the Amphitheater depicted in Exhibit 1, Contractor shall provide a minimum of (i) fourteen (14) Events to include, but not be limited to concerts, headline acts or other programming with a goal of 25,000 annual attendees and (ii) two (2) open air festivals to take place inside and around its grounds with a goal of 4,000 annual attendees as verified by ticketing sales report / clicker count for each such Event. If the stated goals are not achieved, Contractor and the City's Contract Administrator shall review conditions and factors that resulted in such deficiency and, if deemed appropriate by the parties, develop a mutually agreeable action plan to achieve the stated goals for future Events.

For the initial term of this Agreement, Contractor agrees to collect for the Foundation, a \$3 surcharge for each ticket sold over \$25 for a total minimum donation goal of \$67,000. If the above referenced goals are not achieved, Contractor and the City's Contract Administrator shall review conditions and factors that resulted in such deficiency and, if deemed appropriate by the parties, develop a mutually agreeable action plan to achieve the stated goals for future Events.

2. The Cultural Arts Center depicted in Exhibit 2 is under construction as of the execution of this Agreement. To facilitate Contractor's development of appropriate programming, management and marketing strategies so that Events and performances can commence on or about the date a Certificate of Occupancy issues for said facility, City shall provide Contractor a written Notice to Proceed a minimum of ninety (90) days prior to the Center's physical availability.

In the interim, however, Contractor shall submit a quarterly report to the City's Contract Administrator that provides a programming update along with proposed Work strategies and budgetary projections. In addition, both parties shall cooperatively endeavor to develop basic policies and operating procedures for the Center to ensure its efficient initial and continuing operation. Contractor shall provide written Policies and Procedures for its operation to the City's Contract Administrator prior to the Certificate of Occupancy for formal consideration and approval.

3. Contractor shall provide the City's Contract Administrator a Quarterly Activity Report detailing its Work for the Property.

4. Contractor shall attend bi-weekly meetings with staff from the City's Parks and Recreation Department to ensure effective communications regarding the Work and that it is performed expeditiously and in the best possible way and manner.

5. Notification to Surrounding Residences and Businesses. A minimum of four (4) weeks prior to set up of any Event Contractor organizes on the outside grounds of the Amphitheater, Contractor shall be required to provide all residences and businesses located within one half mile, written notice of the dates, times and location of said event, including all associated road closures, and provide copies of such notices to the City's Contract Administrator.

6. Maintenance of Traffic Plan ("MOT Plan"). Not less than forty five (45) days prior to the set-up of any Event activities that take place outside of the Amphitheatre or the Cultural Arts Center, Contractor shall provide City a preliminary construction and traffic flow schedule which includes detailed information regarding opening and closing times for all streets or lanes and the use of variable message signs. Contractor shall provide a final MOT Plan for the City's review and written approval no less than thirty (30) days prior to the event.

7. "Tear-Down" and Clean-Up. Contractor shall be responsible for personnel and equipment necessary for clean-up at the Property prior to and upon completion of all events. Clean-up shall include, but not limited to, removal of all debris, equipment, staging, tables, chairs and any other concert or event-related equipment. In all cases, clean-up from an event shall be complete within 24 hours after completion of the event.

If the clean-up is not completed within twenty-four (24) hours after event completion, City shall perform the clean-up and then bill Contractor the actual cost of clean-up (wages of City employees utilized times hours required to complete clean-up in addition to any other expenses) which shall be paid within thirty (30) days from the date of City's invoice for same. Further, Contractor is required to have a supervisor present during all "tear-down" and clean-up operations.

8. Provision of Necessary Personnel, Equipment and Security. Contractor shall provide all personnel and equipment needed to provide the Work required hereunder in an efficient and safe manner as directed by the Public Event Application.

9. Contractor shall develop a programming mission and vision schedule for both the Amphitheater and the Cultural Arts Center and provide same for comment to the City's Contract Administrator by November 1, 2015.

10. Contractor shall maintain an office in the City of Pompano Beach and staff same for a minimum of at least 40 hours per week according to a published schedule to ensure Contractor's ongoing and consistent availability to provide the Work required by this Agreement.

11. As required by the City, Contractor shall provide a complete Public Event Application, Site Plan and proof of insurance for review and approval to the City's Contract Administrator a minimum of forty-five (45) days prior to said Event or mutually agreed upon time frame.

12. To ensure public safety and to keep the facilities on the Property in good, safe working condition, Contractor shall immediately provide the City's Contract Administrator written notice of any and all hazardous conditions and/or repairs or maintenance necessary on the Property.

13. Contractor shall provide the City's Contract Administrator written notice of any accidents or incidents occurring at the Property in which damage to property or injury to a person occurs within 24 hours of said accident or incident and cooperate fully with City in any investigation of same.

14. Contractor shall provide management and programming services hereunder consistent with City policies which require Contractor to perform its obligations under this Agreement in a professional manner at all times, including developing and adhering to written protocols to ensure public resources are properly tracked and appropriated. Contractor agrees to follow the policies and directives of City staff but in the absence thereof, Contractor shall exercise its reasonable judgment in discharging duties hereunder.

# Exhibit 5

## Creative City Collaborative, Inc. DBA Pompano Beach Arts

## Timeline for Scope of Work

Pompano Beach Amphitheater (The Amp)  
Pompano Beach Cultural Art Center (The C)  
Pompano Beach Foundation

The Amp & The C

On going

Planning  
Stage

Pompano Beach Arts: The Amp		FY 16			
Programming: FY 16	Responsibilities	Q1	Q2	Q3	Q4
Headline Acts (14)	P/CEO & DPO				
Festivals (2)	P/CEO & DPO				
Rentals (2)	P/CEO & DPO				
New Initiatives/Partnerships	P/CEO & DPO				
Programming FY 17					
Headline Acts (16)	P/CEO & DPO				
Festivals (3)	P/CEO & DPO				
Rentals (3)	P/CEO & DPO				
New Initiatives/Community Partnerships	P/CEO & DPO				
Industry Conferences					
PAE	P/CEO, DPO, C/P				
APAP	P/CEO, DPO, C/P				
Pompano Beach Arts: The C (Cultural Center)					
Administration					
Cultural Center Policies and Procedures					
Operations Manual	P/CEO				
Employee Handbook	P/CEO				
Rental Policy	P/CEO				
Vendor & Beverage Policies & Procedures	P/CEO				
Food & Service Plan	P/CEO				
Maintenance Plan	P/CEO				
Capital Replacement Plan	P/CEO				
Ticketing System	BOM				
Cultural Center Advisory Committee	P/CEO				
Website Development					
Programming					
Resident Companies	P/CEO & P/C				
Theatre	P/CEO & P/C				
Dance	P/CEO & P/C				
Film	P/CEO & P/C				
Music	P/CEO & P/C				
Classical	P/CEO & P/C				
Jazz / Blues	P/CEO & P/C				
Country	P/CEO & P/C				
Other	P/CEO & P/C				
Educational initiatives (classes/workshops/camps)	P/CEO, P/C, ED				
Digital Media Center Program	P/CEO, P/C, ED				

<b>Pompano Beach Arts: Foundation</b>					
Policies & Procedures	P/CEO				
Create Subcommittees	P/CEO				
Executive Committee	P/CEO				
Venue Specific (The Amp/ The C)	P/CEO				
Arts & Education	P/CEO				
<b>Pompano Beach Arts: Combined Initiatives</b>					
<i>General Marketing</i>					
Implement Strategic Marketing Plan for FY 16	MD				
Social Media	MD				
Radio	MD				
Print	MD				
Street Team	MD				
Group Sales	MD				
Email Campaigns	MD				
Banners, Posters, Postcards	MD				
<i>Public Relations</i>					
Feature Stories in print press & radio	Publicist				
Artists' Interviews	Publicist				
<i>Website</i>					
PBA & City Events	SMC				
Continue to upgrade & improve	WD				
Incorporate PB arts & Culture organizations	SMC				
Develop CAC website					
<i>Development &amp; Fundraising</i>					
Sponsorship	P/CEO & DD				
Annual	P/CEO & DD				
Individual Events	P/CEO & DD				
Individual Support	P/CEO & DD				
Grants	P/CEO & DD				
County	P/CEO & DD				
State	P/CEO & DD				
Federal	P/CEO & DD				
Foundations	P/CEO & DD				
Director of Programming and Operations	DPO				
Marketing Director	MD				
Curator & Programming	C/P				
Development Director	DD				
Education Director	ED				
Social Media Coordinator	SMC				
Web Developer	WD				
Box Office Manager	BOM				



## Exhibit 6 Quarterly Activity Report



### Pompano Beach Arts Major Quarterly Activities FY 16

**October 1, 2015 – December 31, 2015**

#### **The Amp**

##### **Programming**

- Present at least two headliner concerts
- Plan festival for winter season
- Present a free concert
- Present a free festival

##### **Contracts:**

- Review all terms, conditions, and deal points of artist contracts and technical riders generated to secure the engagement(s) of artists/programs negotiated.
- Review all technical requirements for each artist/program, liaise with venue production staff, and oversee vendor-bidding process for the provisioning of appropriate sound, lighting and stage/backline equipment, if applicable.
- Address the needs of each artist/program in regards to local transportation, overnight accommodations, catering and hospitality, and terms specific to each engagement as contracted.
- Reach out to community leaders to develop and expand community outreach initiatives – bring awareness to local charities ie. The Humane Society.
- Secure food vendors, security, BSO, ushers, and volunteers for each event.

##### **Marketing**

- Implement FY 16 Season Campaign
  - Social media (ongoing)
    - Create an editorial calendar looking at the month ahead, and schedule Facebook posts for the next month at least 2 weeks in advance, highlighting 7 events/programs - one for each corresponding day of the week.
    - Include at least one visual element in each social media post - link, photo, video, etc.
    - Generate content for social media channels that engage potential followers and encourage viewer participation

- Encourage volunteer participation by promoting volunteer receptions and volunteer perks
  - Execute and maintain social media correspondence to customers, donors and sponsors
  - Engage the media through posting press, feature stories, articles and interviews with performing and exhibiting artists
  - Develop social media accounts (Facebook, Twitter, Instagram, Google +, YouTube) for new Pompano Beach Arts venues and start posting 1-2 times a week to generate excitement for the opening
  - Launch strategic paid Facebook ad campaigns for upcoming events that will drive attendance; analyze insights and results
  - Cross promote City of Pompano Beach and Pompano Beach CRA events by sharing, liking and commenting on posts featuring these events
  - Cross promote with partners (Funky Buddha Brewery, Jason Taylor Foundation, etc.) on social media channels highlighting the collaborative event
  - Highlight educational program camps, events, etc. by posting pictures of the children actively engaging in activities within our venues
  - Create FB events for marquee events through the corresponding venue channel and encourage followers to invite friends
  - “Like” and “follow” booked artists’ social media channels
  - Optimize social media channels for SEO using keywords in titles, vanity URL name, and implementation of SEO keywords in status updates
- Radio
    - Identify and secure radio advertisement appropriate for the specific headliner, festival or free event
  - Identify and secure Media Sponsor
  - Create and distribute posters, postcards and special promotions
  - Engage the media through press releases and feature stories
  - Cross Promotions with Funky Buddha, Florida Panthers and other major establishments

## **Special Initiatives**

### ***Festival of Praise Project***

- Develop winning relationships with Broward County Cultural Arts organizations, Gospel Announcers Guild, and the Gospel Heritage Foundation.
- Continue to develop PBA fundraiser plan for *Festival of Praise* Concert event.



- Organize churches, nonprofits, and civic organization participation in the fundraiser.
- Contact local churches, followed by those in the tri-county area to promote the *Festival of Praise* concert and fundraiser.
- Mail elected city officials, local school principals, community leaders, and pastors' exclusive invitation and tickets to FOP purple carpet event.
- Coordinate the Honorary VIP Host Committee.
- Confirm guest list and speaker line up at the event.
- Send thank you cards to special invited guests who attend the concert.

### ***Ely Museum Project***

- Continue Dialogue with Principal Johnson, Mrs. Gillis and other Blanche Ely board members in planning and organizing the details of the program.
- Identify board members and potential partners for the PBA foundation that will donate sponsor funds and or in kind construction opportunities.
- Work closely with Blanche Ely High school English professor to work with students to write essays.
- Identify groups such as alumni of Ely to solicit donations.
- Create a coffee table book that alumni and current students can be a part of to be displayed at the Ely House Museum.
- Organize, plan and coordinate with Blanche Ely English professor and the Jason Taylor foundation to create poetry from the essays that the students create.

### **Administration**

- Submit event application for future events
- Meet regularly with Pompano Beach Parks & Recreation staff
- Submit regular reports and financials to Pompano Beach Parks and Recreation staff

### **Fundraising Initiatives**

- Identify and meet with at least four potential sponsors and funders

### **Pompano Beach Cultural Arts Center**

#### **Operations and Administration**

- Formulate the cultural center's mission and vision
- Creating a strategic plan that addresses short and long term needs for the cultural center
- Develop policies & procedures to guide the Cultural Center's day-to-day operations for the following
  - The Gallery

- The Flex Space
  - Digital arts & Media center
- Formulate & establish guidelines for the Cultural Center's Creative Collective (the cultural groups and artists that will conduct programming through the Cultural Center and will be considered the Cultural Center's "resident" Artists and cultural groups)
- Formulate & establish guidelines for the network of creative, these will be guest speakers, presenters and teachers that will be engaged to present workshops, courses and critiques as part of the cultural center's programing.
- Outline and launch – **If these Walls Could Talk Program**
- Conduct a needs assessment by allowing creative team to test ideas, concepts and programs. This will provide strategic direction in regards to the cultural center's CORE programing.
- Identify Community Leaders and begin fostering partnerships with local businesses and industry professionals
- Formulate and initiate annual event
  - **Duende A.M.P. Fest** (in partnership with Broward Cultural Division and Broward 100) a festival dedicated to local bands dancers, performers and visual artists. To take place at the Amp.
- Acquire community buy-in by meeting with key representatives in the City of Pompano Beach.
  - Residents
  - Pastors
  - Business owners and leaders
  - Educators
  - Resident artists
  - City officials
  - Arts organizations and cultural institutions that currently operate with the city
- Community collaborations: engage visual artists in an art war competition that will be incorporated into the annual Duende A.M.P Fest.
- Initiate plans to engage visual artists to be part of a quarterly visual arts festival on the grounds of the Amp. With the intention to grow this into a monthly occurrence. FY16: projection is 4-6 Visual arts Festivals on the grounds at the Amp.

#### **Inaugural Unveiling Gala Event**

- Conceptualize event for the opening of the Cultural Center.
- Formulate budget
- Identify sponsors for this event
- Identify key performances
- Identify key collaborations and partnerships

## **Operations and Administration**

- Begin to Develop Policies & Procedures
  - Resident Companies application process
  - Employee Handbook
  - Box office policies and procedures
  - Rental policies

## **Ticketing**

- Work out logistics to ensure proper rollout of all ticketing inventory
- Modify the system to include resident companies

## **Development & Fundraising**

- Identify Members of Cultural Center advisory board
  - Business Leaders
  - Philanthropists
  - Dignitaries
  - Begin to develop a comprehensive Development Plan specifically for the Cultural Arts Center including but not limited to:
- General Operating Support
- Sponsors and underwriters
- Individual Donors
- Building a membership program across all levels

## **Marketing**

- Create a PB Cultural Arts Center brand
- Develop a strategic marketing plan
- Launch social media campaign
- Engage the media through press releases and feature stories
- Create copy for PB Cultural Arts Center Website
- Establish Facebook, Twitter and other social media presence

## **Pompano Beach Foundation**

- Schedule quarterly board meeting
- Create an Executive Committee
- Finalize policies and procedures
- Identify and secure members for other committees such as:
  - Membership
  - Development
  - Nominating
  - Marketing
  - Community Outreach
  - Special Events

- Continue to identify and engage members of Pompano Beach Arts Advisory Committee
  - Business Leaders
  - Philanthropists
  - Educators
  - Artists

**Quarter 2: January 1, 2016- March 31, 2016 limited in scope due to early voting**

**The Amp**

**Programming**

- Present at least two - four headliner concerts (scheduling dates around early voting may prove challenging)
- Present at least one festival
- Contracts:
  - Review all terms, conditions, and deal points of artist contracts and technical riders generated to secure the engagement(s) of artists/programs negotiated
  - Review all technical requirements for each artist/program, liaise with venue production staff, and oversee vendor-bidding process for the provisioning of appropriate sound, lighting and stage/backline equipment, if applicable.
  - Address the needs of each artist/program in regards to local transportation, overnight accommodations, catering and hospitality, and terms specific to each engagement as contracted.
- Reach out to community leaders to develop and expand community outreach initiatives
- Secure food vendors, security, BSO, ushers, and volunteers for each event

**Marketing**

- Continue to implement FY 16 Season Campaign
  - Social media (outlined above)
    - Facebook (post and boost)
    - Twitter
    - Google Ads
    - Conversion tracking for calls and ticket sales
    - Blogs
  - Radio
    - Identify and secure radio advertisement appropriate for the specific headliner, festival or free event
  - Identify and secure Media Sponsor
  - Create and distribute posters, postcards and special promotions
  - Engage the media through press releases and feature stories

**Administration**

- Submit event application for future events
- Meet regularly with Pompano Beach Parks & Recreation staff
- Submit regular reports and financials to Pompano Beach Parks and Recreation staff

### **Fundraising Initiatives**

- Identify and meet with at least four potential sponsors and funders

### **Community Outreach and Development**

- Continue to develop and expand relationships with Churches, Arts/Civic Organizations, Social Clubs, Businesses and Community leadership.
- Conduct community outreach to ensure maximum residential participation with respect to PBA programs and events.
- Build relationships with civic, business, faith community, rotary clubs and other organizations or individuals that can move the PBA foundation and brand forward.
- Assist neighborhood groups in engaging their constituents in the arts initiative by infusing Arts into existing activities. (Groups such as Senior, Youth, and Civic associations and special interest groups community nonprofit associations, etc.).
- Provide technical assistance to aid growth of neighborhood leaders and organizations and strengthen and expand existing resident capacity for community activism.

### **Community Education, Planning & Assistance**

- Develop seminar and educational workshops addressing the identified needs of the community.
- Assist PBA program staff and executive director in incorporating residential concerns and issues in the city of Pompano/ PBA strategic and operating plans.
- Develop and facilitate relationships between relevant community stakeholders to manage the implementation of selected projects within the Arts.
- Develop and maintain productive relationships with various stakeholder groups, to create buy-in for the shared vision of the PBA foundation.
- Ensure that quality is built into selected projects within the cultural Arts center.
- Develop and maintain relations with a broad cross-section of the community..
- Coordinate communications and information flow to stakeholders. This includes fostering relationships with cultural arts providers to implement quality, collaborative programming.
- Work with local schools and community organizations to plan and develop arts programs.
- Organize a volunteer taskforce to assist with programs and events.

### **Pompano Beach Cultural Arts Center**

#### **Operations and Administration**

- Present a draft of Policies & Procedures to the PBA Board and Pompano Beach Parks and Recs staff
  - Resident Companies application process

- Employee Handbook
- Box office policies and procedures
- Rental policies

### **Pompano Beach Arts – Cultural Center**

- Operations and Administration
  - Adopt and institute the cultural center’s mission and vision
  - Adopt policies and procedures that pertain to term lengths for both the Cultural Collective as well as the Network of Creatives
  - Identify and engage Jurors that will jury in the Cultural Collective
  - Engage | Implement key staff for the various components that comprise the cultural center. These staff will begin to meet with Director of Programing to create a performance, operations and programs schedule to be implemented at the opening of the Cultural Center.
  - Formulate contracts, daily operations procedures and guidelines for each department specifically for the following areas:
    - Facility management & rentals
    - The Gallery – touring artists & Exhibits
    - The Flex Space – touring artists and shows
    - Digital arts & Media center management and rentals
  - Formulate & establish a gallery schedule for the 750 square foot gallery. Engage artists and research international and national travelling exhibits
  - Formulate and establish a performance schedule for the flex space Engage actors, musicians and dancers as well as research international and national travelling shows

### **Pompano Beach Arts - Cultural Center**

- Development & Outreach
  - Identify industry peers and leaders who can serve as jurors and committee members for the cultural center (the network of creatives). Once identified engage.
  - Identify funders and sponsors for cultural center’s programs and potential naming rights

### **Pompano Beach Arts - Cultural Center**

- Programming
  - Community collaborations: engage visual artists, arts groups, guest speakers and begin populating the Cultural Center’s Programs to ensure that all programs begin at the opening of the facility.

### **Pompano Beach Arts - Cultural Center**

- Inaugural Unveiling Gala Event

- Create event
- Engage sponsors for this event
- Secure acts

### **Ticketing**

- Rollout ticketing system for resident artist
- Begin to populate with upcoming events

### **Volunteers**

- Launch Volunteer program & database
  - Draft Job descriptions for all volunteer positions
  - Draft Volunteer handbook
  - Identify volunteer captains

### **Development & Fundraising**

- Increase Members of Cultural Center advisory board
  - Business Leaders
  - Philanthropists
  - Dignitaries
- Present a draft of the comprehensive Development Plan specifically for the Cultural Arts Center to PBA Board including but not limited to:
  - General Operating Support
  - Sponsors and underwriters
  - Individual Donors
  - Building a membership program across all levels

### **Cultural Arts Center Open Weekend Celebration**

- Identify an honorary committee to assist with the social component of the opening
- Create a time line and identity the specific type of the weekend
- Identify potential performing and visual artists
- Present a draft plan to the PBA board members and Parks and Recs staff for comment

### **Programming**

- Announce the Resident artists program
- Make applications available on line
- Draft a schedule of types of events for FY 17

### **Rentals**

- Finalize application process and fees for use



- Make applications available on line
- Create marketing materials for rentals

### **Marketing**

- Launch PB Cultural Arts Center brand
- Present draft of a strategic marketing plan to the PBA Board of Directors
- Continue with the social media campaign
- Engage the media through press releases and feature stories
- Launch PBA Cultural Arts Center Website
- Continue to build Facebook, Twitter and other social medial initiatives

### **Pompano Beach Foundation**

- Schedule quarterly board meeting
- Start meet with Executive Committee monthly
- Finish policies and procedures
- Launch at least two committees
- Continue to identify and engage members of Pompano Beach Arts Advisory Committee
  - Business Leaders
  - Philanthropists
  - Educators
  - Artists

## **Quarter 3: April 1, 2016 – June 30, 2016**

### **The Amp**

#### **Programming**

- Present at least four headliner concerts
- Present at least one festival or free concert
- Start work on FY 17 Season
  - Create New Initiatives
  - Secure talent for Signature Festivals
- Contracts:
  - Review all terms, conditions, and deal points of artist contracts and technical riders generated to secure the engagement(s) of artists/programs negotiated
  - Review all technical requirements for each artist/program, liaise with venue production staff, and oversee vendor-bidding process for the provisioning of appropriate sound, lighting and stage/backline equipment, if applicable.
  - Address the needs of each artist/program in regards to local transportation, overnight accommodations, catering and hospitality, and terms specific to each engagement as contracted.
- Reach out to community leaders to develop and expand community outreach initiatives
- Secure food vendors, security, BSO, ushers, and volunteers for each event

#### **Marketing**

- Develop a marketing strategy for FY 17
- Continue to implement FY 16 Season Campaign
  - Social media (outlined above)
    - Facebook (post and boost)
    - Twitter
    - Google Ads
    - Conversion tracking for calls and ticket sales
    - Blogs
  - Radio
    - Identify and secure radio advertisement appropriate for the specific headliner, festival or free event
  - Identify and secure Media Sponsor
  - Create and distribute posters, postcards and special promotions
  - Engage the media through press releases and feature stories

#### **Administration**

- Submit event application for future events
- Meet regularly with Pompano Beach Parks & Recreation staff
- Submit regular reports and financials to Pompano Beach Parks and Recreation staff

### **Development & Fundraising**

- Continue to develop the fundraising plan to include: Raise money, nurture relationships, and build support for PBA.
- Assist with donor relations
- Promote PBA programs to the community and other organizations.
- Assist with placement and supervision of volunteers
- Plan fund-raising campaigns, activities, and programs
- Manage fund-raising campaigns and activities, and programs
- Stay on top of advancements and changes that are pertinent to raising money within the community, to the organization's mission and programs and to the development of PBA.
- Forecast and evaluate the success of fundraising campaigns that have been implemented and seek out potential campaigns for upcoming events.
- Produce next season solicitation materials and train volunteer solicitors for fundraising campaigns.

## **Pompano Beach Cultural Arts Center**

### **Operations and Administration**

- Distribute Policies & Procedures of the cultural center to key stakeholders
  - Resident Companies application process
  - Employee Handbook
  - Box office policies and procedures
  - Rental policies

### **Ticketing**

- Prepare season subscriptions for sale
- Continue to populate with upcoming events

### **Volunteers**

- Increase volunteer program & database
  - Prepare a volunteer packet that includes:
    - Job descriptions for all volunteer positions
    - Volunteer handbook
    - Train volunteer captains

**Cultural Arts Center Open Weekend Celebration**

- Work with the honorary committee to finalize the social component of the opening
- Start implementing the time line and securing the talent
- Contract performing and visual artists

**Programming**

- Select artists for the inaugural resident artists program
- Continue to assess quality of applications
- Finalize Resident artists for FY 17 & their programs

**Rentals**

- Open rentals to the general public
- Distribute marketing materials for rentals

**Marketing**

- Continue to expand on PB Cultural Arts Center brand
- Start implementing marketing plan FY 17
- Continue with the media campaigns for both FY 16 & FY 17 seasons
- Engage the media through press releases and feature stories
- Continue to PBA Cultural Arts Center Website
- Continue to build Facebook, Twitter and other social media initiatives

**Pompano Beach Foundation**

- Schedule quarterly board meeting
- Start meetings with Executive Committee monthly
- Finish policies and procedures
- Launch at least two committees
- Continue to identify and engage members of Pompano Beach Arts Advisory Committee
  - Business Leaders
  - Philanthropists
  - Educators
  - Artists

## **Quarter 4: July, 2016 –September 30, 2016**

*August cut short sue to early voting*

### **The Amp**

#### **Programming**

- Present at least four headliner concerts
- Present at least one festival or free concert
- Start work on FY 17 season
  - Create New Initiatives
  - Secure talent for Signature Festivals
- Contracts:
  - Review all terms, conditions, and deal points of artist contracts and technical riders generated to secure the engagement(s) of artists/programs negotiated
  - Review all technical requirements for each artist/program, liaise with venue production staff, and oversee vendor-bidding process for the provisioning of appropriate sound, lighting and stage/backline equipment, if applicable.
  - Address the needs of each artist/program in regards to local transportation, overnight accommodations, catering and hospitality, and terms specific to each engagement as contracted.
- Reach out to community leaders to develop and expand community outreach initiatives
- Secure food venders, security, BSO, ushers, and volunteers for each event

#### **Marketing**

- Develop a marketing strategy for FY 17
- Continue to implement FY 16 Season Campaign
  - Social media (outlined above)
    - Facebook (post and boost)
    - Twitter
    - Google Ads
    - Conversion tracking for calls and ticket sales
    - Blogs
  - Radio
    - Identify and secure radio advertisement appropriate for the specific headliner, festival or free event
  - Identify and secure Media Sponsor
  - Create and distribute posters, postcards and special promotions
  - Engage the media through press releases and feature stories

## **Administration**

- Submit event application for future events
- Meet regularly with Pompano Beach Parks & Recreation staff
- Submit regular reports and financials to Pompano Beach Parks and Recreation staff

Plan and organize week long festivities

- Kickoff Rainbow Festival during Tiger Pride Week
- Plan and organize week long festivities
- Identify Honorary Committee to include alumni that started the festival in the early 90's Pastor McCloud
- Write sponsor letter and email sponsor package
- Write letter to engage and inform the committee and set up initial committee meeting
- Confirm involvement of PBA board members and construction companies who will donate funds and services, as well as help us raise funds.
- Determine location and ticket prices and sponsorship packages.
- Create official letter, invitation verbiage, donation packet.
- Book talent and entertainment
- Identify host for the evening
- Develop presentation and event agenda

## **Event Planning & Marketing**

- Coordinate press and PR with select pastors and organizations helping to promote community outreach events.
- Organize community meetings and events, to help promote PBA programs and support community initiatives aligned with PBA mission.
- Create flyers, press releases & other outreach materials as required.
- Develop and maintain relations with media and negotiate pricing for promotional packages.
- Write script and create advertisements for both print and radio venues.

## **Pompano Beach Cultural Arts Center**

### **Operations and Administration**

- Distribute Policies & Procedures of the cultural center to key stakeholders
  - Resident Companies application process
  - Employee Handbook

- Box office policies and procedures
- Rental policies

### **Ticketing**

- Prepare season subscriptions for sale
- Continue to populate with upcoming events

### **Volunteers**

- Increase volunteer program & database
  - Prepare a volunteer packet that includes:
    - Job descriptions for all volunteer positions
    - Volunteer handbook
    - Train volunteer captains

### **Cultural Arts Center Open Weekend Celebration**

- Work with the honorary committee to finalize the social component of the opening
- Start implementing the time line and securing the talent
- Contract performing and visual artists

### **Programming**

- Select artists for the inaugural resident artist program
- Continue to assess quality of applications
- Finalize Resident artists for FY 17 & their programs

### **Rentals**

- Open rentals to the general public
- Distribute marketing materials for rentals

### **Marketing**

- Continue to expand on PB Cultural Arts Center brand
- Start implementing marketing plan FY 17
- Continue with the media campaigns for both FY 16 & FY 17 seasons
- Engage the media through press releases and feature stories
- Continue to PBA Cultural Arts Center Website
- Continue to build Facebook, Twitter and other social media initiatives

### **Pompano Beach Foundation**

- Schedule quarterly board meeting
- Start meetings with Executive Committee monthly
- Finish policies and procedures
- Launch at least two committees

- Continue to identify and engage members of Pompano Beach Arts Advisory Committee
  - Business Leaders
  - Philanthropists
  - Educators
  - Artists



**Exhibit 7**  
**City's Policy for**  
**Alcoholic Beverages**

- A) The sale of beer and/or wine at any Pompano Beach park shall be subject to prior approval of the Recreation Programs Administrator or designee(s). The Recreation Programs Administrator or designee(s) may approve the sale of beer and/or wine at programmed events, which term includes adult athletic league activities, rentals or other adult-oriented events or activities, and designated concession areas.
- B) The sale of beer and/or wine shall be prohibited during any programmed event intended for children (under age 21), as determined by the Recreation Programs Administrator. Only beer and wine allowed or consumed on premises must be purchased from approved vendors. No outside beer and/or wine will be allowed.
- C) For programmed events where the sale and/or consumption of beer and/or wine is permitted pursuant to (1)a. and (1)b. above, an entity authorized to sell beer and/or wine during the programmed event shall be required to indemnify and hold harmless the City of Pompano Beach, its officers, agents, employees, and volunteers, from any and all claims for liability arising directly or indirectly out of the sale or consumption of beer and/or wine during that programmed event. Insurance acceptable to City's Risk Manager shall be required to cover the indemnification obligation.
- D) An entity authorized to sell beer and/or wine at a programmed event shall provide the City of Pompano Beach with a Certificate of Liability Insurance, including additional coverage for serving any alcoholic beverages at the event. The insurance policy requirements will be determined by City's Risk Manager on a case-by-case basis. Proof of such insurance coverage shall be furnished to the Recreation Programs Administrator and approved by the City's Risk Manager prior to a Programmed Event taking place.
- E) Police or security officers shall be authorized to prohibit the sale of beer and/or wine to any person that appears intoxicated. Such person may also be ordered by police/sheriff or security officers to immediately leave the premises.

- F) Persons serving beer and/or wine to the public shall be properly trained in such service and be at least 21 years of age. In addition to proper training requirements staff serving beer and/or wine shall not consume alcoholic beverages immediately before, during, or following the programmed event. Any server violating this policy shall be immediately dismissed by the Licensee and immediately ordered to leave the premises.
- G) Servers shall be responsible, at the time beer and/or wine is requested, for verifying that the person making the request is of legal drinking age as required by law. If, for any reason, picture identification evidencing proof of legal drinking age cannot be provided upon request, beer and/or wine service shall be denied. Servers shall refuse to serve an alcoholic beverage to any person who appears intoxicated.
- H) Signs shall be posted at the concession areas notifying the public that all persons must be of legal drinking age to purchase and/or consume beer and/or wine at the programmed event. Signs shall be posted notifying the public that purchases of these beverages are limited to two (2) drinks per person per transaction, and that servers reserve the right to refuse service to any person who appears intoxicated.
- I) The sale of beer and/or wine shall cease at least one (1) hour before the official end of the programmed event as specified in the schedule given to Licensee by City staff.

**Exhibit 8**  
**Amphitheater Concession**  
**City Equipment**

- Tru T23 Fridge – PC # 21967
- Xtrue T 23S Fridge - PC# 21968

All items were accounted for as of August 4, 2015.

Pompano Beach Arts FY 2016 Budget

**Exhibit 9**  
**Projected Revenues**  
**and Expenses**

<b>FY 16</b>	<b>The Amp</b>	<b>C Center</b>	<b>Total</b>
<i>staff</i>			
Salaries	\$ 349,070	\$ 113,950	\$ 463,020
Taxes & Benefits	\$ 69,814	\$ 22,790	\$ 92,605
<b>Total: Personnel</b>	<b>\$ 418,884</b>	<b>\$ 136,740</b>	<b>\$ 555,625</b>
Production Expenses: headliners	\$ 458,500		\$ 458,500
Artists Fees	\$ 875,000		\$ 875,000
Production expenses: Fest	\$ 84,480		\$ 84,480
Artists Fees: Fest	\$ 35,000		\$ 35,000
Free Concerts (2)	\$ 31,000		\$ 31,000
Marketing	\$ 195,000	\$ 40,000	\$ 235,000
Cultural Center Artists Deposit			
<b>Total: Events</b>	<b>\$ 1,678,980</b>	<b>\$ 40,000</b>	<b>\$ 1,718,980</b>

conference (APAP & PAE)	\$ 10,000		\$ 10,000
General Operating/ Misc.	\$ 18,000		\$ 18,000
Office Rent	\$ 24,000		\$ 24,000
Telephone / Utilities / Web	\$ 24,000		\$ 24,000
Supplies	\$ 1,200		\$ 1,200
Audit	\$ 7,500		\$ 7,500
<b>Total: General Operating</b>	<b>\$ 84,700</b>		<b>\$ 84,700</b>
<b>Total Expenses</b>	<b>\$ 2,182,564</b>	<b>\$ 176,740</b>	<b>\$ 2,359,305</b>
Total Revenue			\$ 1,533,800
<b>City Of Pompano Beach Support</b>			<b>\$ 825,505</b>

**Provided by the City**

Maintenance, Mobile Stage, General Ground Cleaning, and Utilities

<b>Foundation</b>			<b>\$ 81,600</b>
-------------------	--	--	------------------

<b>Revenue: FY 16</b>						
<b>Amphitheater</b>	<b># of events</b>	<b>Average Ticket and/or Event</b>	<b>Capacity</b>	<b>Anticipated Attendance</b>	<b>Revenue</b>	<b>Foundation</b>
<b>Headliner</b>	14	\$ 49	3,000	60%	1,234,800	
Pompano Beach Surcharge	14	\$ 3	3,000	60%		\$ 75,600
Food & Beverage Revenue	14	\$ 5,000		100%	70,000	
<b>Festival</b>	2	\$ 30	2,000	100%	120,000	
Festival Surcharge	2	\$ 1.50	2,000	100%		\$ 6,000
Food & Beverage Revenue	2	\$ 4,500		100%	9,000	
<b>Art Fest Vendors</b>	2	\$ 100	30	100%	6,000	
Food & Beverage Revenue	2	\$ 4,500		100%	9,000	
<b>Rentals: The Amp</b>	2	\$ 5,000		100%	10,000	
<b>Contributed Revenue</b>					75,000	
<b>Total: Amphitheater</b>	<b>18</b>				<b>1,533,800</b>	<b>81,600.00</b>

## Expenses: FY 16



Event budget- amphitheater	AVERAGE COST
<b>Headliner</b>	
Artist fee	\$ 60,000
Local support act	\$ 2,500
<i>Subtotal: Artists fees</i>	<i>\$ 62,500</i>
<b>Headliner: Production Costs</b>	
Sound / lights/ backline / stagehands	\$ 18,000
Police	\$ 2,500
Barricade	\$ 1,200
Runners / vans	\$ 600
Catering / dressing rooms / stage towels	\$ 3,000
Clean up	\$ 1,000
Signage	\$ 500
Event staff- ushers/ ticket takers / private security	\$ 3,000
Radio's	\$ 500
Ascap / bmi	\$ 1,200
Misc.- vip catering, etc.	\$ 1,000
Photographer	\$ 250
<i>Subtotal: Production</i>	<i>\$ 32,750</i>
<i>Marketing &amp; advertising</i>	<i>\$ 12,500</i>
<b>Total Production: Headliner</b>	<b>\$ 107,750</b>
<b>Free Concerts</b>	
Sound / lights/ backline / stagehands	\$ 12,000
Police	\$ 2,500
Clean up	\$ 1,000
<b>Total free concerts</b>	<b>\$ 15,500</b>
<b>Festivals</b>	
Artist fee & local support acts	\$ 35,000
<b>Subtotal: festival artists fees</b>	<b>\$ 35,000</b>
Sound / lights/ backline / stagehands	\$ 18,000
Police	\$ 2,500
Barricade	\$ 1,200
Runners / vans	\$ 600
Catering / dressing rooms / stage towels	\$ 3,000
Clean up	\$ 1,800
Signage	\$ 500
Radio's	\$ 500
Stages / light towers	\$ 5,000
Rental- tents / chairs / fence / bike rack / genie's	\$ 5,500
Insurance	\$ 1,440
Ascap / bmi	\$ 1,200
Misc.- swag bags / vip catering	\$ 1,000
<i>Subtotal: festival</i>	<i>\$ 42,240</i>
<i>Marketing &amp; advertising</i>	<i>\$ 10,000</i>
<b>Total: festival</b>	<b>\$ 52,240</b>

Exhibit 10  
Contractor's Internal Controls  
and Disbursement of Funds

ACCOUNTING  
POLICIES & PROCEDURES  
MANUAL  
POMPANO BEACH ARTS



## Table of Contents

<b>Section 1- Purpose: Financial Policies &amp; Procedures .....</b>	<b>3</b>
<b>Section 2- Funding the Creative City Collaborative .....</b>	<b>4</b>
<b>Section 3- Accounting and Finance .....</b>	<b>4</b>
Accounts Payable.....	4
Invoice Processing .....	4
Paying Invoices.....	5
Purchase Orders.....	6
Vendor Insurance and Certification .....	6
Accounts Receivable.....	6
Petty Cash.....	6
Issuance of CCC Credit Card.....	6
Payroll .....	7
Bank Reconciliation Process .....	7
Journal Entries.....	7
<b>Section 4- Budgeting .....</b>	<b>7</b>
Overview .....	7
Preparation .....	8
Adoption .....	8
Implementation .....	8
Evaluation .....	8
<b>Section 5- The CCC Budget Process .....</b>	<b>8</b>
Creating the Preliminary Budget (Finance and Operations Director).....	8
Budget Amendments.....	9
<b>Section 6- Board Reporting .....</b>	<b>9</b>
Monthly Financial Statements.....	9
Board Reporting Process: .....	9
<b>Section 7- Audits.....</b>	<b>9</b>
Overview .....	9
Creative City Collaborative Annual Financial Audit Requirements .....	10
Overview .....	10



## Section 1- Purpose: Financial Policies & Procedures

---

A well designed and properly maintained accounting system is necessary to be able to provide all data that is needed to allow for the timely preparation of financial statements in conformity with generally accepted accounting principles.

The purpose of the financial policy and procedures manual is to establish the general guidelines for financial activities of the Creative City Collaborative. The objective of the policy is to ensure that financial and physical resources are efficiently managed to serve its overall administrative and financial goals. **These financial policies and procedures are guided by an accounting concept called internal control. Internal control is defined by the American Institute of Certified Public Accountants as a process “effected by an entity’s board of directors, management and other personnel designed to provide reasonable assurance regarding the achievement of objectives in the following categories:**

- a. Reliability of financial reporting**
- b. Effectiveness and efficiency of operations, and**
- c. Compliance with applicable laws and regulations.”**

Sound management practices include systems, procedures and methods. Information (reports, memos, data) generated by these practices are used as feedback for other management functions such as planning, organizing and directing so that necessary adjustments can be made. Effective management and control is comprised of the plan of organization to coordinate methods and measures adopted within an organization to safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies.

The segregation of functions or duties is an important element in any system of internal control. For accounting control purposes, incompatible functions are those that place any person in a position to both perpetrate and conceal errors or irregularities in the normal course of their job. For example, anyone who records disbursements could either intentionally or unintentionally fail to record a check. If the same person also reconciles the bank account, the omission could be concealed through a false or inaccurate reconciliation.

Controls ensuring that transactions are carried out as authorized require independent verification that authorization was properly issued and that transactions conform to the terms of the authorization. This may be accomplished by independent comparison of transactions with specific authorization documents. For example, requiring two signatures on a check allows more than one person to review and approve that expenditure.

Accounting controls should also ensure that transactions are: (1) recorded in the proper amounts, (2) recorded in the accounting periods to which they apply, and (3) classified in appropriate accounts.

***Note: Any changes to the Financial Policies and Procedures manual must be approved by the Creative City Collaborative Board of Directors.***

## **Section 2- Funding the Creative City Collaborative**

The Creative City Collaborative ("CCC") is funded through earned and contributed revenue. The CCC Board of Directors approves an annual budget. Approximately 40% of the CCC Budget is derived from ticket sales and tuition fees; the remaining is obtained through individual contributions, corporate and foundation support, national, state and local governments grants and managerial contracts.

Each member of the CCC Board of Directors contribute financially not less than \$1,000 to the CCC as a charitable contribution during each Year of Tenure and uses best efforts to identify and solicit other individuals to contribute.

## **Section 3- Accounting and Finance**

### ***Accounts Payable***

#### **Accounts Payable Processing and Check/Funds Disbursements**

**Purpose:** This procedure is to provide for the conduct of the payment for invoices and payables of the CCC in a timely and uniform manner while complying with proper approval and fiduciary responsibility.

All bills, invoices, statements, check requests, letters and/or any form of a request for payment should be addressed to the Finance Department of the Creative City Collaborative.

### **Invoice Processing**

Upon receipt of invoices by CCC

1. Administrative Assistant opens the mail and stamps invoice with accounting stamp and date stamp
2. Forward to Director of Operations

Upon receipt of invoice the Director of Operations determine type of invoice: Contract or PO

*If there is a Contract:*

1. Pull contract from the Contract/PO folder: contracts with multiple payments will also have a Payment Schedule form attached to the contract
2. Director of Operations forwards the invoice to the staff member responsible for the contract for approval of the invoice and verification of proper GL code

3. Director of Operations verifies invoice amount against contract
4. Invoice is entered into QuickBooks
5. If required Payment Schedule form is updated

*If there is only a PO (and no contract):*

1. Pull Purchase Order from the open PO file
  - a. If no PO, write "Need PO" and forward to appropriate staff for PO and approval
2. Enter proper General Ledger (GL) code from the PO and date on accounting stamp line
3. Enter invoice into QuickBooks
3. Attach invoice to PO
4. Put invoice and PO into the appropriate staff's invoice folder (based on PO) for approval and appropriate GL coding if undetermined

### **Paying Invoices**

Once invoice has been received back from staff, the following applies.

#### **Bookkeeper Responsibilities:**

1. Sign into QuickBooks
2. Go to Pay Bills
3. Select only the invoices that have been approved by staff since last check cycle
  - a. Follow up on any invoices that are in the Pay Bills screen that have not been received back from staff (refer to the invoice log to determine who has invoices not received back)
4. Proceed to Write Checks
5. Submit check and all attachments to for final signature and approval (on the accounting stamp)

#### **Director of Operations Responsibilities:**

1. Review and verify approvals, GL account
2. Initial on the *Reviewed By* line of the accounting stamp
3. Submit check and all backup (PO, Work Order, Contracts) to Executive Director for final approval and check signature
4. Submit all documents to the Board Member for second required check signature

#### **Bookkeeper Final Processing:**

1. Mail out checks
2. Attach check stub to invoice and PO and file in invoice file

**Purchase Orders**

For complete details regarding Purchase Orders refer to the Procurement and Purchasing Procedures Manual.

**Vendor Insurance and Certification**

Bookkeeper will track vendor expiration dates through QuickBooks.

***Accounts Receivable***

Money received into the CCC comes from the following sources:

- Ticket Sales
- Tuition
- Individual Contributions
- Corporate Sponsorships
- Foundation Grants
- Government Grants

***Petty Cash***

The Petty Cash account has \$250 available. To spend petty cash funds the following process will be followed:

1. Fill out a Purchase Order and attach the receipt and invoice, when applicable
2. Finance and Operations Director, Executive Director or Assistant Director approves the Purchase Order and sends to Director of Operations to disburse payment
3. Complete a line on the Petty Cash Disbursement Form for the applicable reimbursement

To replenish the Petty Cash fund:

1. Complete the Petty Cash Disbursement Form
2. Attach all receipts/invoices collected above
3. Finance and Operations Director signs the form and submits to Bookkeeper for input into QuickBooks
4. Check is written to Cash and coded to the appropriate GL code

***Issuance of CCC Credit Card***

A credit card can be issued to CCC staff at the discretion of the Executive Director. A credit card acknowledgement form which includes the appropriate use of credit card must be completed by CCC staff prior to receiving the credit card.

### **Payroll**

1. Director of Operations sends out the Time Sheet on the last day of the payroll period with the required return date of the following Monday
2. Each time sheet is signed by employee, department supervisor and Executive Director
3. Director of Operations reviews time sheets for accuracy before submitting to Executive Director for approval
4. Bookkeeper enters payroll for the upcoming Friday
5. Bookkeeper prints Payroll Report from payroll website for review by Executive Director
6. Executive Director reviews Payroll Report for accuracy

### **Bank Reconciliation Process**

When the bank statement is received:

Executive Director opens, reviews, and initials the bank statement and forwards it to Bookkeeper for reconciliation

After reconciliation:

Bookkeeper gives to Executive Director who reviews and initials the Reconciliation (QB)

**All changes to Bank Accounts** are by approval of CCC Board of Directors only and must be documented in the minutes.

### **Journal Entries**

*All adjusting entries will be completed in numeric order and will be signed by Bookkeeper and Executive Director. Also, print out all JE's, appropriate backup, and record into Audit book.*

## **Section 4- Budgeting**

---

### **Overview**

The budget is a plan of financial operation including an estimate of proposed expenditures for a given period and the proposed means of financing them.

The budget serves as the primary tool in allocating financial resources to programs and services.

***A brief description of the budget cycle is as follows:***

**Preparation**

- Executive Director estimates revenues to determine how many financial resources will be available to fund operations
- Expenditure requests and forecasts are prepared by each department
- Staff submit proposed budget that reflects the departmental needs and desires to the Executive Director for review
- The Executive Director reviews the draft of the budget with the Treasurer and the Finance Committee
- The Treasurer presents the budget to the CCC Board of Directors

**Adoption**

- The CCC Board of Directors review the proposed budget
- The CCC Board of Directors makes recommendations; the Executive Director and Treasurer make requested changes
- The budget is adopted

**Implementation**

- Revenues are collected and expenditures incurred in accordance with the budget
- The budget may be modified or amended in by a vote of the Board of Directors in accordance with procedures established by the Board of Directors

**Evaluation**

Internal reports may be prepared as needed for financial data, as well as for performance measurement. Other evaluation is done through internal audits, performance audits and external audits.

**Section 5- The CCC Budget Process**

---

The Budget Process begins in June for approval by September. The CCC's fiscal year is October 1 through September 30. The budget process may include meetings with the CCC board, budget workshops, and is an iterative process until the budget is finalized.

***Creating the Preliminary Budget (Finance and Operations Director)***

1. Prepare schedule at beginning of process. Identify necessary meetings and dates of presentations, staff workshops, adoptions

2. Utilizing the current FY budget and analyzing what has been used and what has not, bring the current numbers forward and any unused funding that will continue into the next FY into the Preliminary Budget
3. Meet with Executive Director, Departmental Directors and the Finance Committee to review known and anticipated projects
4. Administrative Expenses: Begin from last FY information and make adjustments based on known changes to Administrative Budgets
5. Submit Preliminary Budget to the Finance Committee upon completion
6. Preliminary budget and work plan to be presented at the CCC Board of Directors for comments and questions; respond as required
  - a. Final Board Meeting – September last meeting – submit final budget

### ***Budget Amendments***

Budget Amendments (re-forecasts) are generally completed twice during the year, but may occur more often, if needed.

1. Executive Director prepares appropriate reports
2. Executive Director and Treasurer meet to review reports and make necessary adjustments to the budget
3. Changes are presented to the board and amendment is passed by resolution

## **Section 6- Board Reporting**

---

### **Monthly Financial Statements**

- Statement of Activities -Budget v. Actual Reporting to the Board
- Monthly Profit and Loss Statement
- Monthly Balance Sheet

### **Board Reporting Process:**

Submit reports to Treasurer for review and approval – to be included in board package.

## **Section 7- Audits**

---

### ***Overview***

Non-profit organizations such as the CCC are accountable for the manner in which they spend funds. Annual financial reporting is one method of demonstrating accountability.

## ***Creative City Collaborative Annual Financial Audit Requirements***

### **Overview**

The CCC is required to have an independent audit of their financial statements performed in accordance with appropriate professional auditing standards. Properly performed audits play a vital role in the public sector by helping to preserve the integrity of public finance functions and by maintaining citizens' confidence in their elected leaders.



## **Ticketing Controls Reporting**

Ticketing system: Exclusively TicketMaster

Tickets can be purchased online, phone or at a ticketing outlet

- Patrons purchase tickets by going to Ticketmaster.com. Links are also provided on pompanobeacharts.org under each event.
- At the event, ticket stubs are reconciled against tickets purchased through TicketMaster system.
- TicketMaster settles each concert/event within five business days.
- Reports are generated by TicketMaster and the funds are transferred to Pompano Beach Arts bank account within five business days

- All blank ticket stock is secured
- All tickets are printed through specialty printers and include seat numbers, rows
- All tickets also have bar codes
- Barcode scanners are used to ensure all tickets are valid
- Tickets are "stubbed" when scanned and cannot be reused or faked for future shows

Other data points are continually monitored to gauge campaign effectiveness. Online tactics are carefully tracked to reveal users, page sessions, page views, social referrals, click through rates and conversion rates for example.

Customer feedback will be monitored through polls and surveys. Such measurements will provide insights into what marketing channels are used to drive consumer actions. They will also provide data and trending aspects of performance benchmarks. PBA conducts surveys in person at each event, as well as online and phone interviews.

Budgeting:

A strategic marketing plan is generated according to the specific budget parameters of each production or program. All of the costs are closely monitored to minimize spending and maximize profitability. During the plan's timeline, there will be milestone percentages set and benchmark goals. Continual analysis will indicate if the plan is falling short and what can be done to adjust it.

## **POMPANO BEACH ARTS**

### **MARKETING PERFORMANCE MEASURES**

The marketing plan for Pompano Beach Arts (PBA) is two-fold. Simultaneously, the goal is to grow brand awareness of PBA and the performance venues under the brand umbrella, while also achieving successful ticket sales and attendance figures for all events programmed.

Each performance requires a marketing strategy specific to the event and its intended audience. The venue itself also dictates particular tactics to employ based on factors such as capacity.

In order to measure the performance of marketing tactics and campaigns, PBA has established both performance standards and measurement controls to gauge the effectiveness of marketing initiatives. PBA's goal is to ensure marketing efforts are producing results at an acceptable pace.

#### Performance Standards:

1. Percentage increase in attendance
2. Percentage increase in ticket sales / revenue streams (such as concessions)
3. Improvement in cash flow
4. Percentage increase in website traffic
5. Performance improvements in website analytics
6. Percentage increase in social media followers (all channels)
7. Performance improvements across all social media channels
8. Percentage increase in positive responses
9. Percentage increase in email databases across all venues
10. Increased brand recognition

#### Measurements:

Monthly and quarterly checklists will help evaluate which tactics and channels delivered the highest percentage of qualified outcomes and the highest ROI. And likewise, which campaigns and promotions netted the highest number of marketing-attributed sales and revenue.

Empirical data such as sales figures will gauge the effectiveness of marketing tactics. Sales are measured in units sold (tickets), revenue generated and/or profit amount. The ability to track sales through assigned customer, vendor and channel codes will allow PBA to adjust spend on specific tactics. In the event sales are not performing as expected, further market research is conducted to see why the target audience is not responding to the marketing.

## **Exhibit 11**

### **Insurance Requirements**

CONTRACTOR shall not commence services under the terms of this Agreement until certification or proof of insurance detailing terms and provisions has been received and approved in writing by the CITY's Risk Manager who can be reached by phone (954 786-5555) or email ([eddie.beecher@copbfl.com](mailto:eddie.beecher@copbfl.com)) should you have any questions regarding the terms and conditions set forth in this Article. Proof of the insurance coverage required hereunder shall be mailed to Risk Management, PO Box 1300, Pompano Beach, FL 33061.

CONTRACTOR is responsible to deliver to the CITY's Risk Manager for his timely review and written approval/disapproval Certificates of Insurance which evidence that all insurance required hereunder is in full force and effect and which name on a primary basis, the CITY as an additional insured on all such coverage.

Throughout the term of this Agreement, CITY, by and through its Risk Manager, reserve the right to review, modify, reject or accept any insurance policies required by this Agreement, including limits, coverages or endorsements. CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

Failure to maintain the required insurance shall be considered an event of default. The requirements herein, as well as CITY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by CONTRACTOR under this Agreement.

Throughout the term of this Agreement, CONTRACTOR and all subcontractors or other agents hereunder, shall, at their sole expense, maintain in full force and effect, the following insurance coverages and minimum limits described herein, including endorsements.

A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees) or the state in which the work is to be performed or of the state in which Contractor is obligated to pay compensation to employees engaged in the performance of the work. Contractor further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

B. Liability Insurance.

(1) Naming the City of Pompano Beach as an additional insured as City's interests may appear, on General Liability Insurance only, relative to claims which arise from Contractor's negligent acts or omissions in connection with Contractor's performance under this Agreement.

(2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

**Type of Insurance****Limits of Liability****GENERAL LIABILITY:**

Minimum \$1,000,000 Per Occurrence and \$2,000,000 Per Aggregate

\* Policy to be written on a claims incurred basis

XX	comprehensive form	bodily injury and property damage
XX	premises - operations	bodily injury and property damage
XX	explosion & collapse hazard	
—	underground hazard	
XX	products/completed operations hazard	bodily injury and property damage combined
XX	contractual insurance	bodily injury and property damage combined
XX	broad form property damage	bodily injury and property damage combined
XX	independent contractors	personal injury
XX	personal injury	
XX	alcohol sales	

**AUTOMOBILE LIABILITY:**

Minimum \$1,000,000 Per Occurrence and Aggregate.  
Bodily injury (each person) bodily injury (each accident),  
property damage, bodily injury and property damage combined.

XX	comprehensive form
XX	owned
XX	hired
XX	non-owned

**REAL & PERSONAL PROPERTY**

XX	comprehensive form	Agent must show proof they have this coverage.
----	--------------------	--

**EXCESS LIABILITY**

Minimum per Occurrence and Aggregate

—	other than umbrella	bodily injury and property damage combined	\$1,000,000	\$1,000,000
---	---------------------	--	-------------	-------------

**PROFESSIONAL LIABILITY**

Per Occurrence Aggregate

XX	* Policy to be written on a claims made basis	\$1,000,000	\$1,000,000
----	---	-------------	-------------

C. Employer's Liability. CONTRACTOR and all subcontractors shall, for the benefit of their employees, provide, carry, maintain and pay for Employer's Liability Insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per employee, Five Hundred Thousand Dollars (\$500,000) per aggregate.

D. Policies: Whenever, under the provisions of this Agreement, insurance is required of the CONTRACTOR, the CONTRACTOR shall promptly provide the following:

- (1) Certificates of Insurance evidencing the required coverage;
- (2) Names and addresses of companies providing coverage;
- (3) Effective and expiration dates of policies; and
- (4) A provision in all policies affording CITY thirty (30) days written notice by a carrier of any cancellation or material change in any policy.

E. Insurance Cancellation or Modification. Should any of the required insurance policies be canceled before the expiration date, or modified or substantially modified, the issuing company shall provide thirty (30) days written notice to the CITY.

F. Waiver of Subrogation. CONTRACTOR hereby waives any and all right of subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy not specifically prohibiting such an endorsement, or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.

**Exhibit 12**  
**Contractor's ADA Policies**



Pompano Beach Arts

**AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE.**

**PURPOSE.**

The intent of this policy is to insure that individuals with disabilities are provided with full and equal enjoyment of the programs, services and activities provided by the Pompano Beach Arts (PBA). PBA has a sincere commitment to the satisfaction and accommodation of all our citizens, regardless of disability.

The responsibility for the ongoing commitment and adherence to this policy lies with each PBA employee and ultimately with management. A copy of this policy and procedures will be provided to and executed by each appropriate employee and placed in said employee's personnel file.

**POLICY & PROCEDURE**

1. All staff will be provided the authority to make minor changes in procedures as required to accommodate an individual. If extensive or permanent changes are needed, management, with input from the individual as to his/her preference, will be responsible for making decisions as to what is necessary and appropriate.
2. Where readily achievable (i.e. financially and structurally possible) permanent solutions have been implemented providing for barrier free design for all disabilities.
3. All reasonable effort will be made to ensure that all individuals are afforded the opportunity to function independently.
4. All equipment and features that are required to provide ready access to individuals with disabilities will be maintained in working order. Accessible routes will not be blocked and accessible entrances will remain unlocked during operating hours.
5. All individuals, whether disabled or not, shall not be discriminated against and shall be served in the same order in which each respective individual seeks assistance.
6. Policy will be modified to permit the use of service animals.
7. Appropriate signage will be provided to identify accessible features.
8. Within all notices or communication regarding public programs, services, or activities, information can be requested regarding special needs of individuals. Information can be obtained regarding accommodations needed

for participation based on; mobility limitations/needs, communication needs and visual impairments.

9. Where the removal of structural barriers has been determined as not readily achievable, alternate methods of providing equal access to programs, facilities, or services will be provided if readily achievable. Example: Providing an alternative accessible meeting room should there be a room where accessibility cannot be readily provided.
10. In the event a person with a disability is attempting to seek information and/or assistance from any PBA employee said employee shall ask the individual if he/she would like to move to a table and/or counter within a reasonable and accessible distance from the main counter for information or assistance purposes.
11. This policy and procedures is not intended to be inclusive of all possible practices pertaining to persons needing special accommodations. All requests will be considered independently as each individual is unique and may require creative and thoughtful solutions.
12. Any individual who believes that the PBA should provide additional accommodations or access to the disabled shall direct their request/complaint to PAB Director of Operations.

All complaints shall be submitted to:

Michelle Gabriel, [michelle@ccc-arts.org](mailto:michelle@ccc-arts.org) or 954-284-0129



**Exhibit13**

**Creative City Collaborative of Pompano Beach, Inc.  
Key Personnel, Job Title and Description**

Alyona Aleksandra Ushe, President/CEO & Czarina  
Dan Schwartz, Director of Finance and Administration  
Michelle Gabriel, Director of Programming and Operations  
Suzanne Holtermann, Director of Marketing  
Byron Swart, Curator & Programming  
Keith Garsson, Producing Director, Theatre  
John Lariviere, Director of Education  
Jacqui Mirelle, Marketing Manager  
Rachel Katz, Programming Associate  
F. Isabel Simler, Social Media Coordinator  
Marc Charleston, Graphic Designer  
Leland S. Albert Jr, UI & Web Developer  
Leland Sagan, Box Office Supervisor  
Aleksa D'Orsu, Box Office  
Ashley Slone, Programming Associate

**Exhibit 14**  
**City's Youth Program**  
**Background Screening Policy**

**CITY OF POMPANO BEACH**  
**ADMINISTRATIVE POLICY**

---

<b>TITLE:</b>	Youth Program Background Screening Policy	<b>Number:</b>	500.06
		<b>Effective:</b>	3-10-04
		<b>Revised:</b>	8-27-07
		<b>Revised:</b>	7-23-08
		<b>Revised:</b>	8-2-10

---

In an effort to ensure that the City of Pompano Beach provides a safe place for children to learn and enjoy recreation programs, and in an effort to acquire and retain volunteers and instructors who are more likely to safely interact with participants in programs, the Parks and Recreation Department will conduct criminal background screening on all prospective volunteers and instructors, and based upon the recommended guidelines for credentialing set by the National Recreation and Park Association, shall establish and enforce criteria for disqualification of applicants.

(1) The following shall constitute grounds for disqualification of an applicant:

- (a) The applicant has been found guilty of any of the following crimes listed below:

"Guilty" means that a person was found guilty following a trial, entered a guilty plea or entered a no contest plea, accompanied by a court finding of guilt, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt. Acquittal, Nolle Prossce, or dismissal of charges shall not be included in said definition:

**1. SEX OFFENSES INVOLVING CHILDREN**

>All Sex Offenses and Offenses involving children or the abuse of children – regardless of the amount of time since offense. Examples include but are not limited to child molestation, rape, sodomy, prostitution, indecent exposure.

**2. FELONIES**

>All Felony Offenses involving violence – regardless of the amount of time since the offense. Examples include but are not limited to: murder, attempted murder, manslaughter, aggravated battery, aggravated assault, kidnapping, robbery.

**CITY OF POMPANO BEACH  
ADMINISTRATIVE POLICY**

**PAGE 2**

---

<b>TITLE:</b>	Youth Program Background Screening Policy	<b>Number:</b>	500.06
		<b>Revised:</b>	8-2-10

---

>All Felony Offenses, other than those for violence, sex, or offenses involving children, within the past seven (7) years of the date of the application. Examples include but are not limited to: drug offenses, theft.

**3. MISDEMEANORS**

>All Misdemeanor offenses involving violence within the past five (5) years of the application date. Examples include but are not limited to: simple battery, assault, domestic violence.

>Any three (3) or more Misdemeanor drug offenses or alcohol offenses, or any combination of same within the past five (5) years of the application date. Examples include, but are not limited to, driving under the influence, possession of marijuana, disorderly conduct, possession of drug paraphernalia.

>Any other Misdemeanor offense within the past five (5) years of the application date that would be considered a potential danger to children or that is directly related to the function of that coach. Examples include but are not limited to contributing to the delinquency of a minor, providing alcohol to a minor, petty theft of money.

- (b) Pending prosecution of offenses listed under subsection (a.) above.
- (c) Falsification of any requested information on the application.

**CITY OF POMPANO BEACH  
ADMINISTRATIVE POLICY**


**PAGE 3**

---

<b>TITLE:</b>	Youth Program Background Screening Policy	<b>Number:</b>	500.06
		<b>Revised:</b>	8-2-10

---

- (d) Any person who at the time of the application is serving a period of Community Control or probation for any offense. No such person shall be eligible until all supervision has terminated and all provisions of the sentence have become final.

  
Dennis W. Beach, City Manager



## **Exhibit 15 Contractor's Drug Free Workplace Policy**

### **DRUG FREE WORKPLACE POLICY**

#### **Purpose and Goal**

Creative City Collaborative is committed to protecting the safety, health and wellbeing of all employees and other individuals in our workplace. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

#### **Covered Workers**

Any individual who conducts business for the entity, is applying for a position or is conducting business on the entity's property is covered by our drug-free workplace policy. Our policy includes, but is not limited to executive director, supervisors, full-time employees, part-time employees, volunteers and interns.

#### **Applicability**

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the entity. Therefore, this policy applies during all working hours.

#### **Prohibited Behavior**

It is a violation of our drug-free workplace policy to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants.

#### **Consequences**

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may not reapply.

If an employee violates the policy, he or she will be terminated from employment.

#### **Assistance**

[Public Entity name] recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

## **Confidentiality**

All information received by the entity through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

## **Shared Responsibility**

- A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.
- All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs. In addition, employees are encouraged to:
  - Be concerned about working in a safe environment.
  - Support fellow workers in seeking help.
  - Report dangerous behavior to their supervisor.
- It is the supervisor's responsibility to:
  - Inform employees of the drug-free workplace policy.
  - Observe employee performance.
  - Investigate reports of dangerous practices.
  - Document negative changes and problems in performance.
  - Counsel employees as to expected performance improvement.
  - Clearly state consequences of policy violations.

## **Communication**

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure all employees are aware of their role in supporting our drug-free workplace program:

- All employees will receive a written copy of the policy.
- The policy will be reviewed in orientation sessions with new employees.
- The policy and assistance programs will be reviewed at safety meetings.