



AGREEMENT BETWEEN MARION COUNTY AND MIDTOWN EATERIES, LLC D/B/A THE FORGE

This Agreement is made and entered into by and between Marion County, a political subdivision of the State of Florida, ("County") and **Midtown Eateries, LLC D/B/A The Forge** ("Recipient"), whose address is **343 NE 1st Avenue Ocala, FL 34470** for **Marketing Assistance Funding Program Reimbursement** (the "Project").

WITNESSETH:

In consideration of the mutual covenants and promises contained herein, County and Recipient hereto agree as follows:

Article 1 – The Contract:

1.1 The contract between County and Recipient, of which this Agreement is a part, consists of the Contract Documents. The Contract Documents are defined as this Agreement, the Marketing Assistance Funding Program Guidelines, the Recipient's submitted application, Certificate of Insurance, and any attachments or addendum thereto. The Contract Documents represent the entire and integrated contract between the parties and supersede prior negotiations, representations or agreements, either written or oral. Recipient acknowledges receipt of a copy of the Contract Documents.

1.2 As a prior condition of Recipient receiving reimbursement for eligible expenses as provided herein, Recipient shall first open a physical, i.e. brick and mortar, restaurant location which can accommodate Ocala/Marion County visitors and tourists on or before September 30, 2025 (the Project end date). Provided however, in the event the physical restaurant location does not exist and is not open to the public by the Project end date, this contract will be considered null and void.

Article 2 - Contract Sum & Payments:

2.1 Recipient acknowledges that it is requesting funding for the Project in the form of reimbursement from County's Marketing Assistance Funding Program (the "Program") governed by County's Tourist Development Council (the "TDC"). The Program permits the expenditure of certain tax revenues in order to promote tourism. Recipient acknowledges that it has reviewed the Program and the Contract Documents and understands that failure to comply with the Program and the Contract Documents shall jeopardize current and future funding.

2.2 With regard to the Project, County shall make one payment to Recipient as reimbursement for eligible expenses in an amount not to exceed **Five Thousand Dollars and zero cents (\$5,000)**. All eligible expenses must be incurred from the date of execution of this Agreement to **September 30, 2025** (the "Project End

- A. Expenses: Recipient is instructed to refer to the Marketing Assistance Funding Program Guidelines for a listing of eligible and ineligible expenses. Claimed eligible expenses shall be fully supported by proofs of purchase (copies are acceptable).
- B. The deadline for submission of the final report to OMCVCB is **60** calendar days after the Project End Date and must be completed within in the fiscal year in which the funds were approved. No additions or changes to Recipient’s final report will be accepted by County after that date and County shall not issue any payments for untimely submissions.
- C. Recipient acknowledges that all funds it receives are subject to audit by the Marion County Clerk of the Court – Internal Auditor or other representative as County may designate.

Article 3 –Project Eligibility:

To be eligible for Program funds, the Project shall, in part, comply with the Program objective and provide certain deliverables. This Project was recommended to the Board of County Commissioners by the Tourist Development Council on **August 22, 2024** and subsequently approved by the Board of County Commissioners on **October 01, 2024.**

3.1 Program Objective:

The Project shall meet the following Program objective, as set forth in Section 125.0104, Florida Statutes:

TOURISM PROMOTION: To promote and advertise tourism in the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.

Specifically, to qualify for Program funding the Project shall “enrich the visitor experience, encourage repeat visitations through local business promotions, inspire brand adoption and support tangible marketing materials highlighting tourism activities in Marion County.”

3.2 Project Conditions:

The Project shall adhere to all of the following conditions:

- A. Marketing
 - (1) Recipient shall credit the OMCVCB on all Project marketing materials online and offline.
 - (2) All Project printed and digital marketing collateral and materials, shall include the OMCVCB logo.
 - (3) Any use of OMCVCB branding or the OMCVCB name must conform to the requirements of the OMCVCB Brand Toolkit, available at <https://www.ocalamarion.com/media/brand-toolkit/> , and any other guidelines that may be issued by OMCVCB.
 - (4) Prior to publication or production, Recipient must provide all proposed items to include OMCVCB branding for review and approval. Failure to do so will result in disqualification from receiving reimbursement.

Article 4 – General Responsibilities of Recipient:

- 4.1** Recipient shall comply with all applicable federal, state, and local laws and regulations in executing the Project and shall include this requirement in all subcontracts pertaining to the Project. Recipient agrees to furnish all labor, materials equipment, and services and shall obtain any and all governmental permits necessary to execute the Project. If any part of the Project is not properly permitted prior to execution or completed without proper permits, the Project will be disqualified for funding.

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- 4.2 RECIPIENT shall provide proof of insurance to COUNTY, obtained with a company or companies authorized to do business in the State of Florida with an A.M. Best Company rating of at least A-. Proof of coverage provided to County should be an Accord Certificate of Insurance and contain the following: A Commercial General Liability Insurance Policy is required in the amount of at least \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage and Personal and Advertising Injury, \$1,000,000, and \$50,000 Fire Legal Liability Coverage. COUNTY, a political subdivision of the State of Florida, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – The coverage shall contain no special limitation on the scope of protection afforded to COUNTY, its officials, employees, or volunteers.
- 4.3 Recipient shall only receive funding for eligible expenses, as otherwise provided herein. Any funding advanced and later deemed ineligible for any reason, shall be repaid by Recipient to County within ten (10) days of written request.
- 4.4 In the performance of this Agreement, Recipient shall be acting in the capacity of an “Independent Contractor” and not as an agent, employee, partner, joint venture or associate of County, thereby making Recipient solely responsible for the means, methods, techniques, sequences and procedures utilized by Recipient in the full performance of this Agreement.
- 4.5 Recipient shall keep records of all transactions. County shall have the right to review such records at County’s office at 109 W. Silver Springs Blvd., Ocala, FL 34475 during normal business hours.
- 4.6 **Public Records Compliance.**
- A. Recipient acknowledges that any material, including papers, photographs, films, and audio recordings, made or received by County in connection with Recipient’s request for Program funding is a public record and subject to public inspection, unless there is a legislatively created exemption that makes it confidential and not subject to disclosure. Therefore, Recipient acknowledges that it cannot dictate to County what material is open to public inspection or the circumstances under which material is deemed confidential.
 - B. If, under this Agreement, Recipient is providing services and is acting on behalf of County as provided under Section 119.001(2), Florida Statutes, then, Recipient shall comply with public records laws, specifically:
 - (1) Keep and maintain public records required by County to perform the service;
 - (2) Upon request from County’s custodian of records, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
 - (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Term of this Agreement and following completion of this Agreement if Recipient does not transfer the records to County; and,
 - (4) Upon completion of this Agreement, transfer, at no cost, to County, all public records in possession of Recipient or keep and maintain public records required by County to perform the service. If Recipient transfers all public records to County upon completion of this

Agreement, Recipient shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Recipient keeps and maintains public records upon completion of this Agreement, Recipient shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request from County's custodian of public records in a format that is compatible with the information technology systems of County.

- C. If Recipient fails to provide the public records to County within a reasonable time or otherwise, Recipient may be subject to penalties under Section 119.10, Florida Statutes and may be subject to unilateral cancellation of this Agreement by County.
- D. **IF RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Public Relations
601 SE 25th Ave.
Ocala, FL 34471
Phone: 352-438-2300
Fax: 352-438-2309
Email: Publicrelations@MarionCountyFL.org**

Article 5 – Indemnification and Liabilities:

- 5.1 To the fullest extent permitted by law, Recipient shall indemnify, defend, and hold harmless County, its officers, board members, agents, representatives and employees, from and against fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, judgment and awards and actions of whatever kind or nature, including attorney's fees, costs (and costs and fees on appeal), and damages (including, but not limited to, actual and consequential damages, personal injury, bodily injury, sickness, disease or death, and injury to or destruction of tangible property including loss of use resulting therefrom), arising out of or resulting from guests, invitees, participants, spectators, or any action of Recipient, or in any way a result of the Project or the services, events, or products advertised.
- 5.2 Recipient acknowledges that County, through the TDC, is only a financial contributor to the Project and not a promoter or co-sponsor and County shall not be responsible for any debt incurred or liability issues that may occur in any way related to the Project.

Article 6 - Termination of this Agreement:

- 6.1 County may terminate this Agreement at any time with or without cause. Recipient may terminate this Agreement at any time with cause solely with the approval of County. Any and all decisions made by County concerning termination of this Agreement are binding upon Recipient. Recipient acknowledges that termination of this Agreement does not relieve Recipient of any obligations it may have to the facility, vendors, etc.

Article 7 – Photo/Likeness Release Form:

- 7.1 Recipient acknowledges that the purpose of the Program and the award of Program funding to Recipient, are, in part, to promote County. Recipient grants to County the right to use and reproduce any and all photographs, digital images, videotapes or recordings made at or in relation to the Project, including those of Recipient's employees, volunteers, invitees, and those that contain Recipient's name, artwork, logo or trademark, for use by County, and the right to copyright and/or use, reuse and/or publish, republish

photographic pictures, digital images, videotapes or recordings. Recipient affirms it is the legal owner of any artwork, logo or trademark used by Recipient and acknowledges that County is relying on this representation and, to the extent there is any claim by any third party against County, Recipient will indemnify and hold the County harmless as to any such claim or damages arising from such claim. Recipient grants County permission for the photographs, digital images, videotapes, or recordings to be used in their entirety and/or edited versions as deemed necessary by County. It is understood these items will become the property of County and all rights to inspect or approve as well as any royalties or other such compensation are waived. Recipient further grants County permission for the photographs, digital images, videotapes or recordings to be used by County at any time in the future without notice being provided and that County's use may include for trade, commercial and advertising purposes, to promote the product or service of County, and to simply report happenings in County, and may include the use of items on County websites. Recipient affirms it has made its invitees aware of County's intentions in this regard and has made the signing of a release a requirement to participate in the Project.

Article 8 – Governing Law, Venue, Waiver of Right to Jury Trial, Severability:

8.1 This Agreement and all the Contract Documents shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceeding arising from or related to this Agreement; (1) venue for state or federal legal proceedings shall be in Marion County and (2) for civil proceedings, the parties consent to trial by the court and waive right to jury trial.

8.2 Invalidity or unenforceability of one or more provisions of this Agreement shall not affect any other provision of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement by their duly authorized officers on the date of the last signature below.

ATTEST:

MARION COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

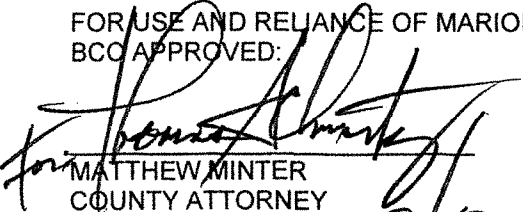
GREGORY C. HARRELL
CLERK OF COURT

BY: _____
MICHELLE STONE
CHAIRMAN

DATE: _____

DATE: _____

FOR USE AND RELIANCE OF MARION COUNTY ONLY, APPROVED AS TO FORM AND LEGAL SUFFICIENCY
BCO APPROVED:


MATTHEW MINTER
COUNTY ATTORNEY

ACCEPTANCE DATE: 8/20/24

Midtown Eateries, LLC D/B/A The Forge (Recipient)

By: [Signature]
Printed Name: Francis W. Landry
Its: Owner
Date: 9/5/2024

STATE OF Florida
COUNTY OF Miami

The forgoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this Sept 5, 2024 by Francis Landry (name of officer or agent), the _____ (title) of _____ (name of corporation acknowledging), a FL (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.



[Signature]
(Notary Signature and Notary Seal)

(Name of Notary Typed, Printed or Stamped)

Commission Expires: _____