

ITEM #41

(REVISED AGREEMENT)

**ADDITIONAL MATERIAL
10:00 A.M. REGULAR MEETING**

JANUARY 9, 2018

SUBMITTED AT THE REQUEST OF

LIBRARIES DIVISION

**CITY OF FORT LAUDERDALE
OUTDOOR EVENT AGREEMENT**

THIS AGREEMENT is made by and between:

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

and

BROWARD COUNTY, a political subdivision of the State of Florida, whose principal place of business is 115 South Andrews Avenue, Fort Lauderdale, Florida 33301, and which is referred to hereinafter as "Applicant" or "Sponsor".

WHEREAS, the Applicant wishes to hold an outdoor event and has submitted an application pursuant to the requirements of Section 15-182 of the Code of Ordinances of the City of Fort Lauderdale, Florida; and

WHEREAS, on January 3, 2018, by Motion, the City Commission of the City of Fort Lauderdale authorized the proper City Officials to execute this Agreement.

NOW, THEREFORE, in consideration of the mutual promises made herein, the parties agree as follows:

The foregoing recitals are true and correct, and:

1. Effective Date.

The Effective Date of this Agreement is the later of the date upon which City Commission approval is granted or the date upon which Broward County Commission approval is granted.

2. Outdoor Event.

The Applicant is permitted to operate or sponsor the "CHALK LIT CHALK FESTIVAL" (referred to hereinafter as the "Event") outdoors only at the location(s) and time(s) set forth in the attached Outdoor Event Agreement Schedule One and Site Map (if applicable), which is attached hereto and made a part hereof.

3. General Requirements.

- (1) If the Event includes use of fireworks, in advance of the Event the Applicant shall obtain a fireworks permit from the City's Fire Department. The Applicant shall comply with all applicable state laws regarding the use of fireworks.

- (2) The Applicant shall provide sanitary facilities of the type and in a sufficient number specified by the requirements established by the City's Department of Sustainable Development.
- (3) The Applicant shall coordinate with the City's Department of Sustainable Development who will schedule appropriate City staff to conduct electrical inspections of all electrical facilities whether power is supplied by local utilities or is self-provided by generator systems. The Applicant shall permit the City staff to conduct electrical inspections of all electrical facilities.
- (4) The Applicant shall coordinate with the City's Department of Transportation and Mobility who shall review the event application and determine necessary parking requirements.
- (5) If the Event includes the sale or distribution of any food or beverages, the Applicant shall comply with all applicable State, County and City health code requirements. This shall be evidenced by a permit by the appropriate entity.
- (6) If the Event includes use of tents, awnings, or canopies, in advance of the Event the Applicant shall submit current flameproof certificates to the City's Fire Department. The Applicant shall not hold or sponsor the Event until the Fire Department has provided written approval of the use of any tents, awnings, or canopies.
- (7) The Applicant shall pay for the expense of all city services provided as a result of the Event identified by City staff prior to the Event, which expenses shall be in the amounts set forth in Exhibit A. The Applicant will adhere to the Site Plan and Maintenance of Traffic Plan attached as Exhibit B.
- (8) The Applicant is a self-insured governmental entity within the meaning of Section 15-184 of the Fort Lauderdale City Code. Applicant agrees to provide a letter of self-insurance to the City's Risk Manager in advance of the Event.
- (9) To the extent permitted by law, the Applicant shall hold harmless the city for any damage to person or property factually and proximately caused by the Event. The preceding sentence notwithstanding, the Applicant shall not be responsible for the acts or omissions of the City, its employees or agents.

4. Restoration of City property.

If the Event includes use of City property the Applicant shall be responsible for, and shall maintain, all areas of the City property used. Maintenance means the prompt and complete removal of Event-generated trash or debris and the repair or restoration of any

City property that was damaged as a result of the Event. City property means real and personal property owned by the City including but not limited to, any sidewalk or paved surface, any tree, plant, shrub, bench, light fixture, traffic signal, parking meter, trash barrel or sign owned by the City.

The City shall inspect the Event site location(s) for damage within twenty-four hours of the conclusion of the Event and the City shall provide the Applicant with a written report of any damage found on City property. The report shall state the reasonable cost of repair(s) necessary to restore the City property. Costs shall not exceed the City's actual cost of repair. Within 30 days of the Applicant's receipt of this report the Applicant shall pay the cost of repair or challenge the City's report by a writing addressed to the Director of the City's Parks and Recreation Department.

5. Reimbursement of expenses.

Should the City incur expenses as a result of the Event, the City shall provide the Applicant with an invoice of reasonable expenses. The Applicant shall not be liable for any City expenses that exceed the actual and reasonable cost to the City, that are not actually and proximately caused by the Event, or are for services that the City has a pre-existing duty to provide at its own expense. Within 30 days of the Applicant's receipt of any invoice the Applicant shall pay the invoice or challenge the City's invoice by a writing addressed to the Director of the City's Parks and Recreation Department.

6. Authority of the City of Fort Lauderdale City Manager.

The City of Fort Lauderdale City Manager and his designee, the Director of the City of Fort Lauderdale Parks and Recreation Department (referred to hereinafter as "the Director") shall have the authority to suspend all or any part of the Event when the City Manager or the Director determines that the Event, or its attendees, or its spectators, pose(s) a threat to the public health, safety, or welfare. The City Manager also reserves the right to immediately revoke permission, suspend, modify or terminate the event or any portion upon his written determination or in the event any of the elements of the agreement are violated.

7. Compliance with laws.

- (1) The Applicant shall at all times comply with all federal and state laws or statutes, and with the rules, regulations, and ordinances of City and any other governmental agency having jurisdiction including, but not limited to, those relating to noise, building, zoning, gambling, fire protection, liquor regulation, and hours of operation. The Applicant shall further take reasonable precautions and use due care to conduct its operations in a safe and prudent manner with respect to its agents, employees and visitors to its Event.

- (2) The Applicant shall comply with the applicable sections of the Americans with Disabilities Act of 1990 (42 U.S.C. 126), which prohibits discrimination of handicapped individuals by denying them the right to participate in or benefit from the services provided at the Event. The Applicant understands that it is responsible for compliance with this Act. The Applicant guarantees that individuals with disabilities will be able to attend, enter, and use all the facilities at the Event.
- (3) The Applicant agrees to secure and pay for all licenses and permits required by any governmental agency having jurisdiction, including City. If the Event includes the use of any item that is or that may be protected from infringement, such as but not limited to copyrights, patents and trademarks, the Applicant shall, in advance of the Event, provide City with documentation that shows that the Applicant has obtained the applicable license, permit or permission and that all associated all fees have been paid in full. The provisions of this paragraph apply specifically, but not exclusively, to ASCAP, BMI, SESAC, and any other similar organization that may require written permission and payment of a fee for use of protected material.

8. Limitation of Liability

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. Applicant is a state agency or political subdivision as defined in Section 768.28, Florida Statutes, and shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

9. Transfer of Rights.

To the extent this Agreement creates rights that vest in the Applicant, the Applicant shall not transfer any rights to any other individual or entity.

10. Venue.

Venue to enforce the provisions of this agreement shall be Broward County, Florida.

11. Incorporation.

This Outdoor Event Agreement, together with the attached Schedule One and Site Map (if applicable), constitute the whole of the Agreement between the parties. The written approvals issued by the various City departments or staff members and the various documents submitted by the Applicant, including the application, are supplemental to this Agreement. In the event of a conflict, the terms of this Agreement control.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the date first above written.

ATTEST:

CITY OF FORT LAUDERDALE,
a Florida municipal corporation.

JEFFREY A. MODARELLI
City Clerk

LEE R. FELDMAN, City Manager

Approved as to form:
CYNTHIA A. EVERETT, City Attorney

By: _____
KIMBERLY CUNNINGHAM MOSLEY
Assistant City Attorney

(Applicant's Execution on Next Page)

**CITY OF FORT LAUDERDALE
OUTDOOR EVENT AGREEMENT**

APPLICANT

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By: _____
_____ day of _____, 20__

Insurance requirements approved by
Broward County
Risk Management Division:

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____

Name: _____

Title: _____

By: _____
Scott Andron (Date)
Assistant County Attorney

By: _____
Sharon V. Thorsen (Date)
Senior Assistant County Attorney

Exhibit A – Fees

Application fee: \$200 (paid in advance)

Fire-safety inspection fee for food trucks (2 hours @ \$75 per hour): \$150

Parking fee for meters: \$243 (paid in advance)