

003.9

RESOLUTION NO. 2019- 224

**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 LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND BEACHFEST ENTERTAINMENT LLC, FOR ORGANIZING AND HOSTING A TWO-DAY MUSICAL FESTIVAL ON THE CITY'S MAIN PUBLIC BEACH; PROVIDING AN EFFECTIVE DATE.**

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

**SECTION 1.** That an Agreement between the City of Pompano Beach and Beachfest Entertainment LLC, 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 Beachfest Entertainment LLC.

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

**PASSED AND ADOPTED** this 9th day of July, 2019.

  
\_\_\_\_\_  
**REX HARDIN, MAYOR**

**ATTEST:**

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



# **City of Pompano Beach**

## **LICENSE AGREEMENT**

**with**

**BEACHFEST ENTERTAINMENT  
LLC**



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Exhibit C	Accounting and Recordkeeping Procedures
Exhibit D	CITY Policy for Alcohol Sales and Consumption
Exhibit E	CITY's In-Kind Benefits to LICENSEE



THIS LICENSE AGREEMENT ("Agreement"), entered into this 10 day of July, 2019, by and between:

**CITY OF POMPANO BEACH**, a municipal corporation located in Broward County, Florida (hereinafter "CITY"),

and

**BEACHFEST ENTERTAINMENT LLC** a Nevada for profit limited liability company authorized to do business in Florida (hereinafter "LICENSEE").

**WHEREAS**, LICENSEE desires to utilize the City's main public beach, north of pier (the "Property") to conduct Beachfest (collectively the "Event" described in Exhibit A, Scope of Authorization);

**WHEREAS**, CITY has determined that entering into this Agreement with LICENSEE to provide Event at the Property is in the best interest of the public; and

**WHEREAS**, CITY and LICENSEE desire to enter into this Agreement setting forth the parties' mutual understandings and undertakings.

**NOW, THEREFORE**, in consideration of the conditions, covenants and mutual promises herein contained, CITY and LICENSEE agree as follows.

## **ARTICLE 1 REPRESENTATIONS**

A. **Representations of CITY.** CITY makes the following representations to LICENSEE, which CITY acknowledges LICENSEE 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 the Agreement on behalf of the CITY are duly authorized to take such action, which action shall be, and is, binding upon the CITY.

3. LICENSEE shall be entitled to rely upon the accuracy and completeness of any information supplied by CITY or by others authorized by the CITY's Recreation Program Administrator.



B. **Representations of LICENSEE.** LICENSEE makes the following representations to CITY, which CITY relies upon in entering into this Agreement.

1. LICENSEE is a Nevada for profit limited liability company duly organized in the state of Nevada and authorized to do business in Florida, with the power and authority to enter into this Agreement.

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

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

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

5. LICENSEE 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, management and interpersonal skills of LICENSEE or others authorized by LICENSEE under this Agreement.

7. LICENSEE 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 will at all times conduct its activities in a professional, reputable manner.

8. LICENSEE agrees to be bound by all terms, conditions, duties, obligations and specifications set forth in this Agreement.

## **ARTICLE 2 NON-ASSIGNABILITY AND SUBCONTRACTING**

A. This Agreement is not assignable and LICENSEE 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 prior written approval from CITY which shall not be unreasonably withheld.

B. Any attempt by LICENSEE to assign or transfer any of its rights or obligations under this Agreement without first obtaining CITY's written approval shall result in CITY's immediate cancellation of this Agreement. Specifically, no formal assignment of any right or



obligation under this Agreement shall be binding on CITY without the formal written approval of the City Commission of Pompano Beach.

C. This Agreement and the rights and obligations therein 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 LICENSEE'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 LICENSEE hereunder shall immediately cease and terminate.

D. 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 LICENSEE.

### **ARTICLE 3 TERM AND RENEWAL**

This Contract shall be for a term of five (5) years or less beginning with the date this Agreement is fully executed by both parties. Annual Event shall take place on mutually agreed upon date, in writing per Article 14 below, for each year this Agreement is active.

### **ARTICLE 4 INSURANCE**

LICENSEE shall maintain insurance in the amounts and subject to all conditions set forth in Exhibit B and shall not commence operations under this Agreement until proof of insurance detailing the terms and provisions of coverage has been received and approved in writing by the CITY's Risk Manager, which approval shall not be unreasonably withheld. LICENSEE shall provide proof of insurance at least thirty (30) days prior to the Event. The coverage required shall extend to all employees and subcontractors of the Contractor.

### **ARTICLE 5 PUBLIC RECORDS PROCEDURES**

Public Records.

1. The CITY of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The LICENSEE shall comply with Florida's Public Records Law, as amended. Specifically, the LICENSEE shall:

a. Keep and maintain public records required by the CITY in order to perform the service.

b. Upon request from the CITY's custodian of public records, provide the CITY with a copy of 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.

c. 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 contract term and following completion of the contract if the LICENSEE does not transfer the records to the CITY.

d. Upon completion of the Agreement, transfer, at no cost to the CITY, all public records in possession of the LICENSEE, or keep and maintain public records required by the CITY to perform the service. If the LICENSEE transfers all public records to the CITY upon completion of the Agreement, the LICENSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LICENSEE keeps and maintains public records upon completion of the contract, the LICENSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records in a format that is compatible with the information technology systems of the CITY.

2. Failure of the LICENSEE to provide the above described public records to the CITY within a reasonable time may subject LICENSEE to penalties under 119.10, Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**IF THE LICENSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LICENSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
100 W. Atlantic Blvd., Suite 253  
Pompano Beach, Florida 33060  
(954) 786-4611  
[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**



**ARTICLE 6**  
**RECORDKEEPING, INSPECTION, AUDIT**

LICENSEE 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 methods and procedures set forth in this Article and in Exhibit C.

**ARTICLE 7**  
**RESPONSIBILITIES OF LICENSEE**

A. LICENSEE shall organize and conduct the Event described in Exhibit A consistent with CITY policies which specifically require that LICENSEE at all times perform its obligations hereunder in a professional manner and also develop and adhere to written protocols to ensure public resources are properly tracked and appropriated.

LICENSEE agrees to follow the policies of the CITY's Recreation Programs Administrator but in the absence thereof, LICENSEE shall exercise reasonable judgment in discharging its duties hereunder. LICENSEE understands and agrees that LICENSEE shall plan, administer, pay for and coordinate all aspects of the Event, including, but not limited to, all required staffing, tools and materials other than, if applicable, the CITY's in-kind benefits listed in Exhibit E.

B. LICENSEE's Responsibility for Damage or Loss of CITY Property. A representative of the CITY and LICENSEE shall inspect and document by photographs the condition of the Property prior to set up and after cleanup of Event. CITY expects the Property to be restored by LICENSEE to the same condition which existed prior to set up of the Event.

If the Property or any portion thereof, or any structure attached thereto, or any equipment, fixture, or other item located thereon, including the grass or asphalt, shall be destroyed, damaged, marred, altered, or physically changed during the term in any manner whatsoever, then CITY will take the necessary remedial action to cause such repair or replacement to occur and LICENSEE shall pay CITY for any such expenditures within two (2) weeks after receipt of CITY's written invoice for same.

C. LICENSEE Responsible for all Contracts. LICENSEE agrees to be solely responsible for all contracts or agreements of any nature for the Event. All contracts shall be negotiated by LICENSEE and secured at LICENSEE's sole expense. CITY shall not be named as a party in any contract and CITY shall have no obligation to ensure payment to any individual or entity for goods and/or services provided in conjunction with the Event.

LICENSEE represents and warrants that a minimum of three days prior to set-up for the Event, LICENSEE shall have secured all necessary performing rights and licenses, including, if applicable, BMI, ASCAP and SESAC licenses, and shall provide copies of same to the CITY's Contract Administrator. LICENSEE shall also ensure that all performance payments required to be made under such license(s) are made promptly, appropriately and directly paid to the licensing organizations. CITY shall have no responsibilities to any performing rights licensing organization for any performance(s) during the Event.



D. Concession Rights. During the Event and to the extent permitted by law and City Code, LICENSEE shall have concessionaire rights on the Property and agrees to comply with the CITY's Policy for Alcohol Sales and Consumption as described in Exhibit D.

E. Required Licenses, Permits and Authorizations. LICENSEE, at its sole expense, shall obtain all required federal, state, local and other governmental approvals, as well as all necessary private authorizations and permits required attendant to LICENSEE's performance hereunder and provide CITY a copy of same a minimum of three (3) business days prior to set up of the Event on the Property. Ignorance on LICENSEE's part of any applicable laws, regulations or required authorizations shall not relieve LICENSEE from this responsibility.

LICENSEE shall provide sanitary and food facilities in accordance with applicable laws and regulations of the Florida Department of Environmental Protection and the Broward County Health Department. If LICENSEE is unable to obtain all necessary licenses, permits or other authorizations in a timely manner, either party may elect to terminate this Agreement and CITY shall be reimbursed for any in-kind services it has incurred to date.

F. Compliance With all Laws. In the conduct of its activities under this License Agreement, LICENSEE shall comply with all applicable federal and state laws and regulations and all applicable county and city ordinances and regulations, including, but not limited to, compliance with the Americans with Disabilities Act. Ignorance on LICENSEE's part of any applicable laws and regulations shall in no way relieve LICENSEE from this responsibility.

G. Emergency Access. LICENSEE agrees to provide any and all emergency access required by the CITY and its employees for the safety and welfare of the community and those attending the activities. If, in the course of LICENSEE's operations, CITY or its officers, agents and employees become aware of any condition on the Property which may be dangerous, upon being notified, LICENSEE shall immediately correct such condition or cease operations so as not to endanger persons or property.

H. LICENSEE, its subcontractors, vendor and other agents shall be responsible to pay any and all sales taxes and other charges of any nature or kind, which may be assessed against their provision of goods and services under this Agreement. Proof of such sales tax payments shall be submitted to the CITY's Recreation Program Administrator upon request.

I. LICENSEE is responsible for hiring and managing its own staff, subcontractor and other agents, all of which shall be a minimum of eighteen (18) years old, under LICENSEE's exclusive direction and control and not deemed agents or employees of the CITY. At its sole discretion, and upon request by LICENSEE, the CITY reserves the right to approve LICENSEE's hiring of staff under eighteen (18) years old. LICENSEE shall be responsible for any and all work authorization(s) for its staff under eighteen (18).

J. LICENSEE shall be solely responsible for compensating its employees, representative 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 workers' compensation insurance and any other benefits required by law.

K. LICENSEE shall be responsible to ensure that all its employees, staff or other agents are suitable for employment in a municipal facility in terms of general character, knowledge, ability, manner and conduct.

L. LICENSEE shall maintain, and be required to verify, that it operates a "Drug Free Workplace" as set forth in § 287.087, Florida Statutes.

M. LICENSEE shall utilize the Property exclusively for the activities described herein. In addition LICENSEE shall not allow any part thereof to be used for any immoral or illegal purposes, nor allow, suffer or permit the Property to be used for any unlawful purpose, business, activity, use or function to which the CITY objects, including gambling.

N. LICENSEE shall immediately inform the CITY's Recreation Program Administrator of any repairs or maintenance necessary to keep the PROPERTY in good and safe condition.

O. LICENSEE shall promptly respond to concerns raised by Event patrons and the CITY's agents hereunder and timely take appropriate action as warranted by the circumstances.

P. LICENSEE is responsible to provide CITY the in-kind benefits listed in Exhibit A.

Q. LICENSEE is responsible for any fees, taxes or levies not listed in Exhibit E, imposed as a result of this Agreement.

R. LICENSEE shall verify that its employees are authorized to work in the U.S. and certifies that a good faith effort has been made to properly identify employees by timely reviewing and completing appropriate documentation, including but not limited to the Department of Homeland Security, U.S. Citizenship, and Immigration Services Form I-9. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: [www.uscis.gov/e-verify](http://www.uscis.gov/e-verify).

## **ARTICLE 8 RESPONSIBILITIES OF CITY**

A. CITY is responsible to maintain the Property and surrounding outdoor areas, including the building systems (E.g. plumbing, electrical, painting, ceilings, walls, floors, roof, public restrooms, etc.) and general maintenance (E.g. shrubbery and lawn care, garbage pickup, etc.); however, the foregoing provisions are in no way intended to absolve LICENSEE from the responsibilities set forth in Article 7.



B. CITY is responsible to provide LICENSEE the in-kind benefits listed in Exhibit E, if applicable.

## **ARTICLE 9 MISCELLANEOUS TERMS AND CONDITIONS**

A. Articles Left on Premises. LICENSEE understands and agrees that the CITY shall not in any way be responsible for any personal property of patrons of the Event or LICENSEE, its sub-contractors or other agents left on the Property and that LICENSEE bears any and all risk of loss. Any article(s) remaining on the Property at the conclusion of Event shall become the property of the CITY.

B. CITY's Right To Make Improvements, Modify the Property and the Number and Manner of Streets Closures. Throughout the term of this license and notwithstanding any other term or condition herein, CITY retains the right, in its sole discretion, to modify and reconfigure the Property, including, but not limited to, attendant green and open space areas and the public right-of-way. Specifically, both parties agree that the public right-of-way and open and green space areas may be temporarily or permanently relocated, reconfigured, modified or closed at CITY's sole discretion. LICENSEE agrees to make adjustment to any such changes implemented by CITY.

C. Incorporation by Reference. All Whereas clauses stated above are true and correct and are incorporated herein by reference. The Exhibits attached hereto are also incorporated into and made a part of this Agreement.

## **ARTICLE 10 INDEMNIFICATION OF CITY**

A. LICENSEE shall at all times indemnify, hold harmless and defend the CITY its officials, its authorized agents, and its employees hereunder from and against any and all claims, demands, suit, damages, attorneys' fees, fines, penalties, defense costs or liabilities arising directly, indirectly or in connection with this Agreement and with LICENSEE's officers, staff or other agents' actions, negligence or misconduct under this Agreement whether same occurs or the cause arises on or away from the Property except that LICENSEE shall not be liable under this Article for damages arising out of injury or damage to persons or Property arising from the negligence, gross negligence or willful misconduct of the CITY, any of its officers, agents or employees. LICENSEE agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all 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 LICENSEE for any causes of action LICENSEE has or may have for breaches or defaults by the CITY under this Agreement.

B. The parties agree that the value of services provided by CITY under this contract and the benefits received by LICENSEE under same shall constitute specific consideration by LICENSEE for the indemnification to be provided herein. LICENSEE acknowledges and agrees that neither party would enter into this Agreement without this indemnification of CITY by



LICENSEE. The parties agree that one percent (1%) of the total compensation paid to LICENSEE for the work of the Agreement shall constitute specific consideration to LICENSEE for the indemnification to be provided under the Agreement.

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

D. The indemnification provisions of this Article shall survive the expiration or early termination of this Agreement.

## **ARTICLE 11 INDEPENDENT CONTRACTOR**

Both CITY and LICENSEE agree that LICENSEE is an independent contractor and not a CITY employee. CITY shall not be liable for any wages, salaries, debts, liabilities or other obligations for LICENSEE's employees, agents or other representatives performing obligations of LICENSEE hereunder. Except as otherwise provided hereunder, neither party is the agent of the other nor is authorized to act on behalf of the other in any matter.

## **ARTICLE 12 NO DISCRIMINATION**

During the performance of this Agreement, LICENSEE agrees not to discriminate against any person on the basis of race, color, religion, sex, age, national origin, ancestry, marital status, physical or mental disability. However, with justifiable cause, LICENSEE maintains the right to refuse patrons or its agents hereunder from participation in the Event.

## **ARTICLE 13 PUBLIC ENTITY CRIMES ACT**

Through execution of this Agreement and in accordance with Section 287.133, Florida Statutes, LICENSEE certifies that it is not listed on the convicted vendors list maintained by the State of Florida, Department of General Services.

## **ARTICLE 14 NOTICES AND DEMANDS**

Whenever it is provided herein that notice, demand, request, or other communication shall or may be given to, or served upon, either of the parties by the other, it must be in writing, sent by certified United States mail with return receipt requested, addressed to the party to whom it is intended at the places designated below until changed by written notice in compliance with the



provisions of this Article. For the present, the parties designate the following respective places for giving of notice, to-wit:

**For CITY:**

CITY Manager  
P.O. Drawer 1300  
Pompano Beach, Florida 33061  
[greg.harrison@copbfl.com](mailto:greg.harrison@copbfl.com)  
(954) 786-4601 office  
(954) 786-4504 fax

**With a copy to:**

Recreation Program Administrator  
1801 NE 6<sup>th</sup> Street  
Pompano Beach, Florida 33060  
[mark.beaudreau@copbfl.com](mailto:mark.beaudreau@copbfl.com)  
(954) 786-4191 office  
(954) 786-4113 fax

**FOR LICENSEE:**

Beachfest Entertainment LLC  
934 N. University Dr. Ste. 252  
Coral Springs, FL. 33071  
[royanthonyent@yahoo.com](mailto:royanthonyent@yahoo.com)  
(954) 857-9591 office

**ARTICLE 15  
GOVERNING LAW AND VENUE**

A. The Agreement shall be governed by the laws of the State of Florida, both as to interpretation and performance. CITY and LICENSEE submit to the jurisdiction of Florida courts and federal courts located in Florida. 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.

B. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and in addition to every other remedy given herein, now or hereafter existing at law or in equity or by statute or otherwise.

**ARTICLE 16  
CONTRACT ADMINISTRATOR**

A. The CITY's Recreation Program Administrator or his written designee shall serve as the CITY's Contract Administrator during the performance of services under this Agreement.

B. Roy Anthony shall serve as LICENSEE's Contract Administrator during the performance of services under this Agreement.



**ARTICLE 17**  
**NO CONTINGENT FEE**

LICENSEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for LICENSEE, 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 solely for LICENSEE 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 LICENSEE's breach or violation of this provision, the CITY shall have the right to terminate this Agreement without liability and, at CITY's sole discretion, to recover the full amount of such fee, commission, percentage, gift or consideration.

**ARTICLE 18**  
**ATTORNEY'S FEES**

In the event of litigation between the parties, the prevailing party shall be entitled to recover all costs of collection, including a reasonable attorney's fees and court costs. The provisions of this paragraph shall survive termination of this Agreement.

**ARTICLE 19**  
**FORCE MAJEURE**

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.

If CITY or LICENSEE are unable to perform, or are delayed in their performance of any obligations under this Agreement 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.

In order to be entitled to the benefit of this Article, a party claiming an event of force majeure shall be required to give prompt written notice to the other party specifying in detail the event of force majeure and also diligently proceed to correct the adverse effect of any force majeure. The parties agree that, as to this Article, time is of the essence.



**ARTICLE 20  
WAIVER AND MODIFICATION**

A. Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

B. CITY and LICENSEE may request changes to modify certain provisions of this Agreement, including increasing or decreasing the scope of services to be provided. 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 21  
SEVERABILITY**

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

**ARTICLE 22  
APPROVALS**

Whenever CITY approval(s) shall be required for any action under this Agreement, said approval(s) shall not be unreasonably withheld.

**ARTICLE 23  
ABSENCE OF CONFLICTS OF INTEREST**

Both parties represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance hereunder.

**ARTICLE 24  
BINDING EFFECT**

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

**ARTICLE 25  
LICENSE NOT LEASE**

Both parties acknowledge and agree this Agreement shall not be deemed a lease of the Property but rather a license granted to LICENSEE by CITY to provide the Event activities, including the sale of attendant food, beverages and merchandise, under the conditions and purposes expressed herein and shall not be construed to be a license to engage in any other business upon



the licensed premises. LICENSEE understands and agrees that it takes the Property in "as is" condition.

## **ARTICLE 26 TERMINATION**

A. Termination for Cause. Breach or default of any of the covenants, duties, or terms of this Agreement and any attachment incorporated herein shall be cause for termination of this Agreement. In the event of a breach or default, LICENSEE shall be given written notice by the CITY in accordance with Article 14 herein stating the cause for such termination. Said termination shall be final.

B. Termination for Safety. CITY may terminate this event upon the occurrence of any riot, violent disturbance or similar conduct stemming from this event which threatens the immediate health or safety of the public.

## **ARTICLE 27 NO WAIVER OF SOVEREIGN IMMUNITY**

Nothing contained in this Agreement is intended to serve as a waiver of the CITY's sovereign immunity as provided for in §768.28, Florida Statutes.

## **ARTICLE 28 CITY'S RIGHT TO AUTHORIZE USE OF THE CITY PROPERTY**

The CITY, through its Recreation Programs Administrator, reserves the right to authorize use of the CITY Property for special group and /or City functions upon reasonable written notice to LICENSEE.

## **ARTICLE 29 COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this Agreement and any signatory hereon shall be considered for all purposes as original.



**ARTICLE 30**  
**NON-EXCLUSIVE LICENSE**

Licensee acknowledges and agrees that it is not acquiring any rights other than the non-exclusive right to use the Property in accordance with the terms of this Agreement.

Notwithstanding the above, for events with an attendance of two thousand (2,000) attendees or more, CITY agrees that during the term of this Agreement the CITY will not enter into an Agreement with a competing promoter for another event of the Rock or Country genre at the Property which is not produced by the LICENSEE. For all other music genres, LICENSEE agrees that CITY may receive offers for additional events at the Property during the term of this Agreement, and LICENSEE shall be given thirty (30) days to agree to produce the event or right of refusal. In the event of refusal, LICENSEE forfeits its rights, and the CITY shall be allowed to conduct an event with a competing promoter at the Property. CITY may, at its sole discretion, allow for events at the Property for two thousand (2,000) or less attendees and pre-existing events.

**ARTICLE 31**  
**ENTIRE AGREEMENT AND INTERPRETATION**

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.

Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, both CITY and LICENSEE and their respective counsel have had equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of, and therefore construed against either party.

It is further agreed the omission of a term or provision contained in an earlier draft of this Agreement shall have no evidentiary significance regarding the contractual intent of the parties and that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document agreed to and executed by authorized representatives of both parties with the same formality of this Agreement.

**THIS SPACE INTENTIONALLY LEFT BLANK**



IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

**"CITY":**

Witnesses:

Emily A. Sargott  
Shelley R. Baulhorn

**CITY OF POMPANO BEACH**

By: \_\_\_\_\_

REX HARDIN, MAYOR

By: \_\_\_\_\_

GREGORY P. HARRISON, CITY MANAGER

Attest:

Asceleta Hammond  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

Mark E. Berman  
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 10 day of July, 2019, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** 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 are personally known to me.

NOTARY'S SEAL:

Jennette Forrester Williams  
NOTARY PUBLIC, STATE OF FLORIDA

Jennette Forrester Williams  
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number \_\_\_\_\_





**"LICENSEE":**

Witnesses:

Sandra Zanden

Print Name:

Sandra Zanden

Zondree Benford

Print Name:

Zondree Benford

**BEACHFEST ENTERTAINMENT LLC**, a Nevada  
limited liability company

By: **DIAMONDSTAR ENTERTAINMENT  
GROUP, INC.** a Nevada corporation, its  
Manager

By:

Aric Gastwirth

**ARIC GASTWIRTH**, President

STATE OF Nevada

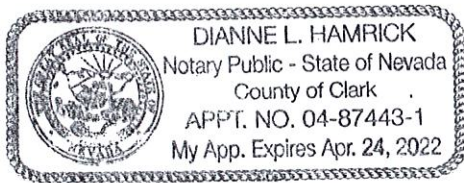
COUNTY OF CLARK

The foregoing instrument was acknowledged before me this 05 day of  
JULY, 2019, by ARIC GASTWIRTH, President of DIAMONDSTAR  
ENTERTAINMENT GROUP, INC., a Nevada corporation, as Manager of BEACHFEST  
ENTERTAINMENT LLC, a Nevada limited liability company, authorized to do business in the  
State of Nevada on behalf of the company. He is personally known to me or who has produced NEVADA DRIVERS LICENSE  
identification. (type of identification) as

NOTARY'S SEAL:  
OF \_\_\_\_\_

Dianne L. Hamrick

NOTARY PUBLIC, STATE



DIANNE L. HAMRICK  
(Name of Acknowledger Typed, Printed or Stamped)

04/24/2024 / #04-87443-1  
Commission Number

:jrm  
6/20/19  
L:agr/recre/2019-955



**Exhibit A**  
**Scope of Authorization**

**A. Introduction**

Beachfest Entertainment LLC (Licensee), to host the two (2) day Beachfest (Event) on the City of Pompano Beach's main public beach, north of the pier. The Event will showcase national music acts, car show, local food, beverage and merchandise sales.

**B. Objective**

To provide a musical festival on the City of Pompano Beach's main public beach in efforts to attract tourism, and provide entertainment to the City's residents.

**C. Scope of Work**

Licensee shall coordinate with the City's Recreation Program Administrator or Designee (Designee) on specific dates and times prior to each annual Event (Event). Dates shall be agreed upon at least nine months prior to each event. City reserves the right to decline any proposed date if the City deems it necessary for safety concerns or scheduling conflicts, this may include, but is not limited to construction at the site, lack of access to site, conflicting events, etc. The City cannot guarantee that the Site will be available year round. However, the City will make reasonable attempts to accommodate Licensee.

The City shall provide in kind benefits for Event as stated below. For a detailed monetary breakdown, refer to Exhibit E "City's In-Kind Benefits to Licensee."

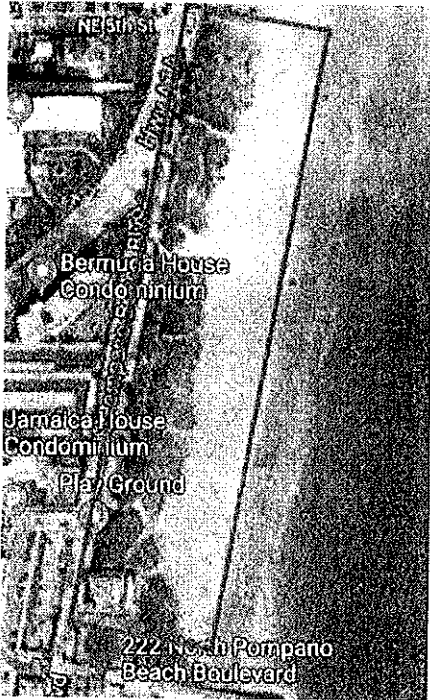
1. Use of the premises for the Event. See Location Map of Footprint available below. The City shall not be responsible for acquiring permissions to use private property. The footprint is contingent on Licensee acquiring the required permits to use privately owned property located within said footprint for the Event. Licensee shall provide the City with written confirmation of permissions to use privately owned property/properties. Written confirmations shall be provided to City at least thirty (30) days from the event.
2. Provide funds for public works services including trash and waste removal. The City shall be responsible for or not pay for portable restrooms rental, maintenance and services of said portable restrooms.
3. Provide funds for parks and recreation services and personnel.
4. Provide assistance with permitting process by signing off as Property Owner. City will assist Licensee with internal City permits and their processing.
5. City will make every reasonable effort to keep boats at an agreed to distance offshore from the Event and in accordance to City regulations and/or Ordinance.
6. City will provide marketing support, including but not limited to, social media, City's website, and internal resources in conjunction and in coordination with Licensee
7. City will provide logistical help with traffic, transportation and parking issues related to the Event.



## Exhibit A Scope of Authorization

In no event shall the City's in kind benefits, including staff time, exceed seventy five thousand dollars (\$75,000.00). Licensee shall be responsible to supplement any of the items listed above that the City's in kind benefits do not cover. If during the Event, the City incurs overages in staff time, or services, such overages shall be charged back to Licensee. City shall present a detailed breakdown of all overages.

### Location Footprint for Event



### D. Summary Schedule of Tasks and Deliverables

**Site Plan and Schedule** - A minimum of thirty (30) days and prior to commencing any of the set up for the Event under this Agreement, Licensee shall be required to obtain the written approval of both the City's Designee and other reviewing City departments of both the final Site Plan and the Schedule of Events via the Public Event application. The final detailed site plan and schedule of the Event shall include the location of all booths, box offices, tents, stages, display areas, port-o-lets, temporary fencing, Rideshare locations, RV parking for artists, parking, etc. and the times when such will be constructed and dismantled.

A minimum of thirty (30) days prior to the set up date(s) agreed upon for each event, the Licensee shall submit the following documentation for City's review and approval:



**Exhibit A**  
**Scope of Authorization**

1. A proposed final detailed Schedule of Event;
2. A description of all Event activities to occur on the Property during the term of this license;
3. A proposed final Site Plan(s) for the Property which depicts the location of all booths, stages, display areas, port-o-lets, parking, temporary fencing, Rideshare locations, RV parking, etc., which shall be subject to the approval of the City departments authorized to require revisions to same; and
4. Licensee shall submit documentation for the items listed below regarding Licensee's compliance with this Agreement. LICENSEE to provide to the City:

**Compensation to City by LICENSEE**

LICENSEE to provide to the CITY a revenue generation of two dollars (\$2.00) per ticket sold. Payment shall be timely submitted and a complete detailed report of all types of ticket sales including complimentary tickets shall be made within thirty (30) days of the Event conclusion. Ticket reconciliation and submittal report shall be accounted for as outlined in Exhibit C.

Licensee shall pay a deposit of fifty thousand dollars (\$50,000.00) to City no later than three months prior to the event, Deposit will be refunded after the Property has been inspected and confirmed restored to the same condition which existed prior to set up of the Event. If Property, or any portion thereof, shall be destroyed, damaged, altered, etc. City will take action to repair. Any expenditures that occur from repairs will be deducted from Licensee's deposit. If expenditures surpass the deposit, then Licensee shall be responsible for payment to City to cover remaining repair costs upon submittal of an invoice. The City reserves the right to contract out the work, if necessary, to conduct the repairs. Furthermore, should the City incur any overages as described above, the City reserves the right to deduct the overages from Licensee's deposit.

**Maintenance of Traffic** - No less than six (6) weeks prior to the opening day of the Event, Licensee shall provide to the City a preliminary construction and traffic flow schedule including opening and closing times for all streets or lanes and including the use of variable message signs. Licensee shall provide a final Maintenance of Traffic plan ("MOT plan") no later than two (2) weeks prior to opening day of the Event for the City's review and approval. No additional street or lane closures will be permitted unless included in the MOT Plan and approved by the City.

**Trash and Clean-up of Permitted Area** - City shall be responsible for clean-up and removal of debris and trash from the Permitted Area during and after the Event. Licensee shall further be responsible for dismantling and removing all supplies and equipment, including booths, tents, stages, temporary fencing, display areas, port-o-lets, and all other temporary facilities.

**City Booth** - The City shall be provided at no charge a standard size booth in the main vendor tent or location for City's own use.



**Exhibit A**  
**Scope of Authorization**

**Parking** No less than six (6) weeks prior to the first day of the Event, Licensee shall provide to the City a parking plan to include a site map that displays the following: available parking to patrons, City staff and vendor parking, water taxis, talent parking, rideshare pick up and drop off locations, shuttle route map, and list of adequate signage to direct patrons to and from the Event. The City, through traffic control and life safety personnel, shall evaluate the proposed parking plan. If during City's evaluation it is found that the parking plan could cause potential safety concerns, City shall provide Licensee with a detailed breakdown of the City's concerns and Licensee shall modify the parking plan to rectify said safety concerns.

**Shuttles** - Licensee shall be solely responsible for securing adequate number of shuttles to provide patrons free transportation to and from the Event. Licensee shall secure offsite parking for patrons and shuttle pick up and drop off locations. Payment, scheduling and maintenance of shuttle service shall be the sole responsibility of Licensee. City will work with Licensee to ensure an adequate number of shuttles are secured for the annual Event.

**Notification of Surrounding Businesses** - At least four (4) weeks prior to the Event, Licensee shall be required to provide all residences and businesses within one mile of the Event, written notice of the Event to include dates, times, location and all associated road closures and also provide CITY a copy of such notice.

Licensee shall make every reasonable attempt to make sure that City concerns in regards to traffic, safety concerns, noise and nuisance are met prior to each event.

**Concession Rights** - are to be granted upon satisfactory proof to City at least fourteen (14) days prior to "Event" that all required permits have been obtained, including, but not limited to, those required by the Florida Department of Business Regulation's Division of Alcoholic Beverages and Tobacco, etc.

**Licensee shall:**

1. Licensee shall be responsible for dismantling and removing all supplies and equipment, including booths, box offices, tents, stages, temporary fencing, display areas, port-o-lets, and all other temporary facilities.
2. Provide and compensate all artists and talent for the shows.
3. Provide all necessary equipment, fabrication of staging, and removal of equipment and staging for the Event. This shall include, but not be limited to tenting, stage, sound, lights, video, temporary fencing, etc.
4. Provide and if required, compensate all fully licensed food and beverage operations.
5. Provide, schedule, maintain and pay of all portable toilets necessary for the Event.
6. Provide all staff and logistics necessary to conduct the Event (excluding staff and in kind benefits provided by City above), including box office staffing.



**Exhibit A**  
**Scope of Authorization**

7. Be solely responsible for all payments to City for police (BSO) and traffic control personnel and equipment, regardless of the cost.
8. Be solely responsible for all payments to City for fire prevention and life safety personnel and equipment regardless of the cost.
9. Solely responsible for all water and electrical requirements as it pertains to the event.
10. Provide and compensate private security to encompass the stage (Front and Back), and the artists' compound.
11. Provide nationwide mass marketing campaign promoting the event, to include, but not be limited to print, social media and television advertisement.
12. Secure all Event sponsorship.
13. Multiple Logo and Branding Recognition for City.



## EXHIBIT B

### INSURANCE REQUIREMENTS : BEACHFEST

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. If you are responding to a bid and have questions regarding the insurance requirements hereunder, please contact the City's Purchasing Department at (954) 786-4098. If the contract has already been awarded, please direct any queries and proof of the requisite insurance coverage to City staff responsible for oversight of the subject project/contract.

CONTRACTOR is responsible to deliver to the CITY for 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. **Such policy or policies shall be issued by United States Treasury approved companies authorized to do business in the State of Florida. The policies shall be written on forms acceptable to the City's Risk Manager, meet a minimum financial A.M. Best and Company rating of no less than Excellent, and be part of the Florida Insurance Guarantee Association Act. No changes are to be made to these specifications without prior written approval of the City's Risk Manager.**

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 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 occurrence basis

XX	comprehensive form	bodily injury and property damage
XX	premises - operations	bodily injury and property damage
—	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	
—	sexual abuse/molestation	Minimum \$1,000,000 Per Occurrence and Aggregate
XX	liquor liability	Minimum \$1,000,000 Per Occurrence and Aggregate

**NOTE: Policy cannot have an exclusion for assault and battery**

**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**

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

**UMBRELLA EXCESS LIABILITY**

Per Occurrence Aggregate

- XX umbrella excess liability bodily injury and \$5,000,000 \$5,000,000
- property damage combined



**CONTRACTOR** may use **Umbrella Excess Liability** combined with **General Liability** to reach the City's minimum insurance requirement of **\$5,000,000.00 Per Occurrence and Per Aggregate**. However, the **General Liability** must then be at a minimum of **\$1,000,000 Per Occurrence and \$2,000,000 Per Aggregate**.

**PROFESSIONAL LIABILITY**

	Per Occurrence	Aggregate
___ * Policy to be written on a claims made basis	\$1,000,000	\$1,000,000

**POLLUTION LIABILITY**

	Per Occurrence	Aggregate
___ * Policy to be written on a claims made basis	\$2,000,000	\$2,000,000

(3) If Professional Liability insurance is required, Contractor agrees the indemnification and hold harmless provisions of Section 12 of the Agreement shall survive the termination or expiration of the Agreement for a period of three (3) years unless terminated sooner by the applicable statute of limitations.

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.



### **Recordkeeping, Inspection, Audit and Event Ticket Reconciliation.**

LICENSEE shall keep a true and accurate account of all ticket monies received for the Event (Beachfest) (the "Event"); and further agrees to give the CITY access to all ticketing records for examination and audit. CITY's agents shall have the right to examine and audit LICENSEE's records pertaining to all ticket revenue.

Records shall include but not be limited to, all business records, bookkeeping and accounting records, receipts, invoices, bank statements, supporting documents, and/or financial and statistical records; federal/state tax returns, attendance logs or rosters that are pertinent to this Agreement.

LICENSEE 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 methods and procedures set forth below.

LICENSEE shall preserve and make available locally all financial records, supporting documents, pertinent to this Agreement and ticket revenue for a period of five (5) years or, if an audit has been initiated and audit findings have not been resolved at the end of this five (5) year period, the records shall be retained until resolution of audit finding.

LICENSEE shall submit a detailed Final Settlement Report with full payment to City to the Recreation Programs Administrator or his designee for all ticket sales as outlined below showing the gross receipts totals for all tickets sold for the Event within thirty (30) days following the end of the Event.

**Compensation to CITY** - License shall pay to CITY a "Ticket Fee" equal to Two dollars (\$ 2. 00) per ticket sold for entry/attendance to Event.

**Final Payment** - The final settlement payment and report for the Event shall be due within 30 days of Event. Payment is to be sent to:  
Recreation Program Administrator  
1801 NE 6th Street  
Pompano Beach, Florida 33060

**Final Settlement Report** -LICENSEE shall provide CITY with detailed accounting reports for examination and audit of the Event. Reports related to the Event shall include but not be limited to, a true and accurate account of all ticket monies and ticket sales received for the Event, which shall include but not be limited to ticket sales generated by a ticket agency, Box Office sales, and any other reports generated by all ticket agencies, etc.

All ticket sales and/or ticketing documentation shall be provided by LICENSEE to City for the exclusive designated ticket company (agency) ticket sales along with all accounting of ticket sales and revenue by type, showing (1) tickets sold (2) complimentary tickets (3) tickets refunded (4) unsold tickets. Report is to be signed, dated, and sworn by signature of LICENSEE's representative in charge of Event operations.

All ticket sales for entry/attendance shall be accounted for whether sold or given away (complimentary) at no charge. All tickets sold or given away shall be printed, and accounted for exclusively through LICENSEE's Box Office and/or LICENSEE's designated ticket agency.



The CITY's Recreation Program Administrator or his written designee shall serve as the CITY's Contract Administrator during the performance of services under this Agreement. The CITY's Recreation Programs Administrator or his designee shall be on site at the Event for the Final Settlement Report and review of all ticket sales.

**Box Office Equipment** – Ticketing equipment must be “state of the art” and shall have the ability to produce all reports as required and are pertinent to this Agreement as outlined in this Exhibit. LICENSEE'S ticketing equipment shall provide reports for full accountability over ticket sales through automated electronic ticketing reports and have controls for ticketing 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.

**Box Office Settlement** - Both LICENSEE and CITY shall have an authorized representative present after the last performance and/or at end of Event to review and approve the final settlement of Box Office ticket sales for the Event. CITY authorized representative may have access to Box Office along with LICENSEE's representative to oversee the Box Office ticket sales.

All Box Office ticket sales and/or ticketing documentation shall also be provided by LICENSEE to City in a Final Settlement Report with all accounting of Box Office ticket sales and revenue by type showing (1) tickets sold (2) complimentary tickets (3) tickets refunded (4) unsold tickets. Box Office ticket sales report is to be signed, dated, and sworn by signature of LICENSEE's representative in charge of Event operations. This report is to be included with payment to City.

**Box Office Facilities, Ticket Sales; Refunds** - If tickets to the Event are to be sold to the general public; LICENSEE reserves the right to determine any and all refunds, in its sole but reasonable discretion.

All ticket sales for entry/attendance shall be accounted for whether sold or given away (complimentary) at no charge. All tickets sold or given away shall be printed, and accounted for exclusively through LICENSEE's Box Office and/or LICENSEE's designated ticket agency.

LICENSEE shall handle the over- the- counter advance and day- of Event ticket sales at the LICENSEE's portable “Box Office”. In such instance, LICENSEE's Box Office Manager or designee shall be responsible for properly depositing all monies, and preparing Box Office statements and reports as required and outlined in this Exhibit for review.

**Box Office Ticket Sales** - LICENSEE shall have the exclusive right to sell tickets for the Event at the Property (Site Plan for Event) at LICENSEE'S Box Office and as outlined above, LICENSEE shall provide for full accountability over ticket sales through automated ticketing reports and have controls for ticketing for the Event 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. In addition, LICENSEE shall be responsible to pay all costs and expenses related to the ticketing procedures and sales as outlined in this Exhibit, including payment of sales tax as required by State, County, or CITY laws.

**Refunds** - LICENSEE shall be required to perform all ticket sales and refunds for the Event in strict compliance and agrees that LICENSEE will guarantee a full refund by LICENSEE of any ticket sale(s), for an Event that does not occur for any reason. All refunds shall be issued within sixty (60) days of said Event cancellation.



## **Exhibit D**

### **City of Pompano Beach ("City") Policy For Distribution and Consumption of Alcoholic Beverages on City Properties**

The distribution and consumption of sale of beer, wine and spirits (collectively "alcohol") shall be allowed at activities on City Properties subject to the following rules and procedures.

1. The distribution of alcohol shall be prohibited on City Properties during any Event intended for children under age 21.
2. Only alcohol distributed by Contractor's approved vendors may be allowed or consumed on City Properties; no outside alcohol shall be allowed.
3. All Contractor's vendors authorized to provide alcohol on City Properties shall be required to indemnify and hold harmless the City, its officers, agents, employees, and volunteers, from any and all claims for liability arising directly or indirectly out of alcohol sales or consumption. Proof of insurance acceptable to the City's Risk Manager shall be required to satisfy this indemnification obligation prior to any alcohol sales taking place.
4. Prior to any activities taking place on City Properties, all Contractor's approved vendors authorized shall have received written approval from the City's Risk Manager that their Certificate of Liability Insurance includes the requisite coverage for alcohol sales.
5. Police or security officers shall be authorized to prohibit the distribution or consumption of alcohol to any person that appears intoxicated. Police or security officers are also authorized to order persons that appear intoxicated to immediately leave the City Properties.
6. Persons serving alcohol shall be at least 21 years old, properly trained in such service, and not be allowed to consume alcohol immediately before, during, or following a activity. Any server violating this policy shall be immediately ordered to leave the City Properties by Contractor, police or a security officer.
7. Servers shall be responsible to verify that persons attempting to purchase alcohol are of legal drinking age. Alcohol sales shall be denied to persons who are not able to provide photo identification evidencing proof of legal drinking age upon request. Servers shall be required to refuse to provide alcohol to any person who appears intoxicated.
8. Signs shall be posted at the concession areas on the City Properties which state that all persons must be of legal drinking age to receive and consume alcohol, that alcohol sales 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.
9. The distribution of alcohol shall cease at least thirty (30) minutes before the official end of all activities on the City Properties. The cutoff of alcohol sales shall be determined according to the schedule of activities Contractor provided to, and approved by, City.



Exhibit E  
City's In-Kind Benefits to Licensee

<b>Name of Event:</b>	Beachfest
<b>Company/Organization:</b>	Beachfest Entertainment LLC
<b>Representative:</b>	Roy Anthony
<b>Address:</b>	934 N University Drive, Suite 252, Coral Springs, FL 33071
<b>Phone:</b>	954-857-9591

<b>PUBLIC WORKS</b>	\$ 20,000.00
<b>PARKS &amp; RECREATION</b>	
Contract Execution & Management	\$ 3,700.00
On Site Personnel	\$ 1,300.00
<b>TOTAL</b>	\$ 5,000.00
<b>GRAND TOTAL *</b>	\$25,000.00

\*The above are estimates and may change upon confirmation of artists and scope of event; in no case shall in kind benefits exceed seventy five thousand dollars (\$75,000.00).