

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Council declares that the expenditure of District 4 discretionary funds in an amount not to exceed Five Hundred and No/100 Dollars (\$500.00) to help defray the expenses of the performances by various artists at the Miller Lite El Paso Blues & Jazz Festival, serves the municipal purpose of providing entertainment to citizens in El Paso, and is the type of event that will foster community pride and encourage civic engagement; and

That the City Manager be authorized to negotiate and sign contracts as approved by the City Attorney, and to appropriate and ensure that the funds are properly expended for the municipal purpose.

Dated this ____ day of _____, 2015.

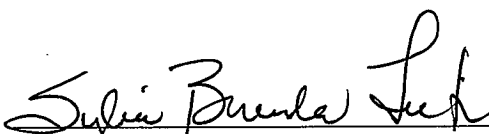
CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

APPROVED AS TO FORM:

Richarda Duffy Momsen
City Clerk



Sylvia Borunda Firth
City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

AGREEMENT

This Agreement is entered into by and between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas ("City"), and the Miller Lite El Paso Blues & Jazz Festival ("Contractor").

WHEREAS, Contractor is planning on performances of various artists for the Blues & Jazz Festival to be held at the Chamizal Memorial from Saturday, May 16, 2015, and Sunday, May 17, 2015 ("Community Event");

WHEREAS, the Community Event will provide entertainment to citizens in El Paso, and is the type of community event that will foster community pride and encourage civic engagement;

WHEREAS, Contractor has inadequate funding available to fully pay the costs of holding the Community Event;

WHEREAS, the City Council finds that participation in the Community Event serves a municipal purpose and that the Council has found that the provision of funding to be used for the holding of Community Event, helps to foster community pride and encourages civic engagement which constitutes an important municipal purpose or benefit to the City and citizens of El Paso for which the City is willing to expend the funds designated in this Agreement; and

WHEREAS, this Agreement provides for funding and payment for costs related the holding of the Community Event and the costs and expenses covered pursuant to this Agreement are not addressed or covered by any other agreement between the Contractor and the City.

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto do mutually agree as follows:

1. **DURATION AND SCOPE.** Contractor agrees that in conjunction with the presentation of the Community Event, Contractor shall utilize the funding provided under this Agreement for purposes of the Event to benefit the citizens of El Paso and to persons in areas located near El Paso. In promoting the Community Event, from the effective date of this Agreement through May 17, 2015, Contractor shall recognize that the City of El Paso has contributed funding for the Event.

2. **CONSIDERATION.** The City shall provide monetary support in the total amount of **FIVE HUNDRED AND NO/100 DOLLARS (\$500.00)** to Contractor available from the discretionary funds from City Council Representative District 4, to be used towards the holding of the Community Event. Such funds shall be paid by the City to the Contractor within ten (10) days after completion of the Community Event provided that Contractor provides reasonable

proof of the expenditure of such amounts in the form of receipts, purchase orders or other documents which reflect payments equal to the sum requested.

In the event that Contractor does not hold the Community Event or the event is cancelled, the City shall have no obligation to make any payments under this agreement.

3. **LEGAL RELATIONSHIP.** Nothing in this Agreement shall be construed as creating a legal relationship of co-sponsorship of the Community Events by the City or responsibility for the Contractor and any organization involved in the presentation of the Event. Contractor is an independent contractor, and nothing herein shall be construed as creating the relationship of employer and employee or principal and agent between the parties.

4. **INDEMNIFICATION.** As a condition of the granting of this Agreement, **CONTRACTOR AGREES TO IDENMIFY, DEFEND AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FROM ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE EVENT.** Without modifying the conditions precedent for preserving defenses, asserting claims or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor every demand, note, summons or other process received by the City in any claim or legal proceeding contemplated herein. Contractor will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as Contractor may deem expedient; and 3) defend or case to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. Contractor will pay all judgments in actions defended by Contractor pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Contractor, and premiums on any appeal bonds. The City, at its election will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to Contractor's property from any cause.

5. **SAFETY.** Contractor shall comply with all applicable laws, ordinances and regulations.

6. **DISCRIMINATION.** Contractor, its officers, agents, servants, employees, volunteers and third parties will not discriminate on account of race, color, religion, sex or national origin, nor will it permit or allow any discrimination in the work done pursuant to this Agreement.

7. **NON-RELIGIOUS ACTIVITIES.** Contractor will conduct the Community Event, insofar as it may involve the City of El Paso, in a manner that is exclusively non-religious in nature and scope; there will be no religious services, proselytizing, instruction, or any other religious influences in connection with the group insofar as it may involve the City of El Paso.

Contractor shall not represent that the City of El Paso is in support of or in favor of any religious services, proselytizing, instruction, or any other religious influences.

8. **HANDICAPPED ACCESSIBILITY STANDARDS.** Contractor agrees that in the performance of this Agreement, it will comply with the Americans with Disabilities Act ("ADA"), as may be required by law. Contractor, if required, must file the Assurance required under City Ordinance 9779, prohibiting discrimination against disabled persons.

9. **COMPLIANCE WITH LAWS.** Contractor shall comply with all applicable federal, state and local laws and regulations; all City ordinances and all codes and regulations. Failure to do so in a manner which materially impairs the quality of performance hereunder or affects the administration of the funds provided hereunder shall constitute a material breach of this Agreement.

10. **TERMINATION.** Either party may terminate this Agreement by sending written notice to the other if the other is in default in a matter of serious importance to the aggrieved party. In the event that this Agreement is terminated prior to the holding of the Event, the City shall be excused from making any payments pursuant to this agreement.

11. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

12. **NOTICES.** All notices and communications under this Agreement shall be either hand-delivered or mailed, postage prepaid in the United States Postal Services, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY: City Manager
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

With a copy to Cortney Niland
City Representative
P.O. Box 1890
El Paso, Texas 79950-1890

CONTRACTOR: Jim Murphy
Miller Lite El Paso Blues & Jazz Festival

13. **ENTIRE AGREEMENT.** This Agreement constitutes and expresses the entire agreement of the parties hereto in reference to any of the matters herein provided for or herein

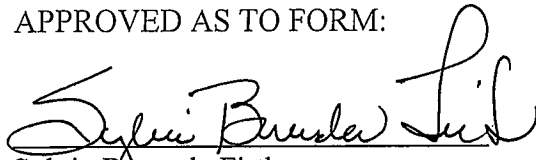
discussed or mentioned in reference to the providing of such services, all promises, representatives, and understandings relative hereto being herein merged.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the _____ day of _____, 2015.

THE CITY OF EL PASO

Tomás González
City Manager

APPROVED AS TO FORM:


Sylvia Borunda Firth
City Attorney

CONTRACTOR:

Jim Murphy
Miller Lite El Paso Blues & Jaz Festival