

CITY OF PARK RIDGE SERVICES CONTRACT

THIS CONTRACT made and entered into this 5th day of March 2012, by and between the CITY OF PARK RIDGE, hereinafter referred to as the "City", and Taste of Park Ridge NFP, Inc., hereinafter referred to as the "Contractor."

RECITALS

The City is desirous of contracting with one company for services pertaining to the Park Ridge Taste Event (the "Event") for the period from March 5, 2012 to August 31, 2012 inclusive; and

The Contractor has submitted the lowest and best bid for the Event.

NOW, THEREFORE, in consideration of the stated terms, conditions and covenants, the parties agree as follows:

1. The City will use the Contractor's exclusive services in connection with the Event and the Contractor will provide the services as required and requested by the City, as follows:

A. Park Ridge Taste Event: Event and License Information

Event Area

The City hereby grants a non-exclusive license for the Contractor to use that portion of the "Use Area" as described in Attachment A for the Event, and set up/take down during the following five days: Wednesday, July 11, 2012 through Sunday, July 15, 2012

Public Use Hours

The Event shall take place from 11:00 AM to 10:00 PM on Thursday, Friday and Saturday, July 12-14, 2012.

Event Set-Up and Take-Down

Contractor agrees to abide by the following standards: The street will be closed beginning 7:00 a.m. on Wednesday, July 11, 2012 and reopen by Sunday, July 15, 2012 at 12:00 noon.

Grounds and Structures Inspection, Clean up and Restoration Standards

Contractor shall abide by the procedures and standards set forth as follows:

Necessary garbage containers will be placed throughout the Use Area. They shall be emptied as necessary to keep them from overflowing. A waste dumpster shall be in the Library parking lot to serve as a garbage repository. Bathroom facilities shall be provided by the Contractor and kept clean and maintained throughout the Event. Any grease spills will be removed from the sidewalks within seven days of the Event. The METRA train station property will be kept litter free and regularly monitored during the event.

B. Contractor's Scope of Work

Contractor shall provide all services and timely pay all associated fees related to planning, programming, operation, management and follow up of all Event activities. They shall include but not be limited to support and accommodation of fundraising activities being conducted by the City at the Event. Contractor shall implement a viable business plan to ensure the overall sustainability of the Event for, at a minimum, the term of this Contract. Charges for all products and services shall be market-based. The entire Event and each constituent part shall be compatible with the neighborhood. Park Ridge vendors shall have first priority among any other vendors desiring to participate in the Event.

C. Action and Payment Deadlines

Contractor shall pay all City expenses within 30 days of the Event. Any Profit Sharing, pursuant to this Contract, shall be paid within ninety days of the Event.

D. Marketing and Publicity

Contractor shall create an advertising and marketing plan. Such plan shall be subject to City approval and shall be implemented by Contractor. The Contractor and the City staff will meet by March 2012, to coordinate marketing efforts. The City shall have approval authority over all marketing materials prior to their distribution. All forms of Event signage, marketing materials, and associated advertising shall recognize the City of Park Ridge.

E. Revenue Sharing

The Contractor shall pay all expenses, including but not limited to all City expenses ("Event Expenses") for the operation of the Event. The Contractor may then use any remaining revenue product by the Event to bring the Internal Fund balance on its books to \$100,000.00. The Contractor will then distribute to the City half of all remaining funds produced by the Event. This will be supported by providing a copy of the Contractor's certified financial records for the Event as set forth in the following paragraph. Compensation of any kind whatsoever to officers or families of the Contractor shall not be deemed an Event Expense.

THE CITY WILL NOT BE LIABLE FOR ANY OF THE CONTRACTOR'S COSTS, EXPENSES, LOST PROFITS OR ANY TYPE OF DAMAGES UNDER THIS CONTRACT.

F. Financial Records

The City has a responsibility to the community to ensure that monies raised in the name of a City event are professionally managed and reflect the goals of the Event.

To that end, the Contractor shall provide to the City, within ninety days of the Event, financial records that follow standard accounting practices including but not limited to actual expense by category and final gross/net revenue totals by category.

G. Advertising

The City will provide, at no cost to Contractor, some advertising for the Event through the City social media applications, and City website. The Contractor and the City staff will meet by March 2012 to coordinate marketing efforts.

H. Fees, Costs and Deposits

Contractor shall pay a deposit of \$10,000.00 no later than June 15, 2012 toward the City's costs. Any amounts over and above \$10,000.00 shall be paid within 30 days of invoice by the City.

The following are the City's direct and indirect Service Costs:

City water
Environmental Health Permits
Temporary Liquor License Fees
Fire Department Expenses
Police Department Expenses
Public Works Department Expenses

City's expenses shall not exceed the City's actual costs. If the actual costs to the City are less than \$10,000.00, the City shall refund such difference no later than August 30, 2012.

I. Supervision of Volunteers

The Contractor shall supervise and manage and have sole responsibility for all persons, including but not limited to, volunteers and independent contractors who participate in the Event. The Contractor shall exercise its bona fide best efforts to assure that all such volunteers sign statements indicating that they understand and agree that they are functioning as volunteers on behalf of the Event. This shall

include a waiver of any right of recourse against the City for any damage or injury that may occur to them or their family or their property in any way relating to the Event. The Contractor shall ensure that all independent contractors sign an indemnification in a form acceptable to the City.

The Contractor is responsible for the conduct of its employees, agents, guests and volunteers at all times during the course of the Event and using the Use Area. All employees, agents and guests of the Contractor and volunteers must act and conduct themselves in a courteous and considerate manner while in the Use Area, and abide by all applicable laws, ordinances and Rules and Regulations.

Contractor shall indemnify and hold harmless the City from and against any liability that may be incurred by the City as a result of any acts by any person, including volunteers engaged by the Contractor.

J. Compliance with Laws

Contractor agrees to produce, operate and manage the Event in accordance with all applicable state and local laws and regulations; including but not limited to obtaining the required permits and approvals for the Event.

K. Copyright and Performance Rights

The Contractor warrants and represents that it has obtained the appropriate performance licenses necessary for the Event on the dates and times specified. City has no responsibility to confirm that such performance licenses have been granted to the Contractor, nor does the City have any responsibility to obtain any performance licenses on behalf of the Contractor. The Contractor agrees to pay all performing rights licensing fees to BMI, ASCAP, or other performing rights organizations for performances held at the Event per the rate specified by such licensing organizations. City holds no responsibility for these payments.

L. Trademark License

Subject to the terms set forth in this Contract, the City grants Contractor a revocable, non-exclusive, non-transferable, royalty-free license to use any symbols trademarked or registered by the City.

Subject to the terms set forth in this Contract, the Contractor grants the City a revocable, non-exclusive, non-transferable, royalty-free license to use any symbols trademarked or registered by the Contractor.

Quality Control:

Prior to using City symbols or logos on any signage, advertisement, T-Shirt, or other promotional item, Contractor will provide the City with a sample of the proposed item for City's approval. Within ten business days of receiving the sample, the City will either approve or reject it. If the City does not either approve or reject the sample within ten business days of receipt, the sample will be deemed approved. Items rejected by the City may not be used, sold or distributed by Contractor.

License not Transferable:

Neither Party may assign this license to another party or sublicense the right to use the other Party's symbols or logos to a third party without the written consent of the owing Party. Any assignment without such consent will be null and void.

Term of license:

The license to use the symbols or logos of the other Party automatically terminates upon the termination or expiration of this Contract. Upon the expiration or termination of this Contract, the non-owing Party may sell off any existing inventory of promotional items for a period of no more than thirty days from termination or expiration.

M. Inspections

The Contractor must participate in a pre-Event walkthrough inspection with the City's On-site Coordinator and other City representatives. Failure of the Contractor to participate in the pre-Event walkthrough constitutes a waiver of any objection to the City's characterization of the status of the Use Area or any aspect of it.

The Contractor shall participate in a post-event walkthrough inspection with the City's On-site Coordinator and other City representatives.

Failure of the Contractor to participate in the post-event walkthrough constitutes a waiver of any objection to the City's characterization of any damage or cleanup as having been caused by the Event, and of any objection to the City's costs or estimated costs of the work based on any assertion that the Contractor could have completed the work less expensively, so long as the City's costs were reasonable based on demonstrated actual staff, supplies and materials.

N. Damage Deposit/Bond

Contractor agrees to pay for the repair or replacement of all damaged structures, equipment and facilities, trees, grass, and landscaping in areas occupied by the

Event damaged through any act or omission of the Contractor, Contractor's agents, or persons attending the Event. Contractor agrees to provide the City with an unconditional, irrevocable Letter of Credit in the amount of \$20,000. The City shall determine costs for unusual wear and tear or damage, within seven days after the post-Event walkthrough. Expenses for repair or restoration will be deducted from Contractor's Letter of Credit. The Letter of Credit shall remain in effect for ninety days after the Event.

O. Permits and Approvals

Permits and Approvals Required

The Contractor shall obtain and warrants that it has the capacity to obtain and comply with all necessary permits, licenses, approvals and deadlines from any applicable state, county and local agency. Permits for the Event, include but are not limited to: liquor permit; special event permit, health department permits. Such permits that are within the City's jurisdiction shall not be unreasonably withheld.

Failure to Secure Permits

The Contractor understands and agrees that approval by City of this Contract does not in any way indicate that the City or any other agency approves or will be required to approve any of the above referenced licenses, permits, or requests. In the event that the Contractor is unable to obtain any license, permit, or approval that is not essential to its use of the Use Area, it shall be allowed to exercise so much of the privileges of this Contract as are not affected by its failure to obtain approval.

By way of example, and not of limitation, if it does not obtain alcoholic beverage permits, it may proceed but alcohol cannot be sold or provided. In the event the Contractor is unable to obtain essential licenses or permits, the City will not be liable for any of the Contractor's costs, expenses, lost profits or any type of damages under this Contract due to such occurrence, but the Contractor may be deemed in default.

P. Maintenance of the Use Area

Contractor is required to maintain specific standards of maintenance, use of the Use Area and surrounding areas. At the conclusion of the Event, Contractor must restore the Use Area.

Q. Insurance

1. Contractor agrees to procure and maintain in force during the terms of this Agreement, at its own cost, the following minimum coverages:

- A. **Workers' Compensation and Employers' Liability**
 - i. **State of Illinois: Statutory**
 - ii. **Applicable Federal: Statutory**
 - iii. **Employer's Liability: \$100,000 Each Accident
\$500,000 Disease-Policy Limit \$100,000 Disease-
Each Employee**
 - iv. **Waiver of Subrogation**

- B. **Commercial General Liability**
 - i. **Bodily Injury & Property Damage General Aggregate
Limit \$2,000,000**
 - ii. **Personal & Advertising Injury Limit \$2,000,000**
 - iii. **Each Occurrence Limit \$2,000,000**

The policy shall be on an Occurrence Form and include the following coverages:

Premises Operations; Personal and Advertising Injury; Medical Payments; Liability assumed under an Insured Contract; Independent Contractors; and Broad Form Property Damage. Coverage provided should be at least as broad as found in Insurance Services Office (ISO) form CG0001.

As a condition of this Contract, the Contractor shall forward Certificates of Insurance to the Finance Department. The insurance required shall be procured and maintained in full force and effect for the duration of the Contract. Certificate Holder shall be the City of Park Ridge.

All insurance policies (except Workers Compensation) shall include City of Park Ridge and its elected officials and employees as additional insured's as their interests may appear. The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage.

The City requires that all policies of insurance be written on a primary basis, noncontributory with any other insurance coverages and/or self-insurance carried by the City.

The City reserves the right to reject any insurer it deems not financially acceptable by insurance industry standards. Property and Liability Insurance Companies shall be licensed to do business in Illinois and shall have an AM Best rating of not less than A- VI.

Contractor, or Contractor's insurance broker, shall notify the City of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer's notification to that effect. The Contractor shall forthwith obtain and

submit proof of substitute insurance in the event of expiration or cancellation of coverage.

Contractor shall provide the City with a certificate of insurance showing that the Contractor has the required insurance and that the City and its officers, employees, and authorized volunteers are additional insureds under the Contractor's liability policy before the City will execute this contract. All notices of cancellation of this insurance, if any shall be furnished to the City within one (1) working day of the Contractor's receipt of such notice. Failure to provide the City with a certificate of insurance according to the terms of this Contract or within seventy-two (72) hours of demand by the City, shall be grounds for immediate termination of this contract.

R. Other Terms and Conditions

1. It is agreed that the request for bids, the specifications, and the Contractor's proposals are incorporated by reference and made a part of this Contract. Each of the parties shall carry out and perform all of the provisions of those documents. In the event of conflicts or inconsistencies between this Contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- A. This Contract;
- B. The request for bids and specifications; and
- C. The Contractor's proposal.

2. The work to be done under this Contract and under the specifications above referred to shall include the furnishings of all materials, labor and equipment.

3. The Contractor shall perform all services and supply the necessary materials to the entire satisfaction of the City. All material used and all labor performed shall be subject to the inspection and approval or rejection of the City.

4. The City hereby reserves the right to reasonably decide all questions arising as to the proper performance of services and as to the quality of the materials used. In the event that the City shall determine that the services are not being performed in accordance with the terms of this Contract, or, if the services be wholly, or in part, negligently, or improperly performed, then written notice of such defect or defects shall be given to the Contractor.

In the event that such defect or defects are not remedied within a reasonable time from the date notice is given, the City may, at its option, declare the Contractor to be in default, either as to the particular work performed and declared to be defective, or as to the entire Contract. In the event the City should declare the Contract to be in default only as to the particular work performed and declared defective, then the

City may relet such portion and the costs incurred in consequence of such default may be applied in payment of any money due and owing to the Contractor. If there shall not be a sufficient sum due from the City, then in such case, the costs incurred shall be a just claim against the Contractor and shall be recoverable in any court of competent jurisdiction.

In the event that a default is declared as to work performed and declared defective, it is agreed and understood that such declaration of default shall not in any way relieve the Contractor from any liability for non-performance of the covenants and agreements of this Contract, but the same shall be and remain valid and binding obligations against the Contractor. As to work not declared to be in default, Contractor agrees to complete the same under the terms of this Contract.

5. The Contractor agrees to indemnify and hold harmless the City against any and all damages to property or injuries to or death of any person or persons arising from its performance of this Contract, including property and employees or agents of the City and shall defend, indemnify and save harmless the City from any and all claims, demands, suits, actions or proceedings of any kind or nature, including without limitation Worker's Compensation claims, of or by anyone whomsoever in any way resulting from or arising out of the Contractor's operations in connection with this Contract, including operations of sub-contractors and acts or admissions of employees or agents of the Contractor or its sub-contractor.

6. Notwithstanding any other provision of this Contract to the contrary, no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Illinois Governmental Immunity Act, as now or hereafter amended.

7. The Contractor's relationship to the City is that of an independent contractor. The Contractor shall supply all personnel, equipment, materials and supplies at its own expense, except as specifically set forth herein. The Contractor shall not be deemed to be, nor shall it represent itself as, an employee, partner, or joint venturer of the City. No employee or officer of the City shall be deemed a supervisor of the Contractor. The Contractor is not entitled to worker's compensation benefits and is obligated to directly pay any applicable federal and state income tax on money earned under this Contract.

8. The Contractor agrees that it will not cause or permit any claims in the nature of mechanic's or other liens for materials or labor placed or used under the terms of this Contract to be filed or served upon the City. The Contractor guarantees to indemnify and save harmless the City against any and all such claims for liens which may be filed or asserted against any of the work done hereunder.

9. Except for the City's out of pocket costs as set forth in paragraph H, the Contractor shall not be liable for any delay or nonperformance due to the failure of the source of supply from which the Contractor obtains the materials to make

delivery, or due to delays in transportation, labor strikes, floods, fires, acts of God, or to the acts or regulations of any governmental entity or any branch or agency thereof. The Contractor however, shall not be excused from liability for delays or non-performance caused by events or conditions within its control, nor for delays or non-performance which it could have foreseen and avoided, prevented or significantly ameliorated by exercising reasonable prudence or diligence, nor for any delays or non-performance caused in whole or in part by the Contractor itself.

10. In the event of delay or non-performance by the Contractor for any reason; including those set forth in paragraph 9, the City shall be free to obtain the services from other sources without incurring liability or damages to the Contractor.

11. The Contractor shall not assign this Contract without the written consent of the City, which it may withhold at its sole discretion.

12. This Contract shall be subject to the provisions of the Municipal Code and Ordinances of the City of Park Ridge; and the laws of the State of Illinois.

S. Cancellation

1. In the event that the City reasonably determines that it is impractical for the Event to be held due to inadequate or workforce shortage, public health concerns, floods, fires, the acts of any governmental entity or any branch or agency or any other matter beyond the control of the City; the City may cancel the Event and shall have no obligation of any kind or nature to the Contractor.

2. The Contractor shall designate, in writing, an Event Manager within thirty days of the execution of this Agreement. If City, within seven days of such designation, gives Contractor written notice that the Event Manager is not acceptable to City, and if Contractor cannot present alternate personnel acceptable to City within 30 business days after such notice, City may at its discretion cancel this Contract by written notice to Contractor; in which case the City shall have no further obligation under this Agreement.

3. If Contractor otherwise in any way defaults in its performance of this Contract including, without limitation (i) failure to timely pay any employee or subcontractor; City may in its discretion give written notice of termination to Contractor, which shall become effective ten business days after the date of such notice unless the default is cured within such ten business day period to the reasonable satisfaction of City. However, failure to provide the City with a certificate of insurance by the due date shall be grounds for immediate cancellation of this Contract.

4. In the event of any termination under this Section, City shall have no further obligation to Contractor and Contractor shall be liable to City for any

damages caused by or in any way arising out of default by Contractor under this Contract.

5. No failure to enforce or act upon any default shall act as an estoppel to enforce or act upon any other or subsequent default.

T. Extension of Contract

The Parties may extend the Contract for the 2013 Event and 2014 Event. Such extensions shall be agreed to no later than January 1, of any year.

U. No Rights in Third Parties

It is expressly understood and agreed that the enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Contractor. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the City and the Contractor that any such party or entity, other than the City or the Contractor, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

V. Waiver

The waiver of any breach of a term, provision, or requirement of this Contract shall not be construed or deemed as waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision, or requirement.

W. Complete Agreement

This Contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing.

No subsequent notation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved by the City pursuant to City rules.

X. Contractor Certifications

The Contractor certifies that the Contractor shall comply with the provisions of section 8-17.5-101 et seq., C.R.S. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to the Contractor that the

subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

The Contractor represents, warrants, and agrees (i) that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this contract through participation in either the E-Verify or the Department Program; (ii) that the Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed; and (iii) if the Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the contractor shall be required to:

1. Notify the subcontractor and the contracting state agency or political subdivision within three days that the contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Contractor further agrees that it shall comply with all reasonable requests made in the course of an investigation under section 8-17.5-102(5), C.R.S. by the Illinois Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or section 8-17.5-101 et seq., C.R.S. the City may terminate this contract for breach and the Contractor shall be liable for actual and consequential damages to the City.

All services and products furnished to the public shall be provided on a non-discriminatory basis and that it shall not discriminate against any Event employee or volunteer. The Contractor shall comply with the requirements of any state or federal statute or regulation, including without limitation the requirements of the federal Americans with Disabilities Act, or federal executive order barring discrimination. The Contractor shall include such a clause in any sublicense.

The Contractor has a valid, current policy prohibiting harassment based upon gender or gender identity.

Y. Authorized Signature

Contractor warrants that the individual executing this Contract is properly authorized to bind the Contractor to this Contract.

IN WITNESS WHEREOF, the parties hereto have signed this Contract effective as of the day and year first written above.

CONTRACTOR
By: [Signature]

Title: City Liaison

CITY
By: [Signature]

Title: Mayor

The foregoing instrument was acknowledged before me, a notary public, this 14 day of MARCH, 2012.

Witness my hand and official seal.

My commission expires: 7-2-12

[Signature]
Notary Public (SEAL)

