

**CITY OF FORT LAUDERDALE
FY 2017-2020 GRANT PARTICIPATION AGREEMENT**

THIS AGREEMENT, entered this 28th day of March 2018 by and between:

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

and

TMF HOLDCO, LLC, a foreign limited liability company whose usual place of business is 9348 Civic Center Drive, Beverly Hills, CA 90210 hereinafter referred to as "Participant" or "Contractor".

WHEREAS, the Participant is the organizer and promoter of the Tortuga Music Festival for the benefit of the community; and

WHEREAS, the City is providing funding for the Participant's program and authorizes the proper City Officials to enter into this agreement ("Agreement") which will enhance family activity recreation and provide opportunities for the expansion of tourist-related facilities and activities; and

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICES

A. Activities

The Participant shall coordinate, promote, and host the Tortuga Music Festival which includes enhance the brand of the beach as a world-class destination for both residents and tourists.

B. Deliverables

The funding will be used to coordinate, promote, and host the Tortuga Music Festival and associated events and activities.

C. Use of Funds

The Funds will be distributed on a reimbursement basis based upon providing supporting receipts and invoices. The Funds will be used to pay for City's public safety services. The services are as follows:

- i) Fire/EMS;
- ii) Off-Duty Police;
- iii) Parks and Recreation Overtime for Cleanup;
- iv) Fire Prevention/Ocean Rescue;
- v) Parking; and
- vi) Business Tax
- vii) General marketing and promotion

The City reserves the right to examine the records of the Participant. The Participant shall preserve the records for three (3) years after the term of this agreement expires. Any funds not expended during the term or for the Activities identified above, under Section I. Scope of Services, shall be automatically be returned by the Participant to the City. The City reserves the right to conduct audits of the Participant, which shall be in accordance with Generally Accepted Government Auditing Standards (GAGAS).

Participant and Participant's subcontractors shall preserve and make available, at reasonable times for examination and audit by City in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry. Participant shall, by written contract, require Participant's subcontractors, general contractors, subtenants and sublessees to agree to the requirements and obligations of this Section. The Participant shall maintain during the term of this Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement.

II. TERM AND TIME OF PERFORMANCE

The effective date of this Agreement shall commence upon full execution by the City and the Participant. For each fiscal year allocation, the Participant shall expend the funds after the music festival has taken place and before September 30 of the fiscal year. Fiscal year is defined as October 1 through September 30.

III. BUDGET

Within ninety (90) days of the close of the Participant's fiscal year, a financial statement, prepared in accordance with generally accepted accounting

principles, accounting for these funds and reporting upon the manner in which they were expended, shall be submitted to:

CITY OF FORT LAUDERDALE

City Manager's Office
c/o Community Redevelopment Agency
914 Sistrunk Boulevard, Suite 200
Ft. Lauderdale, FL 33311

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed \$700,000.00 over three years. The disbursement schedule will be as follow:

- i) \$350,000 in 2018 (FY 2017- 2018)
- ii) \$200,000 in 2019 (FY 2018 – 2019)
- iii) \$150,000 in 2020 (FY 2019 – 2020)

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this Agreement shall be directed to the following Agreement representatives:

City

Lee R. Feldman
City Manager

Participant

Ben O'Connell
President

As to the City:

City Manager's Office
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

As to the Participant:

TMF Holdco, LLC
9348 Civic Center Drive
Beverly Hills, CA 90210

VI. GENERAL CONDITIONS

A. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Participant shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Participant is an independent contractor.

B. Hold Harmless

Participant shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents, from and against any and all lawsuits, penalties, claims, damages, settlements, judgments, decrees, costs, charges and other expenses or liabilities of every kind, sort or description including, but not limited to, attorneys' fees at both the trial and appellate levels, in connection with or arising, directly or indirectly, out of or resulting from the Participant's acts or omissions in Participant's performance or nonperformance of its obligations or services under this Agreement. Without limiting the foregoing, any and all such claims, relating to personal injury, death, damage to property, defects in material or workmanship, actual or alleged infringement or any patent, trademark, copyright or of any other tangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, are included in the indemnity. City reserves the right to select counsel of its own choosing.

C. Amendments

The City or Participant, subject to City Commission approval, may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of the Participant and by the City Manager. Such amendments shall not invalidate this Agreement, nor relieve or release the City or Participant from its obligations under this agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, State or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Participant.

D. Public Records

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE

its right to act with respect to subsequent or similar breaches. Failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

IX. ENTIRE AGREEMENT

This Agreement, along with attachments, shall constitute the entire Agreement between City and Participant for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Participant with respect to this Agreement. No prior written or contemporaneous oral promises or representations shall be binding. This Agreement shall not be amended except by written instrument signed by both parties.

X. AUTHORIZED SIGNATORY

Upon delegation of authority by the City Commission, the City Manager is authorized to execute this Agreement on behalf of the City.

XI. REPRESENTATION

Participant represents and warrants it is authorized to do business in the State of Florida.

[THIS SPACE INTENTIONALLY LEFT BLANK]

27 IN WITNESS WHEREOF, the parties hereto have set their hands and seals the
day of March 2018.

PARTICIPANT

WITNESSES:

[Signature]
ADWASSON

ADWASSON

[Witness print name]

[Signature]
JULIE MATWAY

[Witness print name]

TMF HOLDCO, LLC

By [Signature]
Brian O'Connell, President

ATTEST:


(CORPORATE SEAL)

Print Name: _____ Secretary

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 27th day of
March 2018, by Brian O'Connell, as President of TMF
HOLDCO, LLC, a foreign limited liability company. Who is ☐ personally known to me
or ☒ has produced Tennessee Driver's License as identification.

(NOTARY SEAL)

[Signature]
Notary Public, State of Florida
(Signature of Notary Taking Acknowledgment)


Name of Notary Typed, Printed or Stamped
My Commission Expires:

FF 194232
Commission Number

CITY

WITNESSES:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida.

Jeannette A. Johnson

Jeannette A. Johnson
(Witness print name)

H. Skourndider

Haterin Skourndider
(Witness print name)

Dean J. Trantalis
DEAN J. TRANTALIS, Mayor

Lee R. Feldman
LEE R. FELDMAN, City Manager

(SEAL)

ATTEST:

Jeffrey A. Modarelli
JEFFREY A. MODARELLI, City Clerk

Approved as to form:
Alain E. Boileau, Interim City Attorney

Lynn Solomon
LYNN SOLOMON, Assistant City Attorney