

RESOLUTION R-19-124

A RESOLUTION OF THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING A STANDARD CONCESSIONAIRE LICENSE AGREEMENT FOR MOBILE FOOD TRUCK VENDORS AT COUNTY LIBRARIES; PROVIDING FOR THE DELEGATION OF AUTHORITY TO EXECUTE THE STANDARD AGREEMENT; PROVIDING FOR REPORTING; PROVIDING FOR SEVERABILITY; PROVIDING FOR APPLICABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to authority set forth in Section 125.01(1)(f), Florida Statutes, as amended, Manatee County owns, leases and/or operates real property located in Manatee County to provide libraries ("County Libraries") for the benefit of the public; and

WHEREAS, Manatee County's Neighborhood Services Department desires to have mobile food truck vendors provide concession services at certain County Libraries for the benefit and enjoyment of library patrons; and

WHEREAS, the Board of County Commissioners (the "Board") has determined that it is necessary and in the best interest of the County to approve the form of, and delegate authority to execute, a standard license agreement for the use of designated areas in County Libraries for concession services, as provided in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

SECTION 1. APPROVAL OF FORM AGREEMENT FOR USE OF COUNTY PROPERTY FOR CONCESSIONAIRE SERVICES. The Board hereby approves the form of the following Agreement for use of various County-owned property and facilities for concession services:

Exhibit (1) – Standard License Agreement for Mobile Food Truck Vendors-attached

The Director of the Neighborhood Services Department (the "Director"), or his or her designee, is hereby authorized and directed to execute the agreements and general conditions (and related amendments thereto), substantially in the form set forth in the above referenced exhibit to this Resolution, with such supplemental documents as are incorporated therein and consistent therewith.

SECTION 2. REPORTING. The Director shall annually provide a list to the Board of all agreements and amendments approved and executed pursuant to Section 1, above.

SECTION 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Resolution.

SECTION 4. APPLICABILITY. The form of the agreement and general conditions approved herein shall apply and be utilized in all transactions entered into on or after the effective date hereof.

SECTION 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED with a quorum present and voting this the 24 day of September, 2019.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: Stephan R. Johnson
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: Wesley Jessner
Deputy Clerk

EXHIBIT 1

**LICENSE AGREEMENT
FOR MOBILE FOOD TRUCK VENDORS**

THIS AGREEMENT is made and entered into as of this ____ day of _____, 20____ (“Effective Date”), by and between **MANATEE COUNTY**, a political subdivision of the State of Florida, (“**COUNTY**”), with offices located at 1112 Manatee Avenue West, Bradenton, Florida 34205, and _____, (“**LICENSEE**”) [**TYPE OF COMPANY**] with an office located at _____, and duly authorized to conduct business in the State of Florida. COUNTY and LICENSEE are collectively referred to as the “parties” and individually as “party.”

WHEREAS, COUNTY owns, leases and/or operates real property located in Manatee County (“Licensed Area”) that is utilized as a library (“County Library”) for the benefit of the public, as depicted in the attached Exhibit A; and

WHEREAS, LICENSEE is a mobile food truck vendor who desires to access and use a portion of [INSERT NAME OF LIBRARY] (“Licensed Area”) to sell food and non-alcoholic beverages to patrons of the County Library; and

WHEREAS, COUNTY agrees to allow LICENSEE access to and use of the Licensed Area for the sale of food and non-alcoholic beverages to the public in order to enhance the comfort and experience of County Library patrons.

NOW, THEREFORE, COUNTY and LICENSEE, in consideration of the mutual covenants, promises, and representations contained herein, the sufficiency of which is hereby acknowledged, agree as follows:

1. Exhibits. This Agreement consists of a primary agreement and two (2) exhibits:

Exhibit A: Licensed Area

Exhibit B: Insurance Requirements

2. The Licensed Area. The real property that is the subject of this Agreement is depicted in Exhibit A of this Agreement.

3. Conditions of Use. COUNTY agrees to permit LICENSEE to access and use the Licensed Area for the sale of food and non-alcoholic beverages, subject to the following terms and conditions:

- a. LICENSEE shall only have one (1) food truck in the Licensed Area. The food truck shall be self-contained and require no electricity, water, or other service from a County Library.

- b. COUNTY will coordinate scheduled access to the Licensed Area on an as-needed basis with LICENSEE that is consistent with the needs of library patrons and COUNTY events.
- d. Except as specifically provided for herein, COUNTY shall, at all times, continue to retain and have the unqualified right to make any and all reasonable determinations concerning or relating to LICENSEE'S access and use of the Licensed Area.
- e. LICENSEE'S operations shall be in compliance with all applicable local, state and federal laws and ordinances; including, but not limited to the Florida Department of Agriculture and Consumer Services Division of Food Safety Mobile Food Permit Requirements. LICENSEE shall have and keep current at all times all licenses and permits as required by law.
- f. Any activity not specifically permitted herein is prohibited under this License.
- g. LICENSEE shall not leave any waste or cause any damage to the Licensed Area. LICENSEE will repair, at its own expense, any and all damage to the Licensed Area caused by LICENSEE'S use or activities. COUNTY will determine the extent of any damages and provide the LICENSEE with written notice that describes the damage and specifies the necessary repairs. The LICENSEE will complete the specified repairs within twenty (20) days from the date of the COUNTY'S written notice. If the LICENSEE fails to make the specified repairs, the COUNTY may make the repairs and shall be entitled to receive reimbursement from the LICENSEE for the costs of such repairs.
- h. LICENSEE agrees to deliver up, cease and surrender to COUNTY the Licensed Area upon the expiration or earlier termination of this Agreement, and the Licensed Areas shall be in substantially the same conditions as it was prior to LICENSEE'S access and use (reasonable wear and tear excepted).

4. Term. This Agreement shall commence on the Effective Date and end on _____, 20_____.

5. Termination. Either party may terminate this Agreement at any time, without cause. Upon notice from COUNTY of its intent to terminate this Agreement, LICENSEE shall remove all equipment from the Licensed Area within ten (10) days of receipt of such notice. This Agreement may be terminated by LICENSEE without cause upon thirty (30) days written notice to COUNTY.

6. Insurance. LICENSEE shall, at its own cost and expense, acquire and maintain (and cause any Subcontractors, representatives, or agents to acquire and maintain) insurance policies that comply with the Insurance Requirements in Exhibit B during the term of this Agreement.

- a. Certificates of insurance and copies of policies evidencing the insurance coverage specified in Exhibit B shall be filed with the COUNTY in accordance with Article 8 – Notices before the Effective Date of this Agreement. The required certificates shall identify the type of policy, policy number, date of expiration, amount of coverage, companies affording coverage, shall refer specifically to the title of this Agreement, and shall name Manatee County, a political subdivision of the State of Florida as an additional insured. No changes shall be made to the insurance coverage without prior written approval by COUNTY’S Risk Management Division.
- b. If the initial insurance expires prior to the termination of this Agreement, renewal certificates of insurance and required copies of policies shall be furnished by LICENSEE and delivered to COUNTY thirty (30) days prior to the date of their expiration.

7. Indemnification. LICENSEE shall indemnify, defend and hold COUNTY harmless from any and all third-party claims, loss, liabilities, or cause of action for property damage or bodily injury, including death, arising from any negligent acts or omissions of LICENSEE in the performance of this Agreement. Such indemnification shall include, but not be limited to, the payment of all valid claims, losses, and judgements of any nature whatsoever in connection therewith and the payment of all related fees and costs, including attorneys’ fees, incurred by the COUNTY in connection with the LICENSEE’S activities arising out of the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to COUNTY or deemed to affect the rights, privileges and immunities of COUNTY as set forth in Section 768.28, Florida Statutes.

8. No Waiver of Sovereign Immunity. Nothing herein shall be interpreted as a waiver of COUNTY’S rights, including the limitations of the waiver of immunity, as set forth in Florida Statutes § 768.28, or any other statutes or immunities. COUNTY expressly reserves these rights to the fullest extent allowed by law.

9. Notices. All notices, demands and other communications given hereunder shall be in writing and shall be deemed to have been duly given: (a) upon hand delivery thereof with written confirmation of receipt, (b) upon receipt through any commercial overnight delivery service, or (c) upon receipt by Certified Mail, Return Receipt Requested, to the addresses set forth below:

If to COUNTY:

[INSERT CONTACT INFORMATION]

If to LICENSEE:

[INSERT CONTACT INFORMATION]

10. Entire Agreement. This Agreement sets forth all the promises, covenants, agreements, conditions and understandings between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, expressed or implied, oral or written, except as herein contained.

11. Assignment. This Agreement shall be binding upon the parties hereto, their beneficiaries, heirs and administrators, and does not confer any rights on any other persons or entities. LICENSEE may not assign this Agreement without the prior written consent of COUNTY.

12. Amendment. No amendment hereof shall be effective until and unless reduced to writing and executed by the parties.

13. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

14. Headings. The Article headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of the Agreement.

15. Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceeding arising between the parties in any manner pertaining or related to this Agreement shall be exclusively maintained in Manatee County, Florida, or the United States District Court, Tampa Division, and all parties hereby specifically consent to the jurisdiction of said courts.

16. Attorney's Fees. In the event of any litigation arising under the terms of this Agreement, each party shall be responsible for their own attorney's fees, including appellate fees, regardless of the outcome of the litigation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed effective as of the date set forth above.

**MANATEE COUNTY, a political
subdivision of the State of Florida**

By: Neighborhood Services Department

By: _____

Director

LICENSEE

By:

Print Name & Title of Above Signer

EXHIBIT A
Licensed Area

EXHIBIT B
Insurance Requirements

I. LICENSEE shall, at its own cost and expense, acquire and maintain (and cause any subcontractors, representatives or agents to acquire and maintain) the following minimum insurance types and limits:

A. Commercial General Liability: \$500,000 Each Occurrence and \$500,000 General Aggregate. The Commercial General Liability policy must include the following:

1. Product/Completed Operations Aggregate: \$500,000
2. Personal and Advertising Injury: \$500,000
3. Damage to Rented Premises (Fire Legal Liability): \$50,000
4. Medical Expense: \$5,000
5. Third-Party Property Damage: \$500,000

B. Auto Liability: \$1,000,000 Combined Single Limit. In lieu of combined single limit, coverage can be split into individual limits of \$500,000 Bodily Injury and \$500,000 Property Damage. The Auto Liability policy must include the following:

1. Personal Injury Protection (PIP-NO Fault): \$10,000
2. Medical Payment: \$10,000
3. Hired Non-Owned Liability: \$500,000

C. Workers' Compensation and Employers' Liability: Statutory workers' compensation and employers' liability shall apply for all employees in compliance with Florida and federal law.

II. All insurance policies, excluding Workers' Compensation and Employers' Liability, shall contain, or be endorsed to contain, the following provisions:

- A. All policies shall be endorsed to name "Manatee County, a political subdivision of the State of Florida" as additional insured and shall specify that the insured shall have no right of subrogation against Manatee County.
- B. A Certificate of insurance evidencing coverage and the Endorsement naming "Manatee County, a political subdivision of the State of Florida" as additional insured must be provided to the event manager no later than ten (10) business days prior to the event or receipt of license, or as otherwise requested.
- C. LICENSEE's insurance coverage shall be primary with respect to Manatee County and the Manatee County and the Manatee County Civic Center Authority. Any insurance or self-insurance maintained by Manatee County shall be excess of LICENSEE's insurance and shall be non-contributory.
- D. LICENSEE has sole responsibility for all insurance premiums and policy deductibles.
- E. All insurance policies must be an Occurrence coverage form. Claims-made coverage form is not acceptable.

- III. LICENSEE understands and agrees that the stipulated limits of coverage listed herein this insurance section shall not be construed as a limitation of any potential liability to Manatee County, or to others, and Manatee County's failure to request or retain evidence of insurance coverage shall not be construed as a waiver of LICENSEE's obligation to provide and maintain the insurance coverage specified.
- IV. LICENSEE understands and agrees that Manatee County does not waive its immunity, and nothing herein shall be interpreted as a waiver of Manatee County's rights, including the limitation of waiver of immunity, as set forth in Florida Statutes 768.28, or any other statutes, and Manatee County expressly reserves these rights to the full extent allowed by law.