

**2020 FESTIVAL OF LIGHTS**  
**EVENT LICENSE AGREEMENT**

**THIS EVENT LICENSE AGREEMENT** (“Agreement”) is made and entered into as of the date entered below by and between the CITY OF PORT ST. LUCIE, a Florida municipal corporation, by and through the Parks & Recreation Department (“CITY”), and THE PORT ST. LUCIE DOWNTOWN LIONS FOUNDATION, INC., a Florida not for profit corporation, 1967 S.E. Port St. Lucie Blvd, P.O. Box 9301, Port St. Lucie, Florida 34952 (“FOUNDATION”). In consideration of the mutual covenants contained herein, the parties agree as follows:

**WHEREAS**, Festival of Lights is a festival which includes holiday events and has approximately 10,000 attendees. The CITY, through its Parks & Recreation Department, produces Festival of Lights (“the Event”) each year to celebrate the holiday season.

**WHEREAS**, the 2020 Event will be held on December 5, 2020 from 2:00 p.m.-10:00 p.m., subject to inclement weather, on the premises of the MIDFLORIDA Credit Union Event Center, 9221 S.E. Event Center Place, Port St. Lucie, Florida 34952 (“Event Premises”);

**WHEREAS**, the FOUNDATION has agreed to sell alcohol during the hours of the Event on the Event Premises,

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **RECITALS.** The foregoing recitals are hereby incorporated as forming the intent and purpose of this Agreement.
2. **ALCOHOL.** The FOUNDATION will be responsible for all alcoholic beverage sales, training of staff, and service during the Event. The FOUNDATION will obtain the necessary and proper license from the Division of Alcoholic Beverages and Tobacco to sell alcoholic beverages and shall retain all records and receipts related thereto. The FOUNDATION shall be responsible for all costs associated with the sales, training, and service of alcoholic beverages during the Event and shall retain all net profits from the sale of alcoholic beverages during the Event. The FOUNDATION shall comply with any reporting requirements of the liquor license issued by the Florida Division of Alcoholic Beverages and Tobacco.
3. **INDEMNIFICATION/HOLD HARMLESS.** The CITY shall not be liable for damage claims from injury to persons or property from any cause relating to the occupancy, construction, improvement, maintenance, or operation of the Event Premises by the

FOUNDATION during the term of this Agreement or any extension thereof. The FOUNDATION agrees to indemnify, defend and hold harmless, the CITY, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the FOUNDATION, agents, laborers, vendors, or other personnel and/or entity acting under the FOUNDATION's control in connection with the terms of this Agreement and, to that extent, the FOUNDATION shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorneys' fees expended by the CITY in defense of such claims and losses including appeals. The aforesaid hold-harmless Agreement by the FOUNDATION shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the actions of the FOUNDATION or any agent laborers, or any employee or volunteer of the FOUNDATION, regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. The FOUNDATION shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by the FOUNDATION during the performance of this Agreement. The FOUNDATION shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on this Agreement. The FOUNDATION shall secure all permits, fees, licenses, and inspections necessary for the execution of this Agreement.

4. SOVEREIGN IMMUNITY. Nothing contained in this Agreement shall be deemed or otherwise interpreted as waiving the CITY's sovereign immunity protections existing under the laws of the State of Florida or extending or increasing the limits of liability as set forth in Section 768.28 of Florida Statutes.
5. EQUIPMENT. The CITY shall furnish tables, chairs and a tent for use by the FOUNDATION during the Event. Upon request, the CITY agrees to furnish power to the FOUNDATION in the form of a generator, fuel and/or electrical cords.
6. INSURANCE. The FOUNDATION shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverage, limits, including endorsements, as described herein. The requirements contained herein, as well as CITY's review or acceptance of insurance maintained by the FOUNDATION are not intended to limit or qualify the liabilities and obligations assumed by the FOUNDATION under this Agreement. The parties agree and recognize that it is not the intent of the CITY that any insurance policy/coverage that it may obtain pursuant to any provision of this Agreement, will provide insurance coverage to any entity, corporation, business, person, or organization, other than the CITY, and the CITY shall not

be obligated to provide any insurance coverage other than for the CITY or extend its sovereign immunity pursuant to Section 768.28, Florida Statutes, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this Agreement, any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy, or otherwise protect the interests of the City of Port St. Lucie as specified in this Agreement.

- A. Workers' Compensation Insurance & Employer's Liability: The FOUNDATION shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes. Employers' Liability and must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement shall be provided. Coverage shall apply on a primary basis. If the FOUNDATION claims exemption under Florida Workers' Compensation insurance, the FOUNDATION must present a waiver of exemption from the Florida Division of Financial Services indicating such.
- B. Commercial General Liability Insurance: The FOUNDATION shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

- C. Additional Insured: An Additional Insured endorsement must be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary. A per event aggregate limit endorsement should be attached. Defense costs are to be in addition to the Limit of liability. A waiver of subrogation shall be provided in favor of the CITY. Coverage shall extend to independent contractors, fellow employees, and volunteers. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.
- D. Liquor Liability Insurance: The FOUNDATION shall agree to maintain Liquor Liability insurance issued under an Occurrence form basis, in limits not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate. A waiver of subrogation shall be provided in favor of the CITY.

- E. Automobile Liability Insurance: The FOUNDATION shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event the Contractor does not own any automobiles; the Business Auto Liability requirement shall be amended allowing the Foundation to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary basis.
- F. Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Agreement have been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability, Auto Liability, and Liquor Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read "**City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents, and shall include 2020 Festival of Lights Event Agreement.**" The Policies shall be specifically endorsed to provide thirty (30) days written notice to the CITY prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance.
- G. Waiver of Subrogation: The FOUNDATION shall agree by entering into this Agreement to a Waiver of Subrogation 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 FOUNDATION shall agree to 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 where a condition to the policy specifically prohibits such an endorsement, or voids coverage should FOUNDATION enter into such an Agreement on a pre-loss basis.
- H. Deductibles: All deductible amounts shall be paid for and be the responsibility of the FOUNDATION for any and all claims under this Agreement. It shall be the responsibility of the FOUNDATION to ensure that all vendors, independent contractors, and/or subcontractors utilized in this Agreement comply with the same insurance requirements referenced above. The CITY, by and through its Risk Management Department, reserves the right, but not obligation, to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements herein. All insurance carriers must have an AM Best rating of at least A:VII or better. A failure on the part of the FOUNDATION to execute the Agreement and/or punctually deliver the required insurance within 14 days of the Event, may be cause for annulment of this Agreement.

7. MISCELLANEOUS. No provision of this Agreement shall be construed to create a partnership or joint venture of any type between the CITY and FOUNDATION, or in any way make either responsible for any debts, losses or liabilities of the other, without limitation. This agreement shall not be assigned, subcontracted or transferred to any other entity without the express written approval of the CITY.

IN WITNESS WHEREOF, the parties hereto have set their respective hands this \_\_\_\_day of \_\_\_\_\_ 2020.

CITY OF PORT ST. LUCIE,  
a Florida municipal corporation

By: \_\_\_\_\_  
Sherman Conrad, Director  
Parks & Recreation Department

Approved as to Form by the City Attorney's Office

By: \_\_\_\_\_  
James D. Stokes, City Attorney

THE PORT ST. LUCIE DOWNTOWN LIONS  
FOUNDATION, INC., a Florida not for profit corporation

By: \_\_\_\_\_  
Gary Davis, President