



Travis County Commissioners Court Agenda Request

Meeting Date: September 24, 2013

Prepared By/Phone Number: John Carr, 854-4772

Dept. Head: Roger El Khoury, M.S., P.E., Director, FMD, 854-4579

County Executive: Leslie Browder, Planning and Budget, 854-9106

Sponsoring Court Members: County Judge Samuel T. Biscoe

A handwritten signature in black ink, appearing to read "Roger El Khoury", with a stylized initial "RE" below it.

AGENDA LANGUAGE:

Consider and take appropriate action on license agreement with the Texas Book Festival, Inc., to use County parking facilities on Saturday, October 26, 2013 and Sunday, October 27, 2013.

BACKGROUND/SUMMARY OF REQUEST:

The Texas Book Festival has used the County parking facilities on numerous occasions for previous annual book festivals. There have not been any adverse impacts for the County from the previous uses of the parking facilities for this function. Christopher Gilmore and Roxanne Bonner with the County Attorney's office prepared the attached license agreement, which has been signed by Jann Girard, the Logistics Coordinator for the Texas Book Festival. Ms. Girard has also provided a check in the amount of \$20 for the fee for use of the two parking facilities, which is the amount that has been previously charged for use of these facilities by non-profit agencies. Ms. Girard has also provided the appropriate certificate of insurance as required in the license agreement. There are no anticipated costs to the County associated with approval of this request.

STAFF RECOMMENDATIONS:

Facilities Management Department recommends approval of the license agreement between Travis County and the Texas Book Festival, Inc.

ISSUES AND OPPORTUNITIES:

Approval of this license agreement will continue the approximately 12 year history of Travis County allowing the Texas Book Festival to use the Granger Building parking garage and the USB Building parking lot for their annual event.

FISCAL IMPACT AND SOURCE OF FUNDING:

\$20 revenue in administrative fees for the license agreement.

ATTACHMENTS/EXHIBITS:

License Agreement

REQUIRED AUTHORIZATIONS:

Christopher Gilmore/Roxanne Bonner, County Attorney's Office

LICENSE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This License Agreement is made and entered into by and between Travis County, Texas, a political subdivision of the State of Texas ("County") and the Texas Book Festival, Inc., a Texas nonprofit corporation ("Licensee").

WHEREAS, County is the owner of the Granger Administration Building Parking Garage located at 313 West 12th Street (the "Parking Garage") and the surface parking lot situated to the south and west of that County-owned building having a street address of 1010 Lavaca and known locally as the USB Building (the "Parking Lot"); and

WHEREAS, Licensee desires to exercise certain rights and privileges in the Parking Garage and Parking Lot (collectively, the "Parking Facilities") in conjunction with the Texas Book Festival event on Saturday, October 26, 2013 and Sunday, October 27, 2013.

NOW, THEREFORE, County and Licensee, in consideration of the mutual promises herein expressed and the compensation herein agreed to be paid, covenant and agree to and with each other as follows:

I. GRANT OF LICENSE

1.1 County hereby grants a License to Licensee to enter, use and occupy the Parking Facilities for the purpose of providing parking spaces to the public in conjunction with the Texas Book Festival event on Saturday, October 26, 2013, and Sunday, October 27, 2013. As a condition to the granting of this License, Licensee shall leave the Parking Facilities in as good a condition as when Licensee entered it, normal wear and tear excepted, as determined by existing County policy.

1.2 Licensee acknowledges and agrees that Licensee shall be solely responsible at all times for the actions and the safety of those persons utilizing the Parking Facilities under this Agreement, including, without limitation, protecting such persons from injury or death and protecting County's property and the property of such persons from loss or damage.

II. TERM OF LICENSE

2.1 The License granted hereunder is between 9 a.m and 5 p.m. on Saturday, October 26, 2013 and between 11 a.m. and 5 p.m. on Sunday, October 27, 2013.

III. PAYMENT TO COUNTY

3.1 In consideration of the License granted hereunder, Licensee shall pay County a fee in the amount of ten dollars (\$10.00) per parking facility, for a total payment of \$20.00, to be paid to the Travis County Treasurer.

3.2 In addition, Licensee shall provide, at its own additional expense and to the extent it believes necessary, traffic control, garbage removal, as well as any security personnel during Licensee's use of the Garage.

IV. COORDINATION WITH COUNTY

4.1 Licensee shall at all times obey the directions and commands of the Director of the Facilities Management Department or his designated representatives and the Travis County Sheriff and Sheriff's Office. In addition, Licensee shall cooperate and coordinate with any other licensees under similar license agreements with County. Any disregard of the directions of the above named County Official, Department Head, and/or his/her designated representatives shall be grounds for immediate revocation of the License granted hereunder. Licensee shall be solely responsible for the costs and the securing of any permits required by the City of Austin or other local governmental entities, if any, for use of the Property under this Agreement.

V. USE AND REPAIRS

5.1 Licensee shall not use the Property for any purpose other than that set forth herein. Further, Licensee shall repair or replace any damage to the Property caused by Licensee.

5.2 LICENSEE ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY PRIOR TO EXECUTION OF THIS AGREEMENT, LICENSEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY LICENSOR. LICENSEE AGREES TO ACCEPT THE PROPERTY "AS-IS" AND WITH ALL FAULTS AND WAIVES ALL OBJECTIONS OR CLAIMS IN THIS REGARD AGAINST LICENSOR (INCLUDING BUT NOT LIMITED TO ANY RIGHT OR CLAIM OF CONTRIBUTION) ARISING FROM OR RELATED TO THE PROPERTY OR TO ANY HAZARDOUS MATERIALS ON THE PROPERTY. LICENSOR WILL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE USE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE CONSIDERATION FOR THE USE OF THE PROPERTY HAS BEEN NEGOTIATED TO REFLECT THAT ALL OF THE PROPERTY IS LICENSED BY LICENSOR AND

ACCEPTED BY LICENSEE IN THE "AS-IS" CONDITION. THIS ACCEPTANCE BY THE LICENSEE SHALL BE AN ACKNOWLEDGMENT THAT THERE IS NO LANDLORD/TENANT RELATIONSHIP ESTABLISHED BETWEEN LICENSOR AND LICENSEE. LICENSEE HAS NO EXPECTATION OF WARRANTIES AS TO USE OR HABITABILITY OF THE PROPERTY.

VI. INDEMNIFICATION

6.1 LICENSEE DOES HEREBY AGREE TO INDEMNIFY, SAVE AND HOLD HARMLESS AND DEFEND LICENSOR, ITS AGENTS, SERVANTS, AND EMPLOYEES, FROM ANY AND ALL NEGLIGENCE, LIABILITY, LOSS, COSTS, CLAIMS, INCLUDING ATTORNEY'S FEES, OR EXPENSE OF WHATSOEVER TYPE OR NATURE ARISING IN WHOLE OR IN PART, OUT OF ANY AND ALL ACTS OF COMMISSION OR OMISSION OF LICENSEE, ITS AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, OR SUPPLIERS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR LICENSEE'S USE OF THE GARAGE, FOR WHICH A CLAIM, INCLUDING ATTORNEY'S FEES, DEMAND, SUIT, OR OTHER ACTION IS MADE OR BROUGHT BY ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY AGAINST LICENSOR.

6.2 Without in any way limiting the liability of Licensee or its obligations under this Agreement, Licensee agrees to maintain during the term of the License Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$600,000 per occurrence and \$1,000,000 in the aggregate, with Travis County named as an additional insured. Licensee has provided County with a certificate from its carrier evidencing such insurance, which certificate is attached hereto as Exhibit A and made a part hereof.

VII. NOTICES

7.1 Any notice to be given hereunder by either party to the other shall be in writing and may be effected by personal delivery, in writing, or registered or certified mail, return receipt requested. Notices shall be sufficient if made or addressed as follows:

If to Licensee: Jann Girard
Logistics Coordinator
Texas Book Festival
610 Brazos Street #200
Austin, Texas 78701
(512) 217-1461

If to County: Roger El Khoury, M.S., P.E.
Director
Travis County Facilities Management Dept.

P.O. Box 1748
Austin, TX 78767

VIII. MEDIATION

8.1 When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

IX. AMENDMENTS

9.1 This Agreement may be amended only by written instrument signed by both County and Licensee. IT IS ACKNOWLEDGED BY LICENSEE THAT NO OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF TRAVIS COUNTY HAS ANY AUTHORITY TO CHANGE OR AMEND THE TERMS OF THIS AGREEMENT OR ANY ATTACHMENTS TO IT OR TO WAIVE ANY BREACH OF THIS AGREEMENT UNLESS EXPRESSLY GRANTED THAT SPECIFIC AUTHORITY BY THE COMMISSIONERS COURT OF TRAVIS COUNTY.

10.0 NON-WAIVER AND RESERVATION OF RIGHTS

10.1 No act or omission by Licensor may constitute or be construed as a waiver of any breach or default of Licensee which then exists or may subsequently exist. The failure of either party to exercise any right or privilege granted in this Agreement shall not be construed as a waiver of that right or privilege.

10.2 All rights of Licensor under this Agreement are specifically reserved and any act or omission shall not impair or prejudice any remedy or right of Licensor under it. Any right or remedy stated in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement, the law or at equity, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

XI. MISCELLANEOUS

11.1 This Agreement represents the sole, entire and integrated Agreement between County and Licensee with respect to the subject matter herein and supersedes all prior negotiations, representations or agreements either oral or written.

11.2 This Agreement shall be binding upon and inure to the benefit of County and Licensee and their respective successors, executors, administrators and assigns.

Neither County nor Licensee may assign, sublet or transfer its interest in or the obligations hereunder of this Agreement without the written consent of the other party hereto.

11.3 The property covered by this Agreement is located in Travis County, Texas, and all activities and undertakings permitted under this Agreement are performable in Travis County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date(s) set forth below.

TRAVIS COUNTY:

By:

Samuel T. Biscoe
Travis County Judge

Date: _____

LICENSEE:

By:



Jann Girard
Logistics Coordinator for
Texas Book Festival, Inc.

Date: 9/6/13

EXHIBIT A



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/11/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Wm. Gammon Insurance A Higginbotham Company 1615 Guadalupe Austin TX 78701	CONTACT NAME Julie Molinere	FAX IAC No. 512-469-0443
	PHONE IAC No. 512-477-8745	ADDRESS Address: genmalt@gammoninsurance.com
INSURED TEXAS266 Texas Book Festival, Inc. Lois Kim, Executive Director 610 Brazos St., #200 Austin TX 78701	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Hartford Lloyds Insurance Co	NAIC # 36253
	INSURER B: Hartford Underwriters Ins Co	30104
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: 465267456 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	DESCRIPTION	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	LIMITS
A GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIED PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO. ACCT <input type="checkbox"/> LOC	659BALQ3936	5/10/2013	5/10/2014	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (In commercial) \$300,000 MED EXP (Per one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$	
A AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED. RETENTION \$	659BALQ3936	5/10/2013	5/10/2014	UNLIM'D SINGLE LIMIT (Per accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ EACH OCCURRENCE \$ AGGREGATE \$ \$	
B WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory to NH) If yes, describe under DESCRIPTION OF OPERATIONS below	35WECNO022	5/1/2013	5/1/2014	<input checked="" type="checkbox"/> NO STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 104, Additional Remarks Schedule, if more space is required)
The General Liability policy includes a blanket automatic additional insured & Waiver of Subrogation provision that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.
The General Liability policy contains a provision with "Primary and Noncontributory" wording.
RE: 2013 Texas Book Festival, October 26 & 27, 2013

CERTIFICATE HOLDER Travis County, TX Asst. County Attorney, Tenley Aldredge 314 West 11th St. Austin TX 78701	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE