

CONCERT SERIES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, by and between the City of Hollywood, Florida ("COH"), and The Rhythm Foundation ("RF"), a non-profit organization authorized to do business in the State of Florida.

WITNESSETH:

WHEREAS, the COH requires an agreement for a qualified concert/special event producer or qualified group or professional (Producer), to coordinate a minimum of three concerts to be held in the ArtsPark at Young Circle; and

WHEREAS, the series of concerts will be free to the public, feature world-renowned, domestic and or regional performers and artists that enrich the local community, and brand the ArtsPark as a regional tourism destination for quality free concerts, cutting edge programming and cultural arts; and

WHEREAS, the COH will reimburse the producer for expenses associated with the production of the series in an amount not to exceed \$150,000.00 for a minimum of three concerts between to take place between the months of February 2024 and June 2024; and

WHEREAS, RF is the foremost presenter of world music and cultural events in South Florida, with a three decade history of presenting over 500 outstanding international artists throughout the region; and

WHEREAS, RF desires to create, produce, promote and hold "The Hollywood ArtsPark Experience Concert Series" ("Series"), a free and open to the public cultural showcase, regional tourism event, and live concert series; and

WHEREAS, the COH desires to increase commerce in Downtown Hollywood by attracting quality cultural tourism events and world-class musicians to perform at the amphitheater at the ArtsPark in the Downtown Hollywood district; and

WHEREAS, RF is willing to produce, promote and hold the "Hollywood ArtsPark Experience Concert Series" in the Hollywood ArtsPark; and

WHEREAS, the COH is willing to support RF for producing and implementing the scheduled event by paying RF a fee not to exceed \$150,000.00 as a total budget to implement programming, production and the creation of a promotional campaign, and for securing the services of the headline artists, whose expenses and artist fees shall be paid from those funds.

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein the COH and RF agree as follows:

1. The term of this Agreement will commence with three concerts to be held between the months of February 2024 and June 2024. It is understood that the Series shall be held rain or shine, but that neither the COH nor RF shall be considered in breach of this Agreement to the extent that performance of their respective obligations (excluding payment obligations) is prevented by an event of force majeure.
2. RF shall create, produce, promote and hold the Series, a minimum of three free and open to the public concerts. RF shall give the COH Parks, Recreation & Cultural Arts Director 30 days advance notice of any change in performances, and such changes must be agreed to by the COH Parks Director. The parties agree that at all times the Series shall be known and promoted as "The Hollywood ArtsPark Experience Concert Series." RF is responsible for the production and operation of the Series and will provide appropriate staff to coordinate each event.
3. RF shall be solely responsible for retaining the performers/headliners/acts for each of the events. RF shall be solely responsible and liable for any and all compensation that may be due to the performers/headliners/acts retained for each event, and the COH shall have no such responsibility, obligation or liability.
4. RF shall create and submit a press release for COH approval and shall send approved press releases to all appropriate media in Florida, as well as serve as the contact for interviews and press relations. All publications, media productions, press releases and exhibit graphics shall include the COH's logo, sponsors logos or credits, and Broward County's logo and the following statement:

"This ArtsPark Project is funded in part by Broward County through the Broward County Board of County Commissioners, with proceeds from the 2000 Broward County Safe Parks and Land Preservation Bond Issue."
5. RF shall create and execute a media plan for mainstream and special interest print, web, and radio outlets, including creating artwork for the entire media campaign, establishing a budget and executing media buys.
6. RF shall promote the Series to the community at large through its own email blasts and social media campaigns and shall activate its network of cultural partners and sponsors.

7. RF will work to secure in-kind and cash sponsorships and partnerships for the Series, and any funds obtained through said sponsorships shall be received and administered by RF. The COH shall not be a party to any sponsorships and partnerships secured by RF for the Series, and RF shall not represent to any potential sponsors or partners that RF is an employee, official, agent or authorized representative of the COH or that the COH is in any way affiliated with RF soliciting such sponsorships or partnerships. Further, COH shall not be responsible or liable to any sponsors or partners secured by RF for the Series
8. RF shall administer the presence of any vendors at each of the Series performances per City of Hollywood ("CITY") regulations. RF shall secure a licensed concessions operator to handle all sales of alcohol. All proceeds from selling vending space shall be retained by RF. The COH shall not be a party to any independent contracts RF shall enter into with any vendor, nor shall the COH be liable to such third parties. RF shall not represent that it is an agent, official, authorized representative, or employee of the COH.
9. RF shall purchase and obtain all required Event Insurance policies for General Liability coverage in the amount of at least \$2,000,000.00 General Aggregate: \$2,000,000.00 Products/Completed Operations, \$1,000,000.00 Personal and Advertising Injury, \$1,000,000.00 per occurrence, covering the COH, and all participants, no later than 10 days prior to each Concert Series, and provide a CERTIFICATE OF INSURANCE and required endorsements to the CITY'S Risk Manager. RF shall also provide liquor liability insurance in the amount of \$1,000,000.00 and Host liquor liability insurance in the amount \$1,000,000.00. All insurance policies shall name the COH as additional insured and Certificate Holder and have all required endorsements.
10. RF shall obtain all applicable federal, state, and local approvals, permits and licenses relating to any and all activities of the Series.
11. RF agrees to indemnify and hold harmless COH, their Officers, Agents and Employees against any loss, damage or expense (including all costs and reasonable attorneys' fees) suffered by COH from (a) any breach from RF of this Agreement, (b) any inaccuracy in or breach of any of the representations, warranties of covenants made by RF herein, (c) any claims, suits, actions, damages or causes of action arising during the term of this Agreement for any personal injury, loss of life or damage to property sustained by reason or as a result of the use of the property by RF, its agents, employees, invitees, and all other persons, and (d) any claims, suits, actions, damages or causes of action of any kind whatsoever arising during the terms of this Agreement for any personal injury, loss of life or property damage sustained by reason of this agreement, its execution and/or its performance by RF or the participants

in the Concert Series. Such obligation to indemnify and hold harmless shall continue notwithstanding any negligence or comparative negligence on the part of the COH relating to such loss or damage and shall include all costs, expenses and liabilities incurred by the COH in connection with any such claim, suit, action or cause of action, including the investigation thereof and the defense of any action or proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof. Nothing in this Agreement shall be construed to affect in any way the COH rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Florida Statute Section 768.28.

12. COH shall reimburse RF in an amount not to exceed \$150,000.00 for the costs to implement programming, production, and marketing and for securing the services of the headline artists for the events of the Series. COH's reimbursement shall be contingent upon the COH receiving copies of all contracts, invoices and other documentation substantiating RF's expenditures. Such documentation shall be submitted by RF within 30 days after the respective performance. COH shall reimburse RF within 30 days from receipt of the required submissions of invoices and other documentation. The reimbursement schedule exception will be for the performance fee portion of each performance. RF shall submit its executed contract with the respective performers/headliners and invoice, check or other documentation substantiating its payment to the respective performers/headliners prior to the Concert Series performance in order to be reimbursed by the COH for the performance fee. COH shall reimburse RF within 30 days from receipt of the required submissions of invoices and other documentation. However, if the contract between RF and the respective performers/headliners of event in the Series is cancelled for any reason, then RF shall remit the performance fee to the COH within 60 days of such cancellation. Notwithstanding COH's fee payment to RF, COH shall not be liable to any of the performers/headliners, their agents or company for their performance fees. RF shall not represent to the performers/headliners or their agents that COH is a party to any arrangement or contract between RF and the respective performers/headliners of each cultural showcase performance in the Series, nor shall RF represent that it is an agent, official, authorized representative or employee of the COH.
13. The COH shall actively promote the Concert Series through all appropriate marquees, ads, e-blasts, newsletters, and websites, and will distribute promotional materials through its visitor information centers, hospitality and tourism networks, cultural and business community partners and civic organizations.

14. The COH shall provide a waiver of all fees, with the exception of personnel (staffing) and police presence, and to use all of the ArtsPark's promotional means to advertise and promote the Concert Series, including prominent exposure on ArtsPark's two digital marquees. Such waiver of any fees shall be in accordance with Chapter 102, Hollywood Code of Ordinances, and the COH may decline to waive any such fees in its sole discretion.
15. The COH shall arrange other activities it deems necessary in conjunction with RF, and shall be solely liable for the cost and conduct of such activities.
16. Events of Default, Termination of Agreement and Remedies.
 - a) The following shall constitute events of default:
 - 1) Any material misrepresentation, written or oral, made by RF and/or its representatives to the COH.
 - 2) Failure by RF to timely perform and/or observe any and all of the terms and conditions of this Agreement.
 - 3) Insolvency or bankruptcy on the part of RF.
 - b) The occurrence of any event of default to the COH may, at the sole option of the COH, work as an immediate and automatic forfeiture of any rights conferred under this Agreement.
 - c) In the event that RF defaults, the COH shall have all legal remedies available to it, including but not limiting to termination of this Agreement upon ten (10) days written notice to RF.
17. RF shall not assign its rights under this Agreement.
18. This Agreement shall constitute the entire agreement between the parties, and no warranties, inducements, considerations, promises or other references shall be implied or impressed upon this Agreement that are not expressly addressed in this Agreement.
19. This Agreement shall be governed as to performance and interpreted in accordance with the laws of the State of Florida. Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated in the state courts located in Broward County, Florida.
20. It is expressly understood and agreed that this Agreement is for the duration of the Concert Series only and that RF has no right or privilege other than that expressly provided herein.

21. COH may terminate this Agreement at any time, without cause.

RF agrees that nothing set forth contained is intended or should be construed as in any way creating or establishing the relationship of partners of joint ventures between the COH and RF, or as constituting RF or any officer, owner, employee or agent of RF as an agent, representative or employee of the COH for any purpose or in manner whatsoever, and that it shall not represent to any third parties that such is the case.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

ATTEST:

City of Hollywood, a municipal
Corporation of the State of Florida

Patricia A. Cerny, MMC
City Clerk

By: _____
George Keller, Jr. CPPT
City Manager

APPROVED AS TO FORM:

Approved by: _____
David Keller,

Director of

Financial Services

Douglas R. Gonzales
City Attorney

THE RHYTHM FOUNDATION

ATTEST:

Corporate Secretary

By: _____
Signature
Print Name: _____

Title: _____