

BILLBOARD AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2018, by and between the CITY OF HOLLYWOOD, FLORIDA, a municipal corporation of the State of Florida, (hereinafter "City"), and BLUE ROOSTER MEDIA, LLC, a Florida limited liability corporation (hereinafter "BRM").

WITNESSETH

WHEREAS, BRM is in the outdoor advertising business; and

WHEREAS, the Hollywood Jaycees Foundation, Inc. a Florida non-profit corporation, (hereinafter "Owner") owns a double-face static billboard sign (hereinafter "Existing Billboard") located at 2930 Hollywood Blvd., Hollywood, Florida 33020 (Parcel ID#514217000071), described in "Exhibit I" (hereinafter "Property") within the City, a municipal corporation of the State of Florida; and

WHEREAS, BRM has leased the portion of the Property with the Existing Billboard from the Owner; and

WHEREAS, the Existing Billboard is one of 14 billboard signs authorized by the City's Land Development Code (the "LDC") to be maintained and operated within the City and, therefore, is a lawful conforming sign; and

WHEREAS, the Existing Billboard was removed, or portions thereof, due to hurricane damage; and

WHEREAS, BRM is requesting to replace the Existing Billboard with one new double-face monopole billboard on the Property, utilizing two light-emitting diode (LED) faces (hereinafter, the "Digital Billboard"), or such other automatic changeable faces as it may elect to utilize from time to time (all such automatic changeable facing, whether now in existence or developed in the future (hereinafter referred to as "LED FACES")); and

WHEREAS, BRM has voluntarily offered certain self-restrictions as to the content of its messages, as well as offering certain advertising and notification abilities to the City, which the City accepts pursuant to the terms set forth below; and

WHEREAS, on _____ 2018, the City Commission adopted Resolution No. R-2018-____ authorizing the execution of this Agreement; and

WHEREAS, the City desires to ensure that the Digital Billboard continues to be operated in a manner consistent with Florida law and conforming to the LDC, and in a manner satisfactory to the City.

NOW, THEREFORE, in consideration of the mutual promises, covenants and other considerations contained herein, the parties hereto voluntary agree as follows:

1. **Recitals as Contractual Terms.** The above recitals are true and correct and incorporated as material contractual terms, and not merely recitals.

2. **Digital Billboard.** The City approves this Billboard Agreement and authorizes BRM to replace the Existing Billboard and associated components (or so much as may be required) with a Digital Billboard, to be constructed and operated by BRM pursuant to the terms and conditions set forth in this Agreement, the LDC and in accordance with State and Federal law. BRM agrees that, absent prior approval from the City Commission otherwise, it will construct, operate and maintain only one Digital Billboard structure. The new Digital Billboard shall comply with all applicable State and Local Laws, including applicable Building Codes, and shall during the term of this Agreement be deemed a lawful conforming sign.

3. **Term.** This Agreement shall be for a set term of 40 years, unless earlier terminated. Notwithstanding that the term of this Agreement ends in 40 years, during the term of this Agreement the approved Digital Billboard shall still be subject to compliance with all applicable City Codes, Ordinances and the City's LDC, to the extent that any such Codes, Ordinances and LDC provisions are not inconsistent with the rights conferred herein, as well as all applicable state and federal laws and regulations. Upon expiration of this Agreement, BRM shall either remove the Digital Billboard or negotiate a new Billboard Agreement with the City.

4. **Conditions.** The Digital Billboard shall be constructed, operated, maintained and replaced in compliance with the following:

a. The Digital Billboard and sign faces shall be constructed/installed by licensed, registered contractors in a manner that meets or exceeds the City's building and electrical requirements, and upon completion of construction, structural certifications by State-Licensed Engineers will be provided to the City by BRM. The Digital Billboard shall be constructed/reconstructed in substantially the location approved by the FDOT and City for the Existing Billboard. For the purposes of this Agreement, provided the Digital Billboard is constructed on the Property, it will be deemed to be in "substantially the location" approved by the City.

b. Prior to any necessary tree removal, BRM must obtain approval from the City's Department of Development Services. Any and all tree removal shall comply with the City's Code of Ordinances and the LDC.

c. BRM voluntarily offers and the City has agreed that any advertising shall not include any tobacco product, adult retail, performance, entertainment establishment or service, or any advertising messages that may be reasonably construed as "hate speech" against any person or organization or obscene or offensive materials as determined by the City. If the City reasonably objects to any advertisement, such advertisement shall be removed within 24 hours of receipt by BRM of written notice from the City.

d. BRM shall submit to the City signed and sealed site plan(s) and survey(s) for any proposed construction/alteration to the Digital Billboard, evidencing

compliance with applicable conditions of this Agreement prior to issuance of any Building Permits by the City.

e. There shall be no side-by-side or stacked billboards, and the Digital Billboard shall not emit noise or utilize/employ flashing lights. The Digital Billboard shall not include embellishments or extensions exceeding five feet above the sign face(s), two feet on either side of the sign face(s), or that result in total sign area in excess of 750 square feet.

f. The placement of the Digital Billboard must conform with Chapter 479, Florida Statutes, and any and all other applicable federal, state, county and municipal regulations.

5. **Indemnification of City.** In consideration of the City permitting BRM to construct and operate the Digital Billboard within the City, BRM hereby agrees to defend (with counsel of BRM's choosing, subject to the prior approval by the City Attorney, which approval shall not be unreasonably withheld), indemnify and hold harmless the City, its officers, agents and employees, from and against any and all claims, suits, actions, damages and causes of action whatever, arising during the term of this Agreement and resulting in personal injury, loss of life or damage to property sustained by any person or entity as a result of the doing of any work herein authorized or the failure to do any work herein required, or as a result of this Agreement or the construction, maintenance or use of the Digital Billboard contemplated thereby, or the use by BRM of the Property upon which the Digital Billboard is located. Such obligation to indemnify and hold harmless shall continue notwithstanding any negligence (except gross negligence) or comparative negligence on the part of the City relating to such loss or damage and shall include all costs, expenses and liabilities incurred by the City 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. These provisions shall survive the expiration or earlier termination of this Agreement. Nothing in this Agreement shall be construed to affect in any way Hollywood's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes. BRM waives and hereby releases the City from and against any and all claims for compensation or other reimbursement which it has or may have in the future as a result of any provisions of Section 70.20, Florida Statutes, or the provisions of any other statute or under common law, except as otherwise specifically provided herein, with respect to this Agreement.

6. **Compliance with Agreement/Laws.** BRM hereby agrees that it shall operate the Digital Billboard in accordance with the terms of this Agreement and all laws, rules, ordinances and regulations: (i) pursuant to which any permits issued pursuant hereto are issued; and (ii) promulgated by the Florida Legislature and Florida Department of Transportation. Failure to abide by the terms of this Agreement, or to adhere to all applicable laws will be deemed a violation of this Agreement, and the City may pursue any and all equitable and legal remedies relating to said violations/defaults, including, but not limited to, requiring BRM to remove the Digital Billboard; provided, however, prior to the exercise of any such legal or equitable remedies, the City shall first provide BRM written notice of any alleged violation/default, which notice shall state the nature of the violation/default with as

much specificity as is practicable under the circumstances. BRM shall have 30 days from the receipt of the City's notice to cure such violation/default, or if the violation/default is not reasonably capable of being cured within 30 days, to commence to cure the violation/default and to diligently pursue said cure to completion. However, if Blue Rooster Media fails to come to completion within a maximum of 60 days, then the City may pursue any and all equitable and legal remedies, including but not limited to removal of said billboard.

7. **Advertising and Notifications by the City.** BRM voluntarily offers announcements and advertising slots to the City as provided on this paragraph, and the City accepts this offer. Unless expressly stated otherwise in subparagraphs A and B of this Paragraph 7, the following terms shall apply: (i) all announcements and advertising slots provided by BRM to the City shall be at no cost to the City; (ii) all artwork/design/graphics relating to the City's chosen advertisements shall be provided by the City to BRM at least 10 days prior to the scheduled advertising run commencement date; and (iii) in the event the City desires to utilize BRM advertising artwork/design/graphics, BRM shall provide the artwork/design/graphics to the City for its approval at least 10 days prior to the scheduled advertising run commencement date.

For purposes of this Paragraph 7, contract person(s) shall be:

CITY: Director of Communications, Marketing and Economic Development (or equivalent) at (954) 921-3620; and

BRM: Yves Barroukh at (786) 480-1818.

A. **Public Service Advertising.** On a space available basis, BRM will allow the City to post public service announcements and advertise City-sponsored events (the "City Announcements") on the Digital Billboard, pursuant and subject to the terms, conditions and restrictions contained in this Agreement. Any such City Announcements shall be strictly for the benefit of the City, and shall not include the names or logos of any third-party businesses or sponsors. If after posting a City Announcement any third party asserts that said announcement is defamatory or infringes on any copyright, trademark, or other intellectual property or privacy right, or if adverse publicity results therefrom, BRM shall have the right to remove the City Announcement, and to discontinue the display of City Announcements until such time as the City shall supply a new, or designate a previous, City Announcement. Any such public service announcements may be removed by BRM in the event that space so occupied by City Announcements is leased or rented to third parties by BRM. BRM hereby agrees to give the City reasonable notice of anticipated space availability on the Digital Billboard for City Announcements; provided, however, that BRM shall have no obligation to notify the City if such space availability is limited to time periods of less than 30 days. All artwork, design, graphics, production and installation costs relating to the City Announcements shall be at the sole expense of the City.

B. **New Business Welcome Messages.** In addition to the space available opportunity for City Announcements set forth in subparagraph A above, BRM will provide the City with one (1) slot/flip (hereinafter "Slot") on each face of the Digital Billboard for a period of up to 28 days, on a space-available basis, for a City-sponsored announcement welcoming a new business/merchant that has within the immediately preceding 60 days, or will within the immediately following 60 days, open/commence

operations for the first time from a physical location within the City (the "New Business Announcement"). Any advertising Slot(s) provided by BRM to the City for a New Business Announcement shall be at no cost to the City, and the City shall not charge or collect any fee or remuneration of any kind from or on behalf of the subject business in exchange for the posting of said New Business Announcement. All artwork, design, graphics, production and installation costs relating to the New Business Announcements shall be at the sole expense of the City.

8. **Emergency Notifications.** BRM voluntarily offers and the City has agreed that during times of declared weather emergencies affecting the City, as defined from time to time pursuant to the terms of the Emergency Notification Program defined herein below, BRM will add one Slot on each face of the Digital Billboard and make that Slot available for the sole and limited purpose of communicating emergency information to the City's citizens and the travelling public, in accordance with the terms and conditions of the emergency alert notification program adopted by the Florida Outdoor Advertising Association (the "FOAA") and the applicable governmental agency/agencies (the "Emergency Notification Program").

BRM will also add one Slot on each face of the Digital Billboard and make that Slot available for the display of "amber alerts" issued by the Florida Department of Law Enforcement ("FDLE"), or such other law enforcement agency that may from time to time be responsible for issuance of same, when it is determined, pursuant to guidelines and procedures already in place between the FDLE (or such other agency/agencies) and the outdoor advertising industry, to identify appropriate situations, duration and sign locations that display of the "amber alert" on the Digital Billboard will provide information to the travelling public that could be instrumental in assisting authorities in resolving an abduction.

Finally, BRM will add one Slot on each face of the Digital Billboard and make that Slot available for the display of official emergency notifications issued by the City of Hollywood Police Department (the "Agency") to advise the public of an active or imminent public threat posed by: (i) a dangerous condition other than weather, (ii) a fugitive known or reasonably suspected to be in the area, or (iii) an active-shooter situation (the "Local Emergency Announcements"). The City or the Agency shall be responsible for providing BRM with a template for use by BRM in displaying the Local Emergency Announcements, which template shall be compatible with BRM's policies and procedures (the "Alert Template"). The Alert Template will be maintained by BRM at its national operations center, from which the messaging for all digital billboards is controlled. Upon the occurrence of a local emergency within the scope of this Paragraph, the City shall contact the local BRM representative identified in Paragraph 7 above, and provide the representative with the desired text for the Local Emergency Announcement. The text will be relayed by the local BRM representative to the BRM national operations center, which will post the Local Emergency Announcement using the Alert Template then on file. BRM will use its best efforts to post the copy as soon as practicable, and will continue to display such copy so long as the threat remains imminent or active. The City may modify the Alert Template at any time, and from time to time; provided as such modification will not be effective until 30 days after receipt by BRM.

9. **Notices.** All notices, demands, requests for approvals or other communications required or authorized to be given by either party to another shall be

in writing and shall be hand-delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by a recognized overnight courier service to each party indicated below, addressed as follows:

If to BRM:

Blue Rooster Media, LLC
Attn: Yves Barroukh-CEO
c/o Harvey Rogers, Esq.
44 W. Flagler St., Suite 1100
Miami, FL 33130

If to City:

City Manager
2600 Hollywood Boulevard, Room 419
Hollywood, Florida 33020

With copies to:

City Attorney, City of Hollywood
2600 Hollywood Boulevard, Room 407
Hollywood, Florida 33020

Notices given by courier service or by hand delivery shall be effective upon delivery and notices given by mail shall be effective on the fifth business day after mailing. Refusal by any person to accept delivery of any notice delivered at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Section as of the date/time of such refusal. The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other parties in accordance herewith, and such notices shall be effective upon receipt. Until notice of change of address is received as to any particular party hereto, all other parties may rely upon the last address given.

10. **Invalid Provisions.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions; provided the invalid provisions do not materially affect the rights or benefits contracted for by the parties herein.

11. **Assignment.** This Agreement is freely assignable and its obligations, benefits, rights, title, and interests shall be binding upon and enforceable against any and/or all assignees of BRM during the entire term of the Digital Billboard's existence on the Property. BRM shall provide the City with 30 days prior written notice of any assignment, which assignment shall expressly bind the assignees to the terms of this Agreement. BRM shall provide the City with documentation evidencing the acceptance by the assignee of this Agreement and its agreement to comply with the terms hereof.

12. **Choice of Laws.** This Agreement shall be construed and enforced under the laws of the State of Florida. Any proceeding relating to or arising out of this Agreement shall be brought solely in State Courts of the Seventeenth Judicial Circuit in and for Broward County, Florida, to the exclusion of any other court or venue.

13. **Entire Agreement.** This Agreement, and all the terms and provisions contained herein, constitute the full and complete agreement between the parties hereto with respect to the matters covered herein to the date hereof, and supersedes and controls over any and all prior agreements, understanding, representations, correspondence and statements whether written, oral or implied, which are deemed to be merged into this Agreement.

14. **Amendment.** The parties may amend this Agreement only by a written instrument signed by each of the parties. There cannot be any waiver, variation, modification, amendment or change to the terms of this Agreement except as may be made in writing and executed by each party hereto. If any party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of another party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

15. **Miscellaneous.**

a. This Agreement may be terminated without notice in the event of imminent threat to public health or the public safety, as may be determined in the reasonable discretion of federal, state or local officials charged with making such determinations. Hollywood shall not be liable to BRM for any losses incurred by reason of such termination.

b. The provisions of this Agreement shall not be construed in favor of or against any particular party as each party has reviewed the terms and conditions hereof and, by execution of this Agreement, acknowledges that said party has carefully considered the legal ramifications of this instrument, has consulted with legal counsel or has knowingly and willingly chosen not to do so. This Agreement has been negotiated by the City and BRM, and this Agreement shall not be deemed to have been prepared by any one party but, rather, by all equally.

BILLBOARD AGREEMENT WITH BLUE ROOSTER MEDIA, LLC. AT 2930 HOLLYWOOD BOULEVARD.

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

**CITY OF HOLLYWOOD, FLORIDA, a
Municipal corporation of the State of
Florida**

ATTEST: _____

By: _____
JOSH LEVY, MAYOR

APPROVED AS TO FORM & LEGAL
SUFFICIENCY for the use and reliance
Of the City of Hollywood, Florida, only.

Douglas R. Gonzales, CITY ATTORNEY

BRM MEDIA, LLC

By: _____

Title: _____

EXHIBIT I

Site Address	2930 HOLLYWOOD BOULEVARD, HOLLYWOOD FL 33020	ID #	5142 17 00 0071
Property Owner	GREATER HOLLYWOOD JAYCEES INC	Millage	0513
Mailing Address	2930 HOLLYWOOD BLVD HOLLYWOOD FL 33020	Use	77
Abbreviated Legal Description	17-51-42 SE1/4 DESC AS IN OR 3138/577		

