Interoffice - Memorandum

To: Judith C. Boyko, Township Administrator

From: Barbara Wilson

Date: August 9, 2013

RE: **BUSINESS ITEM: LICENSE AGREEMENT BETWEEN WEST CHESTER TOWNSHIP AND UNION CENTRE BOULEVARD MERCHANT ASSOCIATION FOR THE USE OF A PORTION OF TOWNSHIP PROPERTY, 9285 CENTRE POINTE DRIVE, FOR THE PRODUCTION AND PRESENTATION OF THE FOOD TRUCK RALLY**

The Union Centre Boulevard Merchant Association is proposing a first-time event called Food Truck Rally. The event is proposed for Friday, August 30 from 11 a.m. to 10 p.m. and will feature approximately 15 gourmet food trucks on The Square @ Union Centre and Centre Pointe Drive. The event will be hosted by The Union Centre Boulevard Merchant Association for the benefit of the Boys and Girls Club.

In addition to the food trucks, the event will include music performed on the Square during lunchtime hours and throughout the evening. The permit for beer sales will be held by the Union Centre Boulevard Merchants Association. West Chester Township will be responsible for closing associated roadways on the day of the event.

Event organizers will compensate Police Department personnel per contract off-duty detail rates and reimburse the Township for wages associated with dedicated Roads Department personnel assigned strictly to the event. All fees associated with venue trash receptacles, signage, etc. will be incurred by the event organizers.

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The **Board of Trustees**, **West Chester Township**, **Butler County, Ohio**, ("Township"), a political jurisdiction, hereinafter called "LICENSOR," hereby agrees to enter into the LICENSE AGREEMENT ("Agreement") with **Union Centre Boulevard Merchant Association**, a non-profit group of local merchants networking to promote the Union Centre Boulevard area and to benefit the **Boys and Girls Club**, hereinafter called "LICENSEE" for the use of a portion of West Chester Property known as **The Square @ Union Centre**, hereinafter called "REAL ESTATE" owned by Licensor and located on **9285 Centre Pointe Drive, West Chester, OH 45069** for the production and presentation of the Union Centre **Food Truck Rally**

1. **Purpose.** Licensee desires and Licensor allows Licensee to utilize Real Estate for the exclusive use of production and presentation of the "**Food Truck Rally**" to be held on **Friday, August 30, 2013 from 11 a.m. through 10 p.m.** for the enjoyment of West Chester residents. Licensee agrees to operate and maintain Real Estate exclusively for the "**Food Truck Rally**" and this use by Licensee shall not unreasonably impede the free use of the above property by persons not attending these events.

2. **Assignment.** This Agreement shall be binding upon all parties' respective heirs, legal representatives, successors and assigns unless otherwise stated herein.

3. **Grant and Term.** Licensor hereby grants a license to Licensee for the use of Real Estate to be used exclusively by Licensee for the presentation of the "**Food Truck Rally**." The license is valid **Friday, August 30, 2013 at 8 a.m. and ending Friday, August 30, 2013 at 11 p.m.** and subject to the following terms, responsibilities, and conditions.

4. **Amendment.** This Agreement may be amended by mutual agreement between authorized representatives of the Township and Licensee. The authorized representatives may negotiate and approve modifications to this Agreement; however, the West Chester Board of Trustees must authorize any amendments.

5. **Responsibilities and Privileges of the Parties.**

   LICENSEE – **Union Centre Boulevard Merchant Association**:

   a. In consideration of the covenants and agreements contained herein, Licensee agrees to pay One Dollar ($1.00) for the event and other good and valuable consideration.

   b. Licensee agrees to operate and maintain Real Estate exclusively for the "Food Truck Rally" and this use by Licensee shall not unreasonably impede the free use of the above Real Estate by persons not attending these events.

   c. It shall be the responsibility of Licensee to provide adequate security protection for the Real Estate described above. It is agreed by Licensee and Licensor that the Real Estate described above shall be open to the public and Licensee shall be authorized to charge reasonable fees for the operation and maintenance of the Real Estate and that any and all revenue generated from the operation of the Real Estate shall be the property of Licensee.

Proposed

d. Licensee agrees to abide by all West Chester Township resolutions and not to impede on West Chester Township administration's responsibility for the protection of the public peace, health, safety and welfare.

e. Licensee agrees that at the expiration of this Agreement, it shall surrender the licensed Real Estate to Licensor in as good a condition as it was on the date of the execution of this Agreement, reasonable wear and tear and unavoidable casualties excepted.

f. If Licensee should fail to keep any of the covenants of this Agreement, it shall be lawful for Licensor to revoke this license Agreement and to reenter, to repossess and to enjoy the Real Estate as in its first and former state; thereupon this Agreement and everything contained herein on Licensor's behalf to be done and performed shall cease and be void.

g. During the term of this Agreement, Licensee agrees to provide or obtain the following at no charge to Licensor:

    i. Booths, tables, tents, staging and sound systems as required;
    ii. Adequate garbage receptacles and bags and personnel to manage clean-up;
    iii. Adequate volunteers for entire event, including set-up and tear-down,
    iv. Communication System during event for volunteers;
    v. Implementation of a safety plan that meets the standards of Township safety services with police personnel compensated per contract at off-duty detail and required event dedicated fire personnel compensated per contract;
    vi. Ensure that all vendors participating in the event provide appropriate health permits and insurance liability coverage;
    vii. Appropriate and adequate signage to direct attendees to event grounds and approved parking areas;
    viii. Obtain all appropriate permits for the sale of alcohol at the event and provide Licensor with $1 million in liquor liability insurance with West Chester Township Trustees listed as additional insured;
    ix. Provide a Certificate of Liability Insurance for $1 million in general liability naming West Chester Township Trustees as additional insured. Endorsement page must include name of insured, policy number and policy period;
    x. Proper notification to businesses and residents within the event site;
    xi. Event Site Map;
    xii. Obtain all appropriate approved permits for non-owned Township property use;
    xiii. Complete Community Event Permit application.

h. Licensee agrees not to destroy, damage, or pollute the licensed Real Estate. Licensee also agrees to use the licensed Real Estate exclusively for the purpose stated above. Further, Licensee agrees not to make any physical alteration to the licensed Real Estate, buildings, or other property situated on the Real Estate and shall pay for damages that may result from the licensed use.

Proposed

LICENSOR – **TOWNSHIP:**

a. Licensor agrees that Licensee, while Licensee keeps and performs its obligations under this Agreement, shall peaceably and quietly hold, occupy, and enjoy the licensed Real Estate during the term of this Agreement, without any interference or hindrance by Licensor or any person lawfully authorized to represent Licensor.

b. During the terms of this Agreement Licensor agrees to assist and provide the following at no charge to Licensee:

   i. Assistance in coordination of Township services;

   ii. Assistance with set-up of required fencing, staking and safety devices prior to the event;

   iii. West Chester property maintained prior to event;

   iv. Required crowd/traffic control devices as determined by West Chester Township;

   v. Signed authorization for temporary street closure;

   vi. Event promotion on Township website/West Chester Community Television.

6. **Indemnification.** Licensee shall indemnify and hold the Township, its employees, officers, and assigns, harmless from and against any and all claims, liability, damage, or loss to person or property to the extent that such claim, liability or loss arose or grew out of any act of Licensee, its representatives, invitees, or licensees, together with all costs, expenses and attorney fees incurred with respect to any such claim, demand or legal proceeding made or brought against the Township. If any action or proceeding is brought against the Township by reason of any such occurrence, Licensee will reimburse Licensor for its attorney's fees and costs.

7. **Liability Insurance.** Licensee agrees to provide the Township, prior to the execution of this Agreement, One Million Dollars ($1,000,000) of liability insurance, naming the Township an additional insured, to fully and adequately protect the Township from claims caused by any action of Licensee's personnel at all times that Licensee may be utilizing the premises. Licensee must provide and the Township shall keep a copy of a certificate of insurance that proves Licensee's compliance with these terms. Neither party extends to each other nor to any other person or organization indemnification or protection from liability arising from use of the Real Estate. Further, Licensee agrees that any subcontractors, providing services on Real Estate, shall have the same minimum coverage with the Township as a named insured. The insurance certificates of all subcontractors, providing services on the licensed Real Estate, shall also be submitted to the Township prior to the execution of this Agreement.

8. **Entire Agreement.** The parties acknowledge and agree that this contract constitutes their entire agreement and that no oral or implied agreement exists.

9. **Severability.** In the event that any portion of this Agreement shall be found to be inconsistent with the law or otherwise unenforceable, the remainder of the Agreement shall remain unaffected and in continuing effect.

Proposed

10. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Ohio.

11. **Captions.** The captions of this Agreement are for convenience only and are not to be construed as part of this Agreement and shall not be construed as defining or limiting in any way the scope or intent of the provisions contained within this Agreement.

On behalf of the

Board of Trustees
West Chester Township, Butler County, Ohio

_____
Judith C. Boyko, Administrator

_____
Date

Approved as to Form:

_____
Donald L. Crain, Law Director

Approved by Trustees:

_____
Date

On behalf of the

Union Centre Boulevard Merchant Association

_____
Lindsey Wiseman, President

_____
Date

Proposed