

Timothy A. Dunn

From: Timothy A. Dunn
Sent: Wednesday, August 16, 2017 5:07 PM
To: David Taylor
Cc: showcasepleitch@yahoo.com
Subject: RE: Headliner
Attachments: Starfest Lease Agreement Termination Notice.pdf

That is not acceptable to the City. Please see the attached termination letter.

Timothy A. Dunn
Assistant City Attorney

From: David Taylor [mailto:dtaylor@crudefunders.com]
Sent: Wednesday, August 16, 2017 4:11 PM
To: Timothy A. Dunn <Timothyd@plano.gov>
Cc: showcasepleitch@yahoo.com
Subject: Re: Headliner

Dear Mr Dunn,

I fully understand the need for the executed contracts for the city and I apologize for the delay in getting them to you in a timely manner. This is a matter of great frustration for our team because the contracts are taking much longer than originally told they would be from our attorneys. I have attached the dropbox for the artists that we are in contract with and the ones that we are working with for final countersigned. These documents are now available to you and will remain available in real time and will be updated with notification to you and Michelle. We want full transparency with you and you will have it the moment we do. I hope you can offer us some levity on this matter because it is beyond our direct control. I will also send you notifications as I get them just to keep you abreast of the situation.

<https://www.dropbox.com/sh/9t372gi5hsdpkry/AAB-5pGBibkE2O6aLEuQu3Cta?dl=0>

Thank You,

David Taylor

Starfest Music Festival

From: "Timothy A. Dunn" <Timothyd@plano.gov>
Date: Wednesday, August 16, 2017 at 9:53 AM
To: David Taylor <dtaylor@crudefunders.com>, "showcasepleitch@yahoo.com" <showcasepleitch@yahoo.com>
Subject: FW: Headliner

Sir,

The City of Plano expects strict compliance with the License Agreement. You failed to provide the City with executed contracts for all artists which have been announced to perform at the Festival which is a breach of section 3.03 of the

Agreement. Please provide the executed contracts for all artists that have been announced to perform at the Festival by 5:00 pm CST today. Failure to comply with this requirement is an incurable and material breach of the Agreement.



Office of
City Attorney

Timothy A. Dunn

Assistant City Attorney III

1520 K Avenue, 3rd Floor
Suite 340, Plano, Texas 75074
T 972.941.7125
F 972.424.0099
timothyd@plano.gov
plano.gov

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From: Michelle Hawkins
Sent: Wednesday, August 16, 2017 9:28 AM
To: Timothy A. Dunn <Timothyd@plano.gov>
Subject: FW: Headliner

Please take a moment to complete the City of Plano [Customer Satisfaction Survey](#).



Parks & Recreation



Michelle Hawkins

Arts, Culture & Heritage Manager

1520 K Avenue, 2nd Floor
Suite 200, Plano, Texas 75074
T 972.941.5800
C 972.816.1208
michelleb@plano.gov
plano.gov

Connect with Plano



From: David Taylor [<mailto:dtaylor@crudefunders.com>]
Sent: Tuesday, August 15, 2017 8:32 PM
To: Michelle Hawkins <michelleha@plano.gov>
Subject: Re: Headliner

We are not specifically looking for a headliner for this festival. We have an entire lineup that is the festival so we might say that lil Wayne, Carnage, hunter Hayes and flo Rida could be construed as headliners but we are providing you with

all artists that are to be announced. I hope this technicality is a reason for contract breach. You have access to our artist catalog for full transparency of the event. They will be added constantly and will be available for you and the team. More to be added

As soon as we have it. We are hoping this abides by the terms of the contract. Please let me know how we can better serve.

Sent from my phone so please excuse my brevity,

David

On Aug 15, 2017, at 3:44 PM, Michelle Hawkins <michelleha@plano.gov> wrote:

Since I know you are still pursuing a headliner, I just wanted to remind you that in Section 3.03 of our contract states we have to mutually agree on a headliner and be given 48 hours' notice prior to any public announcement. This would be an incurable breach, so thought it was worth mentioning again.

Thanks and see you tomorrow at the Nature and Retreat Center,

Please take a moment to complete the City of Plano [Customer Satisfaction Survey](#).

<image007.png>

Parks & Recreation

<image008.png>

Serving Since 2003

Michelle Hawkins

Arts, Culture & Heritage Manager

1520 K Avenue, 2nd Floor
Suite 200, Plano, Texas 75074

T 972.941.5800

C 972.816.1208

michelleb@plano.gov

plano.gov

<image009.png>



City of Plano
1520 K Avenue
Plano, TX 75074

P.O. Box 860358
Plano, TX 75086-0358
Tel: 972.941.7000
plano.gov

August 16, 2017

Plano Starfest Music Festival LLC d/b/a/ Starfest
1601 Elm Street, Suite 4245
Dallas, TX 75201

**VIA EMAIL AND
CERTIFIED MAIL RRR
7013 1090 0000 0941 4993**

To whom it may concern:

Please be advised that this is formal written notice that Plano Starfest Music Festival LLC d/b/a Starfest ("Starfest") is in material breach of the July 21, 2017 License Agreement for the promotion and production of a music festival at the Oak Point Park and Nature Preserve, which was executed with the City of Plano.

Specifically, Starfest has failed in any manner to comply with the provisions of section 3.03 which requires

- Starfest and the City to mutually agree on headliners to perform at the festival; and
- Starfest to provide *executed* artist contracts to the City at least 48 hours prior to Starfest making any public announcement of the Festival.


These are material breaches of the License Agreement and are incurable within any cure period which may be provided in the License Agreement.

Because Starfest is in material breach of the License Agreement, and that breach is incurable, the City of Plano hereby **TERMINATES** the License Agreement **IMMEDIATELY**.

Starfest is to **IMMEDIATELY CEASE AND DECIST** from the use of the City of Plano's logo, brand, and other marks.

Thank you for your attention to this matter.

Sincerely,



Bruce D. Glasscock
City Manager
City of Plano, Texas

LICENSE AGREEMENT
FOR PROMOTION AND PRODUCTION OF
TEXAS MUSIC REVOLUTION MUSIC FESTIVAL AT
OAK POINT PARK AND NATURE PRESERVE

This Agreement is made and entered into by and between the CITY OF PLANO TEXAS, a home-rule municipal corporation of the State of Texas, (hereinafter called "CITY") and Plano Starfest Musical Festival LLC d/b/a Starfest, a Texas limited liability company (hereinafter called "LEASEE");

WHEREAS, the CITY is the owner of Oak Point Park and Nature Preserve ("Park"), shown on Exhibit "A" incorporated herein by reference as if set forth in full, located at 5901 Los Rios Blvd, Plano Texas 75074; and

WHEREAS, the CITY Council finds that a multi-day, multi-act music festival at the Park will serve the citizens, stimulate the economy, provide entertainment to the public and promote the CITY as a destination; and

WHEREAS, CITY has determined that it is in the public interest to enter into this Agreement with LEASEE to promote and produce a multi-day musical festival (the "Festival") at the Park with quality programming from a cross-select of musical genres and artistic performers (the "Agreement"); and

WHEREAS, LEASEE shall, if deemed necessary, enter into a separate license agreement for use of the Plano Event Center for the ancillary activities and parking associated with the Festival.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and Agreements contained herein, and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

Article I Scope of Use

1.01. Permitted Use. Subject to the terms and conditions herein, as well as a Special Event Permit obtained by LEASEE as required by Section 15-5 of the CITY'S Code of Ordinances and Section 4.01 herein ("Special Event Permit"), the CITY grants to LEASEE a license to use the Park to promote and produce the Festival, which shall be conducted on September 8 and 9, 2017, together with customary ancillary uses in connection therewith, including, without limitation,

- the set up and removal of equipment and temporary improvements such as stages, dressing areas, concession facilities, portable restrooms, and kiosks for merchandise;
- medical services;
- security and box office;
- lighting and sound rigging;
- "load-in" and "load-out" activities;
- providing on-site concessions (including service and consumption of alcohol beverages);
- catering;
- merchandise sales and promotion;
- sponsorships (including, without limitation, the sale of event, stage and festival area naming rights);
- parking;
- VIP areas;
- interactive displays;
- games;

- rides,
- pyrotechnics;
- temporary medical and security facilities and services;
- broadcasting;
- recording; and
- ticketing/box office activities.

Use of the Park by LEASEE shall be limited to the Festival, and the CITY shall not permit the Park or any part thereof to be used or occupied for any unrelated purpose. If necessary, the CITY may grant to LEASEE a license to use the Plano Event Center by a separate, mutually agreed upon license agreement for ancillary activities of the Festival in the event that such mutual agreement can be reached.

1.02. Festival Dates. So long as LEASEE applies for and CITY approves the issuance of a Special Event Permit pursuant to the terms of Section 4.01 herein and CITY's Code of Ordinances, LEASEE shall conduct the Festival September 8 and 9, 2017, rain or shine. Any additional/future concerts and/or festivals must be agreed upon by separate contract between CITY and LEASEE.

1.03. Term of Agreement. The term of this Agreement shall be the effective date of the signing of this Agreement through November 1, 2017.

Article II Payment

2.01. Park Rental Fee. LEASEE shall be required to pay for all required permits, City Services as hereinafter defined, and for rental of the Park and its facilities, which amount is presently estimated to be **ONE HUNDRED AND TWENTY FIVE THOUSAND AND NO/100 DOLLARS** (\$125,000.00) (collectively the "Park Rental Fee"). LEASEE shall pay the

estimated amount due in two payments. The first payment of **SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS** (\$62,500.00) shall be made to CITY upon the signing of this Agreement. The second payment of **SIXTY-TWO THOUSAND FIVE HUNDRED DOLLARS** (\$62,500.00) shall be made to the CITY on or before August 28, 2017, but 5:00 p.m. CDT.

2.02. Refunds and/or Additional Rent. At the conclusion of the Festival, CITY shall prepare an itemization of the amounts due to it from LEASEE within twenty-one (21) days after the conclusion of the Festival. If the total amount due to City for all required permits, City Services, and rental of the Park and its facilities is less than the \$125,000.00 previously paid by LEASEE, CITY shall reimburse LEASEE for the difference between the amount paid by LEASEE and the amount owed to CITY. If the total amount due is greater than the \$125,000.00 previously paid by LEASEE, CITY shall invoice LEASEE for this amount no later than thirty (30) days after the conclusion of the Festival, which payment shall be due no later than November 1, 2017.

2.03. City Services. CITY shall provide certain services for the Festival (the "City Services"). Such services shall be mutually agreed upon in writing in advance of the Festival pursuant to the Special Event Permit as required by Section 4.01 herein and may include the following: police, security, traffic control, fire and rescue services, emergency services, personnel, parks maintenance and support, and parking rental fees for Plano Event Center and the Park. CITY will provide a detailed list of services, staff, estimated hours, and cost one calendar week prior to the Festival and will provide a final itemization pursuant to section 2.02. Costs for any City Services in excess of the Park Rental Fee will be invoiced in accordance with section 2.02, as may be appropriate.

Article III
Independent Contractor

3.01. Independent Contractor. LEASEE covenants and agrees that LEASEE is an independent contractor and not an officer, agent, servant or employee of CITY; that as between CITY and LEASEE, LEASEE shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between CITY and LEASEE, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and LEASEE.

3.02. Contract Negotiations. LEASEE shall have exclusive authority, subject only to the provisions and limitations set forth in this Agreement, to negotiate all contracts or agreements including, but not limited to, the contracts and agreements with suppliers, exhibitors, entertainment artists, concessionaires, advertisers, television and radio media and other media, sponsors and parties relating to the Festival. All such contracts and agreements of any kind or nature whatsoever shall be negotiated and executed by LEASEE in its name and shall not be contracts or obligations of CITY.

3.03. City Approval of Artists. LEASEE shall notify the CITY as to all entertainment artists with whom LEASEE is engaged in material negotiations to perform as a headliner at the Festival. CITY, through the CITY Parks and Recreation Director or his/her designee (the "Director"), and LEASEE shall mutually agree on the headliners to perform at the Festival. LEASEE shall provide the executed artist contracts to CITY at least forty-eight (48) hours prior to LEASEE making any public announcement of the Festival. All contracts or agreements of any kind or nature entered into by LEASEE with the entertainment artists booked to perform at

the Festival shall specifically contain language which prohibits the entertainment artists from engaging in nudity, illegal acts, and/or obscene behavior.

Article IV
LEASEE Obligations/Rights

4.01. Special Event Permit. Pursuant to Section 15-5 of the CITY'S Code of Ordinances, LEASEE shall obtain a Special Event Permit from the CITY. The parties herein recognize that LEASEE submitted an application for a Special Event Permit on or about July 1, 2017. LEASEE must obtain the required Special Event Permit on or before thirty (30) days prior to the Festival. LEASEE shall address the details of the ancillary activities necessary for the Festival pursuant to the Special Events process including, but not limited to, neighborhood notification(s), an emergency response plan, traffic control, transportation, parking (including off-site parking and parking at non-city owned locations), set up and removal of equipment, medical services, security, temporary improvements such as stages, dressing areas, concession facilities, portable restrooms, kiosks for merchandise, box office, lighting, games, and rides. Failure to obtain a Special Event Permit on or before thirty (30) days prior to the Festival shall constitute a material breach of this Agreement, subject to the cure provisions and, if not cured, subject to termination as set forth in Section 8.01(c) herein. Notwithstanding the foregoing, CITY agrees to provide reasonable assistance in obtaining any such permit or license when requested by LEASEE, and CITY's Arts, Culture, and Heritage Manager is designated as CITY's representative to provide such assistance as may be requested. CITY may, by written notice to LEASEE, designate a new representative under this section.

4.02. Other Permits and Licenses. LEASEE, prior to commencement of any activities pursuant to the provisions of this Agreement and at its sole expense, shall obtain all necessary permissions, permits, approvals and licenses, including a license for use of the Plano Event Center (if LEASEE, in its sole discretion, chooses to utilize the Plano Event Center), which are

required to conduct the Festival including, but not limited to, building permits, copyright or music licenses, and concessions-related permits, including any license required for alcohol service and sales. To the extent any such permits or licenses are required by CITY, as opposed to other jurisdictions, CITY agrees to provide reasonable assistance in obtaining any such CITY issued permit when requested by LEASEE.

4.03 Provision of Necessary Personnel. In addition to any requirements of the Special Event Permit, LEASEE shall also provide all personnel and equipment needed to provide the services herein at its own expense, including all personnel and equipment necessary for scheduling, conducting, and safeguarding the Festival including, but not limited to: ticket sellers; ticket takers; ushers; sound technicians and stage hands; security and emergency medical personnel provided via the provision of City Services (as referenced in section 2.03) by and through the provision of police officers and emergency medical technicians employed by CITY; and personnel required for the installation and removal of staging or sound and/or lighting which is to be utilized for the Festival or any other equipment of any type or nature which is needed for the Festival. Certain services, personnel and equipment to be used herein may be provided by the CITY, at CITY's sole discretion, pursuant to Section 2.03 herein.

4.04. "Tear-Down" and Clean-Up. LEASEE shall be responsible for clean-up at the Park property upon completion of the Festival. Clean-up shall include, but not be limited to, removal of all debris, equipment, staging, tables, chairs, and any other Festival or Festival-related equipment. In all cases, trash/litter clean-up shall be completed within twenty four (24) hours after the completion of the Festival; clean-up of equipment, staging, tables, chairs, and any other Festival or Festival-related equipment shall be completed within ninety-six (96) hours after the completion of the Festival unless otherwise agreed in writing by the parties. If approved prior to the Festival, LEASEE may enter into a subcontract with a mutually agreed upon subcontractor for the provision of litter removal services, with oversight of such litter

removal services provided by CITY, but LEASEE shall remain ultimately responsible for ensuring that litter removal is completed. If the clean-up is not completed within the allotted time CITY shall request in writing that LEASEE complete the clean-up. If LEASEE fails to then undertake the clean-up within twenty-four (24) hours of CITY's request, CITY shall perform the clean-up and shall bill the actual cost of clean-up to LEASEE. Said costs shall be paid by LEASEE within thirty (30) days of receipt of invoice from the CITY.

4.05. Responsibility for Damage.

4.05(a) If any portion of the Park used for the Festival during the term of this Agreement shall be damaged by the act, default or negligence of LEASEE, or of LEASEE'S agents, employees, contractors, sub-contractors, patrons, guests, or any person admitted to the Park by LEASEE, LEASEE shall be responsible to pay such actual and documented sum as shall be reasonably necessary to restore the Park to its condition as received by LEASEE at the beginning of move-in for the Festival, excluding normal wear and tear. CITY will first apply all or a portion of the sum paid by LEASEE pursuant to section 2.01 for any such repair costs. Any additional costs will be itemized and invoiced to LEASEE pursuant to section 2.02. In connection with the repairs and/or restoration referenced herein, designated representatives of the parties shall conduct a walk-through of pertinent areas of the Park prior to move-in for the Festival (but no earlier than ninety-six (96) hours prior to move-in for the Festival), and again after the Festival (but no later than on or before ninety-six (96) hours subsequent to completion of the Festival). During each walk-through, the parties will assess and identify, as applicable, pre-existing conditions and damages, if any, that may have occurred during LEASEE's use, and will consult and agree in good faith as to what, if any, repair or restoration costs will be paid for by LEASEE. In no event shall LEASEE be responsible to the CITY for damages assessed from any pre-existing conditions or damage caused solely by the CITY, its employees, agents, contractors, or subcontractors, nor any property damages not

identified within seven (7) days of the completion of the Festival or prior to set-up for the next event at the Park has begun, whichever is earlier. As between LEASEE and CITY, LEASEE hereby assumes full responsibility for the acts and conduct of all persons admitted to the Park by LEASEE, or to any portion of the Park with the consent of LEASEE'S agents or employees or any person acting for or on behalf of LEASEE, excluding any person, contractor, sub-contractor, employee, or agent of the CITY performing any services in or around the Park solely at the CITY's direction, including those whose function may be related to the Festival.

4.05(b) LEASEE shall submit, at least thirty (30) days prior to the Festival, a Surety Bond in the amount of not less than \$100,000 guaranteeing the restoration of the Park or other premises utilized by LEASEE for the Festival, as provided herein, with CITY as the obligee.

4.06. Ejection from Property. During the Festival, LEASEE shall have the right to terminate any on-stage performance and to eject, or cause to be ejected, from the Park any person or persons, including entertainment artists, engaging in nudity, obscene/lewd behavior, or illegal acts.

4.07. Alterations, Additions and Improvements. LEASEE shall not make any alterations, additions or improvements to the Park or any part thereof without the prior written approval of CITY. LEASEE shall acknowledge in writing prior to performing any work for the Festival that it agrees that it has inspected the premises of the Park and accepts the premises as is, unless otherwise agreed to in writing by CITY and LEASEE.

4.08. Risk Management. Each party shall report safety deficiencies or any defects it notices on the premises promptly to the other party in connection with the Festival and shall use reasonable efforts to cooperate with the other party in the investigation of accidents occurring on the Park premises in connection with the Festival.

4.09. Ticketing. LEASEE shall have the exclusive right to coordinate, conduct and manage all ticket sales, reporting, accounting and inventory for the Festival(s) with the ticketing service provider(s) of its choice. City shall not enter into any Agreement with any third party ticketing service provider during the term of the Agreement that will interfere with LEASEE'S rights herein. LEASEE shall maintain ownership of its ticket buyer database with respect to the Festival(s). LEASEE shall provide CITY with official ticketing reports each Friday by 12:00 p.m. CDT from the date tickets are available for sale to the public (including special or restricted public sales) until the Festival to ensure CITY and LEASEE have the appropriate services scheduled for the anticipated size of the Festival. LEASEE will provide twenty (20) VIP tickets, with parking passes, and two hundred (200) two-day festival tickets to CITY at no additional charge.

4.10. Festival-Related Revenues and Expenses. As between CITY and LEASEE, LEASEE shall retain one hundred percent (100%) of all revenues generated in connection with the Festival, including, without limitation, ticket sales, VIP revenues, vendor fees, parking revenues, ticket commissions and rebates, advertising commissions, sponsorship revenues, merchandise revenues, broadcasting or recording revenues and concessions revenues. LEASEE shall be solely responsible for the payment of all Festival-related expenses, including the payments required by Article II herein.

4.11. Sound Limits. LEASEE agrees not to exceed a maximum sound limit of 103 dB, A-weighted, measured at the mix position of all stages.

Article V

City Obligations/Rights

5.01. Site Preparation. Prior to the Festival, CITY shall make the Park ready for load-in of equipment, a crowd capacity of at least thirty thousand (30,000) persons, and shall have completed the following:

- (a) Mowing and manicuring of Festival lawn area.
- (b) Fertilization of Festival lawn area.
- (c) Insect control treatment in appropriate areas of the Park.
- (d) Removal of standing water deeper than three inches, if any.

5.02. City's Right to Enter and Inspect. CITY and its authorized agents and employees shall have the right to enter the Park at any and all times for the purpose of inspection and observation of LEASEE's operation to assure compliance with this Agreement, any CITY issued permits, and the law.

5.03. Ejectment from Property. CITY at all times reserves the right to eject or cause to be ejected from the Park any person or persons, including entertainment artists, violating any laws or compromising the health, safety and welfare of the CITY or other patrons. Neither CITY nor any of its officers, agents, or employees shall be liable in any manner to LEASEE or its officers, agents, or employees for any damages which may be sustained by LEASEE through the exercise of this right by CITY.

Article VI Promotional Materials

6.01. Promotional Materials. LEASEE shall use the CITY'S name, where appropriate and feasible, in advertising or promotional materials and social media postings related to the Festival. LEASEE will provide a link on the Festival website and social media page connecting to the CITY'S website at www.plano.gov and the CITY'S Convention and Visitors Bureau (Visit Plano) website at www.visitplano.com regarding the Festival.

6.02. Intellectual Property. CITY and LEASEE acknowledge certain names, trademarks, service marks, copyrights, and other intellectual property ("Mark(s)") are the sole and exclusive property of each of the parties. CITY expressly acknowledges and agrees that the to-be-determined name of the Festival, in graphic or textual form, whether registered or not,

shall be owned by LEASEE and deemed LEASEE's Mark. LEASEE hereby grants to CITY a limited, non-exclusive, non-transferable, non-assignable, U.S. royalty-free license to use LEASEE'S Marks as provided by LEASEE solely for purposes of any pre-approved marketing and promotional activities conducted by CITY, if any. All uses of the Marks by CITY in connection with its obligations hereunder shall bear appropriate trademark notices as prescribed by LEASEE. CITY hereby authorizes LEASEE to use the CITY'S Marks in conjunction with the Festival solely as authorized by Section 2-1 of the CITY's Code of Ordinances. Both parties agree that it will not use, register or attempt to register in any jurisdiction, or other otherwise appropriate or adopt the Marks or any name, mark, or logo that is confusingly similar to the Marks of the other party. Except to the extent required to perform the obligations set forth in this Agreement, the parties shall not have the right to use in any way or reproduce for any purpose the Marks of the other party without their respective prior written consent. Upon expiration or termination of this Agreement, both parties shall cease such use of each other's Marks.

6.03. Ancillary Rights. CITY shall have the right to request that LEASEE permit radio, television, and film personnel to film and record portions of the Festival(s) for purposes of press, publicity and/or news programs as requested by CITY without any further consideration paid to LEASEE, subject to any such personnel following all LEASEE procedures, rules, and regulations for press, including application for appropriate credentials, and limitations on access as determined by LEASEE and its press team. Furthermore, LEASEE or its designees shall have the sole right to photograph, film, videotape, broadcast, webcast, record, or otherwise mechanically reproduce the Festival(s) and its/their related activities, including, without limitation, the period beginning with move-in and ending with move-out (each a "Media Property") on a live or delayed basis at the Property, subject to obtaining all necessary rights and clearances. Further, as to any performance footage of the Festival,

LEASEE shall have the exclusive right to utilize said performance footage, and CITY shall not attempt to broadcast, exhibit, televise, webcast, or otherwise mechanically reproduce the live performance footage except for limited footage permissible under this section for news, press, or publicity purposes. LEASEE shall not broadcast or disseminate any Media Property regarding the Festival or the CITY containing obscene or illegal acts, and a clause prohibiting obscene or illegal acts shall be inserted by LEASEE into the agreement of each artist contracted to perform or provide other services at the Festival.

Article VII Insurance/Indemnification

7.01. Insurance. LEASEE agrees to meet all insurance requirements as set forth on Exhibit "B", which is attached hereto and incorporated herein. LEASEE shall provide an appropriate Certificate of Insurance and a certified copy of the accompanying insurance policy to CITY prior to commencing work on the Festival which reflects that LEASEE has met the CITY's insurance requirements. LEASEE must notify CITY within five (5) business days of any cancellation or material change to its insurance coverage during the term of this Agreement, except that if such cancellation or material change occurs within five (5) business days of the Festival, LEASEE must notify CITY immediately of any such change. Notwithstanding any other provision in this Agreement, failure of LEASEE to maintain the required insurance as set forth in Exhibit "B" constitutes a material breach of this Agreement and CITY may immediately and without additional notice terminate this Agreement including, in its sole discretion, the cancellation of the Festival.

7.02. RELEASE AND INDEMNIFICATION.

LEASEE AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS

AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT) OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY LEASEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF LEASEE, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH LEASEE IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

LEASEE AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND THE CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, IT IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE

CONSTRUED AS A WAIVER OF LEASEE'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF LEASEE'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. LEASEE SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF LEASEE FAILS TO PROMPTLY RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, THE CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND LEASEE SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT.

Article VIII Termination

8.01. Termination. This Agreement terminates upon any one or more of the following:

(a) the expiration of the term or any extension thereof and where no defaults have occurred; or

(b) a party defaults or breaches any of the terms or conditions of this Agreement, including failure to timely obtain a Special Event Permit pursuant to Section 4.01 herein, and such default or breach is not cured within twenty (20) days after written notice thereof by the non-defaulting party unless a longer period is provided by mutual written agreement of the parties. Any default under this provision and right to recover any claims, refunds, damages and/or expenses shall survive the termination of the Agreement. The City

Manager or his/her designee is authorized on behalf of the CITY to send notice of default and to terminate this Agreement for any default that is not cured.

Article IX
Notices

9.01. Notices. Any notices required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the CITY:

City of Plano, Texas
Attention: Parks and Recreation Director
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

If intended for LEASEE:

Plano Starfest Music Festival LLC d/b/a Starfest
1601 Elm Street, Suite 4245
Dallas, TX 75201

Either party may at any time, by giving ten (10) days written notice, designate any other address in the substitution of the foregoing address to which the notice or communication shall be given.

Article X
Miscellaneous

10.01. No Transfer, Assignment or Subletting. LEASEE shall not sublet the subject premises or any part thereof or allow the same to be used or occupied by any person or for any other use than that herein specified, nor assign said Agreement nor transfer, assign or in any manner convey any of the rights or privileges herein granted without the written consent of

CITY. Neither this Agreement nor the rights herein granted shall be assignable or transferable by any process or proceeding in any Court, or by attachment, execution, proceedings, insolvency, or bankruptcy either voluntary or involuntary or receivership proceedings.

10.02. Liability For Acts of God. CITY shall not be responsible or deemed to have breached or defaulted on this Agreement for its failure to make the premises available or to provide the facilities and services described herein where such performance is rendered impossible and impractical due to acts of God or arising from conditions in the premises which create a danger to the health, safety and welfare of the public or any other cause outside of the control of CITY, which determination shall be in the sole discretion of the City. LEASEE shall not be deemed to have defaulted or failed to perform hereunder if its failure (including, without limitation, any determination to cancel or alter the format of the Festival) is caused by an event or events beyond its control directly impacting the festival at the park including, without limitation, acts of God; acts of Government; severe weather; death, injury, or illness of headlining talent and/or their immediate family; explosions; strikes or labor disputes; terrorist acts; acts of military authority; riots or civil unrest; conditions in the Park which create a danger to the health, safety and welfare of the public; or because the Park is otherwise unfit for its intended use.

10.03. Notice of Bankruptcy. In the event LEASEE files for bankruptcy, whether involuntarily or voluntary, LEASEE shall provide written notice to the CITY within thirty (30) business days of such event. Such a filing shall be an event of default under Section 8.01.

10.04. Entire Agreement. This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement.

10.05. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction. Venue for any action

concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the state district court of Collin County, Texas.

10.06. Compliance with Law. LEASEE, at LEASEE'S expense, shall promptly comply with all laws, ordinances, orders, rules, regulations, and requirements of all governmental authorities having jurisdiction, affecting, or applicable to conducting the Festival.

10.07. Amendment. This Agreement may only be amended by the mutual written Agreement of the parties.

10.08. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

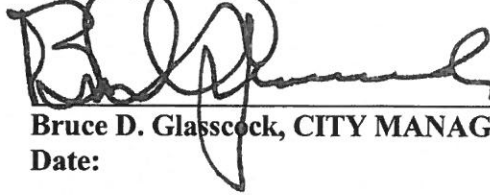
10.09. Recitals. The recitals to this Agreement are incorporated herein.

10.10. Authorized to Bind. The persons who execute their signatures to this Agreement represent and agree that they are authorized to sign and bind their respective parties to all of the terms and conditions contained herein.

10.11. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

10.12. Effective Date. This Agreement shall be effective from and after the last date of signatory hereto.

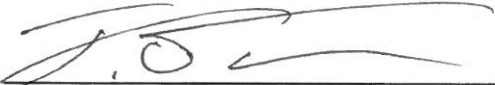
CITY OF PLANO, TEXAS, a home-rule
municipal corporation



Bruce D. Glasscock, CITY MANAGER

Date:

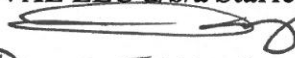
APPROVED AS TO FORM:



Paige Mims, CITY ATTORNEY

for

PLANO STARFEST MUSIC
FESTIVAL LLC d/b/a Starfest


By: DANA TAYLOR

Name: _____

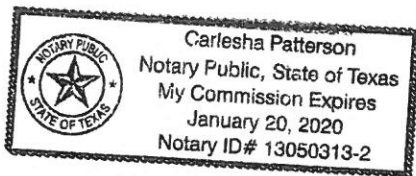
Title: MANAGING MEMBER

Date: 7/26/17

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

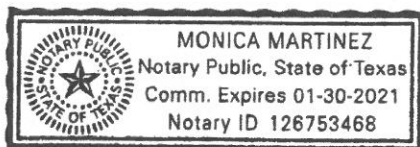
This instrument was acknowledged before me on the 24 day of July, 2017, by **BRUCE D. GLASSCOCK**, City Manager, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.



Carlesha Patterson
Notary Public, State of Texas

STATE OF §
 §
COUNTY OF Collin §

This instrument was acknowledged before me on the 21st day of July, 2017, by David Taylor, Managing Member of Plano Starfest Music Festival LLC d/b/a Starfest, a Texas limited liability company, on behalf of said limited liability company.



Monica Martinez
Notary Public, State of

EXHIBIT "A"

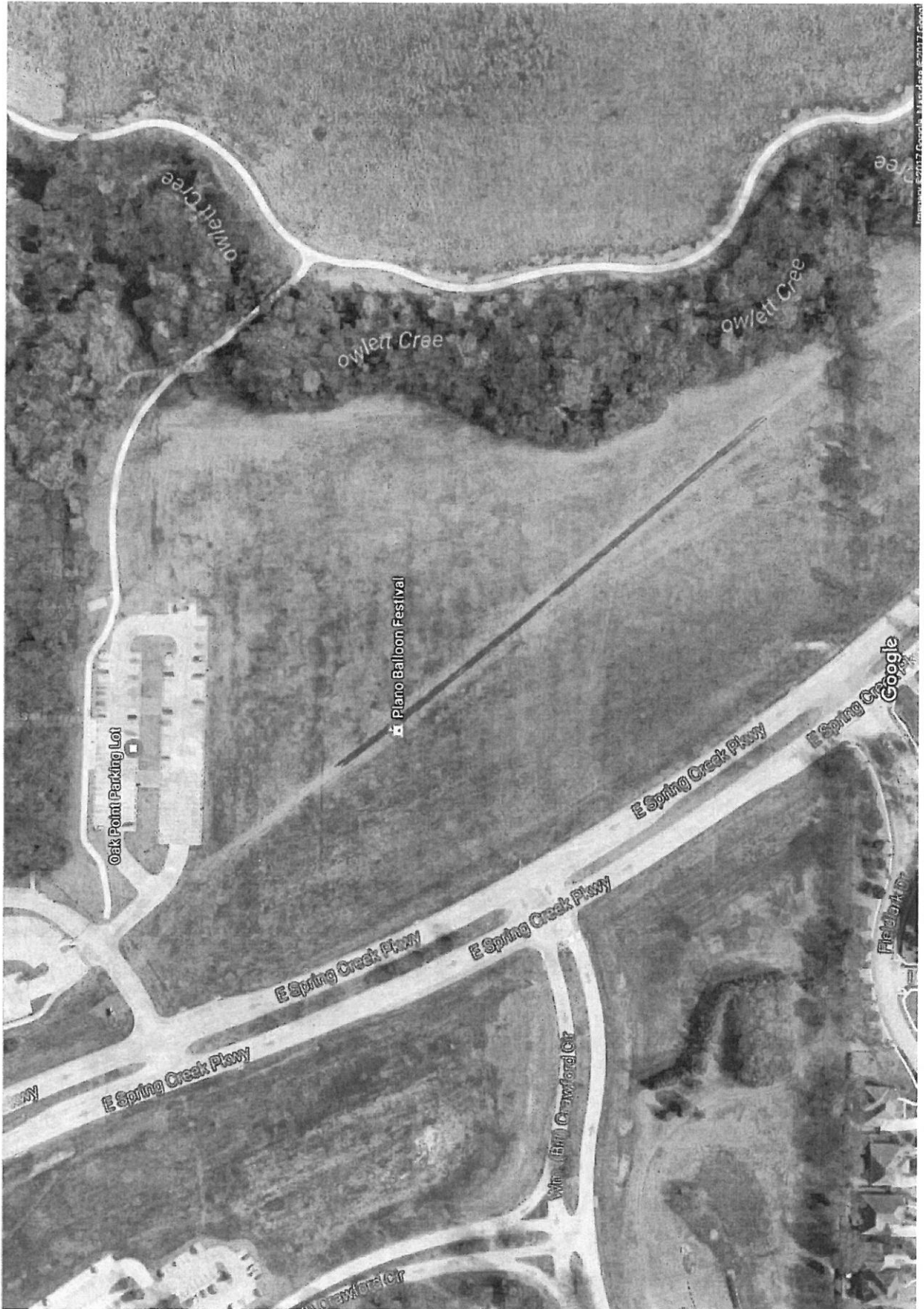


Exhibit "B"

LEASEE shall provide the City a certificate of insurance evidencing the coverage's and coverage provisions identified herein. LEASEE shall require that subcontractors providing work at the Park have coverage commensurate with the type of services provided.

All insurance companies must be authorized by the Texas Department of Insurance to transact business in the State of Texas, must be reasonably acceptable to the City of Plano and be placed with an insurer possessing an A-VII A. M. Best rating or better.

Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and higher limits of coverage or provisions provided that such additional types and limits must be reviewed and approved by LEASEE in writing as an amendment to the Agreement no later than sixty days prior to the Festival.

Commercial General Liability Insurance

Commercial general liability insurance shall be written on an ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-complete operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). The City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the commercial general liability policy as respects the liability assumed herein by LEASEE.

\$1,000,000 Limit per Occurrence for Personal/Advertising Injury and Products/Completed Operations. Such limits may be satisfied by a combination of commercial general liability and umbrella/excess liability insurance.

Commercial Automobile Liability

LEASEE shall maintain business automobile liability insurance with a limit of not less than \$1,000,000 each accident or Combined Single Limit.

Such automobile liability insurance shall cover liability arising out of any auto (including owned, hired, and non-owned automobiles). LEASEE waives all rights against City and its agents, officers, directors and employees for recovery by the commercial automobile liability obtained by LEASEE pursuant to this section or under any applicable automobile physical damage coverage.

Workers' Compensation & Employer Liability

LEASEE shall maintain workers' compensation insurance in the amounts required by appropriate state workers compensation statutes. The employer's liability limit shall not be less than \$1,000,000.

LEASEE waives all rights against City, the City Council and its members, the City's agents, officers, directors and employees for recovery of damages under LEASEE's workers' compensation and employer's liability. LEASEE must cause a waiver of subrogation to be effected under its workers' compensation coverage.

Sole Proprietors and companies with no employees may be exempt from this requirement.

Liquor Liability Coverage (Required if LEASEE sells and/or serves alcoholic beverages)

\$1,000,000 Limit and Aggregate

General Requirements Applicable to All Insurance

1. LEASEE shall obtain and maintain the minimum insurance coverage set forth in this section during the entire contract period.
2. LEASEE agrees that the insurance requirements specified herein do not reduce the liability LEASEE has assumed in any indemnification/hold harmless section of the contract.
3. Coverage shall be on a primary basis and non-contributory with any other insurance coverage and/or self-insurance carried by City to the extent of the liability assumed herein by LEASEE.
4. LEASEE is responsible for providing the City a minimum of 30 days' notice of a material change or voluntary cancellation of insurance coverage required under this contract and notice within 10 days of any notice of termination no matter the cause.

Evidence of Insurance Required

Prior to commencement of work, and thereafter upon renewal or replacement of coverage required by this contract, LEASEE shall furnish City a Certificate(s) of Insurance (COI) on a form approved by the Texas Department of Insurance and signed by an authorized representative of each insurer.

The COI shall list the City of Plano, Risk Management Division, 1520 Avenue K, Plano, Texas, 75074 in the Certificate Holder Section