

LICENSE AGREEMENT
BETWEEN
THE COUNTY OF MUSKEGON
AND
SALUTE MUSKEGON, INC.

FOR HERITAGE LANDING FESTIVAL USE FOR 2014

THIS AGREEMENT, entered into this _____ day of _____, 2014, by and between the County of Muskegon, a public corporation with an address of 990 Terrace Street, Muskegon, Michigan 49442, hereinafter referred to either as “COUNTY” or “LICENSOR” and SALUTE MUSKEGON, INC., a non-profit entity, whose address is 601 Street, Muskegon, MI 49440, hereinafter referred to as “LICENSEE” for use of Heritage Landing for the “Festival Event” of 2014.

RECITALS

- A. WHEREAS, COUNTY owns and operates a facility, commonly referred to as Heritage Landing, hereinafter referred to as “Facility”, situated within the City of Muskegon; and,
- B. WHEREAS, COUNTY, in its operation and management of said facility desires to make facility available to public interest groups and organizations to promote such public interest objectives and to maximize citizen use of such facility; and
- C. WHEREAS, LICENSEE, as above identified, has requested special authorization from the COUNTY to use facility for staging of a Festival Event, and the COUNTY, through its Board of County Commissioners, is desirous of permitting and authorizing such activity in accordance with the terms and conditions herein contained;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

AGREEMENT

SECTION 1 - LICENSE TO USE HERITAGE LANDING

In consideration of the covenants herein contained, the COUNTY hereby grants to LICENSEE the right and privilege to conduct and stage certain Festival Event activities at the Facility.

SECTION 2 - USE OF PROPERTY

LICENSEE shall be permitted to use and occupy facility for those activities reasonably relating to the conducting of the Festival Event during calendar year 2014 on dates specified in Section 3 below. In concurrence with the County Administrator, the Director of Public Works (DPW) may prohibit any activity that they determine is not reasonably related to the conducting of the Festival Event.

SECTION 3 - PERIOD OF USE

LICENSEE shall hold the Festival Event from 7:00 a.m. on July 4, 2014 to 11:00 p.m. on July 5, 2014. LICENSEE is authorized to have use of the Facility ten (10) days before the Festival Event for set-up and three (3) days after the Festival Event for clean-up. LICENSEE must obtain prior written approval from Convention & Visitors Bureau Director in the event that the LICENSEE shall require additional days for set-up or clean-up.

SECTION 4 – RESERVATION FEE

LICENSEE shall pay a non-refundable reservation fee of Twelve-Hundred Fifty Dollars (\$1,250.00) to the Convention & Visitors Bureau for each paid admission day of festival events, and payment of said reservation fee shall be due and payable at the time of the reservation. No reservation will be valid until the reservation fee is received. The reservation fee will be

forfeited if the event is canceled. For the 2014 festival event, the reservation fee will not be applied to ticket surcharge total.

SECTION 5 – COMPENSATION/RENT

There shall be no compensation or rent paid, with the exception as provided in Section 15, by LICENSEE, inasmuch as the COUNTY has determined, through its Board of Commissioners, that this use of property is within the public interest and consistent for the purpose for which the park is dedicated.

SECTION 6 - UTILITIES

LICENSEE shall pay all charges for all utilities, including but not limited to electricity, light, heat, water, power and telephone rendered or supplied upon or in connection with the LICENSEE's use of said facility. Said cost, to the extent not determinable by direct charge computation, shall be determined to equal amount of utility charge in excess of that average charge imposed for a comparable period, to be determined by the Director of the DPW.

Provided, however, any and all special hook-ups or support facilities required by LICENSEE for its event shall be solely the responsibility of the LICENSEE to pay.

SECTION 7 – RESTROOMS

LICENSEE shall bear responsibility for payment of all charges associated with the providing of toilet facilities on the property during the period of Festival Event. LICENSEE shall provide a sufficient number of portable restrooms for use by all LICENSEE participants and guests as well as users of the facility.

SECTION 8 - ACCEPTANCE OF PROPERTY AS-IS

LICENSEE accepts the buildings, improvements and any equipment in or on the facility in their existing conditions. No representation, statement or warranty either express or implied, has been made by or on behalf of COUNTY as to said condition, as to the use that may be made

of such property, except as may be expressly limited herein by way of restriction. In no event shall COUNTY be liable to LICENSEE for any defect in such property or for limitations on its use. No representational warranty of habitability, express or implied, has been made by or on behalf of the COUNTY.

SECTION 9 - MAINTENANCE/SET-UP/CLEAN-UP

LICENSEE shall, at its own expense, take all necessary steps to organize and set-up the facility for Festival Event activities. All costs associated with same shall be borne exclusively by LICENSEE.

In addition, LICENSEE shall bear full responsibility for cleaning up of the facility. In addition thereto, LICENSEE affirmatively covenants to restore the facility fully to its “pre-event” condition, usual wear and tear excepted, at the completion of Festival Event activities.

LICENSEE shall pay the COUNTY the sum of One-Thousand Dollars (\$1,000.00) in a refundable security damage deposit. During the period of this Agreement, the LICENSEE shall be responsible to maintain the Facility in the same condition, usual wear and tear excepted, that existed at the time this Agreement commenced. LICENSEE will be given a pre-event checklist whereby any damaged equipment or missing property can be identified. Once the event is over, the equipment and property will be subject to a post-event inspection. The cost of any maintenance resulting from the activities of the LICENSEE, the repair of any damage or loss of any equipment indicated on the post-event checklist and an amount necessary to remedy the findings of the post-even inspection, shall be deducted from the security deposit. The balance of the security deposit will then be returned to the LICENSEE within thirty (30) days, after the last day of the event. If there are no damages, repairs required, or missing property following the event, and the event surcharge is paid in full, the entire security deposit will be returned within thirty (30) days. If the cost necessary to remedy the post inspection exceeds the deposit,

LICENSEE will be billed the difference.

SECTION 10 - COMPLIANCE WITH LAW

LICENSEE shall comply with all requirements which may be imposed by public authorities, whether State or local, with regard to equipping facility for conducting of Festival Event activities and any changes and/or additions to property necessitated as a result of any such requirements shall be solely at the cost, and at the expense of the LICENSEE; provided, however, that the property may not be physically altered in a permanent manner except upon prior written approval of the Director of the DPW, in concurrence with the County Administrator, as above identified.

**SECTION 11 - LICENSEE AUTHORIZATION/OBLIGATION
TO RESTRICT USE OF PARK PROPERTY AND ALCOHOL USE**

LICENSEE is authorized to dispense alcohol only in accordance with State and local laws.

SECTION 12 – SECURITY MANAGEMENT

LICENSEE shall make suitable arrangements for providing reasonable security personnel during the period of the Festival Event. LICENSEE shall provide satisfactory written proof of same to the Director of the DPW prior to the Festival Event. LICENSEE shall be responsible for management of facilities and property the during period of the License.

SECTION 13 – INSURANCE AND INDEMNITY

LICENSEE shall, at its own expense, provide and keep in force, general public liability insurance protecting the LICENSEE and COUNTY from all claims of damage to persons or property or for loss of life or of property, occurring on, in or about the facility, during the period of Festival Event, and with respect to preparatory and clean-up activities occurring in connection with same. LICENSEE shall maintain comprehensive general liability insurance in the minimum

amount of One Million Dollars (\$1,000,000.00) per occurrence and name COUNTY as additional insured; copies and certificates of coverage naming the COUNTY as an additional insured, shall be provided to the Community Development Director at the time of reservation.

LICENSEE agrees to indemnify and hold COUNTY harmless as against all claims, liabilities, costs or expenses, including attorney fees and costs, relating to any third party complaint as brought by Festival Event patron(s) or contractee(s), or agent(s) of same alleging injury or damage of any kind, except for the acts and omissions of the employees, representatives, and agents of the COUNTY. The County agrees to indemnify and hold LICENSEE harmless as against any claims, liabilities, costs or expenses that are caused by employees, representatives, and agents of the COUNTY.

LICENSEE shall furthermore, and at its own expense, keep in force such other insurance against other insurable hazards in such amounts as may from time to time be required by COUNTY, provided that such are insurable assets and hazards commonly insured against with respect to similar premises and uses. LICENSEE shall provide insurance required by state and local law.

**SECTION 14 – LICENSEE’S OBLIGATION REGARDING HERITAGE LANDING
MECHANICAL EQUIPMENT**

LICENSEE agrees that it will provide approved padlocks for any electrical panels that it requires in order to provide the necessary power for its event. LICENSEE further represents that in the event that work is performed on any of the electrical or mechanical equipment at the Facility that it will be only be performed by a journeyman or master electrician or others with the same level of qualification. A copy of the license of said journeyman or master electrician shall be presented to the COUNTY before any electrical work for the festival event begins at the Facility.

During the Festival Event, any problems that arise with power disruption, inadvertent activation of the sprinkler system or other routine or emergency mechanical matters which arise as a consequence of LICENSEE'S event, will be LICENSEE'S responsibility to correct. LICENSEE will be expected to provide necessary and qualified personnel. It is understood that should any of these problems arise, any cost incurred to correct them will be the responsibility of LICENSEE unless deemed caused by acts of God, as that phrase is commonly understood, and not a consequence of LICENSEE'S event.

**SECTION 15 - OBLIGATIONS AND REPRESENTATIONS
IN REGARD TO CONTRACT CONTRACTEES AND VENDEES**

LICENSEE represents, and agrees to provide evidence upon request, of satisfactory agreements existing between LICENSEE and all Contractees/Vendees offering services for goods at the facility during the period of Festival Event. Such contracts of agreement shall include, with respect to all contracted vendee offerings, at a minimum, the following:

- A. Requirement that Contractee/Vendee maintain adequate insurance and provide workers' compensation coverage for any of its employees;
- B. Contractee/Vendee shall be an Equal Opportunity Employer;
- C. Contractee/Vendee shall maintain adequate levels of liability and casualty insurance, to be determined adequate in the reasonable exercise of judgment of Festival Event;
- D. Contractee/Vendee shall comply with all rules and regulations appurtenant to use of park and facilities.
- E. LICENSEE shall exercise best efforts to engage local contractors and local veteran contractors.

SECTION 16 — TICKET SURCHARGE FOR COUNTY

- ~~A. The LICENSEE shall pay the COUNTY One Dollar (\$1.00) per admission ticket~~

~~sold for the 2014 Festival Event by imposing a One Dollar (\$1.00) surcharge on all admission tickets.~~

~~—— B. —— The LICENSEE shall pay to the COUNTY One Dollar (\$1.00) each for all multi-day passes by imposing a One Dollar (\$1.00) surcharge on all multi-day passes sold for the 2014 Festival Event.~~

~~—— C. —— The COUNTY shall have full access to the LICENSEE'S ticket sales records for the Festival Event, as part of this Agreement.~~

SECTION 17 - EVENT PARKING

Convention and Visitors Bureau (CVB) and Carpenter Facility properties will be available to Festival Event for parking. Festival will be responsible for access and control of parking. Parking spaces shall be available for visitors to the CVB. In exchange for this license, LICENSEE will charge a minimum of Five Dollars (\$5.00) per vehicle per day. Provided, however, that the LICENSEE will pay to the COUNTY fifty (50%) percent of all fees collected regardless of the rate charged within sixty (60) days from the close of the event.

SECTION 18 – COUNTY EMPLOYEES

It is understood that during the course of the Festival Event, County employees may be used as necessary to ensure that the Facility and its related structures are properly operated and maintained. It is also understood that when County employees are engaged in connection with this Festival that the licensee shall be responsible for any cost incurred by the County, including wages, fringe benefits and overtime pay, as applicable. These amounts will be invoiced to the licensee within 30 days following the Festival Event.

SECTION 19 - RELATIONSHIP BETWEEN COUNTY AND LICENSEE

It is understood that the relationship created by this Agreement between the County of Muskegon and the Festival Event shall be LICENSOR-LICENSEE. It is not a joint venture, a

partnership or a cooperative arrangement in any sense. Nothing in this Agreement shall be construed so as to give rise to an agency relationship as between COUNTY and LICENSEE. Nothing in this Agreement shall be construed so as to give rise to an arrangement other than authorization by COUNTY for LICENSEE to use property in accordance with the terms and conditions as herein set forth. It is further understood that the conduct of the Festival Event shall be the exclusive responsibility of the LICENSEE.

SECTION 20 - MICHIGAN LAW

This Agreement shall be governed by the laws of the State of Michigan. Any litigation regarding this Agreement or its contents shall be filed in the County of Muskegon, if in State Court, or in the United States District Court for the Western District of Michigan, if in Federal Court.

SECTION 21 - TERMS AND CONDITIONS

The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

SECTION 22 – ASSIGNMENT

LICENSEE shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. This Agreement is personal between the parties hereto and may not be assigned without written permission of the non-transferring party.

SECTION 23 - NONEXCLUSIVE AGREEMENT

~~LICENSEE understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by LICENSEE as the COUNTY desires.~~

SECTION 24 - ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superceded or changed by any oral agreements, course of conduct waiver or estoppel.

SECTION 25 - NO THIRD-PARTY BENEFICIARY

No person dealing with the COUNTY or LICENSEE shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between the COUNTY or the LICENSEE and any staff, visitors, residents, or other individuals who may have business through the COUNTY.

SECTION 26 – SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SECTION 27 – EXECUTION OF COUNTERPARTS

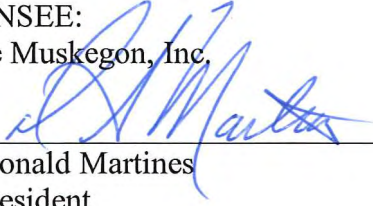
This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

SECTION 28 – AUTHORITY

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, person, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or Federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, LICENSEE hereby warrants that it shall not have breached the terms or conditions of any contract or agreement to which LICENSEE is obligated, which breach would have a material effect there on.

IN WITNESS WHEREOF, the following signators, having been duly authorized to execute this Agreement, execute same by and on behalf of their respective organizations.

LICENSEE:
Salute Muskegon, Inc.



By: Donald Martines
Its: President

Dated: 5/21/2014

LICENSOR:
County of Muskegon



By: Kenneth Mahoney
Chairperson, Muskegon County Board
of Commissioners

Dated: 6/3/14