

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
 COUNTY OF FORT BEND §

**FULL RELEASE, INDEMNIFICATION,
 AND REQUIREMENT FOR LIABILITY INSURANCE**

This Full Release, Indemnification, and Requirement for Liability Insurance, (hereinafter referred to as "Release"), is made and entered into by and between Fort Bend County, Texas, (hereinafter referred to as "COUNTY"), a body corporate and politic by and through its governing body, the Fort Bend County Commissioners Court, and the Johnson Development (hereinafter referred to as "CONTRACTOR"), a state agency governed under the laws of the State of Texas.

WHEREAS, the COUNTY desires to permit CONTRACTOR non-exclusive use of the Fort Bend County Justice Center parking garage and adjacent parking lots located at 1422 Eugene Heiman Circle, Richmond, Texas 77469 (hereinafter referred to as "Property") for a public purpose, namely to accommodate parking for a musical event open to the public taking place at 23002 Henderson Drive, Richmond, Texas (herein referred to as "ACTIVITY" of "ACTIVITIES");

WHEREAS, CONTRACTOR desires to fully release the COUNTY of any and all claims, past, present or future, deriving or resulting from the Activities; and

WHEREAS, CONTRACTOR desires to fully indemnify the COUNTY from any and all claims, past, present or future, deriving or resulting from the Activities;

NOW THEREFORE, in consideration of the recitals set forth above, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

SECTION 1. RIGHT TO ENTER AND USE

1. Upon meeting the requirements and conditions listed in this Agreement, COUNTY hereby grants to CONTRACTOR the right to enter on the Property for use for the above described ACTIVITY.
2. Use that prohibits or obstructs the usual use of entrances or additional parking areas, or that otherwise tends to impede or disturb COUNTY business or COUNTY employees in the performance of their regular duties, or that otherwise impedes or disturbs the general public is prohibited.
3. COUNTY retains the right to enter Property for any purpose at any time during the scheduled ACTIVITY.

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BY: FM180241

4. COUNTY reserves the full and absolute right to have persons violating any provision expressed in this document removed from the premises and to prosecute any and all violators to the fullest extent of the law.

SECTION 2. TIME OF PERFORMANCE

1. CONTRACTOR is hereby granted permission to enter upon Property, on Saturday, April 14, 2018, from 1 pm to 10 pm.
2. Access to Property may not occur during times where previously restricted without prior obtained written permission from COUNTY.
3. The COUNTY agrees to use its best efforts to make the Property available during the requested dates. CONTRACTOR agrees that the COUNTY shall not be liable for damages by reason of non-availability of the Property including those caused by inclement weather, disaster, or other public necessity.
4. COUNTY reserves the full and absolute right to cancel or terminate a reservation at any time for violations of this Agreement, or additional policies or rules that may be promulgated by COUNTY from time to time.

SECTION 3. CONTRACTOR RESPONSIBILITIES

1. CONTRACTOR agrees to use reasonable care to prevent damage to the Property during Activities.
2. Immediately after completion of the ACTIVITY, CONTRACTOR, at its sole cost and expense, shall take all reasonable measures to restore the Property to the condition which existed prior to such use.
3. CONTRACTOR agrees to leave the Property in a clean and orderly condition including, but not limited to, removal of any trash, items or equipment brought on to the Property.
4. CONTRACTOR acknowledges and clearly understands that NO consumption of alcoholic beverages are allowed on Property.
5. In the event of an emergency, CONTRACTOR will immediately dial 911, contact appropriate emergency services, and notify both the peace officer on duty and the designated COUNTY representative.

SECTION 4. INSPECTIONS

1. A designated COUNTY Employee shall be assigned to the Property and shall be responsible only for coordinating such issues as accessibility and inspections.
2. Both CONTRACTOR and designated COUNTY Employee will inspect the Property immediately prior to ACTIVITY. Any issues regarding the condition of the property must be brought by the CONTRACTOR to the COUNTY's attention and noted in writing at the time of inspection.
3. Once the inspection is complete, CONTRACTOR expressly agrees that the Property is accepted by the CONTRACTOR in its "AS-IS", "WHERE-IS" condition, "WITH ALL FAULTS", ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES REGARDING THE PROPERTY, EXPRESS OR IMPLIED, ARE GIVEN BY THE COUNTY, AND THE CONTRACTOR WAIVES AND DISCLAIMS ALL OF THE SAME (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF SUITABILITY, HABITABILITY, MARKETABILITY OR FITNESS FOR A PARTICULAR PURPOSE).
4. Time of inspection must be arranged by CONTRACTOR.

SECTION 5. SECURITY PERSONNEL

1. At least one (1) Law Enforcement Officer is required to be on the Property for the duration of the Reservation Period. The officer must be an official, licensed, uniformed Texas Law Enforcement Officer from Fort Bend County and cannot be an invited guest. He or she will have the authority to suspend use if deemed necessary by the Officer.
2. CONTRACTOR is responsible for making all arrangements, including fees payable directly to a law enforcement officer.
3. Security personnel services are for the sole benefit of the COUNTY and will not be available to protect and serve the interests of the CONTRACTOR.

SECTION 6. INDEMNITY AND RELEASE

1. CONTRACTOR AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, VOLUNTEERS, GUESTS, AND ALL PERSONS IN PRIVITY WITH CONTRACTOR , HEREBY AGREE TO FULLY RELEASE, ACQUIT, AND FOREVER DISCHARGE THE COUNTY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND SERVANTS, AND ALL PERSONS IN PRIVITY WITH THE COUNTY, FROM ANY AND ALL PAST, PRESENT OR FUTURE CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, AT COMMON LAW, STATUTORY OR OTHERWISE, THAT MIGHT ARISE, AT ANY TIME, DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THE ACTIVITIES.

2. CONTRACTOR AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, VOLUNTEERS, GUESTS, AND ALL PERSONS IN PRIVITY WITH CONTRACTOR , HEREBY AGREE TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND SERVANTS, AND ALL PERSONS IN PRIVITY WITH THE COUNTY, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEY'S FEES, BODILY INJURY, SICKNESS, DISEASE OR DEATH, THAT MIGHT ARISE, AT ANY TIME, DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THE ACTIVITIES.
3. CONTRACTOR agrees hereby to be responsible and liable for any and all damages to the Property including any materials, equipment or other personal or real property of the COUNTY.
4. CONTRACTOR assumes all risk of all loss or damage to any materials, equipment or other property of CONTRACTOR. The COUNTY shall have no obligation, responsibility or liability with respect thereto.
5. CONTRACTOR shall require any agreements Contractor enters into with other contractors or subcontractors related to the Activity and Use of the Property contain language whereby contractor and or subcontractor agree to indemnify COUNTY and to hold it harmless from all claims for bodily injury and property damage that may arise from Activities.
6. These indemnity and release provisions shall survive the termination or expiration of this agreement.

SECTION 7. INSURANCE

1. Prior to commencement of the Activities, CONTRACTOR shall furnish COUNTY with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to COUNTY. CONTRACTOR shall provide certified copies of insurance endorsements and/or policies if requested by COUNTY. CONTRACTOR shall maintain such insurance coverage from the time the Activities commence until the Activities are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of the Activities. CONTRACTOR shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
 - a) Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per

- injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- b) Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder
 - c) Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
2. COUNTY and its Elected and Appointed Officials shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of CONTRACTOR shall contain a waiver of subrogation in favor of COUNTY and its Elected and Appointed Officials.
 3. If required coverage is written on a claims-made basis, CONTRACTOR warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that the Activities are completed.
 4. CONTRACTOR will require that any subcontractors utilized in performance of the Activity or Use of Property, including any shuttle service operators, meet the same insurance requirements as listed in this Section.

SECTION 8. INDEPENDENT CONTRACTOR

1. In the performance of work or services hereunder, CONTRACTOR shall be deemed an independent contractor and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of CONTRACTOR or, where permitted, of its subcontractor.
2. CONTRACTOR and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of COUNTY and shall not be entitled to any of the privileges or benefits of COUNTY employment.

SECTION 9. NOTICES

1. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

2. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

COUNTY: Fort Bend County Facilities Management and Planning
ATTN: James Knight
Director of Facilities and Planning
301 Jackson Street, Suite 301
Richmond, TX 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

CONTRACTOR: Veranda by Johnson Development
13131 S Dairy Ashford St. 210
Sugar Land, TX 77478
ATTN: Tori Areola

3. Notice is effective only if the party giving or making the Notice has complied with subsections 1. and 2. above and if the addressee has received the Notice. A Notice is deemed received as follows:

- a) If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
- b) If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

SECTION 10. TERMINATION FOR CAUSE

Notwithstanding the foregoing, the COUNTY may terminate this Agreement in the event CONTRACTOR fails to materially comply with the provisions of this Agreement, including but not limited to its obligations to comply with applicable law and regulation, after reasonable warning.

SECTION 11. COMPLIANCE WITH LAWS

All persons in and on COUNTY property shall comply with all official signs and with the directions of law enforcement, security force personnel or other authorized individuals.

SECTION 12. ASSIGNMENT AND DELEGATION

Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

Neither party may delegate any performance under this Agreement.

Any purported assignment of rights or delegation of performance in violation of this Section is void.

SECTION 13. APPLICABLE LAW

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the COUNTY's sovereign immunity.

SECTION 14. SUCCESSORS AND ASSIGNS

COUNTY and CONTRACTOR bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

SECTION 15. THIRD PARTY BENEFICIARIES

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

SECTION 16. SEVERABILITY

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

SECTION 17. CAPTIONS

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

SECTION 18. CONFLICT

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

SECTION 19. MODIFICATIONS

Any modification(s) or change(s) to this agreement, whether in the form of interlineation(s) or an addendum, attachment, exhibit or the like, is invalid, not binding and of no force or effect unless and until (i) such modification(s) or change(s) is initialed by, and (ii) this agreement is signed by, an authorized production executive.

SECTION 20. ACKNOWLEDGEMENT

CONTRACTOR and its officials, officers, employees, agents, servants, volunteers, and all persons in privity with the CONTRACTOR, hereby acknowledge and agree that they have read this Release and that they fully understand the Release and its consequences. CONTRACTOR expressly warrants to COUNTY that it has the legal authority to execute this Release, and that it does so of its own free will and accord without reliance on any representations of any kind or character not expressly set forth herein.

{Execution Page Follows}
{Remainder Left Intentionally Blank}

IN TESTIMONY OF WHICH, THIS AGREEMENT shall be effective upon execution of all parties.

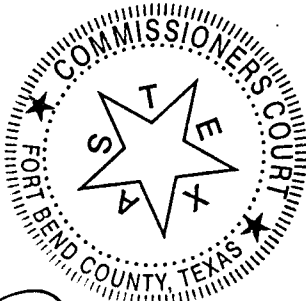
FORT BEND COUNTY



Robert E. Hebert, County Judge

4-10-2018

Date



ATTEST:



Laura Richard, County Clerk

JOHNSON DEVELOPMENT, INC.



Signature of Authorized Agent

Tori Arreola

Printed Name of Authorized Agent

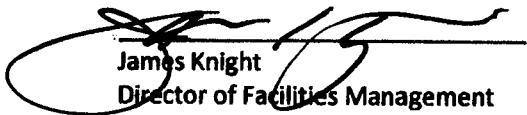
Marketing Director

Title

4/4/18

Date

REVIEWED BY:



James Knight
Director of Facilities Management

hna: I:\General Counsel\Releases\Release and Site Use Agreement Johnson Development_Justice Center Parking Lot (04.02.18).docx

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Veranda by Johnson Development
Richmond, TX United States

Certificate Number:
2018-333838

Date Filed:
04/03/2018

Date Acknowledged:
04/10/2018

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Veranda Vibes

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

04142018
Use of garage facility for event parking

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Veranda by Johnson Development	Richmond, TX United States		X

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)