

**HISTORIC VIRGINIA KEY BEACH PARK PARK HVKBP
USE AGREEMENT**

THIS AGREEMENT hereinafter referred to as the "**AGREEMENT**," made this 1st day of September, 2016, by and between the Virginia Key Beach HVKBP Trust, a limited agency and instrumentality of the City of Miami, hereinafter referred to as the "**TRUST**," and **Give Me Dignity, Inc.**, a Non-Profit Florida corporation with offices located at 6815 Biscayne Blvd #103365, Miami, FL 33138 hereinafter referred to as the "**USER**."

RECITALS

WHEREAS, the **TRUST** is responsible for the operation and management of the HVKBP owned by the City of Miami, located at 4020 Virginia Beach Drive, Miami, Florida 33149, and known as Historic Virginia Key Beach Park (the "**HVKBP**"); and **Afrikin Fest**. (the "**EVENT**")

WHEREAS, **USER** wishes to use an area of the **HVKBP**, as described and delineated on the attached **MAP** hereinafter referred to as **Exhibit A** for the purpose of conducting the **Afrikin Fest** on, November 18, 2016 through November 20, 2016, as the term is defined in this Agreement.

WHEREAS, **USER** has represented to **TRUST** that it has professional expertise in the area of operating Special Events, and that it has the ability to maintain the high quality of production demonstrated in past years; and **USER** has further represented itself to be solvent and creditworthy and that there are no actions, suits or other legal proceedings of any kind pending or threatened against **USER**

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the **TRUST** hereby grants unto **USER** the privilege of entry upon **HVKBP**, for the purpose of conducting the **EVENT**, on the terms and conditions set forth in this Agreement.

1. **RECITALS:**

The Recitals are true and correct and are hereby incorporated into and made a part of this Agreement.

2. **EVENT AND USE PERIOD:**

The **FRONT LAWN** is the Staging Area used for the event during the **Afrikin Fest**, to take place at the **HVKBP**, from All Day Each Day – November 18, 2016 through November 20, 2016 (the "**USE PERIOD**"). **User** is allowed complimentary access to the staging area the day prior to the event for setup and the after the event for breakdown.

Unless otherwise specifically provided hereunder, **USER** shall be completely responsible for the production, coordination and management of the **EVENT**, at its sole cost and expense.

3. **PREMISES:**

As used in this Agreement, "PREMISES" means the area delineated in **Exhibit A**, and such other facilities of the **HVKBP** as may be authorized by the **TRUST**.

a. **Restroom Facilities:**

USER hereby agrees to provide adequate portable restroom facilities, which shall be open and operational during the **USE PERIOD**.

b. **Control of Access:**

USER hereby agrees to respond to any reasonable **TRUST** request during the **USE PERIOD** of the **EVENT**.

VOLUNTEERS/ VENDORS/SPONSORS/ PERFORMERS – USER WILL ONLY BE ALLOWED A MAXIMUM OF 150 HVKBP ENTRY PASSES FOR THEIR VOLUNTEERS/VENDORS/ SPONSORS/ PERFORMERS FOR ENTIRE DURATION OF THE EVENT (50 passes per day @ 3 days) *THE TRUST WILL DETERMINE THE QUANTITY OF COMP HVKBP PASSES PER EVENT

c. **Sound Checks:**

USER hereby agrees that there will be no sound checks before 7am on any weekday (Monday through Friday).

d. **Alcohol Wrist Band Policy:**

TRUST grants **USER** the right to sell alcohol at **EVENT**. **USER** will provide liquor liability insurance naming **TRUST** and the City of Miami as additional insured as well as any and all applicable State liquor permits. Copies to be given to **TRUST** at least 30 days before opening day of **EVENT**.

4. **CONDITION OF PREMISES:**

USER has inspected, or has been given the opportunity to inspect, the **PREMISES**, prior to execution of this Agreement, and accepts it in its present condition and agrees to maintain and return the same in the same condition.

5. **COMPLIANCE WITH PERMITS AND LAWS:**

USER represents and warrants that during the term of this Agreement, in connection with the **EVENT**, it will obtain and maintain all required permits and approvals. **TRUST** will assist **USER** in obtaining assembly permit from the Office of Fire Prevention of the City of Miami. Fire Department manpower requirements shall be determined by the Fire Department at least 10 business days prior to the **EVENT**.

USER represents and warrants that during the term of this **AGREEMENT**, it will not use or employ the **PREMISES**, or any other City owned property, to handle, transport, store or dispose of any hazardous materials and that it will not conduct any activity on **PREMISES** or City owned property in violation of any applicable environmental laws. **USER** further represents and covenants that it will comply with all applicable laws, codes and ordinances, including, but not limited to, [the Americans with Disabilities Act \("ADA"\)](#), [all laws prohibiting discrimination and environmental laws](#).

USER represents and warrants that it is aware of the restrictions contained in Sections 22-180 through 22-184 of the Code of the City of Miami entitled



“Handbills” and that it will comply with all of the requirements therein with respect to the distribution of commercial handbills. Should USER fail to comply it shall be responsible for the payment of any fines imposed, including fines imposed upon the TRUST. Payment for fines imposed must be made within ten (10) days of receipt thereof.

6. **COMPENSATION:**

In consideration of the use of the PREMISES, USER shall pay to the TRUST, a Use Fee which is the sum total of the Basic Use Fee and the Additional Charges. The Use Fee for the use of the PREMISES shall be **\$2500 @ 3 days = \$7500 (non-profit discount) plus agreed upon \$4 ticket surcharge per ticket. Trust will also be given a vendor booth space for use during the event days.**

The following are fees owed by the USER (Event Organizer):

TOTAL VENUE FEES (Prices vary per location in HVKBP): \$7500.00

TICKET SURCHARGES:

Total amount due will be determined after the close of the event.

Ticket Surcharge on all tickets: \$4.00 per ticket

VKBPT reserves the right to have a staff member always present at the ticket entry gate

HVKBP ENTRY FEES (VOLUNTEERS/ VENDORS/SPONSORS/ PERFORMERS): 150 Weekend Passes
*(Maximum of 50 Complimentary Volunteer HVKBP Entry Passes Allowed per day for 3 days)*THE TRUST WILL DETERMINE THE QUANTITY OF COMP HVKBP PASSES PER EVENT***

HVKBP ENTRY FEES - \$10 per vehicle per day / a weekend vehicle entry fee may be negotiated with the Trust

SETUP & BREAKDOWN FEES: Setup - 11/14/16 - 11/16/16 @ \$300 per day = \$900

ARTS & CRAFT / MERCHANDISE VENDOR FEES: *FEES APPLY (\$15 per location)

FOOD VENDOR FEES: *FEES APPLY (\$50 per location)

BEER / ALCOHOL VENDOR: *FEES APPLY (\$350 per location – proper licenses & permits required)

***Total amount due will be determined after the close of the event.**

Except as otherwise specifically provided herein, USER shall be responsible for all costs involved in the presentation of the EVENT, including without limitation: all BMI and ASCAP license fees, all staffing and all charges for police, fire rescue & inspector, all city services that are required and/or assembly permit, security, insurance all utilities, supplies, equipment rental, ticket surcharge, all applicable taxes, including State of Florida Sales Tax and other services, except those which are furnished by the TRUST and are included in the USE FEE.ticket

7. **TERMS OF PAYMENT:**
USER shall submit to the TRUST, in the form of cashier's check, money order or cash, no later than 7 days prior to the commencement of the **USE PERIOD**. The **Use Fee** for the use of the **PREMISES** shall be **\$7500** (see details in section 6). In the event the **Use Fee**, after settlement of the **Additional Charges**, exceeds the amount set forth in paragraph 6 above, then the TRUST shall deduct such excess amount from the **Damage Deposit**. The **Damage Deposit**, reduced by such excess amount, if any, shall be refunded to the USER in accordance with paragraph 8 below.
8. **DAMAGE DEPOSIT:**
The **Damage Deposit** shall be in the amount of **\$ 1000 per event day**. The **Damage Deposit** is intended to secure performance of all of USER'S obligations hereunder. An inspection of the **PREMISES** will be made within two business days after the completion of **EVENT** and the amount of the **Damage Deposit** shall be applied toward the payment of necessary repairs, if any. The **Damage Deposit** shall also be applied toward payment of any fees or costs assessed against the **HVKBP**, the City of Miami or the TRUST for activities and operations of USER hereunder, or arising from the **EVENTS**. In the event the amount necessary to repair the damages or satisfy USER'S obligations hereunder exceeds the **Damage Deposit** then the USER agrees to pay the balance to the TRUST, within ten (10) business days of the TRUST'S request.
9. **BANNER PLACEMENT:**
The TRUST reserves the right to restrict placement of banners in Historic Virginia Key Beach Park (HVKBP)
10. **TICKET:**
USER can distribute up to **500** complimentary tickets for promotional purposes. In addition, **100** complimentary general admission passes & **50** complimentary VIP passes, will be given to TRUST to be distributed as they see fit.
11. **ADVERTISING:**
When advertising for **EVENT**, the correct address stated must be **Historic Virginia Key Beach Park (HVKBP) 4020 Virginia Beach Drive, Miami, Florida 33149**. *****IN ADDITION, ALL MARKETING COLLATERAL SHALL READ THE FOLLOWING: IN ASSOCIATION WITH VIRGINIA KEY BEACH PARK TRUST PRESENTS AFRIKIN FEST**
12. **FOOD & ARTS & CRAFTS LOCATIONS:**
The TRUST and the Fire Marshall of the City of Miami reserve the right to designate all food and craft booths for the **EVENT** with proper and advance notification to the USER. See #6 for required fees.
13. **SECURITY:**
TRUST shall provide at USER'S cost, all necessary perimeter/t-shirt event security and police officers to be determined by the City of Miami Police Department and the TRUST.

14. **CATERING:**
USER, at its own cost, shall provide catering, food and beverages and the cleanup of the designated food area during the **EVENT**.
15. **INSURANCE:**
USER shall obtain and maintain in force for the **USE PERIOD**, General Liability Insurance on a Comprehensive General Liability Form or an equivalent policy form in the amount of coverage deemed acceptable by the City of Miami Risk Management Administrator for bodily injury and property damage liability, hereto attached as Exhibit A. The **CITY OF MIAMI** and the **VIRGINIA KEY BEACH TRUST** shall be named "Additional Insured" on all policies. Any questions regarding Insurance should be directed to the Insurance Administrator, Risk Management Division, 444 SW 2nd Avenue 9th Floor, Miami, Florida 33130, (305) 416-1604. **USER** shall furnish all insurance certificates required by the City of Miami Insurance Administrator, no later than 30 days prior to the commencement of the **USE PERIOD**.
16. **INDEMNIFICATION:**
USER agrees to indemnify, defend and hold harmless forever the **CITY OF MIAMI** and **TRUST**, and all the **CITY'S** and **TRUST'S** members, officers, agents and employees (collectively referred to as the "**Indemnities**"), from and against all losses, costs, penalties, fines, damages, claims, expenses (including attorney's fee and costs), and liabilities (collectively referred to as "**Liabilities**") arising out of, resulting from, or in connection with (i) the **EVENT** and/or the use of the **PREMISES**, (ii) the performance or non-performance of this Agreement, whether it is, or is alleged to be, directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them, or (iii) the failure of the **USER** to comply with any of the provisions contained herein, or to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of this Agreement. **USER** expressly agrees to indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of **USER**, or any of its subcontractors, as provided above, for which the **USER's** liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws. This indemnity provision shall survive the termination of this Agreement and shall continue in effect until the expiration of the corresponding statute of limitations or the tolling thereof.
17. **RISK OF LOSS:**
The **CITY and TRUST** assume no responsibility whatsoever for any person or property that enters the **PREMISES** as a result of, or in connection with, the **EVENT**. In consideration of the execution of this **AGREEMENT** by the **TRUST**, the **USER** releases the **CITY** and the **TRUST** from any and all liability for any loss, injury, death, theft, damage or destruction to any persons or property which may occur in or about the **PREMISES** regardless of the cause, including such circumstances where it could be alleged that the **CITY** or the **TRUST**, or

their employees, agents or contractors were negligent. **USER** does not agree to release the **CITY** or the **TRUST** for any and all liability which is determined to be caused solely due to the intentional or willful misconduct of the **CITY** or the **TRUST**, or their respective employees or agents.

18. FORFEIT OF CANCELLATION:

All advance sums, or advance payments under this Agreement, shall be forfeited if, through the fault or action of the **USER**, the **EVENT** is not held within the dates and times contracted.

19. DEFAULT PROVISION:

In the event the **USER** shall fail to comply with each and every term and condition of the **AGREEMENT** or shall fail to perform any of the terms and conditions contained herein, then the **TRUST**, at its sole option and in addition to all other rights and remedies available to it by law, upon written notice to **USER** may cancel and terminate this **AGREEMENT**, and all payments, advances, or other compensation paid by **USER** pursuant to this Agreement, shall be forthwith retained by the **TRUST**.

20. AWARD OF AGREEMENT:

USER represents and warrants to the **TRUST** that it has not employed or retained any person or company employed by the **TRUST** to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

21. PUBLIC RECORDS:

USER understands that the public shall have access, at all reasonable times, to all documents and information pertaining to **TRUST** contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the **TRUST** and the public to all documents subject to disclosure under applicable law. **USER**'s failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the **TRUST**.

22. NONDISCRIMINATION:

USER shall not discriminate against any persons on account of race, color, sex, religion, creed, ancestry, national origin, age, handicap, or marital status in the use of the **PREMISES**.

23. AUTHORIZED PERSONNEL:

The **TRUST** shall have authorized representatives with decision making authority, reasonably available at all reasonable times throughout the **USE PERIOD** for consultation with **USER**.

24. AUTHORITY TO EXECUTE AGREEMENT:

Each party represents to the other that it has the power to enter into the **AGREEMENT** and that the consent of no other person or entity is required in connection therewith, except as otherwise provided, and the **AGREEMENT** constitutes a valid and binding obligation of each party in accordance with the terms hereof.



25. **RELATIONSHIP OF PARTIES:**

This **AGREEMENT** shall not be deemed or construed to create any agency relationship, partnership, or joint venture between the **CITY**, the **TRUST** and **USER**.

26. **NOTICES:**

Notices required under the **AGREEMENT** shall be deemed to be given when hand-delivered (with receipt therefore) or mailed by registered or certified mail, postage prepaid, return receipt requested.

AS TO USER:

Alfonso Brooks
Event Organizer
Give Me Dignity, Inc.
6815 Biscayne Blvd #103365
Miami, FL 33138

AS TO THE TRUST:

Guy Forchion
Executive Director
4020 Virginia Beach Drive
Miami, FL 33149

WITH A COPY TO:

Daniel Alphonso
City Manager
City of Miami
3500 Pan American Dr.
Miami, Florida 33133

WITH A COPY TO:

Victoria Mendez
City Attorney
444 SW 2nd Ave. Suite 945
Miami, Florida 33130

27. **NONDELEGABILITY**

The **AGREEMENT** may not be transferred or assigned by **USER** without the prior express written consent of the **TRUST**.

28. **GOVERNING LAW:**

The **AGREEMENT** shall be construed according to the laws of the State of Florida and venue shall be in Dade County.

29. **CONFLICT OF INTEREST:**

USER is aware of the conflict of interest laws of the City of Miami (Code of the City of Miami, Florida, Chapter 2, Article V), of Miami-Dade County, Florida (Code of Miami-Dade County, Florida (Code of Miami-Dade County, Florida, Section 2-11.1) and of the State of Florida (as set forth in Florida Statutes) and agrees it will fully comply in all respects with the terms of said laws and any future amendments

30. **FORCE MAEJEURE**

The **Trust and the City** shall not be liable for any failure to perform its obligations where such failure is caused by conditions beyond its control, including, but not limited to, Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, events in foreign countries that affect the **Trust and the City** and its citizens,

Calles

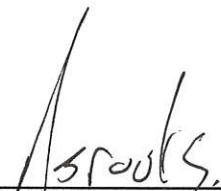
hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, riots, street celebrations or protests, military or usurped power or confiscation, terrorists activities, nationalization, government sanctions or restrictions, blockage, embargo, labor dispute, strike, lockout or interruption, or the failure of services such as electricity or telephone.

IN WITNESS WHEREOF, the parties hereto have individually and through their proper corporate official executed the **AGREEMENT**, this the day and year first written.

WITNESSES:

ATTEST:
GIVE ME DIGNITY, INC.

VIRGINIA KEY BEACH TRUST
a limited agency and instrumentality
of the City of Miami

BY: 

Alfonso Brooks
Event Organizer
Give Me Dignity, Inc

BY:  10/21/16

Guy Forchion
Executive Director






CORPORATE RESOLUTION

Whereas, Give Me Dignity, Inc., desires to enter into an Agreement with the Virginia Key Beach Trust substantially in the form of the agreement to which this Resolution is attached;

Whereas, the Board of Directors, at a duly held meeting has considered the matter in accordance with the By-Laws of the Corporation;

NOW, THEREFORE, BE IT RESOLVED BY BOARD OF DIRECTORS that this corporation is authorized to enter into the Agreement with the Virginia Key Beach Park Trust and the **Give Me Dignity, Inc.**, is hereby authorized and directed to execute the Agreement in the name of this Corporation and to execute any other documents and perform any acts in connection therewith as may be required to accomplish its purpose.

IN WITNESS WHEREOF, this _____ day of _____ 2016.

BY:  _____
Alfonso Brooks
Event Organizer
Give Me Dignity, Inc



