

Commission Letter # 126-10
Commission Meeting: 4/19/2010

RE: Arts, Beats & Eats Festival Agreement – First Amendment

April 15, 2010

The Honorable Mayor
and
Members of City Commission

On December 9, 2009, the City, the Downtown Development Authority (DDA) and Arts, Beats and Eats, Inc. (ABE) entered into a Festival Agreement for ABE to produce and operate an arts and entertainment festival in downtown Royal Oak during the Labor Day weekend. Section 4(a) of the Agreement sets forth the footprint for the Festival, which is essentially Lafayette, Lincoln, Center and Second Streets.

During a meeting in late March, ABE President Jon Witz asked that Section 4(a) of the Agreement be amended to more clearly define the footprint for the Festival. Other than the clarification of the footprint, all other terms and conditions of the Agreement would remain unchanged.

Attached is a First Amendment to Festival Agreement for the Commission's review. If the Commission approves of the proposed Amendment, we would recommend approval of the following resolution:

BE IT RESOLVED, that the City Commission hereby approves the First Amendment to Festival Agreement with the Downtown Development Authority and Arts, Beats and Eats, Inc.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to execute the First Amendment on behalf of the City.

Respectfully submitted,



David W. Gillam
City Attorney

cc: Donald E. Johnson, City Manager
Melanie Halas, City Clerk
Timothy E. Thwing, Director of Planning

FIRST AMENDMENT TO FESTIVAL AGREEMENT

THIS FIRST AMENDMENT TO FESTIVAL AGREEMENT is entered into this ____ day of April, 2010 by and between the City of Royal Oak ("City"), a Michigan Municipal Corporation; the City of Royal Oak Downtown Development Authority ("DDA"), a public body corporate created pursuant to Act 197 of 1975, as amended, both with offices located at 211 Williams St., Royal Oak, MI 48068; and Arts, Beats and Eats, Inc., ("ABE"), a Michigan corporation with offices located at 17 Water St., Pontiac, Michigan 48342.

WITNESSETH

WHEREAS, ABE owns, produces and operates an arts and entertainment festival called Arts, Beats & Eats; and

WHEREAS, in December of 2009, the City, the DDA and ABE entered into a Festival Agreement to allow ABE to produce and operate an arts and entertainment festival in downtown Royal Oak during the Labor Day weekend; and

WHEREAS, that Agreement provided that the City and/or the DDA would provide, at no cost or expense to ABE, the exclusive use of certain City streets as the footprint for the festival; and

WHEREAS, as planning and preparation for the 2010 festival has progressed, ABE has asked that the footprint for the festival be more clearly defined; and

WHEREAS, the City and the DDA have no objection to this request;

NOW, THEREFORE, for good and valuable consideration, and in consideration of the mutual covenants and agreements contained in the original Festival Agreement, the City, and the DDA and ABE agree as follows:

1. Section 4(a) of the Festival Agreement shall be amended to read as follows:

"a. Provide, at no cost or expense, the exclusive use of the following City streets: Fourth Street from Lafayette to Center Street, Center St from Fourth Street to Seventh Street (though not to cross railroad tracks), Washington Street from 240 feet north of Fourth Street to Lincoln, Fifth Street from Washington through Center Street to the north-south alley west of Main Street, Sixth Street from Lafayette to Main Street, and Seventh Street from Lafayette to Main Street. The City agrees that ABE will have full authority on final layout and configuration of the Festival, with the understanding that ABE must leave a four foot opening to be not blocked by any tents or other items for all fire hydrants and fire equipment access points."

2. All other terms and conditions of the Festival Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to Festival Agreement as of the day and year first above written.

CITY OF ROYAL OAK

ARTS, BEATS & EATS, INC.

By: _____
James B. Ellison, Mayor

By: _____
Jonathan Witz
Its: President

By: _____
Melanie Halas, City Clerk

ROYAL OAK DOWNTOWN DEVELOPMENT AUTHORITY

By: _____
Timothy E. Thwing
Its: Executive Director