



# Huntsville, Alabama

308 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 3/23/2023

**File ID:** TMP-2757

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**Department:** Parks and Recreation

**Subject:**

**Type of Action:** Approval/Action

Resolution authorizing the Mayor to enter into a Facility Use Agreement between the City of Huntsville and Shop Black City Tour, LLC, for the Shop Black Fest.

**Type of Document:** Resolution No.

**Finance Information:**

**Account Number:** TBD

**City Cost Amount:** NA

**Total Cost:** NA

**Special Circumstances:**

**Grant Funded:** NA

**Grant Title - CFDA or granting Agency:** NA

**Resolution #:** NA

**Location: (list below)**

**Address:**

**District:** District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

**Additional Comments:**

Butler Green Event Space, 2606 Clinton Avenue

**RESOLUTION NO. 23-\_\_\_\_\_**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby, authorized to enter into a Facility Use Agreement, by and between the CITY OF HUNTSVILLE, an Alabama municipal corporation, and SHOP BLACK CITY TOUR, LLC, a Tennessee Limited Liability Company, which said agreement is substantially in words and figures as that certain document attached hereto and identified as "Facility Use Agreement between the City of Huntsville and Shop Black City Tour, LLC," consisting of six (6) pages (including Exhibit A) and the date of March 23, 2023, appearing on the first page thereof, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document after being signed by the Mayor, shall be permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

**ADOPTED** this the 23rd day of March, 2023.

\_\_\_\_\_  
President of the City Council of the City  
of Huntsville, Alabama

**APPROVED** this the 23rd day of March, 2023.

\_\_\_\_\_  
Mayor of the City of Huntsville, Alabama

**FACILITY USE AGREEMENT**  
**BETWEEN THE CITY OF HUNTSVILLE AND**  
**SHOP BLACK CITY TOUR, LLC**

**FACILITY USE AGREEMENT BETWEEN**  
**THE CITY OF HUNTSVILLE AND**  
**SHOP BLACK CITY TOUR, LLC**

This License Agreement (the "Agreement") is entered into this 23d day of March, 2023, by and between the City of Huntsville, a municipal corporation in the State of Alabama (hereinafter referred to as the "City" or "Licensor"), and Shop Black City Tour, LLC, a Tennessee Limited Liability Company, (hereinafter referred to as "SBCT" or "Licensee").

1. Use of Premises and Timing.

(a) Subject to the terms and conditions of this License Agreement, the City hereby grants SBCT a license to utilize that portion of the Butler Green Event Space, located at 2606 Clinton Avenue W., Huntsville, AL 35805, which is shown on the map attached hereto and incorporated herein by reference as **Exhibit A** and hereinafter referred to as the "Premises" to be used for a festival event called "Shop Black Fest" (the "Event") featuring vendor tents, food trucks, a stage, live performances, and recorded and live music.

(b) Licensee may access the Premises for Event set-up starting at 6 a.m. on Saturday, April 1, 2023, and continuing until the event begins at 12:00 p.m. The Event shall conclude no later than 7:00 p.m. on Saturday, April 1, 2023. Take-down of the Event and restoration of the Premises shall begin immediately after the event and conclude no later than 10:00 p.m. on Saturday, April 1, 2023.

2. Alcoholic Beverages. Licensee does not desire to and shall not furnish alcoholic beverages as a part of the Event, which includes, but is not limited to, the retail sale of alcoholic beverages for on-premises consumption. The Licensee does, however, desire to and will allow the area being used for the Event to be included as a "district area," as that term is defined in Section 3-29 of the Code of Ordinances of the City ("City Code"), within the Butler Green Arts and Entertainment District to the extent said district is open. Licensee shall only allow within the area of the Event alcoholic beverages that are in "approved containers," as that term is defined in Section 3-29 and shall otherwise comply with applicable provisions of Chapter 3, Article II of the City Code concerning unlawful acts and offenses related to alcoholic beverages.

3. Restroom Facilities. There are no public restrooms located at the Premises. If restroom facilities are needed for the Event, Licensee shall provide all necessary Port-O-Lets as recommended by industry standards for the projected attendance to the Event and shall assist with placement of the Port-O-Lets in an area designated by the Licensor. Licensee shall cause Port-O-Lets to be removed no later than Monday following the Event by 5:00 p.m. At least some of the units must meet ADA standards of accessibility.

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: March 23, 2023

4. Security.

(a) Licensee shall be responsible for the provision of security within the Premises during the period of the Agreement. Licensee may hire off-duty City of Huntsville Police officers through the Huntsville Police Department to provide security services for the event and shall hire the number of officers and supervisory personnel as recommended for the event by the Huntsville Police Department.

(b) In the alternative, at its sole costs and expense, Licensee may hire private security for the Event, as approved by the Huntsville Police Department.

(c) Licensee agrees that, at any time, the Huntsville Police Department may require that the event be canceled, the conduct of the event be modified, or prescribe such other measures that may be necessary in the event of inclement weather conditions, security issues, threats to the health or safety of the sponsors or attendees of the Event or to the general public, or otherwise for public convenience or safety.

5. Set up and Construction of Event Exhibits. Licensee shall not affix any materials to the Premises without the prior approval of the City's Director of Landscape Management. Licensee shall obtain the approval of the City's Director of General Services prior to the use of electrical power for any part of the Event. Electricity may be obtained only from sources authorized by the General Services Director.

6. Alteration of Premises. Licensee may not remove or alter any trees or make any other changes to the Premises without the prior approval of the Director of Landscape Management.

7. Vandalism or Weather Damage. Licensee shall promptly repair any damage to City property, or the Premises, caused by vandalism or weather events. The City shall not be responsible for any damage to property of Licensee, its sponsors, vendors, patrons or any other third parties.

8. Compliance with Laws. Licensee agrees to comply with all ordinances, laws, rules, and regulations pertaining to the use of the Premises and shall not use the Premises in an unlawful manner nor create or allow to exist any nuisances or trespass nor deface or damage the Premises. The Event shall further comply, at all times, with the Special Event Permit issued for it by the Huntsville Police Department. The Premises is located in the Butler Green Arts and Entertainment District, and the Event will occur during regular hours that the district is open.

9. Licensing and Permits. Licensee shall obtain and maintain all licenses and permits and pay all fees necessary or required, if applicable, to hold the event and to sell and serve food and alcohol on the Premises. Licensee shall provide proof of proper permitting or licensure prior to or during the event.

10. Access. Licensee shall, at all times, maintain handicap access throughout the Premises and maintain the Premises in such a way so as to meet the Americans with Disabilities Act (ADA) standards for accessibility.

11. Indemnification; non-liability. Licensee shall indemnify and hold harmless and does hereby agree to indemnify and hold harmless the City of Huntsville, its officials, officers, elected officials, employees, agents, contractors and volunteers performing an authorized city function, (hereinafter referred to as “indemnitees”) from and against any and all claims, liability, loss, judgments, suits, penalties, costs, expenses and damages aforesaid (including but not limited to reasonable attorneys’ fees and expenses and court costs and fees). Licensee further agrees to indemnify and hold harmless those named above for exposure, infection, and/or spread of COVID-19 related to Licensee’s utilization of the Premises. Licensee’s duty to indemnify shall not apply to loss, injury, death or damage arising by reason of the sole negligence of the indemnitees. Licensee’s duties hereunder shall survive the termination or expiration of this Agreement.

Nothing contained in this section 11 shall be construed as a waiver of any immunity of statutory protection of the City of Huntsville, Alabama, and no third party may expand any recovery against the City due to Licensee’s duty of indemnification

12. Restoration. Licensee agrees to provide for and pay all costs and expenses associated with clean-up of, and damage to, the City’s property resulting from Licensee’s use of the Premises. The Premises shall be cleaned and restored entirely by Licensee no later than the end of the Agreement term, to the sole satisfaction of the City.

13. Insurance. Licensee shall obtain and maintain in effect throughout the term of this agreement, Commercial General Liability with the following minimum limits:

\$1,000,000 Per Occurrence Limit  
\$1,000,000 Personal and Advertising Injury  
\$1,000,000 Products/Completed Operations  
\$2,000,000 General Aggregate Limit

Such insurance shall be written on an occurrence basis and shall specifically insure Licensee against all liability assumed by it hereunder as well as liability imposed by law. The City of Huntsville, its officers, employees, elected officials, agents, contractors, and specified volunteers shall be named as additional insureds through ISO Additional Endorsement CG 20 10 or equivalent that is sufficient to provide coverage for ongoing operations and CG 20 37 or equivalent to provide coverage for completed operations. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, elected officials, agents, contractors, or specified volunteers except it shall be limited except in the case of the indemnitee’s or indemnitees’ sole negligence. Coverage under the Licensee policy shall be written or endorsed to provide primary coverage to any other valid or collectible insurance. Any City of Huntsville coverage is noncontributory. Licensee shall provide a Certificate of Liability Insurance evidencing required insurance coverage and contractual verbiage prior to the commencement of any use of the facilities; however, failure of The City to procure the Certificate of Insurance does not waive any insurance provisions. The Certificate Holder section shall read as follows:

City of Huntsville, AL its officers, employees, elected officials, agents, contractors and specified volunteers

Attn: City Attorney

P.O. Box 308

Huntsville, AL 35804

[bruce.pitts@huntsvilleal.gov](mailto:bruce.pitts@huntsvilleal.gov)

Such policy of insurance shall be issued by a company authorized to engage in the insurance business in the state of Alabama and shall be approved by the City Attorney of the City of Huntsville prior to Licensee entering upon the Premises upon the terms of this agreement. It is not the intention of the parties to limit the insurance coverage to the minimum limits stated in the contract, but the entire limits of coverage carried if limits are higher than those noted on the Certificate of Insurance.

14. Fee. Licensee shall pay to the City the sum of Five Hundred and No/100 Dollars (\$500.00) for the use of the Premises.

15. Non-compliance. In the event of any breach of any condition or term of this Agreement, the City may cancel the Event and terminate this Agreement at any time. Huntsville Police Department, Huntsville Fire and Rescue or any other official of the city of Huntsville acting within the line and scope of his/her authority may take any action they deem necessary in order to protect the public health or safety, to prevent damage or destruction to public or private property, or to enforce applicable laws.

16. Miscellaneous.

(a) This Agreement shall not be amended except by written instrument signed by the parties hereto. This Agreement, together with all exhibits, constitutes the entire agreement between the parties and shall be interpreted under and according to the Laws of the State of Alabama with venue in the courts of Madison County, Alabama. This Agreement shall be binding upon and inure to the benefit of Licensee, its successors and permitted assigns, and the City, its successors and assigns.

(b) Licensee shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the City upon one or more occasions to insist upon or to seek compliance with any such terms or conditions, nor shall such failure on the part of the City be construed or held to be a waiver of the City's rights thereafter to strictly enforce any provision of this Agreement.

(c) The captions of this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the intent or scope of this Agreement.

(d) If, for any reason, any agreement(s), provision(s), or term(s) of this Agreement (whether material to the bargain of City and Licensee or not) should be declared illegal, null and void, unconstitutional or unenforceable, in whole or in part, by any court of competent jurisdiction, the offending portion of this Agreement shall be deemed severed herefrom as though the same was never a part hereof; provided, however, the remainder of this Agreement shall not be impaired

and shall remain in full force and effect according to its remaining agreements, covenants, provisions and terms.

(e) The parties represent and warrant that they have full authority to enter into this Agreement.

17. Electronic Signatures. The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed under their respective seals and delivered as of the date first above written.

**ATTEST**

**LICENSOR:  
THE CITY OF HUNTSVILLE, ALABAMA**

By: \_\_\_\_\_  
Shaundrika Edwards  
City Clerk

By: \_\_\_\_\_  
Tommy Battle, Mayor

**LICENSEE:  
SHOP BLACK CITY TOUR, LLC**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

# Exhibit A

