

RESOLUTION NO. 2013-38

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF
RADNOR TOWNSHIP APPROVING THE MAIN LINE JAZZ FEST
AND WAIVER OF FEES

WHEREAS, the Township of Radnor and Main Street Festival LLC has planned the Annual Jazz Festival on Saturday June 8, 2013, and

WHEREAS, part of the Annual Jazz Festival has been planned using the North Wayne Avenue between Lancaster Avenue and West Avenue, and

WHEREAS, in order to conduct this event, the Pennsylvania Department of Transportation requires the Township to submit an application for the temporary road closing permit for North Wayne Avenue from 7:00 a.m. June 8, 2013 until 7:00 a.m. June 9, 2013, and


WHEREAS, the Radnor Township Board of Commissioners agree to waive a portion of the special permit fees for the Annual Jazz Fest in accordance with the attached Letter of Understanding Agreement,

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Radnor Township, does hereby authorize the Township Manager, or his designee to execute the Penn Dot Road Closure application on behalf of the Annual Jazz Festival.

RESOLVED, at a duly convened meeting of the Board of Commissioners conducted on this 8th day of April A.D., 2013.

TOWNSHIP OF RADNOR


By:



Name: Elaine P. Schaefer

Title: President

ATTEST:


Robert A Zienkowski, Township Manager/Secretary

LETTER OF UNDERSTANDING

This Letter of Understanding is to outline the general agreements between Radnor Township (the "Township") and Main Street Festival Management, on behalf of itself and any other vendors participating in the Festival ("MSFM"), regarding the tenth annual Main Line Jazz & Food Festival (the "Festival") scheduled for June 8, 2013 from 12:00 pm to 9:00 pm.

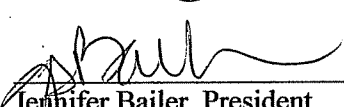
The Township hereby agrees to: (1) apply to Penn-DOT for a permit to close North Wayne Avenue from West Avenue/Station Road to Lancaster Avenue, on Saturday, June 8, 2013 from 7:00am to 7:00am on June 9, 2013; and (2) provide on-site uniformed police officers for traffic and crowd control and a public works employee for trash and recycling pickup during the Festival's operating hours on June 8, 2013. In addition, the Township will enforce its building and electrical codes as well as its food safety codes at the Festival and will review food permit applications submitted by establishments that desire to serve food and/or beverages on-site on June 8, 2013.

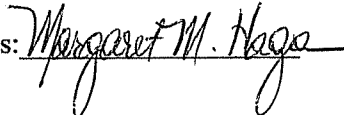
The Township agrees to provide such personnel, services, and equipment on an in-kind basis up to a value of \$5,141 ("in kind contribution"). In consideration for the Township's provision of such personnel, services, and equipment for the Festival and its in kind contribution, MSFM hereby agrees to pay the Township a sum of \$1,000. MSFM also agrees that it and all vendors participating in the Festival shall follow all codes, rules and guidelines, including application deadlines, as set by the Township. In addition, MSFM will be responsible for contracting with an approved 3rd party electrical inspection agency to inspect and approve all ancillary electrical systems installed for this event.

MSFM further agrees to indemnify and hold harmless the Township, its elected officials, agents, employees, servants, officers, attorneys, their heirs, successors and assigns, and all other persons, firms, or corporations from, and to satisfy in full, any and all liability for any and all claims, actions, cause of action, damages, other obligations of any kind and/or character including but not limited to claims for damages to persons or property that have arisen or may arise against the Township as a result of the Festival. This indemnification and hold harmless agreement shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators, personal representatives and assigns of each.

The parties hereto agree this 28 day of March 2013


MAIN STREET FESTIVAL MANAGEMENT


Jennifer Bailer, President
Main Street Festival Management

Witness: 

RADNOR TOWNSHIP


Elaine P. Schaefer, President
Board of Commissioners

Attest: 
Robert A. Zienkowski
Township Manager/Secretary

Radnor Township, PA
 Schedule of Estimated Township Costs
 To Provide Additional Services for the 2013 Jazz Festival

Police Traffic & Crowd Control (Dedicated Officers)

Public Works Employee Classification	Hours	Hourly Rate	Payroll Liabilities	Benefit Factor	Total Expense
1 Uniformed Officer (Overtime)	12.0	\$ 58.1700	\$ 8.2050	\$ 53.7300	\$ 1,441
Subtotal					\$ 1,441

Public Works Waste & Recycling Pickup Requirements

Public Works Employee Classification	OT Hours Needed	Overtime Rate	Payroll Liabilities	Benefit Factor	Total Expense
Driver 1	20.0	\$ 42.1650	\$ 5.5050	\$ 24.8400	\$ 1,450
Light Equipment Operator 1	14.0	\$ 42.1650	\$ 5.6250	\$ 26.9000	\$ 1,046
Driver 2	4.0	\$ 42.7200	\$ 5.7900	\$ 24.0400	\$ 290

	# of Tons	Tipping Fee	
Trash Removal Tipping Fee	4	\$ 33.0000	\$ 132
Subtotal			\$ 2,918

Community Development:

Community Development	Hours	Salary Rate (by hour)	Payroll Liabilities	Benefit Factor	Total Expense
Health Officer	4	41.63	5.26	16.36	\$ 253
Code Official (Overtime)	6	55.215	6.945	26.07	\$ 529
Subtotal					\$ 782

SUBTOTAL OF TOWNSHIP COST	\$ 5,141
Less: Board of Commissioners Allowance	\$ (4,141)
NET AMOUNT DUE TO THE TOWNSHIP	\$ 1,000

Footnotes:

- The 2013 fee schedule requires that the Township charge \$250 per restaurant to cover the costs of the health inspections. The agreement reached last year was that since all the vendors are located in the same area, that one fee would be charged (\$250) which would cover the 4 hours of time required of the Health Officer for this event.

For Informational purposes only, the estimated amount of opportunity cost on revenue based on the estimated number of restaurants who might participate in the Jazz Festival is calculated in the table below:

Restaurant Health Inspection Fee	Rate	Number of Establishments	Total Fee
2013 Fee Schedule	\$ 250.00	15	\$ 3,750
Subtotal			\$ 3,750

AGREEMENT NO. _____
FEDERAL ID NO. 23-6000200

RACE PERMIT AND INDEMNIFICATION AGREEMENT

In consideration of the Commonwealth of Pennsylvania, Department of Transportation ("Commonwealth") granting permission to the TOWNSHIP OF RADNOR
(Name of Permittee)

a corporation, partnership, municipal government (please designate appropriate description) whose address is 301 Iven Avenue Wayne PA 19087

("Permittee"), to use various state highways, which are designated on the attached map marked Exhibit "A", and made a part hereof, for the purpose of conducting the MAINLINE JAZZ FESTIVAL ("Race")
(Name of Bicycle Race or Other Event)

to be held in DELAWARE COUNTY County(ies), Pennsylvania, on JUNE, 08, 2013, with the
(Month) (Day & Year)

rain date of _____, _____, 20____, the Permittee,
(Month) (Day & Year)

intending to be legally bound, hereby agrees to indemnify, save harmless and defend (if requested), the Commonwealth, its officers, agents and employees from any and all claims, suits or actions for injuries, death and/or property damage arising out of such use by the Permittee, its officers, agents and employees, the Race participants, the support staffs, the Race officials, volunteers (if any), the Race caravan (if any), medical support, technical support, media vehicles, Pennsylvania State Police, sheriffs and local police, escorts, Race

communications staffs, the traveling public, the general public and spectators.

The Race shall take place in Pennsylvania and shall begin at 100 Block of North Wayne Avenue, Wayne PA 19087

(Race Start Location)

and end

at 200 Block of North Wayne Avenue, Wayne PA 19087

(Race End Location)

The duration of this permit shall be from 7:00 AM on June 08 2013 through 07:00 AM on JUNE 09, 2013 (Eastern Daylight Time) on the day of the Race. This permission is granted upon the conditions that the Race route be properly secured with proper security and safety measures being taken to protect the Race participants, support staffs, Race officials, volunteers (if any), medical support, technical support, media vehicles, Pennsylvania State Police, sheriffs and local police, escorts, Race communications staffs, the traveling public, the general public and spectators; that proper emergency medical services be provided to address emergency medical situations that may occur; that proper police protection be provided and that the Race be coordinated with the Pennsylvania State Police and affected local police agencies; that the general public and the traveling public be notified in advance of the Race; that the local fire departments and emergency ambulance services be notified of the Race; that written permission be obtained from each local municipal entity whose road is being used for the Race; and that the insurance coverage specified hereafter be provided.

The Permittee agrees to the above conditions and the indemnification provisions with the Commonwealth of

Pennsylvania. A certificate of insurance is attached as Exhibit "B" and made part hereof as evidence to the Commonwealth of Pennsylvania, of the existence of public liability insurance for bodily injury and property damage in the minimum amount of two hundred fifty thousand (\$250,000.00) per person, one million dollars (\$1,000,000.00) per occurrence, to cover any loss that might occur as a result of the aforementioned use of the state highways or that might otherwise arise out of or be connected with the Race. The insurance must be occurrence based and the insurance certificate must indicate that the insurance is occurrence based. The Commonwealth of Pennsylvania shall be named as an additional insured on this policy.

In addition, the Permittee agrees to comply with the Provisions Concerning the Americans with Disabilities Act, attached as Exhibit "C" and made part thereof. As used in these Provisions, the term "Contractor" refers to the Permittee.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

ATTEST:

Signature DATE

Title
(Seal)

TOWNSHIP OF RADNOR *
(Name of Permittee)

BY _____
Signature DATE

Township Manager

Title Secretary

DO NOT WRITE BELOW THIS LINE--FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
for District Executive DATE

APPROVED AS TO LEGALITY
AND FORM

BY _____
for Chief Counsel DATE

Preapproved Form:
OGC No. 18-K-2660
Appv'd OAG 12/15/99

* Permittee must attach copy of resolution or other documentation of signature authority unless signature authority is set by statute.

H:\race permit & indemnification agreement--rev'd 06-06-06.doc

PROVISIONS CONCERNING THE AMERICANS WITH DISABILITIES ACT

During the terms of this contract, the Contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of the Americans With Disabilities Act, 28 C. F. R. Section 35.101 et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in the contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Contractor agrees to comply with the "General Prohibitions Against Discriminations," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of the Americans With Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of the above paragraph.

Exhibit "C"

Contract Provisions – Right to Know Law 8-K-1532

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

Revised February 1, 2010

EXHIBIT “D”

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.