





**AGREEMENT BETWEEN PALM BEACH COUNTY  
AND NOSTALGIC AMERICA, INC  
FOR A SPONSORSHIP AGREEMENT**

**THIS SPONSORSHIP AGREEMENT**, hereinafter referred to as the "Agreement," is made and entered into on 7<sup>th</sup> day of December, 2021 by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "COUNTY," and Nostalgic America, Inc, a Florida Profit Corporation, authorized to conduct business in the State of Florida, hereinafter referred to as "SPONSOR".

**WITNESSETH:**

**WHEREAS**, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," desires to enhance its services offered to the public with the least amount of financial impact to its citizens; and

**WHEREAS**, COUNTY established a sponsorship program, which earns revenue through SPONSORs who receive sponsorship benefit appropriations pursuant to the terms and conditions of this Agreement; and

**WHEREAS**, COUNTY desires to generate revenue by allowing SPONSOR to become a COUNTY SPONSOR; and

**WHEREAS**, SPONSOR desires to sponsor COUNTY and receive sponsorship benefits in accordance with this Agreement; and

**WHEREAS**, generating revenue through sponsorships serves a public purpose; and

**WHEREAS**, both parties desire to enter into this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, COUNTY and SPONSOR hereby agree as follows:

- a) **Term:** This Agreement shall commence on January 1, 2022, and shall terminate on December 31, 2022.
- b) **Location:** The SPONSOR hereby sponsors the following described 'Legends on the Lawn' at Canyon Amphitheater, as more particularly depicted in **Exhibit "A"**, (the "the Canyon Amphitheater, 'Legends on the Lawn' Concert Series") to have and hold under the conditions set forth herein:  

**Canyon Amphitheater, 'Legends on the Lawn' Concert Series**
- c) **Payment:** The total non-refundable amount payable to COUNTY by SPONSOR under this Agreement shall be Six Thousand dollars (\$6,000). SPONSOR shall make payment to COUNTY in full upon signing this agreement. Failure by SPONSOR to make full payment within the specific time frame may result in termination of this Agreement. Please make check payable to: "Board of County Commissioners" Payment shall be mailed to:

Palm Beach County Parks and Recreation Department  
Attn: Director, Financial & Support Services Division  
2700 6th Avenue S  
Lake Worth, FL 33461

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- d) **Sponsorship Benefits:** COUNTY shall provide SPONSOR with benefits as more particularly described in **Exhibit "B"**, which is attached hereto and incorporated herein by reference.
- e) **Advertising Standards/Criteria:**
- a. COUNTY prohibits logos, advertisements, or a manner of presentation which negatively impact the COUNTY, promote a product, service, or activity offensive to the general public, or which negatively impact, disrupt, intrude upon or interfere in any manner, with the efficient and cost effective operation and administration of the COUNTY, or any other advertising the COUNTY determines to be inappropriate or likely to hinder or interfere with the goal of earning revenue from long term commercial advertisements.
  - b. COUNTY prohibits logos or advertisements that are false, misleading or deceptive statements or material; relates to an illegal activity; include explicit sexual material, obscene material, or material harmful to minors; advertises tobacco products or electronic cigarettes; includes language that is obscene, vulgar, profane or scatological; relates to instruments, devices, items, projects, or paraphernalia that are designed for use in connection with specific sexual activities; depicts violence and/or anti-social behavior.
  - c. COUNTY has sole discretion to approve or deny the SPONSOR's use or display of any logos or advertisements. COUNTY's approval of SPONSOR's logos or advertisements shall not be construed as promotion or endorsement of SPONSOR's business, products, or services.
- f) **Termination by COUNTY:** In addition to the termination rights provided in Article 8 below, COUNTY reserves the right to terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to SPONSOR at least Sixty (60) days prior to the effective date hereof. In such event, this Agreement will terminate without further action or payment and at the consideration of the Department Director the COUNTY may return to SPONSOR, a percentage of any payment that has been made to COUNTY. Effective upon termination all sponsorship benefits provided in Article 4, above shall immediately cease. COUNTY will not be held liable for any damages resulting from such termination.
- g) **Termination by SPONSOR:** SPONSOR may terminate this Agreement without cause subject to COUNTY approval, following its signing by COUNTY, effective upon delivery of written notice of termination to COUNTY at least Sixty (60) days prior to the effective date hereof provided, however, such termination shall not be effective until the value of goods/services exchanged by COUNTY and SPONSOR is equal. In such event, this Agreement will terminate without further action or payment and at the consideration of the Department Director the COUNTY may return to SPONSOR, a percentage of any payment that has been made to COUNTY. Effective upon termination all sponsorship benefits provided in Article 4, above shall immediately cease.
- h) **Default:** If SPONSOR or COUNTY, at any time during the initial term or any additional term of this Agreement, should be in default (i.e. commit a material breach) of this Agreement, and shall fail to remedy such default within Fourteen (14) days after written notice of such default from the other party, then the non-defaulting party may, at its option, terminate this Agreement by giving the defaulting party written notice of its election to terminate this Agreement, and specifying the effective date thereof, after the expiration of such Third (3rd) day opportunity to cure, and at least Three (3) days prior to the effective date of said termination.
- i) **No Assignment:** SPONSOR may not assign any rights, responsibilities, or obligations required under this Agreement. Any such attempted assignment is a material breach of this Agreement and cause for immediate termination.

j) **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Katie Kollmeyer Phone Number: 561-963-6702.

k) **Insurance Requirements:** If applicable, it is the responsibility of SPONSOR to provide proof of the required insurance coverages specified on Insurance Requirements, attached hereto as **Exhibit "C"**.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement or no later than N/A days prior to the effective date hereof, at the COUNTY's discretion.

l) **Indemnification:** SPONSOR shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Agreement or due to the acts or omissions of SPONSOR. Additionally, sponsors, advertisers and/or any agent of SPONSOR or advertiser will indemnify the COUNTY from all liability for actions or loss arising from but not limited to: injuries or damage arising from the placement or presence of promotional materials; content, trademark and copyrighted infringement; placement, installation, or maintenance; graffiti on, damage to, or defacement of promotional materials. The obligations arising under this provision will survive the expiration or termination of this Agreement.

m) **Notices:** All notices required by this Agreement are to be hand delivered or sent by certified mail, return receipt requested to:

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department  
Attn: Paul Connell  
2700 6th Avenue South  
Lake Worth, Florida 33461

If sent to SPONSOR, such notices are to be addressed:

Bruce Berns  
Attn: Nostalgic America, Inc  
7436 Maple Ridge Trail  
Boynton Beach, FL 33437

n) **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

- o) **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or SPONSOR.
- p) **Availability of Funds:** The fulfillment of this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon annual budgetary appropriations by the Board of County Commissioners.
- q) **Arrears:** SPONSOR is not to pledge or attempt to pledge COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. SPONSOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
- r) **Authorization:** This Agreement is executed by an individual legally authorized to fully bind SPONSOR to all terms and conditions of this Agreement.
- s) **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, SPONSOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
- t) **Severability:** In the event any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected, and every other term and provision of this Agreement will be deemed valid and enforceable to the extent permitted by law.
- u) **Access and Audits:**  
 Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of SPONSOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.  
  
 Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.
- v) **Waiver:** The failure of COUNTY to insist upon strict performance of any of the agreements, terms, covenants or conditions of this Agreement, does not constitute a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance, and COUNTY's right to insist on strict performance of this Agreement will not be affected by any previous waiver of course or dealing.
- w) **Nondiscrimination:** The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the SPONSOR warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity or expression, disability, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

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- x) **Regulation; Licensing Requirements:** SPONSOR agrees to comply with all laws, ordinances and regulations applicable to its use of the premises. SPONSOR is presumed to be familiar with all applicable federal, state, and local laws, ordinances, codes and regulations.
- y) **Criminal History Records Check:** The SPONSOR, SPONSOR's employees, subcontractors of the SPONSOR and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 – 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolutions R2013-1470 and R2015-0572, as amended. The SPONSOR is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the SPONSOR acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and above referenced Resolutions, as amended. COUNTY staff representing the COUNTY department will contact the SPONSOR(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The SPONSOR shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the SPONSOR or its subcontractor(s) terminates an employee who has been issued a badge, the SPONSOR must notify the COUNTY within two (2) hours. At the time of termination, the SPONSOR shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend the SPONSOR if the SPONSOR 1) does not comply with the requirements of County Code Section 2-371 – 2-377, as amended; 2) does not contact the COUNTY regarding a terminated SPONSOR employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy

- z) **Entirety of Agreement:** COUNTY and SPONSOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.
- a) **Counterparts:** This Agreement, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same Agreement. The COUNTY may execute the Agreement through electronic or manual means. SPONSOR shall execute by manual means only, unless the COUNTY provides otherwise.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:**

By: *Joseph E. Ciallo* 12/7/2021  
Signature Date  
Director / Assistant Director  
Palm Beach County Parks and Recreation Department

**If Agreement Value  
Exceeds \$15,000.00, But Not More Than \$50,000.00:**

**County Administrator**

By: \_\_\_\_\_  
Signature Date

**If Agreement Value  
Exceeds \$50,000.00:**

**COUNTY:  
Board of County Commissioners**

**ATTEST:  
Clerk of the Circuit Court & Comptroller**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor

**WITNESS**

By: \_\_\_\_\_  
Signature Date  
\_\_\_\_\_  
Print

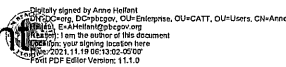
**SPONSOR - Nostalgic America, Inc**

By: *Bruce H. Berns* November 15, 2021  
Signature Date  
Bruce H. Berns  
Print  
Publisher  
Title

**APPROVED AS TO  
FORM AND LEGAL SUFFICIENCY:**

**County Attorney**

By: Anne Helfant \_\_\_\_\_  
Signature Date



**APPROVED AS TO  
TERMS & CONDITIONS:**

**Division Director**

By: *Paul J. Connell* 12/3/21  
Signature Date



**EXHIBIT "A"**  
**SPONSORSHIP AGREEMENT**

***Premises/Program***

**Nostalgic America, Inc will sponsor the Canyon Amphitheater, 'Legends on the Lawn' Concert Series:**

- # 1 – January 15, 2022
- # 2 – February 19, 2022
- # 3 – March 19, 2022
- # 4 – April 16, 2022
- # 5 – May 21, 2022
- # 6 – September 17, 2022
- # 7 – October 15, 2022
- # 8 – November 19, 2022
- # 9 – December 17, 2022

**County agrees to:**

- a) Make all arrangements and coordinate nine (9) community concerts.
- b) To market and promote the Legends on the Lawn series.
- c) Provide graphics for one (1) 8 ½ X 11 series flyer, one (1) 4 X 9 series flyer and nine (9) 8 ½ X 11 individual concert flyers which will include the Nostalgic SPONSOR logo and partner logos as requested by SPONSOR.
- d) Permit exhibitor space at each concert. Exhibitor logistics and site plan must be reviewed and approved by amphitheater staff prior to each event.

**Sponsor agrees to:**

- a) Produce full page Ads in all ten (10) issues of Nostalgic America, INC Magazine.
- b) Submit any additional marketing using COUNTY logo, Canyon Amphitheater logo, and/or Legends on the Lawn graphics for approval through COUNTY staff prior to publication.

**Additional terms:**

1. Palm Beach County Parks and Recreation reserves the right to solicit additional programs and sponsorships. These sponsors and programs will not conflict with the sponsorship with Nostalgic America, Inc.
2. Additional advertising, signage and print material inclusive of the SPONSOR and subsequent partner logos may be used at COUNTY's discretion.

## EXHIBIT "B"

(1 of 1)

### SPONSORSHIP AGREEMENT

#### ***Sponsorship Benefits during the term of this Agreement***

##### **Advertising:**

1. Digital concert series flyer and single band flyers:
  - a) Palm Beach County Amphitheater website
  - b) Palm Beach County Amphitheater Facebook
2. Palm Beach County Parks and Recreation Count-E-Line
3. Palm Beach County Parks and Recreation What's Happening in PBC Parks
4. Palm Beach County Parks and Recreation Press Release
5. Every Door Direct Mail Flyer to surrounding residential area

##### **Signage:**

1. Series flyer distributed to local businesses in surrounding area
2. Series flyer in viewer box at facility
3. Sign of series flyer to be placed on GL property by County

# EXHIBIT "C"

(1 of 2)

## SPONSORSHIP AGREEMENT

### ***Insurance Requirements***

SPONSOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by SPONSOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by SPONSOR under the Agreement. SPONSOR agrees to provide the COUNTY with at least Sixty (60) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

**Palm Beach County Parks & Recreation Department Representative to mark as applicable:**

**No Insurance Required:** Based on scope of services, SPONSOR shall not be required to provide insurance.

**Commercial General Liability:** SPONSOR shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

**Liquor Liability:** if alcoholic beverages (including beer, wine, and spirits) are for sale at the event, the SPONSOR AND VENDOR shall maintain Liquor Liability coverage and the Certificate of Insurance must state that Liquor Liability coverage is included with a minimum limit of liability of **\$1,000,000** Each Occurrence. The policy must not exclude either Personal Injury/Advertising Injury, Damage to Rented Premises, or Products/Completed Operations.

If no admission or similar fee is charged at any type of event and alcoholic beverages are served at no charge, the Certificate of Insurance must state that Host Liquor Liability Coverage has been secured with a minimum limit of liability of **\$1,000,000** Each Occurrence.

**Participant Liability:** SPONSOR shall maintain Participant Liability at a limit of liability not less than **\$25,000** Each Occurrence.

**Auto Liability:** SPONSOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event SPONSOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing SPONSOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

**Workers' Compensation Insurance & Employer's Liability:** SPONSOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.

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## EXHIBIT "C"

(2 of 2)

- Professional Liability:** SPONSOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of SPONSOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, SPONSOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims – made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, SPONSOR shall purchase a SERP with a minimum reporting period not less than three (3) years.
- Additional Insured Clause:** Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."
- Waiver of Subrogation:** SPONSOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then SPONSOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should SPONSOR enter into such an agreement on a pre-loss basis.
- Certificates of Insurance:** Prior to execution of the Agreement, the SPONSOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the SPONSOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:
- Palm Beach County Board of County Commissioners  
C/O Parks and Recreation Department  
Attn: Paul Connell  
2700 Sixth Avenue South  
Lake Worth, Florida 33461
- Umbrella or Excess Liability:** If necessary, SPONSOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- Right to Revise or Reject:** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

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