

Agenda Item #3.M.2.

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 17, 2016

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: **A)** License Agreement with Broadcast Music Inc. (BMI) for the period January 1, 2016, through December 31, 2016, with automatic annual renewals, in an amount not-to-exceed \$8,596 to provide public performances including live performances, recorded performances, and music, in the BMI repertory, in accordance with the copyright laws of the United States; **B)** Addendum to the License Agreement with BMI, which amends the License Agreement so it complies with the County's standard contract terms and provisions.

Summary: Title 17 of the United States Code establishes property rights in musical works and grants creators and owners of copyrighted musical works the exclusive right to perform or authorize the performance of their works publicly. Under the law, owners and operators of facilities or presenters of concerts and other events are responsible for performances on the premises. The property owners must obtain a license to present musical performances in order to be in compliance with the copyright law. This Agreement provides for the County to present an entire musical performance spectrum of performances in the BMI repertory, within various venues in the County, in accordance with copyright laws, and provides for retroactive payment from January 1, 2016, which allowed the County to play music from BMI's repertory from that date. The Addendum amends the Agreement so it complies with the County's standard contract terms and provisions. Countywide (AH)

Background and Justification: BMI is one of three performing rights licensing organizations representing copyrighted musical works in the United States. The County currently has agreements with American Society of Composers, Authors and Publishers (ASCAP) and Society of European Stage Authors and Composers (SESAC). BMI and the International Municipal Lawyers Association jointly developed the attached license agreement, designed specifically to cover public performances of music by local governments at multiple venues including but not limited to amphitheaters, recreation centers, equestrian centers, swimming pools, waterparks, tennis center, senior centers, festivals, special events, employee functions, and museums. This licensing Agreement is for an initial one year term with automatic renewals requiring an annual license fee adjusted in accordance with the increase in the Consumer Price Index. The Agreement can be terminated by either party at any time, with 30 days written notice prior to the end of the initial or any renewal term. The Addendum amends the Agreement by providing for venue and choice of law to be in Florida instead of New York, and adds the County's standard contract terms and provisions such as the Inspector General language, Non-Discrimination and No-Third Party Beneficiary language. The Agreement and Addendum have been executed on behalf of BMI, and now needs to be approved by the Board of County Commissioners.

Attachments: 1) BMI Music License for Local Governmental Entities
2) Addendum to Music License for Local Governmental Entities

Recommended by: _____


Department Director

4/25/16
Date

Approved by: _____


Deputy County Administrator

5-10-16
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>8,596</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>8,596</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE

POSITIONS (Cumulative) 0

Is Item Included in Current Budget? Yes ☒ No ☐
Budget Account No.: Fund 0001 Depart 580 Unit 5206/5207
Object 4909 Program N/A


B. Recommended Sources of Funds/Summary of Fiscal Impact:


Licenses & Permits 0001-580-5206/5207-4909 \$8,596

C. Departmental Fiscal Review:

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Dev. and Control Comments:


OFMB 4/27 4/20


Contract Development & Control
5/6/16

B. Legal Sufficiency:


Assistant County Attorney

C. Other Departmental Review:

Department Director

This summary is not to be used as a basis for payment



Music License for Local Governmental Entities

1. DEFINITIONS

- (a) **LICENSEE** shall include the named entity and any of its constituent bodies, departments, agencies or leagues.
- (b) **Premises** means buildings, hospitals, airports, zoos, museums, athletic facilities, and recreational facilities, including, but not limited to, community centers, parks, swimming pools, and skating rinks owned and/or operated by LICENSEE and any site which has been engaged by LICENSEE for use by LICENSEE.
- (c) **Recorded Music** means music which is performed at the Premises by means other than by live musicians who are performing at the Premises, including, but not limited to (1) compact disc, audio record or audio tape players (but not including "jukeboxes"); (2) videotape, videodisc or DVD players; (3) music performed as an accompaniment to karaoke; (4) the reception and communication at the premises of radio or television transmissions which originate outside the Premises, and which are not exempt under the Copyright Law; or (5) a music-on-hold telephone system operated by LICENSEE at the Premises.
- (d) **Live Entertainment** means music that is performed at the Premises by musicians, singers and/or other performers.
- (e) **BMI Repertoire** means all copyrighted musical compositions written and/or published by BMI affiliates or members of BMI-affiliated foreign performing rights societies, including compositions written or published during the Term of this Agreement and of which BMI has the right to license non-dramatic public performances.
- (f) **Events and Functions** means any activity conducted, sponsored, or presented by or under the auspices of LICENSEE. Except as set forth in Paragraph 2 (d) below, "Events" and "Functions" shall include, but are not limited to, aerobics and exercise classes, athletic events, dances and other social events, concerts, festivals, arts and crafts fairs, and parades held under the auspices of, or sponsored or promoted by, LICENSEE on the Premises.
- (g) **Special Events** means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" (as defined in Schedule B) of such Special Event exceeds \$25,000.

2. BMI GRANT

- (a) BMI grants and LICENSEE accepts a non-exclusive license to perform, present or cause the live and/or recorded public performance on the "Premises" and at "Events" and "Functions", and not elsewhere or otherwise, non-dramatic renditions of the separate musical compositions in the "BMI Repertoire". The performances licensed under this Agreement may be by means of "Live Entertainment" or "Recorded Music".
- (b) This license does not authorize (1) the broadcasting, telecasting or transmission or retransmission by wire, Internet, website or otherwise, of renditions of musical compositions in BMI's Repertoire to persons outside of the Premises, other than by means of a music-on-hold telephone system operated by LICENSEE at the Premises; and (2) performances by means of background music (such as *Muzak*) or other services delivered to the Premises. Nothing in this Paragraph shall be deemed to limit LICENSEE's right to transmit renditions of musical compositions in the BMI Repertoire to those who attend Events or Functions on the Premises by means of teleconferencing, videoconferencing or similar technology.
- (c) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following: (1) performance of a "dramatico-musical work" (as hereinafter defined) in its entirety; (2) performance of one or more musical compositions from a "dramatico-musical work" (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken; (3) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual representation; and (4) performance of a concert version of a "dramatico-musical work" (as hereinafter defined). The term "dramatico-musical work" as used in the Agreement, shall include, but not be limited to, a musical comedy, opera, play with music, revue, or ballet.
- (d) This license does not authorize performances: (1) at any convention, exposition, trade show, conference, congress, industrial show or similar activity presented by LICENSEE or on the Premises unless it is presented or sponsored solely by and under the auspices of LICENSEE, is presented entirely on LICENSEE's Premises, and is not open to the general public; (2) by or at colleges and universities; (3) at any professional sports events or game played on the Premises; (4) at any permanently situated theme or amusement park owned or operated by LICENSEE; (5) by any symphony or community orchestra; and (6) by means of a coin operated jukebox.

3. REVIEW OF STATEMENTS AND / OR ACCOUNTINGS

- (a) BMI shall have the right to require such reasonable data necessary in order to ascertain the Annual License Fee.
- (b) BMI shall have the right, by its authorized representatives, at any time during customary business hours, to examine the books and records of account of LICENSEE to such extent as may be necessary to verify the statements made hereunder. BMI shall consider all data and information coming to its attention as a result of any such examination of books and records as completely confidential.
- (c) BMI shall have the right to adjust LICENSEE's Annual License Fee based upon the most recently available revised population figures provided by the U. S. Census Department.

4. LATE PAYMENT AND SERVICE CHARGES

BMI may impose a late payment charge of one and one-half percent (1½%) per month, or the maximum rate permitted by law, whichever is less, from the date payment is due on any payment that is received by BMI more than thirty (30) days after the due date. BMI may impose a \$25.00 service charge for each unpaid check, draft or other means of payment LICENSEE submits to BMI.

5. BMI COMMITMENT TO CUSTOMER / INDEMNITY

So long as LICENSEE is not in default or breach of this Agreement, BMI agrees to indemnify, save harmless, and defend LICENSEE and its officers, and employees, from and against any and all claims, demands, or suits that may be made or brought against them with respect to the performance of any musical works which is licensed under this Agreement at the time of performance. LICENSEE agrees to give BMI immediate notice of any such claim, demand, or suit, to deliver to BMI any papers pertaining thereto, and to cooperate with BMI with respect thereto, and BMI shall have full charge of the defense of any such claim, demand, or suit.

6. BREACH OR DEFAULT / WAIVER

Upon any breach or default of the terms and conditions contained herein, BMI shall have the right to cancel this Agreement if such breach or default continues for thirty (30) days after LICENSEE's receipt of written notice thereof. The right to cancel granted to BMI shall be in addition to any and all other remedies which BMI may have. No waiver by BMI of full performance of this Agreement by LICENSEE in any one or more instances shall be deemed a waiver of the right to require full and complete performance of this Agreement thereafter or of the right to cancel this Agreement with the terms of this Paragraph.

7. CANCELLATION OF ENTIRE CATEGORY

BMI shall have the right to cancel the Agreement along with the simultaneous cancellation of the Agreements of all other licensees of the same class and category as LICENSEE, as of the end of any month during the Term, upon sixty (60) days advance written notice.

8. ASSIGNMENT

This license is not assignable or transferable by operation of law or otherwise. This license does not authorize LICENSEE to grant to others any right to perform publicly in any manner any of the musical compositions licensed under this Agreement, nor does it authorize any public performances at any of the Premises in any manner except as expressly herein provided.

9. ARBITRATION

All disputes of any kind, nature, or description arising in connection with the terms and conditions of this Agreement, except for matters within the jurisdiction of the BMI Rate Court, shall be submitted to the American Arbitration Association in the City, County, and State of New York, for arbitration under its then prevailing arbitration rules. The arbitrator(s) to be selected as follows: Each of the parties shall, by written notice to the other, have the right to appoint one arbitrator. If, within ten (10) days following the giving of such notice by one party, the other shall not, by written notice, appoint another arbitrator, the first arbitrator shall be the sole arbitrator. If two arbitrators are so

appointed, they shall appoint a third arbitrator. If ten (10) days elapse after the appointment of the second arbitrator and the two arbitrators are unable to agree upon a third arbitrator, then either party may, in writing, request the American Arbitration Association to appoint the third arbitrator. The award made in the arbitration shall be binding and conclusive on the parties and judgment may be, but not need be, entered in any court having jurisdiction. Such award shall include the fixing of the costs, expenses, and attorneys' fees of arbitration, which shall be borne by the unsuccessful party.

10. NOTICES

Any notice under this Agreement will be in writing and deemed given upon mailing when sent by ordinary first-class U.S. mail to the party intended, at its mailing address stated, or any other address which either party may designate. Any such notice sent to BMI shall be to the attention of the Vice President, Licensing Department at 10 Music Square East, Nashville, TN 37203. Any such notice sent to LICENSEE shall be to the attention of the person signing the Agreement on LICENSEE's behalf or such person as LICENSEE may advise BMI in writing.

11. MISCELLANEOUS

The fact that any provisions are found by a court of competent jurisdiction to be void or unenforceable will not affect the validity or enforceability of any other provisions. This Agreement constitutes the entire understanding between the parties and cannot be waived or added to or modified orally and no waiver, addition and modification shall be valid unless in writing and signed by both parties.

12. FEES

- (a) In consideration of the license granted herein, LICENSEE agrees to pay BMI a license fee which includes the total of the "Base License Fee" and any applicable "Special Events License Fees", all of which shall be calculated in accordance with the Rate Schedule on Page 3. For purposes of this Agreement,
 - (i) "Base License Fee" means the annual fee due in accordance with Schedule A of the Rate Schedule and based on LICENSEE's population as established in the most recent published U.S. Census data. It does not include any fees due for Special Events.
 - (ii) "Special Events License Fees" means the amount due in accordance with Schedule B of the Rate Schedule when Special Events are presented by or on behalf of LICENSEE. It does not include any Base License Fee due.
 - (iii) LICENSEES who are legally organized as state municipal and/or county leagues or state associations of municipal and/or county attorneys shall be required to pay only the fee under the Schedule C of the Rate Schedule. Such leagues or associations are not subject to Schedule A or Schedule B of the Rate Schedule. Fees paid by such leagues or associations do not cover performances of the municipality, county, or other local government entity represented by the league or association. Schedule C fees are not applicable to municipal, county or other government entities.

2016 RATE SCHEDULE FOR LOCAL GOVERNMENTS

SCHEDULE A			
Check Population Range (✓)	LICENSEE's Population	Base License Fee	Enter Fee Based Upon Population
<input type="checkbox"/>	1 - 50,000	\$336	
<input type="checkbox"/>	50,001 - 75,000	\$669	
<input type="checkbox"/>	75,001 - 100,000	\$805	
<input type="checkbox"/>	100,001 - 125,000	\$1,072	
<input type="checkbox"/>	125,001 - 150,000	\$1,342	
<input type="checkbox"/>	150,001 - 200,000	\$1,743	
<input type="checkbox"/>	200,001 - 250,000	\$2,145	
<input type="checkbox"/>	250,001 - 300,000	\$2,549	
<input type="checkbox"/>	300,001 - 350,000	\$2,951	
<input type="checkbox"/>	350,001 - 400,000	\$3,355	
<input type="checkbox"/>	400,001 - 450,000	\$3,755	
<input type="checkbox"/>	450,001 - 500,000	\$4,159	
<input checked="" type="checkbox"/>	500,001 - plus	\$5,596 plus \$500 for every 100,000 population increment or portion thereof above 500,000 up to a maximum annual fee of \$67,051	\$8,596
	If 500,001 or more, enter population 1,131,184		
SCHEDULE A FEE			\$ \$8,596.00

SCHEDULE B Special Events Fee (to be reported 90 days after each event*, see Par. 13(d))	
The rate for Special Events shall be 1% of Gross Revenue.	
▪ "Special Events" means musical events, concerts, shows, pageants, sporting events, festivals, competitions, and other events of limited duration presented by LICENSEE for which the "Gross Revenue" of such Special Events exceeds \$25,000.00	
▪ "Gross Revenue" means all monies received by LICENSEE or on LICENSEE's behalf from the sale of tickets for each Special Event. If there are no monies from the sale of tickets, "Gross Revenue" shall mean contributions from the sponsors or other payments received by LICENSEE for each Special Event.	
	SCHEDULE B FEE
	BMI will provide a report form to report your events*

SCHEDULE C State Municipal and/or County Leagues or State Associations of Attorneys (to be completed if you are a State Municipal and/or County Leagues or State Associations of Attorneys)	
The annual license fee for LICENSEES who are legally organized as state municipal and/or county leagues, or state associations of municipal and/or county attorneys shall be \$336.00. No Special Events fee applies to LICENSEES qualifying under this schedule.	
	SCHEDULE C FEE
	\$

13. REPORTING
- (a) Upon the execution of this Agreement, LICENSEE shall submit:
- (i) a report stating LICENSEE's population based on the most recent published U.S. Census data. The population set forth in the report shall be used to calculate the Base License Fee under this Agreement; and
 - (ii) a report containing the information set forth in Paragraph 13 (d) below for all Special Events that were presented between the effective date of this Agreement and the execution of this Agreement.
- (b) The Base License Fee for the first year of this Agreement and any license fees due for Special Events that were presented between the effective date of this Agreement and the execution of this Agreement shall be payable upon the execution of this Agreement.
- (c) Base License Fees for subsequent years shall be due and payable within 30 days of the renewal date of this Agreement and shall be accompanied by a statement confirming whether any Special Events were presented during the previous calendar year.
- (d) Ninety (90) days after the conclusion of each Special Event, LICENSEE shall submit to BMI payment for such Special Event and a report in printed or computer readable form stating:
- (i) the date presented;
 - (ii) the name of the attraction(s) appearing;
 - (iii) the "Gross Revenue" of the event (as defined above);
 - (iv) the license fee due for each Special Event.

- (e) If LICENSEE presents, sponsors or promotes a Special Event that is reportable under Rate Schedule B with another person or entity licensed under a BMI License Agreement, LICENSEE shall indicate the name, address, phone number and BMI account number of the other person(s) or entity(ies) and the party responsible for payment for such Special Event. If the other party is not licensed by BMI, LICENSEE shall pay the license fee due hereunder, notwithstanding any agreement to the contrary between LICENSEE and the other party.
- (f) LICENSEE agrees to furnish to BMI, where available, copies of all programs of musical works performed, which are prepared for distribution to the audience or for the use or information of LICENSEE or any department thereof. The programs shall include all encores to the extent possible. LICENSEE shall be under no obligation to furnish programs when they have not been otherwise prepared.

14. RATE ADJUSTMENTS / LICENSE FEE FOR YEAR 2017 AND THEREAFTER

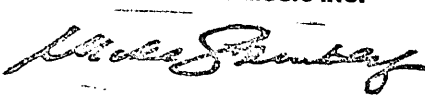
For each calendar year commencing 2017, all dollar figures set forth in Schedules A, B and C (except the \$500 add-on for populations of 500,001 or more) shall be the license fee for the preceding calendar year, adjusted in accordance with any percentage increase in the Consumer Price Index – All Urban Consumers (CPI-U) between the preceding October and the next preceding October, rounded to the nearest dollar. Any additional license fees due resulting from the CPI adjustment shall be payable upon billing by BMI.

15. TERM OF AGREEMENT

This Agreement shall be for an initial Term of one (1) year, commencing January 1, 2016, which shall be considered the effective date of this Agreement, and continuing thereafter for additional terms of one (1) year each. Either party may give notice of termination to the other no later than thirty (30) days prior to the end of the initial or any renewal term. If such notice is given, the Agreement shall terminate on the last day of the Term in which notice is given.

AGREEMENT

AGREEMENT, made at New York, N.Y. on (Date will be entered by BMI upon execution) _____ between BROADCAST MUSIC, INC., a State of New York corporation with its principal offices at 7 World Trade Center, 250 Greenwich Street, New York, N.Y. 10007-0030 (hereinafter "BMI") and the legal or trade name described below and referred to thereafter as "LICENSEE" (the "Agreement"). This Agreement includes all of the terms and conditions set forth herein.

LEGAL NAME	LICENSED PREMISES	
Palm Beach County <small>(Name of Corporation, Partnership, or Individual Owner)</small>	(All locations are licensed by LICENSEE)	
TRADE NAME	(Street Address)	
Palm Beach County <small>(Doing business under the name of)</small>	(City)	(State) (Zip)
PLEASE CHECK APPROPRIATE BOX <input type="checkbox"/> Individual Ownership <input type="checkbox"/> LLC <input type="checkbox"/> Corporation <input type="checkbox"/> LLP <input type="checkbox"/> Partnership <small>(State of Incorporation, if different from Licensed Premises)</small> <small>(Enter names of partners)</small> <input type="checkbox"/> Other	(Telephone Number)	(Fax Number)
	(Contact Name)	(Title)
	(Email Address)	(Web Address)
	MAILING ADDRESS <small>(If different from Licensed Premises)</small>	
Federal Tax ID No.	2700 Sixth Avenue South <small>(Street Address)</small>	
GOVERNMENT ENTITIES <small>(If applicable, please check one)</small>	Lake Worth FL 33461 <small>(City) (State) (Zip)</small>	
<input type="checkbox"/> Federal <input type="checkbox"/> State	(Telephone Number) (Fax Number)	
<input checked="" type="checkbox"/> Local	Joan Hutchinson Supervisor <small>(Contact Name) (Title)</small>	
Palm Beach County FL <small>(Municipality and State)</small>	jhutchin@tpbcgov.org <small>(Email Address- if different from above)</small>	
TO BE COMPLETED BY LICENSEE By signing this Agreement you represent that you have the authority to bind LICENSEE and that you have read, understood and agree to all of the terms and conditions herein. (SIGN HERE – PLEASE INCLUDE PAYMENT)	FOR ADMINISTRATIVE USE ONLY TO BE COMPLETED BY BMI BROADCAST MUSIC INC.  Mike Steinberg Senior Vice President, Licensing	
Signature	FOR BMI USE ONLY	
Print Name / Title	LGE	
jhutchin@tpbcgov.org	LI-2011/DEC	
Signatory Email Address* <small>(If different from above)</small>	EFFECTIVE: January 2012	
<small>*In order to receive a copy of your executed Agreement, please provide the email address of the Signatory</small>	3470483	
PLEASE RETURN THIS ENTIRE SIGNED LICENSE AGREEMENT TO: BMI, 10 MUSIC SQUARE E., NASHVILLE, TN 37203	ACCOUNT NO.	COD

® BMI and the music stand symbol are registered trademarks of Broadcast Music, Inc.



**ADDENDUM
TO MUSIC LICENSE FOR LOCAL GOVERNMENTAL ENTITIES**

THIS ADDENDUM, dated _____, 2016, is by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the "LICENSEE", and Broadcast Music, INC., hereinafter referred to as "BMI".

WITNESSETH:

WHEREAS, the parties have entered into that certain Contract dated January 1, 2016, hereinafter referred to as the "Agreement", whereby BMI has agreed to allow the LICENSEE to present an entire musical performance spectrum of performances in the BMI repertory, in accordance with copyright laws; and

WHEREAS, this Addendum modifies the Agreement BMI and LICENSEE entered into on _____.

NOW THEREFORE, in consideration of the mutual covenants and agreements expressed herein, LICENSEE and the BMI agree as follows:

1. Article 4 of the Agreement is hereby amended by deleting the article in its entirety and replacing it with the following: "BMI may impose a late payment charge of one and one-half percent (1 ½) per month, or the maximum rate permitted by law, whichever is less, from the date payment is due on any payment that is received by BMI more than forty-five (45) days after the due date. BMI may impose a \$25.00 service charge for each unpaid check, draft or other means of payment LICENSEE submits to BMI."
2. Article 9 of the Agreement is hereby deleted in its entirety.
3. Article 15 of the Agreement is hereby amended by deleting in the second paragraph, first line, "New York, N.Y."
4. Article 16 is hereby added to the Agreement as follows: "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 LICENSEE and/or BMI.

5. Article 17 is hereby added to the Agreement as follows: "LICENSEE 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 BMI, 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."
6. Article 18 is hereby added to the Agreement as follows: "BMI warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information. BMI has submitted to LICENSEE a copy of its non-discrimination policy which is consistent with the above sentence, as contained in R-2014-1421, as amended, or in the alternative, if BMI does not have a written non-discrimination policy or one that conforms to LICENSEE's policy, it has acknowledged through a signed statement provided to LICENSEE that BMI will conform to BMI's non-discrimination policy as provided in R-2014-1421, as amended."
2. All other provisions of said Agreement, dated _____ and are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

4. In accordance with Palm Beach County Code Chapter 2, Article III, Section 2.51, this ADDENDUM shall not take effect until executed by the parties hereto.

THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Addendum on behalf of the LICENSEE and BMI has hereunto set its hand the day and year above written.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Mary Lou Berger, Mayor

Approved as to Terms and Conditions

By: _____
Department Director

Approved as to Form and Legal Sufficiency

By: _____
Assistant County Attorney

Witness:



Signature


SHANE GUE
Name (type or print)



Signature

Devon Kolozsi
Name (type or print)

Broadcast Music, Inc.



Signature Mike Steinberg
Senior Vice President, Licensing

Typed Name

Title

POLICY STATEMENTS



EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of BMI to provide equal employment opportunity to all qualified team members and applicants without regard to race, color, religion, gender, sexual orientation, age, marital status, national origin, handicap, disability, veteran/military status, or any other protected category. Violation of this policy will result in disciplinary action, up to and including immediate termination.

HARASSMENT, DISCRIMINATION AND ANTI-RETALIATION POLICY

BMI is dedicated to providing its team members and applicants with a professional work environment that is free from inappropriate harassment, discrimination and retaliation, whether committed by supervisors, non-supervisory team members, customers, vendors or third parties.

This policy pertains to harassment, discrimination and retaliation based on a number of factors including, but not limited to race, color, religion, gender, sexual orientation, age, marital status, national origin, handicap, disability, veteran/military status, or any other protected category. BMI does not tolerate the harassment of applicants, team members, customers or vendors. Violation of this policy will result in disciplinary action, up to and including termination. If a team member has any concern that our "Harassment, Discrimination and Anti-Retaliation Policy" may have been violated by anyone, the team member must immediately report the matter. Due to the very serious nature of harassment, discrimination and retaliation, team members must report such concerns to one or more of the following:

- Immediate Supervisor
- Legal Department
- Human Resources
- Department Officer

SEXUAL HARASSMENT

All team members must avoid any action or conduct which could be viewed as sexual harassment or is inappropriate, including:

1. Unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual or other offensive nature, especially where:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of employment;

- Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
- Such conduct has the purpose or effect of creating an intimidating, hostile or offensive, working environment.

2. Offensive comments, jokes, innuendos and other sexually oriented statements.

Team members must exercise their own good judgment to avoid engaging in conduct that may be perceived by others as harassment. Forms of possible sexual harassment may include, but are not limited to:

- **Verbal** – repeated, unwelcome and inappropriate innuendos (sexual or otherwise), sexual epithets, derogatory slurs, off-color jokes, propositions, threats, or suggestive or insulting sounds;
- **Visual/nonverbal** – posters, cartoons, drawings, suggestive objects or pictures, or graphic commentaries, which are derogatory, defamatory, pornographic, sexual explicit, or in any other way inappropriate, including the electronic downloading, streaming, viewing, transmission or possession of such items, leering or obscene gestures;
- **Physical** – unwanted physical contact including touching, interference with an individual's normal work movement or assault; and
- **Other** – making or threatening reprisals as a result of a negative response to harassment.

OTHER UNLAWFUL HARASSMENT

In addition to sexual harassment, BMI strictly prohibits verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of race, color, religion, gender, sexual orientation, age, marital status, national origin, handicap, disability, veteran/military status or any other protected category. For example, racial harassment includes, but is not limited to, harassment based on a characteristic associated with race. Religious harassment may include (but is not limited to) demands that a team member alter or renounce some religious belief in exchange for job benefits. BMI prohibits all such behavior which:

- Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- Otherwise adversely affects an individual's employment opportunities.