RESOLUTION R16-717

A RESOLUTION AUTHORIZING THE ENTERING INTO A CONTRACT WITH ATLANTA FOOD TRUCK PARK, LIMITED LIABILITY COMPANY FOR THE PROVISION OF CERTAIN MANAGEMENT SERVICES FOR FOOD TRUCK TUESDAYS; AUTHORIZING THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; REPEALING INCONSISTENT RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Stockbridge ("City") is a municipal corporation located within Henry County, Georgia duly organized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within the corporate limits of the City; and

WHEREAS, the City finds it necessary and desirable to enter into a contract for the provision of certain management services for Food Truck Tuesdays;

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKBRIDGE, GEORGIA, AS FOLLOWS:

1. **Approval of Execution.** The City hereby approves the contract with Atlanta Food Truck Park, Limited Liability Company, attached hereto as Exhibit A and the Mayor or Mayor Pro Tem is hereby authorized to execute said contract with such changes as are recommended by the City Attorney.

2. **Documents.** The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate the amendment, subject to approval as to form by the City Attorney.

3. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.

4. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

5. **Effective Date.** This Resolution shall be effective on the date of its approval by the City Council and Mayor as provided in the City Charter.

SO BE IT RESOLVED this 11th day of April 2016.

ANTHONY S. FORD, MAYOR PRO TEM

ATTEST:

VANESSA HOLIDAY, City Clerk (SEAL)

APPROVED AS TO FORM:

MICHAEL WILLIAMS, City Attorney

EXHIBIT A

CONTRACT

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2016, between **THE CITY OF STOCKBRIDGE**, (the "City") and **ATLANTA FOOD TRUCK PARK, LIMITED LIABILITY COMPANY**, (the "Agent").

WHEREAS, the City Council of the City of Stockbridge has voted to institute a series of events to be known as Food Truck Tuesdays (the "Events") which will occur on Tuesdays during the Spring, Summer and Fall of each year at 4640 North Henry Boulevard in Stockbridge, Georgia;

WHEREAS, at each of the Events, a number of food trucks will be located on City property to provide a recreational opportunity for Stockbridge residents to come purchase food and experience family-friendly entertainment;

WHEREAS, it is proposed that the Agent shall managed the Events on behalf of the City;

NOW THEREFORE, the parties hereto, in consideration of these presents, the mutual agreements, premises and covenants herein, and other good and valuable consideration, the receipt, sufficiency, and adequacy of which are hereby acknowledged, do hereby agree as follows:

1. **Appointment of Agent**: City hereby appoints the Agent as City's exclusive contractor to direct and supervise the operation, management, and maintenance of the Events, and the Agent hereby accepts such appointment, subject to and in accordance with the terms and conditions of this Agreement. The Agent agrees to perform and conduct its services under the terms of this Agreement diligently, in a business-like and efficient manner, and in conformity with the terms of this Agreement.

2. **Term**: This Agreement shall have an initial term for seven (7) months starting April 12, 2016 and ending on October 25, 2016.

Either party may terminate this Agreement at any time for any reason with thirty (30) days' advance written notice.

3. **Duties of Agent**: City hereby authorizes and empowers the Agent to perform the following services on behalf of (except as otherwise provided) and for the account of City:

a. Create a logo and provide for the marketing of the Events on social media

b. Coordinate the scheduling of all food trucks insuring that at least 4-6 savory trucks and 1-2 dessert trucks are at each of the Events

c. Provide onsite management during each of the Events between the hours of 4:30pm and 9:00pm; set-up to begin at 4:30pm

EXHIBIT A
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d. Assist in booking entertainment for each of the Events

4. **Duties of City**: City hereby agrees to provide the following in support of each of the events:

a. Security services

b. Access to electricity

c. Tables and seating to accommodate patrons

d. Trashcans

e. Marketing and promotion of the Events

f. Entertainment

5. **Additional Authority of Agent**: The Agent shall not possess such other and further general authority and powers as may be necessary or advisable to carry out the intent of this Agreement unless such authority is specifically authorized by the City through its City Manager.

6. **Compensation to Agent**: City covenants and agrees to pay the Agent a monthly management fee in the amount of twenty percent (20%) of the sponsorship fees derived by the City from sponsors of the Events, but only such sponsorship fees generated from sponsors provided by Agent or referred to City by Agent.

7. **Compliance with Laws**: The Agent shall comply in all material respects and shall make all efforts to cause all contractors, subcontractors, invitees, employees and representatives to comply in all material respects with and abide by all applicable laws, rules, regulations and ordinances of any federal, state or municipal authorities, and the requirements of any insurance companies covering any of the risks against which the Events are insured.

8. **Indemnity and Insurance:**

A. The Agent shall indemnify, defend and hold harmless City and its officers, directors, council members, agents, trustees and employees, from and against all damages, claims, actions, judgments, obligations, liabilities, costs, expenses, and fees (including, but not limited to, reasonable attorneys' fees and costs) caused by any negligence or misconduct on the part of the Agent, its employees, representatives, officers, or directors. Agent shall

not be held liable for the negligence or misconduct on the part of any of the other vendors participating in the events. It is expressly agreed that this subsection shall survive the expiration or earlier termination of this Agreement.

B. Agent agrees to procure and maintain during the term of this Agreement comprehensive general public liability insurance, including property damage insurance, and such other insurance as may be advisable and applicable for the protection of City and the Agent. In each such policy of insurance, Agent agrees to designate the City and its officers, directors, employees, and agents as additional insureds. A certificate of each policy issued by the carrier shall be delivered to the City, and shall provide that the City shall receive at least thirty (30) days' prior written notice from the carrier in the event of cancellation or any material change therein.

9. **Signs**: City hereby grants the Agent the privilege of displaying the Agent's signs in and upon the City's property announcing that the Events are under the Agent's management.

10. **Miscellaneous Provisions:**

A. Assignment. The Agent may not assign this Agreement or any portion thereof without the prior written consent of City.

B. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In addition, this Agreement may contain more than one counterpart of the signature page, all of which signature pages may be attached to one copy of this Agreement to constitute the entire executed Agreement. Scanned, facsimile, or photocopies of the executed Agreement may be relied upon as if the original.

C. Notices. Any notice, request, instruction or delivery of documents to be given hereunder by any party hereto to any other party shall be in writing and shall be hand delivered, or delivered by a reputable overnight delivery service, or sent via United States mail, registered or certified, postage pre-paid, to the address of such party as set forth below or to such other address as such party shall furnish in writing to the party entitled to notice:

To City:

To Agent:

Any notice mailed as herein provided shall be deemed to have been received one (1) business day after the date of mailing. Evidence of deposit in Registered or Certified First Class Mail shall constitute sufficient proof of delivery. Any hand-delivered notice, including those delivered by overnight delivery service, shall be deemed to have been received on the date of delivery.

D. Captions, Gender and Number. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof. Whenever the context so requires, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

E. Successors in Interest. Except as otherwise provided herein, all provisions of this Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the respective successors and permitted assigns, of the parties to this Agreement.

F. Waiver. Any consent to or waiver of any provision hereof shall not be deemed or construed to be a consent to or waiver of any other provision of this Agreement. Failure on the part of any party to complain of any act or failure to act of any other party, irrespective of the duration of such failure, shall not constitute a waiver or modification of rights hereunder. No waiver or modification hereunder shall be effective unless the same is in writing and signed by the party against whom it is sought.

G. Severability. If any provision of this Agreement shall, in whole or in part, prove to be invalid for any reason, such invalidity shall affect only the portion of such provision which shall be invalid, and in all other respects this Agreement shall stand as if such invalid provision, or other invalid portion thereof, had not been a part hereof. The parties agree that this Agreement shall be enforced to the fullest extent permitted by law.

H. Entire Agreement; Amendment. This Agreement is the sole and entire agreement and understanding of the parties with respect to its subject matter. All prior agreements, representations or understandings, whether written or oral, shall not be construed to change, amend, alter, repeal or invalidate this Agreement. This Agreement may be amended only by a written instrument executed by the party against whom enforcement is sought.

I. Governing Law and Jurisdiction. This Agreement has been executed and delivered in the State of Georgia, and its validity, interpretation, performance, and enforcement and all matters relating thereto, shall be governed by and construed and

interpreted in accordance with the laws of the State of Georgia. For purposes of any litigation arising from or related to this Agreement, the parties hereby submit to the jurisdiction of the appropriate state court located in Henry County, Georgia.

J. No Adverse Presumption. It is acknowledged that this Agreement arose as the result of arm's-length negotiations between the parties and that this Agreement is the product of input by both parties. As a result, any ambiguity or uncertainty is not to be construed against either party.

K. Cooperation. The parties shall cooperate fully with each other in connection with any steps required to be taken as part of their respective obligations under this Agreement, and the parties will use their best efforts to consummate the transactions contemplated hereby and to fulfill their obligations hereunder.

L. Incorporation of Recitals. The foregoing recitals are not merely recitals but form an integral part of this Agreement and are incorporated herein and made a part of this Agreement.

M. Intellectual Property. Except for the rights expressly granted herein, as between the parties, City will own all right, title, and interest, including, without limitation, all rights under all copyright, patent, and other intellectual property laws in and to all logos, images, marketing materials, graphics and any other similar items generated in connection with the Events regardless of whether such items were generated by Agent or the City.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Management Services Agreement the day and year first above written.

IN THE PRESENCE OF:

CITY:
THE CITY OF STOCKBRIDGE

_____

By:_____

_____

Its:_____

Date:_____

AGENT:
ATLANTA FOOD TRUCK PARK, LIMITED LIABILITY COMPANY

_____

By:_____

_____

Its:_____

Date:_____