

#22

FEB 28 2013



Chandler • Arizona

Where Values Make The Difference

MEMORANDUM

Community Services Department CS13-100

DATE: FEBRUARY 8, 2013

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*

FROM: MARK M. EYNATTEN, COMMUNITY SERVICES DIRECTOR *MME*

RE: LICENSE AGREEMENT WITH CHANDLER CHAMBER OF COMMERCE FOR USE OF TUMBLEWEED PARK IN CONJUNCTION WITH THE OSTRICH FESTIVAL - 2013

SUBJECT: Approve a License Agreement with Chandler Chamber of Commerce for Use of Tumbleweed Park in Conjunction with the Ostrich Festival from March 8 to March 10, 2013.

BACKGROUND: The Chandler Chamber of Commerce (CCC) organizes, sponsors and conducts the Ostrich Festival using Tumbleweed Park as its event venue. This year's event is proposed to take place from March 8 to 10, 2013 with set up commencing on March 3 and cleanup to be completed by March 12, 2013. As the event has grown in size, scope, duration and attendance it becomes prudent to enter into a license agreement that clearly delineates the role of each entity and the City's expectations regarding planning, layout, operations and clean up.

To that end, the Law Department prepared the attached license agreement with input from Police, Fire, Community Services; Risk Management and the CCC. Key elements in the agreement include:

1. Designation of specific deadlines for the submittal of site plans, emergency plans, vendor requirements and necessary permits.
2. Identification of allowable activities and events.
3. Identification of contact personnel representing each entity involved in oversight of the event.
4. Clarification of the authority of City personnel, specifically Public Safety staff, in event oversight.
5. Identification of event set up and clean up responsibilities.
6. Specification of insurance requirements, limits and naming of the City as an additional insured.
7. Specification of timelines for identifying and notifying the CCC of damage to the site as a result of the festival.

RECOMMENDED MOTION: Staff recommends approval of a license agreement with the Chandler Chamber of Commerce for the use of Tumbleweed Park in conjunction with the Ostrich Festival from March 3 to March 12, 2013.

LICENSE AGREEMENT FOR CHANDLER OSTRICH FESTIVAL

This License Agreement (the "Agreement") is entered into on FEB 12, 2013, between and among the City of Chandler, a municipal corporation of the State of Arizona ("City"), the Chandler Chamber of Commerce ("Chamber") and Universal Fairs ("UF") (collectively the "Parties"). The City hereby grants this License to the Chamber and UF for use of the Tumbleweed Park (the "Park"), in an Event Area ("Event Area"), as described and shown herein in Exhibit A, subject to the following terms conditions, and restrictions:

Whereas, historically, the City has agreed to allow the Chamber and a vendor (in 2012 the vendor was Universal Fairs) to hold the Ostrich Festival on City property;

Whereas, in 2013, the Chamber and UF are interested in holding the Ostrich Festival at the City's Park, and the City is willing to allow the Ostrich Festival to be held at the Park under certain conditions,

Therefore, the City in consideration of the covenants, restrictions and conditions contained in this Agreement, grants a license to the Chamber and UF for the right to use the Park and Event Area for the purpose of conducting the 2013 Ostrich Festival.

SECTION 1. GRANT OF LICENSE; FEES

- 1.1 Grant of License, Fees. The City grants the Chamber and UF the right to use the Park and Event Area for the dates and times specified in this License. The term "License" shall include and incorporate any exhibits to this License. The Parties agree that for such use of the Event Area the License fee is \$1.00 payable upon execution of this License. The Chamber and UF acknowledge and agree that there may be additional fees associated with the use of the Park and Event Area. The Chamber and UF agree to pay such additional fees upon receipt of an invoice for such fees as set forth below.

1.2 Additional Fees. The City reserves the right to require additional fees associated with the use of the Park and Event Area. Such additional fees or charges shall be paid on or before the earlier of (i) the first date of the Chambers' and UF's use of the Event Area or (ii) no later than 30 calendar days after the Chamber's and UF's receipt of an invoice requesting such fees or charges.

1.3 License Time Period and Duties and Liability of UF and Chamber Upon Termination.

The rights to use the Event Area shall be for the following times:

- a. Set up shall be allowed beginning at the earlier of 6 a.m. on Sunday, March 3, 2013, or after completion of the pre-event facilities walk through as described in Section 1.4 of the License.
- b. Festival shall be allowed to operate from March 8, 2013 through March 10, 2013.
- c. All vendor activity shall be finished, all booths, vehicles, materials and all structures associated with the Festival shall be removed no later than 5 p.m. on Tuesday, March 12, 2013.
- d. UF and the Chamber shall clean-up the Park and Event Area no later than 5 p.m. on Tuesday, March 12, 2013 to the City Community Service's Department's satisfaction. If UF and the Chamber fail to clean up the Park and Event Area to the City's satisfaction, the City shall perform any remaining clean-up and invoice the Chamber and UF the cost for the clean-up.
- e. UF and the Chamber shall be responsible for the cost of repairs for any damage arising out of or related to the Festival.

1.4 The Park and Event Area Use. The Chamber and UF may use the Event Area for the Ostrich Festival activities specified herein and for uses normally incident to such use, but

for no other purpose unless previously authorized by the City in writing. The Chamber and UF agree to take the Park and Event Area in "as in" condition and the Chamber and OF agree to put the Park and Event Area in the same condition upon termination of the license.

The Parties agree that a representative from the City, the Chamber, and UF will attend a pre-event facilities walk-through where the status of the facilities and the Park will be documented. Any existing damage will be noted and will be signed off by the Parties. On the Tuesday following the event at 12:00 noon or after the facilities have been completely vacated, a representative from the City, the Chamber, and UF will attend a post-event facilities walk-through where the status of the facilities will be documented identifying any damage that occurred during the event. A remediation plan will be developed and agreed upon at that time. Should a UF representative not attend the pre-event and/or post-event walk-through, a Chamber representative will act on behalf of UF and UF agrees to be bound by the terms of the remediation plan under these circumstances. The City shall notify the Chamber and UF within 30 days of the walk-through of the estimated repair costs from the identified damage. The Chamber and UF shall notify the City within 45 days of receiving the estimated costs as to their intent on repairing the damage or to be invoiced for the repair costs. Any invoiced costs shall be paid in accordance with Section 1.2.ii.

- 1.5 Nature of License. The Chamber and UF acknowledge and agree that the rights, granted by this License to enter upon and use the Park and Event Area is nothing more than a license granted solely for the purpose of exercising its rights and performing its duties under this License. The execution of this Agreement by UF and the Chamber is for the

sole purpose of creating an independent contractor relationship for the purposes described herein and nothing contained herein shall create or be deemed to create a partnership, joint venture or any other co-ownership relationship between UF, the Chamber and the City of Chandler. Nothing set forth in this License creates a tenancy between the City and the Chamber or the City and UF or grants the Chamber or UF possession of any City property. Upon termination of this License, the City shall have the right to remove and exclude from the Park and Event Area, or any other City property, the Chamber and UF and any of the Chamber's and UF's employees, contractors, or invitees, without being deemed to have committed any unlawful entry, trespass or injury of any sort whatsoever.

1.6 City Staff. The City shall provide the Chamber and UF with reasonable access to a venue liaison and/or technical coordinator and "normal and customary" city support as specified herein. Any additional staff or equipment required by the Chamber and UF other than agreed to herein will be paid for by the Chamber. Based on available resources, "normal and customary" shall be defined as the following for the 2013 Ostrich Festival only:

Community Services:

- Sufficient staff to prepare the park prior to the start of event set up, including:
 - Overseeding of grass within the festival area
 - Blue staking of the festival grounds
 - Creating decomposed granite driveways on the promenade
 - Trimming and watering all bushes and trees
 - Barricading all utility boxes
 - Tilling and grading the area designated for the ostrich track
 - Leveling entrances to dirt fields to be used for parking
 - Provide and set up the Showmobile stage
 - Provide and place ten 100 seat bleachers and two portable 250 seat bleachers
 - Provide a Special Events Coordinator staff person for the duration of the festival
 - Provide two (2) park maintenance staff members from one hour prior to the start of the Ostrich races to one hour past the conclusion of those races.

Traffic:

- Development and provision of an event traffic plan
- Provision of all traffic control equipment necessary to meet the event traffic plan

Fire:

- One (1) on-duty company consisting of four (4) individuals, two of which will be paramedics
- Two (2) person bike team of which one will be a paramedic
- One (1) command officer

Police:

- 150 officers distributed over the course of the event to include appropriate command staff

Downtown Redevelopment:

- Downtown Redevelopment Manager will provide the Chamber the opportunity to hang street light banners along the Arizona Avenue/Downtown corridor.
- The Chamber will work with Downtown Redevelopment Manager to schedule the installation and removal of the street light banners.
- The Chamber will incur all costs for the installation, removal and printing of the banners.

- 1.7 City's Policies and Procedures. The Chamber and UF agree to observe and abide by the terms and conditions of (i) this License and each Exhibit hereto and (ii) all City laws and regulations, policies and procedures, including without limitation those approved by the City Council, City Management, and City Fire, City Police, City Community Services and all provisions of the City Charter and City code, which are incorporated herein with this reference.

SECTION 2. REQUIRED CONDITIONS BEFORE THE FESTIVAL

- 2.1 No later than 5:00 p.m. February 15, 2013, UF shall submit the information required in Exhibits B and C, attached hereto and incorporated herein, to the City and the Chamber. Failure to do so will mean that the City reserves the right, in the protection of health, safety and welfare, to prohibit or shut down activities not set forth in this License and in compliance with the submitted information.

The City will sign off and date, in writing, all submitted UF plans and details. Once that has occurred, UF and Chamber will not be allowed to alter the plans and details, unless the City signs off in writing. Any changes without these written approvals shall be disallowed.

2.2 No later than February 15, 2013, UF shall have submitted a copy of the Contingency Plan required by the Chamber Agreement, Section 4(r)(viii).

SECTION 3. INSURANCE AND INDEMNIFICATION

3.1 Insurance.

A. No later than February 15, 2013, UF shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona.

B. UF and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.

C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect UF from liabilities that might arise out of the performance of the Agreement services under this Agreement by UF, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and UF is free to purchase any additional insurance as may be determined necessary.

E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve UF from, nor will

it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.

F. Use of SubContractors: If any work is subcontracted in any way, UF shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of UF in this Agreement. UF is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

3.2 Minimum Scope And Limits Of Insurance. UF shall provide coverage with limits of liability not less than those stated below.

A. *Commercial General Liability-Occurrence Form.* UF must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$3,000,000 for each occurrence, \$6,000,000 Annual Aggregate, with coverage for death, personal injury, property damage, operations, independent contractors, products completed operations, and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

1. *Liquor Liability Coverage.* In addition, UF must maintain liquor liability coverage either through a separate policy or a special endorsement upon the commercial general liability policy described above. Such coverage shall be in a minimum amount of \$2,000,000 per occurrence.

B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* UF must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on UF owned, hired, and non-owned vehicles assigned to or used in

the performance of UF's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

C. *Workers Compensation and Employers Liability Insurance:* UF must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of UF employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit.

3.3 Additional Policy Provisions Required.

A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.

B. *City as Additional Insured.* The policies described above are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of UF including the City's general supervision of UF, Products and Completed operations of UF, and automobiles owned, leased, hired, or borrowed by UF.

2. UF's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.

3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by UF even if those limits of liability are in excess of those required by this Agreement.

4. UF's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by UF and must not contribute to it.

5. UF's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Coverage provided by UF must not be limited to the liability assumed under the indemnification provisions of this Agreement.

7. The policies must contain a waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by UF for the City.

8. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, UF must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.

9. All Certificates must cite a 30-day advance notice of cancellation provision. If the ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any

kind upon the company, its agents or representatives” must be deleted. Certificate forms other than the ACORD form must have similar restrictive language deleted.

- a. UF shall provide evidence of such certificates of insurance and coverage by submitting such evidence to the City no later than January 7, 2013 in a form acceptable to the City.
- b. UF shall further provide copies of the certificates of insurance required between Chamber and UF in the amounts set forth in the Production Services Agreement, Section 7. This Agreement is attached hereto as Exhibit D.
- c. UF agrees to obtain and keep in full force and effect the insurance coverage required herein from March 3, 2013 at least and until March 12, 2013.

3.4 Indemnification. UF and the Chamber separately and jointly agree to and shall indemnify and hold harmless the City of Chandler, its Mayor and City Council, appointed boards, support organizations, and commissions, officials, officers, employees, and volunteers individually and collectively, from and against all fines, suits, claims, demands, actions and liability, loss, theft, damage, costs and/or expenses (including reasonable attorneys’ fees and costs of claim processing, investigation, and litigation)(hereinafter referred to as “claims”) for bodily injury or personal injury (including death) or loss or damage to tangible or intangible property arising out of or related to UF and/or the Chamber’s use of the Park and Event Area. It is agreed that UF and the Chamber will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. The obligations of the Chamber and UF under this Paragraph shall not in any way be affected by the refusal of any insurance carrier to perform any obligation on its part to be performed under insurance policies affecting the Park and Event Area. If any

claim, action or proceeding is made or brought against the Chamber or UF by reason of any event which is the subject of the Chamber's or the UF's foregoing indemnity, then, upon demand by the City, the Chamber or UF, or both the Chamber and UF, at each of their sole cost and expense, shall resist or defend such claim, action or proceeding in City's name. Notwithstanding the foregoing, the City may engage its own attorneys to defend it or to assist in its defense and the Chamber and UF shall pay the reasonable attorney's fees, costs and disbursements. In consideration for the use and occupancy of the Park and Event Area, UF and the Chamber agree to waive all rights of subrogation against the City its Mayor and City Council, appointed boards, support organizations, and commissions, officials, officers, employees, and volunteers individually and collectively, for losses arising from the use, occupancy or condition of the Park and Event Area pursuant to this Agreement.

- 3.5 Limitation of Liability. In no event shall the City be liable for any indirect, consequential, incidental damages or lost profits arising out of this License or the Chamber Agreement unless such loss arises from the gross negligence, willful misconduct, or reckless disregard by the City or its agents.

SECTION 4. COMPLIANCE WITH LAWS, POLICIES AND PROCEDURES

- 4.1 Compliance with Laws. The Chamber and UF shall comply with all laws, policies and procedures, regulations, safety and fiscal procedures, laws, ordinances, and statutes, applicable to the use of the Park and Event Area. These shall include without limitation (a) obtaining all applicable permits and licenses, (b) paying all applicable taxes, (c) complying with all the terms set forth herein of Exhibits B and C of this Agreement and (d) all other reasonable requirements of the City.

- 4.2 Dangerous Use. If the City reasonably determines in its sole discretion that the use to which the Park and Event Area shall be put by the Chamber and UF will or is likely to create a dangerous or unsafe condition, or will or is likely to condition improper, incendiary or dangerous to the public health, safety or morals, or will or is likely to endanger or deteriorate the Park and the Event Area or any part thereof by fire, water or other means of any nature, or if the Chamber or UF violates any of the provisions hereof, then and in that event the Chamber and UF agree that this Agreement may be summarily cancelled by the City without any advance notice whatsoever to the Chamber or UF. In the event of cancellation of this Agreement, the Chamber and UF understand and agree that no liability whatsoever shall attach to the City by reason of such cancellation.
- 4.3 Non Allowed Activities and Vendors. Absolutely no motorized sports events shall be allowed at the 2013 Festival, other than those rides or events specifically agreed to in writing in the submissions required in Exhibits B and C. Once the City has received Exhibits B and C and agreed to the events in writing, no events or rides or performances or anything of the like, shall be allowed thereafter unless agreed to in writing by the Parties and incorporated herein. Any effort to provide such entertainment shall not be allowed and the City will invoke its authority to shut down the entertainment or activity.
- 4.4 Non-Discrimination. The Chamber and UF, in their use of the Park and Event Area shall not discriminate against any person, entity, or group because of age, race, sex, creed, color, religion, or national origin, nor otherwise commit an unfair employment practice. The Chamber and UF shall comply with the Americans with Disabilities Act.
- 4.5 Drug-Free Work Program. The Chamber and UF are hereby advised the City has adopted a policy establishing a drug-free work place for itself and as a requirement for

sellers-contractors doing business with the City to ensure the safety and health of employees working on City license agreements, contracts, and/or projects. Failure of the Chamber to require a drug-free work place in accordance with the City's policy may result in termination of this License.

SECTION 5. GENERAL CONDITIONS

- 5.1 Force Majeure. Failure to perform by the City due to a Force Majeure Event shall not be deemed a violation or breach hereof. A Force Majeure Event may include without limitation, fire, flood, earthquake, strikes or work stoppages, any interruption of utility services, suspension or interference with performances caused by acts of God or acts of public enemy, riots or similar occurrences, order of court or administrative agencies, including orders of the City Police Department or the City Fire Department. In the event of an occurrence as described herein, the License Period shall terminate and the UF and the Chamber shall only be required to pay any and all fees charged for the use of the Park and Event Area up to the time of such termination. The City shall have no liability for any costs, expenses, or other liability incurred by the Chamber or UF as a result of such Force Majeure Event.
- 5.2 Entire Agreement, Amendments. This License, any exhibits to this License, and the City's charter, code, policies, procedures and regulations constitute the entire agreement of the parties with respect to the subject matter hereof and except as otherwise specified in this License, all prior and contemporaneous agreements, representations, negotiations and understandings of the parties are superseded by and merged into this License. Any modifications, additions, or other amendments to this License must be in writing and signed by the parties.

- 5.3 Assignment. The Chamber and UF shall not assign or otherwise transfer this License or any of its rights or duties under this License without first obtaining the written consent of the City, which may be granted or denied in the City's sole discretion. Any assignment, transfer, pledge, or mortgage of this License, by the Chamber or by UF or by operation of law in violation of this Section 5.3 shall be void.
- 5.4 Attorneys' Fees. In the event any action at law or equity shall be instituted between the parties in connection with this License, the party prevailing in such action shall be paid from the other party all of its costs including reasonable attorneys' fees and court costs.
- 5.5 Authorization. The parties to this License represent and warrant that the persons executing this License on their behalf have full authority to bind the respective parties.
- 5.6 Captions. The captions used in this License are for convenience only and are not a part of this License and do not limit or amplify the terms and provisions hereof.
- 5.7 Construction of License. This License has been arrived at by negotiation between the City and the Chamber and the UF. As such, any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this License. Further, the language in all parts of this License shall in all cases be construed as a whole and in accordance with its fair meaning.
- 5.8 Governing Law. This License shall be governed by and construed under the laws of the State of Arizona, including the applicability of A.R.S. 38-511. If any action is brought to construe, interpret, or enforce any provision of this License, the Parties irrevocably consent to exclusive jurisdiction and venue in Maricopa County, Arizona.
- 5.9 No Third Party Beneficiaries. The City, UF and the Chamber acknowledge and agree that the terms, provisions, and conditions hereof are for the sole benefit of, and may be

enforceable solely by, the City and the Chamber. No third party beneficiaries are intended to be created under this License.

- 5.10 Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this License shall become illegal, null or void or against public policy, the remaining portions of this License shall not be affected thereby and shall remain in full force and effect.
- 5.11 Successors and Assigns. Except as provided in Section 3 above, all of the terms and conditions of this License shall inure to the benefit of and shall be binding upon the successors in interest of each of the parties hereto.
- 5.12 Surviving Provisions. Any provision of this Agreement which reasonably should survive the expiration, cancellation, or other termination of this Agreement, shall survive.
- 5.13 Notices. All notices and other communications shall be in writing and shall be delivered personally, or by facsimile or electronic mail to the following party at the following address:

Universal Fairs
Mark Lovell
PO Box 1327, Cordova, TN 38088
Office (901) 867-7007
Cell (901) 647-3047
Email Address – mark@exposouth.com

The Chamber of Commerce:
Terri Kimble
25 South Arizona Place, Suite 201, Chandler, AZ 85225
Office (480) 963-4571
Email Address – terri@chandlerchamber.com

For Community Services:
Hermelinda Llamas
P.O. Box 4008, MS 500, Chandler, AZ 85244
Office (480) 782-2665
Cell (480) 276-0285

Email Address – Hermelinda.Llamas@chandleraz.gov

In Witness Whereof, the parties have executed this Agreement as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have executed this contract on:

CITY OF CHANDLER:

CHANDLER CHAMBER OF COMMERCE,
a Non-profit Corporation

By: _____
Mayor Date

By: *Ferri Kimbber*
Signature

Approved as to form:

President & CEO
Print Name: *Ferri Kimbber*
Title: *President / CEO*

City Attorney by: *[Signature]*

UNIVERSAL FAIRS

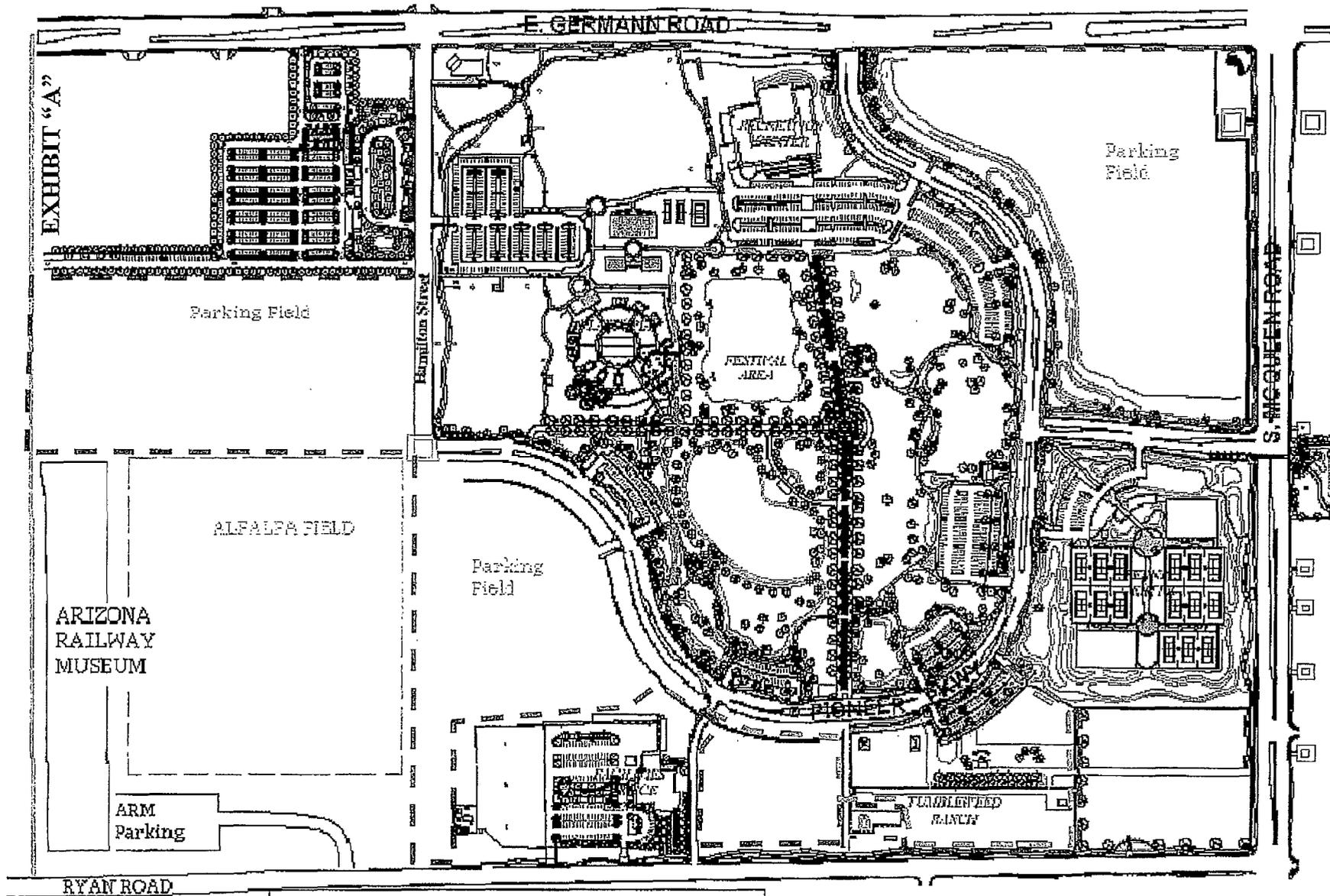
ATTEST:

City Clerk

By: *[Signature]*
Signature

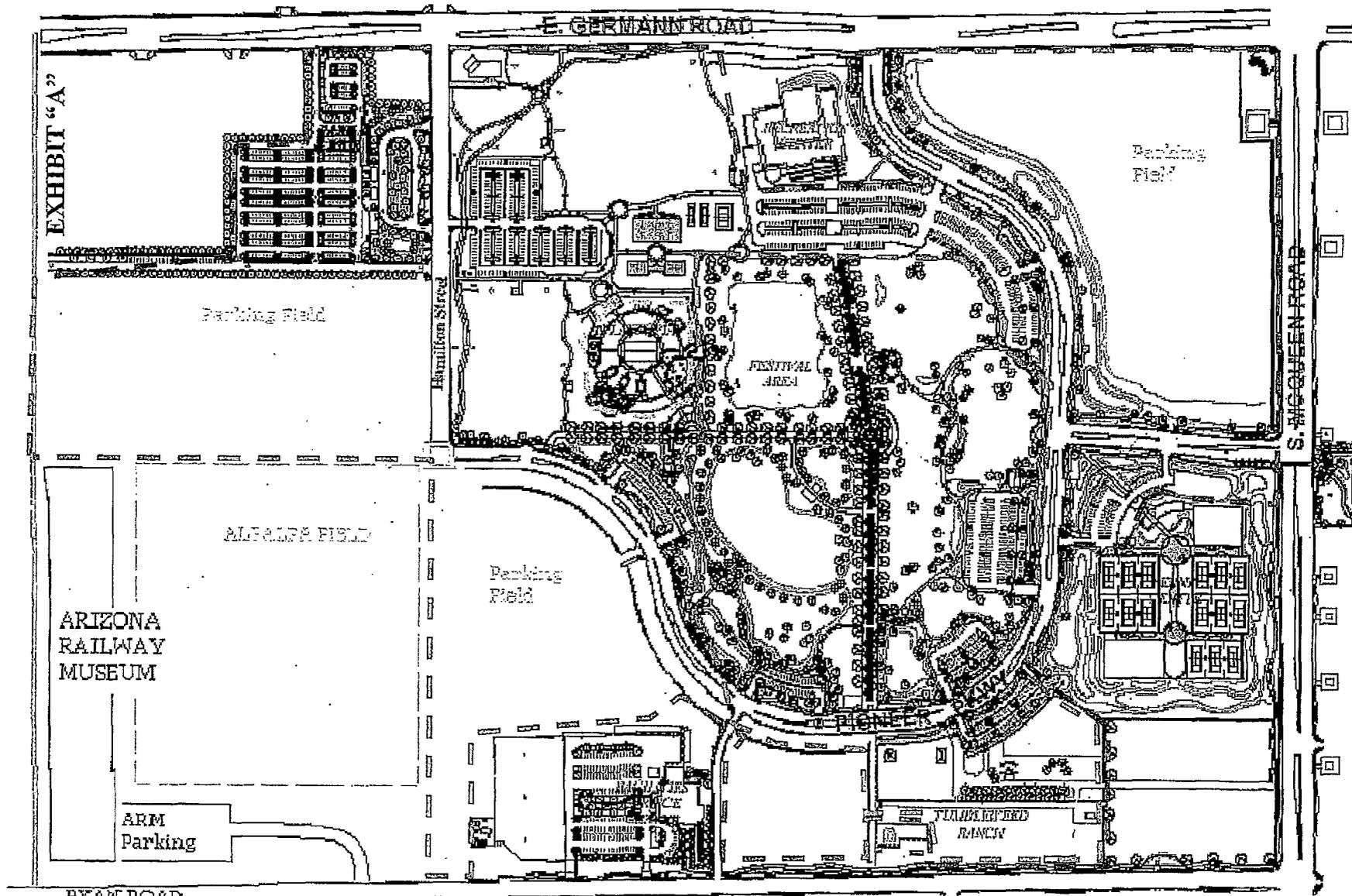
Managing Member
Print Name: *Mark Lovell*
Title: *President*

16569067



2013 Ostrich Festival
 At Tumbleweed Park – March 3-7 and March 11-12

- Non-Festival Day Usage Area
- Festival Grounds (Booths, rides, etc.)



2012 Ostrich Festival
 At Tumbleweed Park – March 8-10

- Festival Days Usage Area
- Festival Grounds (Booths, rides, etc.)
- Closed Areas to Festival Guests During Festival

EXHIBIT B

OSTRICH FESTIVAL 2013 LICENSE AGREEMENT

No later than February 15, 2013 at 5:00 p.m., UF shall provide to the City and the Chamber the following:

Initial MF

a) A detailed and diagrammed map and site plan with specifications about all the planned events, entertainment and all activities at the Festival. This plan shall include the agenda events, including show times and location;

Initial M

b) A detailed security and fire plan to the satisfaction and written approval of the City's Police and Fire Departments (the City PD and FD will reserve the right to make changes before or during the Festival as necessary to protect safety and welfare) and an identification of the lighting company on standby during the Festival;

Initial MF

c) A detailed parking plan to the satisfaction of the City's Community Services and Police Department;

Initial MF

d) A detailed plan showing the exact fencing, including types and location, and lighting plans (including the lighting company on standby);

Initial M

e) An exact location for the command post for the Festival and showing emergency exits; and

Initial M

f) A detailed plan showing the location of all barricades in and around the Festival.

Additionally, the City will not allow open flames for cooking or entertainment unless the activity meets International Fire Code of 2009 Edition requirements. Any entertainer using open flames must perform on a non-combustible surface, with spotters equipped with fire extinguishers and a fenced separation of not less than 20 feet. All vendors must comply with the IFC and City requirements. If re-inspection is needed, the City will be charging re-inspection fees.

EXHIBIT C

OSTRICH FESTIVAL 2013

The Chandler City Fire and Police Departments shall require the following:

1. A current annual inspection sticker and/or inspection report for each carnival ride must be on file with UL. Further, a copy must be available on-site for the Fire Department to review when the rides are set up or upon the initial inspection at the festival.
2. All carnival rides must have a fire extinguisher mounted on the ride. Each extinguisher must have affixed, a current annual service tag provided by a certified company.
3. Access roadway leading to recreational vehicles parked on site to be continuously kept clear of all obstructions.
4. All food service units shall have a 2a-10bc UL minimum rated fire extinguisher mounted in the unit. Each extinguisher must have affixed a current annual service tag provided by a certified company. All units with overhead fire extinguishing systems shall have a tag on the system indicating that the system was inspected and serviced by a certified company within the preceding six (6) months. An open flame permit for cooking of food(s) is required by the Fire Code at a cost \$85.00. UF will purchase one permit to cover all food vendors in attendance at the Ostrich Festival. UF will assume all responsibilities that each food vendor abides by all regulations set forth by the International Fire Code of 2009
5. Initial fire inspections will be conducted from noon on Wednesday March 6, 2013 and continue during business hours until noon of the Friday March 8, 2013. Any re-inspection necessitated by a violation pertaining to issues specifically addressed in this document will result in a re-inspection fee of \$40.
6. No later than February 15, 2013 UF must supply to the Fire Department a map detailing the following:
 - a. Site numbers and respective names for each vendor space.
 - b. Fencing locations (with emergency evacuation points)
 - c. Portable lighting locations
 - d. Controlled access points
 - e. Portable restroom locations
 - f. Entertainment locations
 - g. First aid tent
7. Propane gas tank(s) used for cooking in the food area shall be secured to prevent the tank(s) from being knocked over.

Initial 

8. Tents and canopies shall be a minimum of 20 feet apart and have the current flame retardant certification available for review during the inspection period. Tent inspection and permit fee is required for any tent of 400 square feet or more. The fees are \$170.00 for the first tent or canopy and \$40.00 for each additional tent or canopy. Tents in size of 100 square feet (10 x 10 or commonly referred to as "pop-ups") may be placed in a row as long as a minimum of five feet separate each tent. If 4 or more tents (10 x 10) are placed together and are attached to each other, they must follow the requirements set forth monitoring a canopy of 400 square feet. All tents and canopies must be secured via weights; ground stakes are prohibited, on asphalt and concrete; but stakes are allowed on grass and/or dirt areas.
9. Artistic performances during the festival involving open flames may be permitted provided that they are first reviewed and approved by the Fire Department. These performances must be stationary such as on a stage and must meet the requirements of the International Fire Code, 2009 edition, section 308.3.2, The National Fire Protection Association 160 and any applicable city ordinances and amendments. Some of these requirements included but are not limited to fire extinguishers positioned on stage, extinguishers manned by non-performers, the audience kept twenty feet from the performance, etc. Roving theatrical performances involving open flames throughout the crowds are not permitted due to the possible impact on public safety. There are no exceptions to this.
10. Spectators, under the age of 12, shall not be allowed to "ride" any of the carnival animals without the direct supervision of a parent or guardian.

Initial 

11. UF shall provide to the Fire, Police and Risk Management Divisions an emergency phone contact list (cell phone number) for every vendor at the festival by February 15, 2013.

Daily verification sheet attached

12. Fire and Police assets are in place and ready to conduct operations at least 15 minutes prior to the scheduled opening times each day. The public opening shall only be held up if Fire and/or Police deem on issue the event grounds as unsafe to the public. Fire and/or Police liaisons on duty in the command post will notify UF and Chamber of the issue to keep the event opening delayed. Gates will be held until the issue is resolved or deemed safe for the public to enter. UF and Chamber shall provide a high quality professional grade radio with at least one spare battery per radio for each operational area of the Festival, including all parking and event staff on duty and the command post for the duration of the Festival.

Initial 

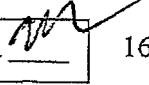
13. All events planned at the festival shall be reviewed and approved by the City of Chandler Fire, Police and Community Services Department no later than February

15, 2013. Any events submitted after that date shall not be allowed to operate at the Festival. The final decision concerning events submitted after this period will be at the sole discretion of the City of Chandler.

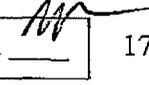
14. UF, the Chamber and the City agree that if the City believes that a vendor or event may seriously impact public safety, the City Fire or Police Department has the authority to immediately cause that activity to stop. If necessary the vendor/entertainer will be directed to leave the venue. In these rare cases, the City Fire or Police Department will immediately notify UF and responsible chamber of commerce member of the name of the vendor / event and the reason for the cease and desist action.

15. The City of Chandler though the Fire and Police Departments reserves the right to suspend festival activities should environmental conditions become a threat to public safety. These conditions include but are not limited to:

- a. Thunder audible at the venue
- b. Lightning suspected or estimated to be within 15 miles of the venue
- c. Wind speeds exceeding minimum safe tolerance for rides, including inflatable attractions as indicated by ASTM standards or the specific rides safety information.
- d. Civil unrest

Initial 

16. No later than February 15, 2013, UF and the Chamber shall submit a complete and accurate description of the parking areas, plans for routing pedestrian traffic, exact parking attendant staffing counts, specific details about fencing for pedestrian control and plans for portable lighting and fencing for parking, including, but not limited to, Germann Road.

Initial 

17. No later than February 15, 2013, UF and the Chamber shall submit a detailed private security plan for the Festival, including, but not limited to, staffing levels, credentials and planned staffing locations.

16571287

