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#42
DEC 10 2015
Chandler
All-America City
2010

MEMORANDUM **Community and Neighborhood Services** **Memo No. CNS16-042**

DATE: **DECEMBER 10, 2015**

TO: **MAYOR AND COUNCIL**

THRU: **MARSHA REED, ACTING CITY MANAGER** *MR*
NACHIE MARQUEZ, ASSISTANT CITY MANAGER *NM*
JENNIFER MORRISON, COMMUNITY AND NEIGHBORHOOD SERVICES *JM*
DIRECTOR
BARBARA YOUNG, RECREATION MANAGER *BY*

FROM: **HERMELINDA LLAMAS, SPECIAL EVENTS COORDINATOR**

SUBJECT: **LICENSE AGREEMENT WITH CHANDLER CHAMBER OF COMMERCE
FOR USE OF TUMBLEWEED PARK IN CONJUNCTION WITH THE 2016
OSTRICH FESTIVAL**

RECOMMENDATION: Staff recommends City Council authorize a License Agreement with the Chandler Chamber of Commerce for Use of Tumbleweed Park in conjunction with the Ostrich Festival from Friday, March 11, 2016, to Sunday, March 13, 2016.

BACKGROUND: The Chandler Chamber of Commerce (CCC) organizes, sponsors, and conducts the Ostrich Festival using Tumbleweed Park as its event venue. The CCC has hired a new local producer, Steve LeVine Entertainment, to produce the event on their behalf. This agreement is for a one year term covering the 2016 event year.

The 2016 event is proposed to take place from Friday, March 11, 2016, to Sunday, March 13, 2016 with set up commencing on Sunday, March 6, 2016, and cleanup to be completed by Tuesday, March 15, 2016. 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 attached license agreement was prepared with input from the CCC and the following City Departments: Police, Fire, Health & Medical, Community and Neighborhood Services, and the City Attorney's Office. 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.

Memo No. CNS16-042

December 10, 2015

Page 2

7. Specification of timelines for identifying and notifying the CCC of damage to the site as a result of the festival and establishment of a remediation plan.

PROPOSED MOTION: Move City Council authorize a License Agreement with the Chandler Chamber of Commerce for Use of Tumbleweed Park in conjunction with the Ostrich Festival from Friday, March 11, 2016, to Sunday, March 13, 2016.

Attachment: License Agreement with Chandler Chamber of Commerce

LICENSE AGREEMENT FOR CHANDLER OSTRICH FESTIVAL

This License Agreement (the "License") is entered into on Dec 2, 2015, between and among the City of Chandler, a municipal corporation of the State of Arizona ("City"), the Chandler Chamber of Commerce ("Chamber") and Steve LeVine Entertainment & Public Relations ("SLE") (collectively the "Parties"). The City hereby grants this License to the Chamber and SLE for use of the Tumbleweed Park (the "Park"), in an Event Area ("Event Area"), as described and shown herein in Exhibit A for the 2016 Ostrich Festival ("Festival"), subject to the following terms conditions, and restrictions:

Whereas, historically, the City has agreed to allow the Chamber and its vendor to hold the Ostrich Festival on City property;

Whereas, in 2016, the Chamber and SLE are interested in holding the Ostrich Festival at the 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 SLE for the right to use the Park and Event Area for the purpose of conducting the 2016 Ostrich Festival.

SECTION 1: GRANT OF LICENSE; FEES

1.1 Grant of License, Fees. The City grants the Chamber and SLE 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 SLE acknowledge and agree that, in addition to the License Fee, there are additional fees associated with the use of the Park and Event Area as set forth herein.

The Chamber and SLE 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) twenty-one days prior to the first date of the Chambers' and SLE's use of the Event Area for the Festival or (ii) no later than 30 calendar days after the Chamber's and SLE's receipt of an invoice requesting such fees or charges.

Additional fees for equipment rentals, services, permits and licenses may include, but are not limited to:

- a. Equipment Rentals Portable Stage,
- b. Services – Utilities,
- c. Permits – Open Flame, Carnival/Amusements
- d. License – Non-Profit Solicitor's License, plus another other regulatory license or permit required
- e. Clean up Fees, if Chamber & SLE do not clean Park adequately [see Subsection 1.3(d)].
- f. Repair Costs, if damage occurs during Festival [see Subsection 1.3(e)]

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

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

- a. Set up shall be allowed beginning no earlier than 6 a.m. on Sunday, March 6, 2016, , and after completion of the Pre-Event Walk Through as described in Section 1.4 of the License.

- b. Festival shall be allowed to operate from March 11, 2016 through March 13, 2016.
- c. All vendors' post-Event 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 15, 2016.
- d. SLE and the Chamber shall clean-up the Park and Event Area, to the City of Chandler Community and Neighborhood Services Department's satisfaction, no later than 5 p.m. on Tuesday, March 15, 2016 for the 2016 Ostrich Festival. If SLE 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 SLE the cost for the clean-up.
- e. SLE 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 SLE may use the Event Area for the 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 SLE agree to take the Park and Event Area in "as in" condition and the Chamber and SLE agree to put the Park and Event Area in the same condition upon termination of the License.

- a. The Parties agree that a representative from the City, the Chamber, and SLE will attend a pre-event facilities walk-through ("Pre-Event 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, Tuesday, March 15, 2016, or after the Park and facilities have been completely vacated, whichever occurs first, a representative from the City, the Chamber, and SLE will attend a post-event facilities walk-through ("Post-Event Walk-Through") where the status of the facilities will be documented identifying any damage that occurred during the event. The City will develop a remediation plan and the Chambers and SLE shall agree to the remediation plan at that time. Should a SLE or Chamber representative not attend the Pre-Event and/or Post-Event Walk-Throughs, the Chamber or SLE representative will act on behalf of non-attending Party and the non-attending Party agrees to be bound by the terms of the remediation plan under these circumstances. The City shall notify and invoice the Chamber and SLE within 30 days of the Post-Event Walk-Through of the repair costs from the identified damage in the form of an invoice. The Chamber and SLE are jointly and severally liable for all costs under this License.

- 1.5 Nature of License. The Chamber and SLE 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 License by SLE 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 SLE, the Chamber and the City of Chandler. Nothing set forth in this License creates a tenancy between the City and the Chamber, creates a tenancy between the City and SLE, or grants the Chamber or

SLE 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 SLE and any of the Chamber's and SLE'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 SLE 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 requested, or required by the Chamber and SLE other than agreed to herein will be paid for by the Chamber and SLE. Based on available resources, "normal and customary" shall be defined as the following for the 2016 Ostrich Festival:

Community and Neighborhood Services:

- Sufficient staff to prepare the park prior to the start of event set up, including:
 - Overseeding of grass within the festival area
 - 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
- Provide and set up the Showmobile stage
- Provide and place ten 200 seat bleachers and two portable 450 seat bleachers
- Providing a Special Events Coordinator staff person for the duration of the festival

- Providing 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.
- Provide two (2) park banner holders at the park for Chamber provided signs

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:

- 70-80 officers distributed over the course of the event to include appropriate command staff.

Downtown Redevelopment:

- Downtown Redevelopment Manager or assigned representative 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 or assigned representative 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 SLE 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 and Neighborhood Services and all provisions of the City Charter and City code, which are incorporated herein by this reference.

SECTION 2: REQUIRED CONDITIONS BEFORE THE FESTIVAL

2.1 For the 2016 Ostrich Festival, no later than 5:00 p.m. February 19, 2016, SLE and the Chamber shall submit the information required in Exhibits B and C, attached hereto and incorporated herein, to the City. The City reserves the right in the interests of the protection of the public's 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 SLE and Chamber plans and details. Once that sign-off has occurred, SLE and Chamber will be prohibited from altering the plans and details submitted and approved by the City unless the City approves any change in writing. Any changes without these written approvals shall be unauthorized.

2.2 No later than February 19, 2016 for 2016 Ostrich Festival, SLE shall have submitted a copy of the Emergency Contingency Plan required by the agreement between the Chandler Chamber of Commerce, Inc. and Steve LeVine Entertainment & Public Relations.

SECTION 3: INSURANCE AND INDEMNIFICATION

3.1 Insurance.

- a. No later than 60 days prior to the Festival load-in date for the 2016 Ostrich Festival, SLE 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. Possessing a current A.M. Best, Inc. rating of A-7 or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City of Chandler. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required workers' compensation coverage.
- b. SLE shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this License are satisfied, the insurances set forth below.
- c. The insurance requirements set forth below are minimum requirements for this License and in no way limit the indemnity covenants contained in this License.
- d. The City in no way warrants that the minimum insurance limits contained in this License are sufficient to protect SLE from liabilities that might arise out of the performance of the License services under this License by SLE, its agents, representatives, employees, subcontractors, and SLE 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 License or failure to identify any insurance deficiency will not relieve SLE from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this License.

f. Use of Subcontractors: If any work is subcontracted in any way, SLE shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of SLE in this License except Subcontractors' requirements for Commercial Liability Insurance shall be a limit of not less One Million Dollars (\$1,000,000) for each occurrence, Two Million Dollars (\$2,000,000) Aggregate, with coverage for death, personal injury, property damage, operations, independent contractors, products completed operations, and advertising injury. Unless a subcontractor is providing alcoholic beverages during the Festival, such subcontractor shall not have to provide Liquor Liability Coverage. SLE is responsible for executing the License with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

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

a. *Commercial General Liability-Occurrence Form.* SLE must maintain "occurrence" form Commercial General Liability insurance with a limit of not less Five Million Dollars (\$5,000,000) for each occurrence, Six Million Dollars (\$6,000,000) 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, SLE 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 Five Million Dollars (\$5,000,000) per occurrence for the contract year.
- b. ***Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:*** SLE must maintain Business/Automobile Liability insurance with a limit of One Million Dollars (\$1,000,000) each accident on SLE owned, hired, and non-owned vehicles assigned to or used in the performance of SLE's work or services under this License. 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:*** SLE must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of SLE employees engaged in the performance of work or services under this License and must also maintain Employers' Liability insurance of not less than One Hundred Thousand Dollars (\$100,000) for each accident, One Hundred Thousand (\$100,000) disease for each employee and Five Hundred Thousand (\$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, volunteers, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of including the City's general supervision of , Products and Completed operations of , and automobiles owned, leased, hired, or borrowed by .
2. 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, volunteers, and employees must be additional insureds to the full limits of liability purchased by even if those limits of liability are in excess of those required by this License.
4. SLE's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, volunteers, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, volunteers, and employees shall be in excess of the coverage provided by SLE and must not contribute to it.

5. SLE'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 SLE must not be limited to the liability assumed under the indemnification provisions of this License.
7. The policies must contain a waiver of subrogation against the City, its officers, officials, agents, volunteers, and employees, for losses arising from Work performed by SLE 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 License. If any of the required policies expire during the life of this License, SLE 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. SLE shall provide evidence of such certificates of insurance and coverage by submitting such evidence to the City no later than 60 days prior to the Festival load-in date for the 2016 Ostrich Festival in a form acceptable to the City.
- b. SLE agrees to obtain and keep in full force and effect the insurance coverage required herein from March 6, 2016 at least and until March 15, 2016 for the 2016 Ostrich Festival.

3.4 Indemnification. To the fullest extent permitted by law, SLE and the Chamber, and their respective successors, assigns and guarantors, shall indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Contract or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by SLE or the Chamber, or any of their respective subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or

incidental to this Contract, including but not limited to, any injury or damages claimed by any of SLE's or the Chamber's, and their respective subcontractors', employees.

- 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.

SECTION 4: COMPLIANCE WITH LAWS, POLICIES AND PROCEDURES

- 4.1 Compliance with Laws. The Chamber and SLE 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 License 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 SLE will or is likely to create a dangerous or unsafe condition, or will or is likely to create a 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 SLE violates any of the provisions hereof, then and in that event the Chamber and SLE agree that this License may be summarily cancelled by the City without any advance notice whatsoever to the Chamber or SLE. In the event of cancellation of this License, the Chamber and SLE understand and agree that no liability whatsoever shall attach to the City by reason of such cancellation.

- 4.3 Non Permitted Activities and Vendors. Absolutely no motorized sports events shall be allowed at the 2016 Ostrich 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 SLE, 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 SLE shall comply with the Americans with Disabilities Act.

4.5 Drug-Free Work Program. The Chamber and SLE 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 SLE 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 included by the Chamber or SLE 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 SLE 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 SLE 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 SLE. 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, SLE 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 Parties. No third party beneficiaries are intended to be created under this License.
- 5.10 Severability. If any provision of this License is declared invalid, illegal or unenforceable, that provision shall be severed from the License, and the remaining provisions shall otherwise remain in full force and effect to the fullest extent permissible by law, except if the remaining portions of the License do not provide one or both of the parties with the essential consideration for entering into this License.
- 5.11 Successors and Assigns. Except as provided in Section 5.3 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. The provisions of this License wherein a Party has explicitly indemnified, made warranty or representations to the other Party shall survive the expiration or earlier termination of this License.

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:

	STEVE LeVINE ENTERTAINMENT & PUBLIC RELATIONS	CHAMBER OF COMMERCE
Contact Person	Steve LeVine	Terri Kimble
Address	7819 E. Paradise Ln Scottsdale, AZ 85260	25 South Arizona Place, #201 Chandler, AZ 85225
Office	(480) 284-6033	(480) 963-4571
Email Address	steve@slentertainment.com	terri@chandlerchamber.com

CITY OF CHANDLER - COMMUNITY AND NEIGHBORHOOD 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

14. Waiver Not Implied. No waiver by a Party of a breach of any of the terms, covenants or conditions of this License shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained.

15. Time of Essence. Time is of the essence of this License and each provision hereof

16. Remedies.

a Cumulative Remedies. In addition to any other rights or remedies, any of the Parties may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for declaratory relief, injunctive relief, specific performance, relief in the nature of mandamus and actions for damages. All of

the remedies described above shall be cumulative and not exclusive of one another, and the exercise of any one or more of the remedies shall not constitute a waiver or election with respect to any other available remedy. The provisions of this section are not intended to modify any other provisions of this License and are not intended to provide additional remedies not otherwise permitted by law

- a Penalties for Noncompliance with Deadlines. In addition to any of the remedies outlined above, the City may impose the following monetary penalties for the other Parties' late submission of items and information required by this License. The penalties shall be paid with the late submittal of the item or information or the City will not accept the item or information.:
- 1 \$100 per late item or piece of information submitted 24 hours or any part thereof after 5:00 p.m. Mountain Standard Time on the date of the deadline.
 - 1 \$200 per late item or piece of information submitted more than 24 hours but less than 72 hours after 5:00 p.m. Mountain Standard Time on the date of the deadline.
 - 1 \$400 per late item or piece of information submitted more than 72 hours but less than 144 hours after 5:00 p.m. Mountain Standard Time on the date of the deadline.
 - 1 \$800 per late item or piece of information submitted more than 144 hours but less than 168 hours after 5:00 p.m. Mountain Standard Time on the date of the deadline.
 - 1 \$800 per late item or piece of information submitted more than 168 hours after 5:00 p.m. Mountain Standard Time on the date of the deadline PLUS \$200 per 24 hour period (or portion thereof) after 168 hours from 5:01 p.m. Mountain Standard Time on the date of the deadline.

IN WITNESS WHEREOF, the parties have hereto have executed this Contract on this

2 day of Dec, 2015.

EXHIBIT A

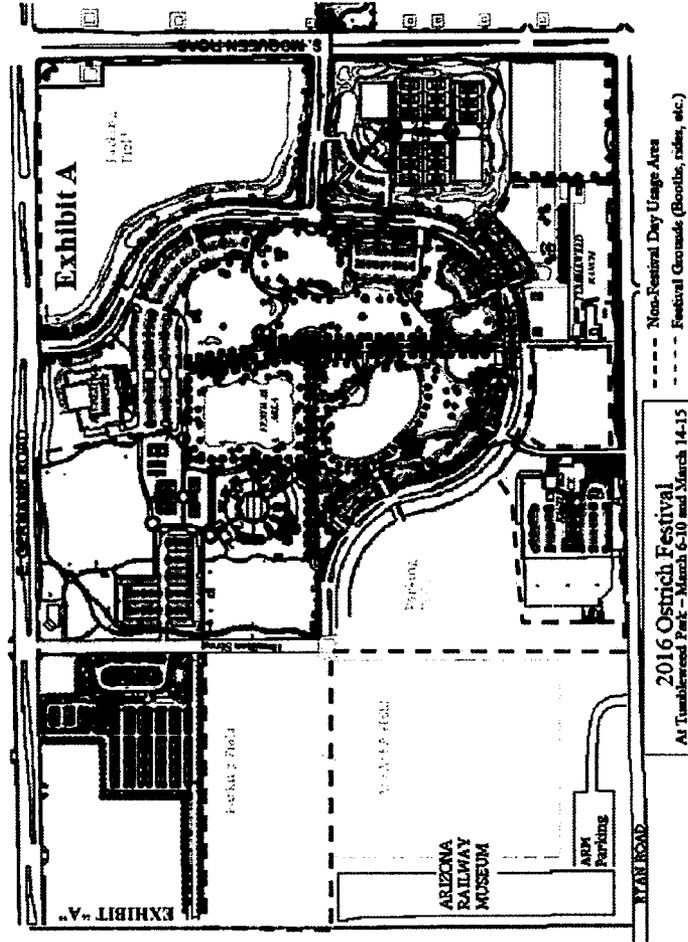
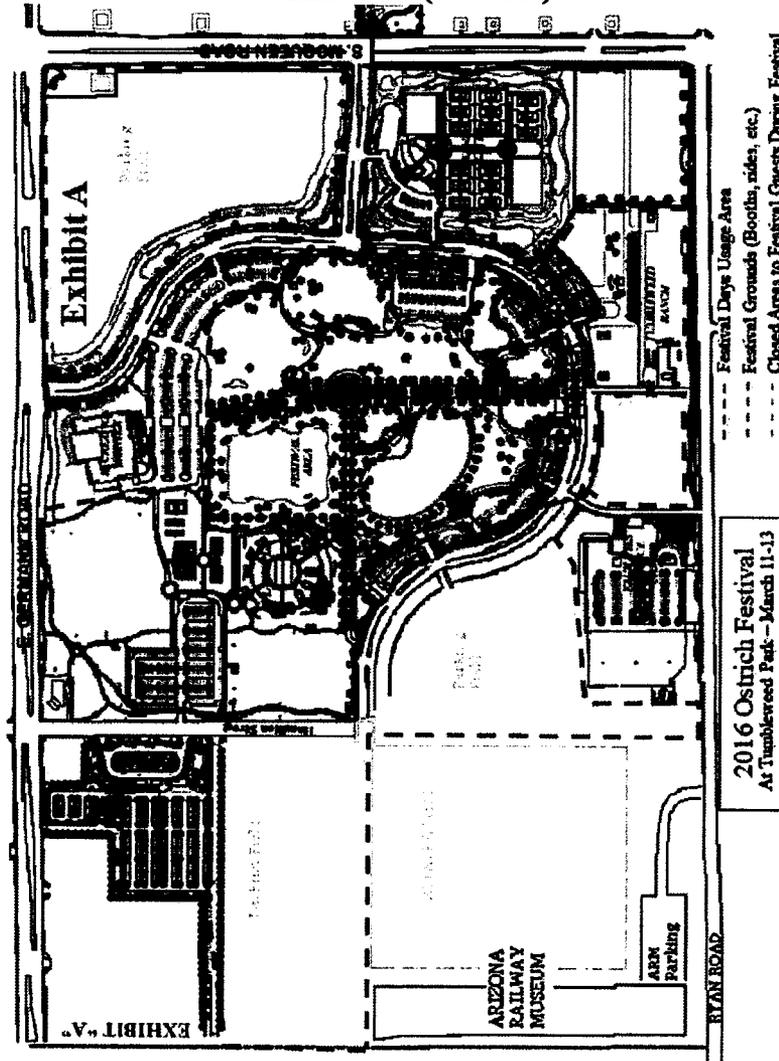


EXHIBIT A (Continued)



2016 Ostrich Festival
At Tumblerswood Park - March 11-13

EXHIBIT B

OSTRICH FESTIVAL 2016 LICENSE AGREEMENT

No later than February 19, 2016 at 5:00 p.m., SLE and the Chamber shall provide to the City the following:

- 1) Basic Event Information:
 - a. Hours of Operations
 - b. Parking Price
 - c. Admission Prices
 - d. Overview of the Load-In Schedule

- 2) A detailed list of all planned entertainment, ostrich races and all activities at the Festival. The list must include the following:
 - a. Entertainment
 - i. Group Names
 - ii. Performance Date (s)
 - iii. Performance Start/End Times
 - iv. Performance Location
 - v. Target Audience/Demographics
 - b. Ostrich Races
 - i. Company Name
 - ii. Race Date (s)
 - iii. Each Race Start/End Times
 - c. All Activities
 - i. Activity Name
 - ii. Activity Description
 - iii. Diagram/Drawing of Activity Area Set-up
 - iv. Performance Date (s)
 - v. Performance Start/End Times

- 3) A detailed and diagrammed map/site plan for the Festival. This map/site plan shall include the following:
 - a. Event Infrastructure
 - i. Fencing
 - ii. Barricades
 - iii. Light Towers
 - iv. Portable Restrooms
 - v. Tents/Canopies
 - vi. ATMs
 - vii. Beer and Wine Locations
 - viii. Vendor Locations
 - ix. Street Closures
 - x. Festival Operations Headquarters
 - xi. First Aid Tents
 - b. Entrances – Public and Staff

- c. Emergency Exits
 - d. Information Booths
 - e. Stage Locations
 - f. All Activities Locations
 - g. Carnival/Amusement Locations
 - h. Ostrich Race Locations
 - i. Parking Locations - Public and Staff
- 4) A detailed security plan to the satisfaction and written approval of the City's Police (the City PD will reserve the right to make changes before or during the Festival as necessary to protect safety and welfare); The detailed security plan must include the following:
- a. Name of the confirmed company and security agency license
 - b. Name of the companies festival point person and phone number
 - c. Staffing levels for each festival day – includes shift times and numbers per shift
 - d. Description of each shifts positions' responsibilities
 - e. Description of the staff's work attire
 - f. Layout with staffing positions and event day headquarters
 - g. List of all prohibited items for the event
 - h. Credential access and samples of all credentials
- 5) A detailed emergency 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); The emergency plan must include the following:
- a. Layout of the following:
 - i. All entrances and exits for public or staff
 - ii. Emergency Exit Locations
 - iii. Fencing Locations
 - b. Description of the Emergency Exit Locations Identification
 - c. General Emergency Action Plan
 - i. Emergency Contacts
 - ii. Evacuation Procedures for:
 - 1. Fire
 - 2. Bomb Threats
 - 3. Other Emergencies
- 6) A detailed parking plan to the satisfaction of the City's Community and Neighborhood Services, Transportation Department and Police Department; The detailed parking plan must include the following:
- a. Name and phone number of festival point person
 - b. Description of the parking areas to be used, should include:
 - i. Public
 - ii. Working Staff
 - iii. Volunteers
 - iv. Vendors
 - v. Entertainment

- vi. Etc.
 - c. Staffing levels for each festival day – Shift numbers and responsibilities
 - d. Layout of parking; include
 - i. Lot Identification Names/Numbers
 - ii. Staffing positions' locations
 - iii. Pedestrian control fencing, including Germann Road
 - iv. Portable lighting
 - v. Set parking rows
 - vi. Set parking ingress/egress routes
 - e. Overflow Parking for Event Days
 - f. Alternative Parking Plan for Inclement Weather
 - g. Dust Control Permit from Maricopa County Air Quality Department
 - h. Plans for maintaining dust control protocol
 - i. Areas include:
 - 1. Sufficient amount of rocks for parking exits
 - 2. Water truck
 - 3. Street Sweepers
 - i. Plans for routing pedestrian traffic
 - j. Plans for routing entertainment drop off/parking
 - k. Samples of all parking passes/vehicular access passes
- 7) A detailed vendor plan submitted to and approved by the City's Tax & Licensing Division, Fire and Police Departments, and Community and Neighborhood Services; The detailed vendor plan must include the following:
- a. Registration of all vendors – nonprofits, informational, food and beverages, merchandise sales, etc.
 - b. Open Flame applications completed by all companies of food, snacks and beverage vendors
 - c. Layout with placement of all vendors, include:
 - i. Identification system of booth to vendors (i.e. numbering system)
 - ii. List of Vendors with company name, onsite point person, cell phone number, and items at booth
- 8) A detailed amusement carnival ride plan submitted to and approved by the Fire Department and Community and Neighborhood Services; The detailed amusement carnival plan must include the following:
- a. Name of confirmed amusement company
 - b. Name of companies festival point person and phone number
 - c. Amusement ride prices
 - d. List of amusement rides being brought to festival; include:
 - i. Ride name
 - ii. Special Rules
 - iii. Height restrictions
 - iv. Number of coupons to ride
 - e. Layout with the placement of the amusement rides

- f. Determination of No Hazard to Air Navigation for Temporary Structure from FAA
- 9) The Chamber of Commerce and SLE shall provide the dates and times that blue staking of the festival grounds has been scheduled.
- 10) SLE and the Chamber of Commerce shall provide to the City of Chandler a festival contact list (cell phone number) for all relative staff, attraction, and subcontractor at the festival.
- 11) Festival liquor license certificate from the City of Chandler and the State of Arizona.

EXHIBIT C

OSTRICH FESTIVAL 2016

The following provisions, guidelines and directives are to operate in conjunction with Exhibit B:

- 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. SLE will purchase one permit to cover all food vendors in attendance at the Ostrich Festival. SLE will assume all responsibilities that each food vendor abides by all regulations set forth by currently adopted IFC.
- 5) Initial fire inspections will be conducted from noon on Wednesday March 9, 2016 and continue during business hours until noon of the Friday March 11, 2016. 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) Propane gas tank(s) used for cooking in the food area shall be secured to prevent the tank(s) from being knocked over.
- 7) Additionally, the City will not allow open flames for cooking or entertainment unless the activity meets currently adopted International Fire Code (IFC) 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.
- 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 800 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 8 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 800 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 with the locations approved by the City of Chandler Parks Division.

- 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 IFC, 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.
- 11) 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 SLE 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. SLE 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.
- 12) All events planned at the festival shall be reviewed and approved by the City of Chandler Fire, Police, Legal, and Community and Neighborhood Services Department no later than February 19, 2016. 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. SLE, 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 SLE 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