

AGREEMENT

THIS AGREEMENT, made effective as of this _____ day of _____, 2023, by and between THE GREAT RENO BALLOON RACE, INC., hereinafter "Promoter", and the County of Washoe on behalf of its Community Services Department and Office of the County Manager, hereinafter "County".

WITNESSETH

WHEREAS, Promoter desires to hold an event called "The Great Reno Balloon Race", hereinafter "Event", a portion of which will involve approximately 100 balloonists and various vendors and spectator participation events such as music and concession stands; and

WHEREAS, County owns and operates a public park facility known as Washoe County Rancho San Rafael Regional Park, hereinafter "Park", which is suitable for the needs of Promoter; and

WHEREAS, County is willing to allow Promoter to use a portion of the Park for the 2023, 2024, and 2025 event years in September, specifically September 8-10, 2023; September 6-8, 2024; and September 5-7, 2025.

NOW THEREFORE, the parties agree as follows:

1. **Right to Use Park.** Promoter shall have the exclusive right to use that portion of the Park designated on the map attached hereto as "Exhibit A", as "Reserved Area", for the purpose of holding the Event upon the conditions set forth herein. It is acknowledged that other portions of the Park may be used simultaneously by other parties and the Promoter's use shall not interfere with such other use.
2. **Access and Parking.** Vehicles will be allowed on those areas not designated as parking areas only for the purpose of moving balloons to be used in the Event into place and servicing them.

Parking for non-participants and for vehicles of participants other than those required for servicing of the balloons will be restricted to those areas in the event map attached hereto as

Exhibit "A" which have been designated as parking areas by the Community Services Department, hereinafter "CSD".

Promoter and its participants will be allowed access to the Park at times when the Park is otherwise closed for the purpose of setting up or servicing the balloons, provided that uniformed security is posted at the Park after the regular closing hour. CSD may, at their discretion, require an identification card or other type of pass to be issued by Promoter to participants in this Event.

Promoter shall have responsibility for and control over the location and manner in which permitted fencing or other barriers are placed around or within the Reserved Area which is set forth in the event map attached hereto as Exhibit "A", and which the location and type thereof has been approved by CSD. Without limiting CSD's power to disapprove, approval may be denied if the proposed use would present a safety hazard or would unreasonably interfere with the use of other areas of the Park by persons not involved with the Event.

3. **Responsibilities of Promoter.** Promoter shall obtain all necessary licenses and permits required by applicable agencies to conduct the Event and shall provide written proof of such licenses and permits to the Department prior to commencement of the Event. Applicant shall meet with the Washoe County Community Services Department to determine the licenses and permits required by that agency. Promoter shall provide such restrooms and sanitary facilities as are required by the Washoe District Health District.

Promoter will be responsible to protect the Park and keep it clean and, at the conclusion of the Event, will return the property to its original condition, normal wear and tear excepted.

Promoter shall be responsible to coordinate the field layout and concession area, for assigning locations for vendors, and or any and all setup for pasture and pavilion event functions. Promoter shall not commence any setup before 8am on the Tuesday, prior to the opening of the event. Additionally, Promoter shall remove, or have removed, from the park all equipment, concessions, and/or other event items prior to 7pm on the Monday following the end of the event. If promoter does NOT have all equipment, concessions and/or all other items removed prior to 7:00pm PST on the Monday immediately following the event, a fee of \$500.00 will be charged as a late fee. An additional \$500.00 will be charged per day for every

day after until all equipment, concessions and all other items are removed and cleanup is complete.

Promoter shall provide a minimum of thirty (30) individuals over the age of eighteen (18) for the purpose of parking cars and directing traffic, from 4 a.m. - 10 a.m., Friday, Saturday and Sunday. These attendants must be equipped with one flashlight and reflective vest per person, the cost of which to be borne by Promoter.

Promoter shall provide staff at gates and at the Washington Street/Rancho San Rafael Drive intersection from the time gates are opened in the morning until 10 a.m. for traffic control and direction.

Promoter shall be required to install temporary fence along the path next to Herman's Pond and across the top by Lear Garden to prevent attendees from walking down the slope.

Promoter shall provide a minimum of twelve (12) people to assist in the cleanup of Park grounds from 7 a.m. - Noon, Friday through Monday. Cleanup shall include litter pickup, emptying garbage cans, and loading garbage into dumpsters.

Promoter shall be fully responsible for the security of their equipment, structures, supplies and venues throughout the set up and take down stages for the Event and during the Event itself, and will provide uniformed security to the extent necessary during the Event.

All Promoter improvements required for the successful completion of the Event shall be Promoter's responsibility and must be authorized in writing by CSD.

Promoter will be responsible to inspect the area of the Park being used by it before it accepts said area from County. Promoter will either notify County of any such hazard(s), and/or take steps to eliminate such hazards which it is reasonably able to fix when presented to it in said area during the inspection. If Promoter is able to, it will take steps to eliminate such hazards presented to it which are necessary to adequately protect Promoter's users of said portion of the Park, without affecting that portion of the Park's normal use. If hazard(s) are identified by Promoter during its initial inspection, it will take reasonable steps to protect its users of said portion of the Park from hazards by either the installation of barricades, coverings,

or warning signs. Inspection of and acceptance of the area of the Park being used for the Event by Promoter, without first providing notice to County of said hazard, constitutes waiver of any subsequent claim(s) related to the condition of that area of the Park being used by Promoter, for which Promoter knew about without first notifying County, or which the could have reasonably discovered during the initial inspection of the Park prior to acceptance of the area of the Park.

Promoter shall provide dumpsters as deemed necessary and agreed by County.

Promoter shall be responsible for arranging for recycling collection services for vendors and attendees. The following items will be collected:

- Beverage containers – plastic bottles, aluminum cans
- Packaging material – cardboard boxes, boxboard, and clean paper

Promoter agrees to arrange for portable recycling containers next to trash cans, and service the containers as necessary. Appropriate signage for vendors and attendees should be set up to provide notice of where to place recyclables.

Promoter shall provide the necessary ample lighting as deemed necessary for safe access by spectators to the event.

County shall provide services as outlined in Section 4 of the Agreement. In the event it becomes necessary for County to provide additional services not otherwise described herein, or if County provides any additional services requested by Promoter, Promoter agrees to pay County its customary charge for such services.

Promoter shall be responsible for providing any additional trash receptacles and liners for receptacles.

Promoter shall provide staff in and around Lear Garden to direct patrons to the proper paths and restrict access to slope and other sensitive areas on days that the parking is used in the pasture above the Arboretum. Staff shall remain in place until the patrons who parked in the pasture are gone.

Promoter shall only permit four (4) or fewer overnight RV/Campers. This includes event security, propane area security, and any other staff who may need to stay overnight. No more than two (2) overnight vehicles will be permitted at the propane refueling area.

Promoter must notify Parks and receive permission for any pre-event balloon launches no later than five (5) days before the requested launch date.

4. **Services by County.** County shall provide Park Ranger staff from Friday through Sunday, from 6 a.m. - 10 a.m.

County shall coordinate diversion of the ditch water in an effort to keep the pasture area dry for set-up and use by Promoter.

County shall clear the brush along the southern fence line of the pasture to allow for access and safety.

County shall mow the northeast pasture near SW corner of McCarran Blvd and Virginia St. prior to the event to allow for parking by the Promoter.

5. **Advertising and Promotion.** Washoe County will be considered a Major Sponsor of the Great Reno Balloon Race and for this consideration shall receive but not be limited to:

- One Balloon with County logo displayed and up to two passengers for rides during three days of event
- Logo displayed year round on promoter website
- Full page ad in Event program
- 10x10 Vending/Promo location on Balloon Blvd during event
- 10 Official Posters of event
- 2 Official Posters framed to match existing inventory of past Balloon Race artwork
- Announcements throughout the event
- Any additional items to be negotiated

6. **Concession.** Promoter shall provide and have concession rights as to all food and beverage and souvenir items sold in that portion of the Park used for the Event. Washoe County retains the rights to provide food and beverage at times and locations during the event as not to impede or

interfere with those of the event organizers. Concession vendors actually providing such services must first be approved by CSD.

If the Event is cancelled for any reason other than the failure of County to perform its obligation, Promoter shall be responsible to reimburse County for its expenses and any loss of income it incurs due to the rental of pavilions which could have been otherwise used had Promoter not reserved the Park.

7. **Indemnification and Insurance.** County has established specific indemnification and insurance requirements for organizations using County facilities or property. Indemnification and hold harmless clauses are intended to assure that the organization accepts and is able to pay for the loss or liability related to its activities.

Attention is directed to the insurance requirements below. It is highly recommended that the Promoter confer with their respective insurance carriers or brokers to determine in advance of the availability of insurance coverage and notification requirements as prescribed and provided for herein.

Indemnification Agreement: Promoter agrees to hold harmless, indemnify, and defend County, its officers, officials, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death, personal injury, or property damage to property of others and to Promoter's property caused by any action, either direct or passive, the omission of, failure to act, or negligence on the part of Promoter, its employees, volunteers, agents, representatives, contractors, or subcontractors arising out of the use of the Park premises or by those other(s) who are specifically identified as being under the direction, supervision, or invitation of Promoter.

In the event of a lawsuit against the County, its officers, officials, agents, employees, or volunteers who are not otherwise being defended by Promoter and/or Promoter's insurance carrier, then in that event, Promoter shall reimburse County at the conclusion of litigation for costs of County personnel in having to defend such actions, unless litigation determines that County was solely negligent, and/or had engaged in intentional tort(s). Reimbursement for the time actually spent by County's Counsel in

having to defend County in said action, shall be charged at the rate which would be charged by private counsel for their services.

General Requirements: Promoter shall purchase Industrial Insurance and General Liability as described below. The cost of such insurance shall be borne by the Promoter.

Industrial Insurance: It is understood and agreed that there shall be no Industrial Insurance coverage provided for Promoter by the County. As Promoter has no employees, it is their intent not to purchase Industrial Insurance. Promoter is to require all subcontractors to provide industrial insurance coverage and agrees to hold harmless, indemnify, and defend County from and against any claim filed by any Promoter employee or volunteer which would have been covered by Industrial Insurance, had it been in place.

Minimum Limits of Insurance:

a. **General Liability:** \$2,000,000 combined single limit per occurrence \$2,000,000 annual aggregate for bodily injury, personal injury and property damage under ISO GL Airmeet Liability form. The limit provided by this policy will be dedicated to this event and any aggregate limit will not be eroded by any other extent loss or party. Coverage shall not be less than equivalent to the above form except upon prior written approval by County's Risk Management Division. All liability coverage shall be on an "occurrence" basis.

Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County's Risk Management Division, in writing. The County reserves the right to request additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy must be approved by the County's Risk Manager prior to the change taking effect.

Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

a. The County, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability, arising out of the activities performed by or on behalf of Promoter, including the insured's general supervision of Promoter; products and completed operations of Promoter; premises owned, occupied or used by Promoter; or automobiles owned, leased, hired or borrowed by Promoter. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officer, officials, employees or volunteers.

b. Under the property damage coverage provided by the Promoter's insurance contract, it is understood that with respect to damage to County property by Promoter or by others under its direction, supervision, auspices, or invitation, it will be covered by the policy without regard to the County being an insured and the operation care custody and control exclusion.

c. The full limits of liability provided by this policy including any general aggregate limit will apply separately to this event.

d. Promoter's insurance coverage shall be primary insurance as respects as to County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be excess to Promoter's insurance and shall not contribute with it in any way.

e. Any failure to comply with reporting provisions of the policies shall not affect coverage provided by the Promoter to County, its officers, officials, employees or volunteers.

f. Promoter's insurance shall 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.

g. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or not renewed by either party,

reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to County.

Verification of Coverage: Promoter shall furnish County with original endorsements effecting coverage and with certificates for all insurance required by this contract. The endorsements and certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by County thirty (30) days prior to the event. County reserves the right to require complete certified copies of all required insurance policies at any time.

8. **Termination.**

- A. **Termination Without Cause.** Regardless of any terms to the contrary, this Agreement may be terminated upon written notice by mutual consent of both parties. The County unilaterally may terminate this Agreement without cause by giving not less than thirty (30) days' notice. If this Agreement is unilaterally terminated by the County, Promoter shall use its best efforts to minimize cost to the County and Promoter will not be paid for any cost that Promoter could have avoided.
- B. The County may terminate this Agreement, and Promoter waives any and all claims(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding from County and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- C. **Termination with Cause for Breach.** A breach may be declared with or without termination. A notice of breach and termination shall specify the date of termination of the Agreement, which shall not be sooner than the expiration of the Time to Correct, if applicable, allowed under subsection 8D. This Agreement may be terminated by either party upon written notice of breach to the other party on the following grounds:
 - a. If Promoter fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Agreement within the time

requirements specified in this Agreement or within any granted extension of those time requirements; or

- b. If any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Promoter to provide the goods or services required by this Agreement is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
- c. If Promoter becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the Bankruptcy Court; or
- d. If the County materially breaches any material duty under this Agreement and any such breach impairs Promoter's ability to perform; or
- e. If it is found by the County that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Promoter, or any agent or representative of Promoter, to any officer or employee of the County with a view toward securing an Agreement or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such Agreement; or
- f. If it is found by the County that Promoter has failed to disclose any material conflict of interest relative to the performance of this Agreement.

D. Time to Correct. Unless the breach is not curable, or unless circumstances do not permit an opportunity to cure, termination upon declared breach may be exercised only after service of formal written notice, and the subsequent failure of the breaching party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared breach has been corrected. Upon a notice of breach, the time to correct and the time for termination of the

Agreement upon breach under subsection 8C, above, shall run concurrently, unless the notice expressly states otherwise.

- E. **Winding Up Affairs Upon Termination.** In the event of termination of this Agreement for any reason, the parties agree that the provisions of this Section survive termination:
- a. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Agreement. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
 - b. Promoter shall satisfactorily complete repair work under this Agreement if requested by County. In the event Promoter fails to complete the requested repair work, Promoter shall reimburse County for County's expenses in completing the repair work;
 - c. Promoter shall execute any documents and take any actions necessary to effectuate an assignment of this Agreement if so requested by the County;
9. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
10. **Governing Law.** The Agreement shall be governed by the laws of the State of Nevada, both as to interpretation and performance. Any lawsuit arising out of this Agreement shall be brought in the Second Judicial District for the State of Nevada.

11. **Attorney Fees.** In the event either party is required to bring legal action to enforce the provisions of this Agreement, the prevailing party shall also recover reasonable attorneys' fees and costs of suit. Any legal action will be brought in the Second Judicial District for the State of Nevada.
12. **Assignment.** This Agreement shall be binding upon the parties, their representatives, successors and assigns. No assignment or transfer of this Agreement or any part thereof shall occur unless mutually agreed upon in writing by both parties.
13. **Modification.** This Agreement may be modified in writing and signed by both parties.
14. **Severability.** Each paragraph and provision of the Agreement is severable, and if one or more paragraphs or provisions of the Agreement are declared invalid, the remaining paragraphs and provisions of this Agreement will, if possible, remain in full force and effect.
15. **Entire Agreement.** This Agreement and references exhibit incorporated herein constitutes the entire agreement between the parties with regard to the subject matter herein and supersedes all prior agreements, both written and oral, and all other written and oral communications between the parties.
16. **Term.** Unless terminated sooner, this Agreement shall be in force for 2023, 2024 and 2025 event years in September, specifically September 8-10, 2023; September 6-8, 2024; and September 5-7, 2025.
17. **Payment to County.** Promoter will not pay any rental or use fee for event in consideration of Major Sponsorship status of Washoe County for the 2023, 2024, or 2025 events.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

WASHOE COUNTY

GREAT RENO BALLOON RACE, INC.

By: Dave Solaro
Assistant County Manager

By: Pete Copeland
Executive Director