

STURGIS FALLS CELEBRATION AGREEMENT FOR USE OF CITY PARKS AND SERVICES

This Agreement, executed in duplicate, is made and entered into this _____ day of _____, 2022, by and between the City of Cedar Falls, Iowa (hereafter called "CITY,") and Sturgis Falls Celebration, Inc., an Iowa non-profit corporation, (hereafter called "SFC").

WHEREAS, SFC is engaged in providing a variety of events, activities, and entertainment in Cedar Falls, Iowa, called the Sturgis Falls Celebration (hereafter called the "Celebration"), during the last Thursday, Friday, Saturday and Sunday of June (hereinafter the "Celebration Weekend") each year, requiring the use of various City Parks, public properties, and public services, and the CITY and SFC desire to identify and establish the various responsibilities of SFC and the CITY, and the terms and conditions under which the Celebration shall take place each year, and

WHEREAS, the public interest and welfare will be served by identifying the responsibilities of both parties.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows:

1. SFC will have exclusive use of the following CITY parks during the Celebration Weekend for each year of this agreement: Overman Park, Tourist Park, Gateway Park, Police Officer's Memorial Park, and the portion of Sturgis Park located south of the railroad tracks. This includes the park shelters, together with the grounds located inside of the fence (if present), the Gateway Celebration Shelter and the Overman Park Bandshell, all for the Celebration Weekend.
2. SFC shall have exclusive use of these parks and their respective facilities and structures with the exception of the following: Bennington Little Red Schoolhouse, Behrens-Rapp Gas Station.
3. SFC may begin setting up facilities and fencing on Thursday, a week prior to the Celebration Weekend, in Overman Park, Police Officers Memorial and portions of Sturgis Park with the prior approval of the Director of Public Works, which approval shall not be unreasonably withheld. SFC may begin setting up trailers in Gateway Park thirty (30) days prior to Celebration Weekend and fencing fourteen (14) days prior to Celebration Weekend, with the prior approval of the Director of Public Works, which approval shall not be unreasonably withheld. The carnival in Gateway Park may begin setting up facilities and equipment on the Monday prior to the Celebration Weekend. All street closures shall be cleaned up and open to traffic by 5:00 pm on Monday following the Celebration Weekend. All equipment, vehicles, structures, and other property must be removed from Gateway Park, Overman Park, Police Officer's Memorial Park, and the used portion of Sturgis Parks within fourteen (14) days following the Celebration Weekend unless an extension is approved by the Director of Public Works, which approval shall not be unreasonably

withheld. If all such removal has not been completed by the stated deadline, or by the deadline as extended, the CITY will remove or cause to be removed any of the above aforementioned items still remaining, including, but not limited to; equipment, vehicles and structures, and assess the cost thereof to SFC, to be paid by SFC to the City or to the City's designee within thirty (30) days of the date of billing. SFC shall return all items borrowed from all City Parks and Shelters no later than 9:00 pm on the Tuesday following the the Celebration Weekend.

3A. Previous Agreement Superseded. SFC and CITY acknowledge that a similar agreement between CITY and SFC entered into on the 15th day of March , 2021, for a term of one (1) year, commencing April 9, 2021 and ending April 4 , 2022, is hereby cancelled, and is superseded by and replaced with this Agreement.

4. The CITY grants SFC the privileges included in this agreement, subject to performance by SFC of its obligations as provided herein, for a period of three(3) years, beginning April 5, 2022, and ending April 1, 2025, which includes the following rights and privileges:

A. The use of City parks and facilities as described in paragraphs 1 and 2 of this Agreement.

B. The use of other public property and the streets of the City for Celebration activities only by prior written approval of the Police Chief, in the sole discretion of the Police Chief.

C. The use of City dumpsters located in the City parks and facilities described in paragraphs 1 and 2, with all trash to be removed by CITY Staff, and with all overtime costs incurred by and tipping fees charged to the CITY to be reimbursed to the CITY by SFC. All arrangements for garbage removal must be approved in advance by the Director of Public Works, which approval shall not be unreasonably withheld. SFC may contract refuse removal with a reputable private contractor reasonably acceptable to the CITY, at SFC's sole cost and expense.

D. SFC will continue to coordinate with the Director of Public Works for the use of street barricades and picnic tables annually during the Celebration Weekend

E. The CITY agrees not to issue any beer or wine permits or liquor control licenses to any other groups or individuals for the parks or public properties specified in paragraphs 1 and 2 of this Agreement during the Celebration Weekend.

5. CITY and SFC acknowledge that a key component of the concept of the Sturgis Falls Celebration is that it is a community-wide event that is free and open to the members of the general public without admission charge. CITY

and SFC agree to cooperate with the goal of keeping the Celebration Weekend open to all members of the general public at no charge, for as long as that is possible. CITY agrees to allow SFC to use the CITY's public parks, grounds, and other public areas and facilities without charge as provided in this Agreement, for as long as SFC does not impose any charge upon members of the general public for admission to the events of the Celebration Weekend. The term, "admission charge," as used in this Agreement, shall not include charges for purchase of food, drink, or other items that are offered for sale to members of the general public by SFC, or any vendors operating with the approval of SFC, and which do not constitute a charge for admission to the events of the Celebration Weekend. In the event SFC, at any time during the term of this Agreement, is required, or elects, for financial or other reasons, to impose an admission charge to members of the general public to attend the events of the Celebration Weekend, then CITY reserves the right to impose a charge upon SFC for the use of CITY's public parks and grounds, which fee shall be in such amount as shall be mutually agreeable by and between SFC and CITY or, if no such charge can be mutually agreed upon, then CITY reserves the right to terminate this Agreement upon advance written notice to be given to SFC no less than nine (9) months prior to the next Celebration Weekend.

6. The duties of the SFC include:

A. Clean-up of all trash, debris, and garbage in all streets, parks, and public properties of the CITY that are used for the Celebration. Trash, garbage, and debris removal shall be at the expense of SFC and shall be completed daily throughout the Celebration Weekend. Cleaning of all areas will begin Monday morning following the Celebration Weekend, and all areas will be cleaned by no later than the Wednesday evening following the Celebration Weekend. Should flooding or storms be present that impact how quickly clean-up can occur, the deadlines for clean-up may be extended with the approval of the Director of Public Works which approval shall not be unreasonably withheld. If all such work has not been completed by the stated deadline, or by the deadline as extended, CITY may perform the work and assess the cost thereof to SFC, to be paid by SFC to CITY within thirty (30) days of the date of billing.

B. Alcoholic Beverage Sales:

1) SFC must obtain at its cost all appropriate beer and wine permits and liquor control licenses if alcoholic beverages are served by SFC during the Celebration Weekend.

2) No alcoholic beverage tickets shall be sold after 11:30 p.m. on Thursday of Celebration Weekend, and no alcoholic beverage tickets can be sold before 11:30 a.m. or after 11:30 p.m. on Friday and Saturday of Celebration Weekend, and no alcoholic beverage

tickets shall be sold before 11:30 a.m. or after 9:30 p.m. on Sunday of the Celebration Weekend.

3) No alcoholic beverages shall be served or poured before 4:00 p.m. or after 12:00 a.m. on Thursday of Celebration Weekend, and no alcoholic beverages shall be served or poured before 11:30 a.m. or after 12:00 a.m. (midnight) on Friday and Saturday of Celebration Weekend, and no alcoholic beverages shall be served or poured before 11:30 a.m. or after 10:00 p.m. on Sunday of the Celebration Weekend.

4) SFC shall be responsible to identify and not serve alcoholic beverages to any person who is intoxicated, or who is under the legal age to consume alcoholic beverages, anywhere in the parks and facilities of the CITY described in this Agreement that alcoholic beverages are served by or under the authority of SFC during the Celebration Weekend.

5) SFC shall be responsible for enforcing SFC's policy prohibiting the "carry-in" of any beer, wine or other alcoholic beverages into the parks and public properties of the City described in this Agreement anywhere in such parks and facilities of the CITY that alcoholic beverages are served by or under the authority of SFC during the Celebration Weekend.

C. SFC shall be responsible for installing and maintaining adequate temporary fencing to control access into Gateway and Police Officer's Memorial Park. The location of fencing shall receive prior approval from the Director of Public Works and the Police Chief, in his or her sole discretion.

D. SFC is responsible for obtaining underground utility locates at SFC's cost, any time a post, stake, or other object is put or installed in the ground on any CITY property. SFC shall be responsible for any damages resulting from digging and/or installing objects in to the ground anywhere within the City parks and facilities described in this Agreement, unless SFC installs objects in strict conformity with the information furnished to SFC in connection with the utility locates. If SFC's installation is in accordance with the information furnished in the utility locates, SFC shall not be responsible for any damages resulting therefrom.

E. SFC shall be responsible for restoring and repairing damages, (other than normal wear) to all parks, City facilities, and public property specified in this Agreement to the condition such facilities were in immediately prior to the commencement of the Celebration Weekend. If all such work has not been completed by the stated deadline, or the deadline as extended, CITY may perform the work and assess the cost thereof to SFC, to be paid by SFC to CITY within thirty (30) days of the date of billing.

F. SFC shall reimburse the CITY for all refuse tipping fees and overtime staff costs incurred by the CITY related to refuse pick-up from the parks and facilities described in this Agreement arising out of the Celebration. SFC may, at its sole cost, contract for refuse removal with a reputable private contractor with approval from the Director of Public Works which approval shall not be unreasonably withheld.

G. All security personnel, crowd control arrangements, and public safety decisions shall be subject to the approval of the Police Chief in his or her sole discretion. As long as the Cedar Falls Police Department (CFPD) is using the 6-3 work schedule, the utilization of "payback days" will continue to be utilized by the CFPD in order to minimize personnel costs to the SFC. If the Police Chief determines in his or her sole discretion that anticipated security needs for the Celebration Weekend require additional staff, and if this decision will result in overtime being paid if regulars from the CITY police force are utilized, SFC shall be permitted to hire outside security personnel reasonably acceptable to CITY's Police Chief, at SFC's cost to meet the additional staffing needs. In the event unanticipated security needs arise during Celebration Weekend which cannot be met by SFC security personnel, SFC shall reimburse the CITY for up to 100% of any overtime pay expense incurred in the Parks and facilities described in paragraphs 1 and 2 of this Agreement. The CITY Police Chief shall coordinate scheduling to minimize any overtime impacts that may be necessary for the Celebration Weekend.

SFC will supplement the CFPD with adequate private security personnel reasonably acceptable to the CITY Police Chief, to ensure the safety of the participants. All security, crowd control, and safety issues shall be approved in advance by the Police Chief, in his or her sole discretion.

H. SFC shall obtain prior approval of the Director of Public Works, before any washable paint, tape, or chalk marking is done on street or public property. SFC is responsible for cleaning of any approved marking of public property within 30 days after the Celebration Weekend. The approval of the Director of Public Works, shall not be unreasonably withheld. If all such work has not been completed by the stated deadline, or by the deadline as extended, CITY may perform the work and assess the cost thereof to SFC, to be paid by SFC to CITY within thirty (30) days of the date of billing.

I. SFC shall obtain permission from the Director of Public Works in conjunction with the Community Development Department for any temporary signage that is to be placed on public property, which approval shall not be unreasonably withheld. Any damage to CITY property caused by such temporary signage shall be repaired by SFC at its sole cost within thirty (30) days after the Celebration Weekend. If all such work has not been completed by the stated deadline, or by the deadline as extended, CITY may perform the work and assess the cost thereof to SFC, to be paid by SFC to CITY within thirty (30) days of the date of billing.

J. SFC shall obtain prior permission from the Director of Public Works, for any permanent facilities or signage to be placed or removed from any parks or public property. Such approval shall be in the sole discretion of such Director. Any damage to CITY property caused by removal of such permanent facilities or signage shall be the responsibility of SFC, and shall be repaired by SFC at its sole cost within thirty (30) days after the Celebration Weekend. If all such work has not been completed by the stated deadline, or by the deadline as extended, CITY may perform the work and assess the cost thereof to SFC, to be paid by SFC to CITY within thirty (30) days of the date of billing.

K. SFC shall give the CITY prior written notification of any major event changes by April 30 of each year of this Agreement.

L. A description of all planned events and entertainment shall be submitted to the Director of Public Works, for approval by no later than April 30 of each year of this Agreement. This includes locations and detailed descriptions of events and activities for the Celebration Weekend, which approval shall not be unreasonably withheld.

M. SFC shall be responsible to make arrangements to ensure appropriate emergency, first aid, and medical services are available. The emergency and medical services plan shall be submitted in advance to the Director of Public Works, for approval. Such approval shall be in the sole discretion of said Director. SFC shall pay the cost of all such services.

N. SFC shall be responsible to follow, and to require that all vendors follow, all Black Hawk County and State Health Department regulations related to food and beverage distribution, handling, and sale.

O. SFC shall be responsible for providing adequate sanitation facilities at the sole cost of SFC.

P. SFC shall adhere strictly to all City, State and federal laws in connection with all events held under the authority of SFC during the Celebration Weekend. SFC shall be responsible to ensure that participation in all events sponsored by or held under the authority of the SFC during Celebration Weekend is open to all individuals and groups on an equal, non-discriminatory basis. However, SFC shall have the right to limit the number of, and to select the identity of, parade entries, and street fair and food vendors, in a manner consistent with SFC's published policies and guidelines, and in a manner consistent with the family-oriented theme of the Celebration Weekend. SFC shall also be entitled to select such entertainment at the appropriate venues of the Celebration Weekend which properly reflect that year's Celebration theme, and which also complements the appropriate taste and family-oriented element that the SFC Celebration Weekend seeks to foster. SFC shall not discriminate against any individual or group, in terms of participation in any of the Celebration Weekend events

and activities, solely on the basis of the content or subject matter of the speech, expression or point of view that a particular individual or group holds or desires to communicate by its participation in such events or activities.

Q. SFC shall obtain and retain Internal Revenue Code Section 501 (c) (3) tax-exempt status, and provide proof thereof to CITY from time to time upon request, which request shall be made no more frequently than annually.

R. SFC shall obtain insurance coverage which shall in all respects comply with current City of Cedar Falls Public Event Special Insurance Requirements, a copy of which is attached hereto, marked Exhibit "A," and by this reference incorporated herein. SFC shall provide certificates of such insurance to the CITY 14 days prior to the commencement of the Celebration Weekend. Those vendors serving alcoholic beverages shall comply with the provisions of Section 123.92 of the Code of Iowa and all regulations of the Alcoholic Beverages Division promulgated thereunder and shall also obtain dram shop insurance coverage with a limit of no less than \$1,000,000 coverage per occurrence, and shall furnish proof of such coverage to the CITY.

S. SFC shall be responsible for installing and maintaining at its sole cost adequate temporary lighting with the prior approval of the Police Chief, which approval shall not be unreasonably withheld.

T. SFC shall obtain the prior written approval of the Director of Public Works, prior to implementing any insect/mosquito control program in or around any of the CITY parks or facilities described in this Agreement, for the Celebration Weekend. In addition to using EPA-approved products to be applied by a licensed professional company, proper signage shall be erected in advance of application in all such areas, and SFC shall cause such spraying to be applied in compliance with any and all County, State and federal regulations. The approval of such Director shall not be unreasonably withheld.

U. SFC has constructed a permanent stage on private property (parcel 8914-12-233-007) adjacent to Gateway Park (the "Stage Area"). SFC acknowledges that outside storage of certain items and materials is prohibited by the City Code of Ordinances.

7. The Police Chief may close down the Celebration activities at any time, if in his or her opinion, the health, safety, or welfare of the public may be in jeopardy. The decision of the Police Chief shall be made in his or her sole discretion.

8. If CITY parks or other public properties described in this Agreement are flooded or damaged by flooding or other natural disasters, the Director of Public Works and Police Chief shall determine if other public property and parks shall be used for the

Celebration events and activities. This determination shall be in their sole discretion. Their decision shall be final.

9. Neither party may financially obligate the other. SFC agrees not to transfer or assign this Agreement or sublet its privileges under this Agreement, in whole or in part, without the prior written consent of the CITY, which consent may be withheld in the sole discretion of the CITY. Any transfer, assignment or subletting of this Agreement without prior approval of the CITY shall cause an immediate termination of this Agreement.

10. This operating Agreement shall be reviewed in anticipation of negotiating and entering into a new Agreement on or before December 31, 2025.

11. SFC agrees to provide financial information in the form of IRS Form 990 and all supporting documentation, to the CITY, annually upon request. This form includes summary of income, expenditures, and financial balances. SFC also agrees to furnish to the CITY upon request, but no more frequently than annually, any information and documentation that may be requested by the CITY to reasonably determine SFC's compliance with the terms, conditions and provisions of this Agreement.

12. Indemnification. SFC agrees to indemnify, hold harmless and defend the CITY, and its officers, agents, employees and insurers, from any claim, demand or cause of action in any manner arising out of the events and activities conducted by or under the authority of SFC during each Celebration Weekend, including reasonable expenses and attorneys' fees, all on the terms set forth in paragraph (7), Hold Harmless/Indemnity Agreement, of City of Cedar Falls Insurance Requirements for Community Events, a copy of which is attached hereto, marked Exhibit "A."

13. The parties agree that by entering into this agreement SFC has been determined to have complied with the requirement to obtain a public event permit or a special event permit pursuant to Cedar Falls Code of Ordinances Sections 9-19, 9-20 and 17-210.

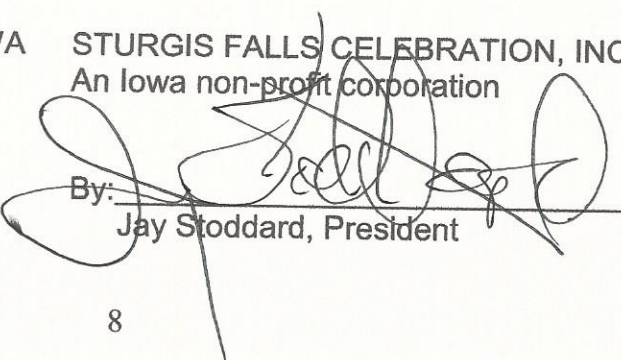
14. Any misunderstanding or concerns related to this agreement may be appealed to the City Council by SFC and CITY. The decision of the City Council shall be final and shall be made in the sole discretion of the City Council.

IN WITNESS THEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF CEDAR FALLS, IOWA

STURGIS FALLS CELEBRATION, INC.
An Iowa non-profit corporation

By: _____
Robert M. Green, Mayor

By: 
Jay Stoddard, President

Jacque Danielson, MMC, City Clerk

Date _____

This instrument was acknowledged before me on the _____ day of _____, 20____, by Jay Stoddard, President, and Pete Downs, Vice President, of Sturgis Falls Celebration, Inc.

_____, Notary Public
in and for the State of Iowa

This instrument was acknowledged before me on the _____ day of _____, 20____, by Robert M. Green, Mayor, and Jacque Danielson, MMC, City Clerk, of the City of Cedar Falls, Iowa

_____, Notary Public
in and for the State of Iowa