

RESOLUTION 18-R-19 authorizing the one-time sale, possession and use of beer at Richard Siegel Park during the 2018 Murfreesboro Hot Air Balloon Festival pursuant to the terms of the Use Agreement.

WHEREAS, Murfreesboro City Code §4-90, Beer, Wine and Other Beverages on City Property, specifies that rules shall be adopted by the Council by resolution after receiving recommendations from the department; and,

WHEREAS, Murfreesboro City Code §4-90 states that such rules may be contained in a lease, use agreement or other contract; and,

WHEREAS, the City of Murfreesboro has an opportunity to partner with Matt Lowney Productions to hold the 2018 Murfreesboro Hot Air Balloon Festival at Richard Siegel Park;

WHEREAS, the event organizers have requested permission to set up and operate a "Beer Tent" on park property; and,

WHEREAS, the "Beer Tent" will be set up in a controlled area with security and licensed vendors and Park staff will be on hand throughout the entire event to ensure all policies and rules are being enforced; and,

WHEREAS, the City is willing to make an exception to the city alcohol policy and the Parks and Recreation alcohol policy for this event only to allow the sale, possession, use and consumption of beer at Richard Siegel Park during the 2018 Murfreesboro Hot Air Balloon Festival pursuant to the terms of which are set forth in a Use Agreement established between the City and Matt Lowney Production; and,

WHEREAS, the Parks and Recreation Department Director and the Parks and Recreation Commission recommend the approval of such exception to the city alcohol policy and the Parks and Recreation alcohol policy for this one event as set forth above; and,

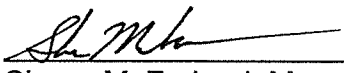
WHEREAS, pursuant to Ordinance 08-O-38, the City Council wishes to authorize the exception.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The City Council authorizes the sale, possession, use and consumption of beer at Richard Siegel Park during the 2018 Murfreesboro Hot Air Balloon Festival pursuant to the terms of set forth in a Use Agreement as attached established between the City and Matt Lowney Productions.

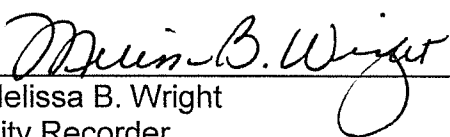
SECTION 2. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

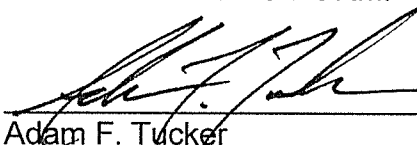
Passed: June 21, 2018


Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:


Melissa B. Wright
City Recorder


Adam F. Tucker
Interim City Attorney

**COOPERATIVE USE AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
MATT LOWNEY PRODUCTIONS
FOR
MURFREESBORO HOT AIR BALLOON FESTIVAL**

WHEREAS, the City owns and operates the Richard Siegel Park located at 515 Cherry Lane, Murfreesboro, Tennessee; and,

WHEREAS, the Richard Siegel Park and surrounding green space are available for the citizens of Murfreesboro to enjoy leisure and recreational opportunities; and,

WHEREAS, the City continually seeks to enhance leisure and recreational opportunities for its citizens by maximizing the usage of facilities; and,

WHEREAS, the Murfreesboro Hot Air Balloon Festival ("Festival") is an event open to the public for a minimal fee to cover the cost of hosting the event which provides entertainment to the public; and,

NOW THEREFORE, this Use Agreement made and entered this _____ day of June, 2018, by and between the City of Murfreesboro, Tennessee, hereafter referred to as "City" and the Matt Lowney Productions, hereafter referred to as "User".

In consideration of the mutual promise and agreements contained herein, the City and User agree as follows:

1. Purpose

The City agrees to allow User to use Richard Siegel Park ("Property") for the sole purpose of conducting the Festival. The User agrees to comply with the terms of this Use Agreement, the rules and regulations of Murfreesboro Parks and Recreation Department ("Department"), and applicable city, state and federal laws and regulations.

2. Term

The term of this Use Agreement shall be for five (5) days beginning on Thursday, June 28, 2018, and continuing through Tuesday, July 3, 2018. The User shall have a nonexclusive right to use the Property during the term of the Use Agreement but only on the dates and at the times specified.

The City agrees to allow the User use of the Property for the Festival with live music, kids zone, VIP area, beer tent, food trucks, craft vendors and hot air balloons throughout the Property from 4:00 p.m. to 8:30 p.m. on June 30, 2018.

The City agrees to allow event setup on the Property for the Murfreesboro Hot Air Balloon Festival to begin on Thursday, June 28, 2018.

3. City's Obligations

- a. Either party shall have authority to cancel any or all activities due to severe weather (Lightning, tornado, etc.) or act of God.
- b. The City is responsible for electric maintenance of the existing electric system.
- c. The City will provide garbage receptacles and disposal of garbage during and after the event.
- e. The City will make a reasonable effort to clean debris and litter around the entire festival area prior to the event in order to minimize the potential of accidents. City will be responsible for trash and litter pickup, and placement into receptacles, so that the areas are in a clean and orderly state throughout the festival. The City will provide a cleanup crew during and after the event.
- f. The City will assign a designee who will serve as the City's point of contact for User and will facilitate any maintenance or repair requests concerning the facility.

4. User's Obligations

- a. The User shall provide payment for required permits and metering of any additional electrical supply not currently available at Richard Siegel Park. The User shall also be responsible to have said temporary metered service installed, inspected and disconnected. The User shall accept the current electrical system as is, and shall make any requests for repairs ten days prior to the event.
- b. The User shall provide payment for power usage, alterations or relocations to the electrical system during its event, and the User will be responsible for any changes to the current system prior to the event. Alterations or relocation shall not be performed without the approval of the City, and said alterations or relocations shall only be performed by City or a licensed electrical contractor.
- c. The User will inspect all vendor electric cords just prior to the event. This inspection shall occur after the vendor has set up but prior to serving the public. The inspection team will consist of a licensed electric contractor, user representative and a city representative. The User will bear all expenses required, and vendors shall be responsible for any corrections needed.
- d. The Festival Director or the Director's designee shall serve as User's point of contact for the City to address any issues that may arise during the event.
- e. The User will be responsible for directing parking on the grounds of Richard Siegel Park on June 24, 2017.
- f. The User will be responsible for vendor and concession parking prior to and during the event.
- g. The User shall provide a stage and sound system.

- h. The User shall provide a professional technician for the stage.
 - i. The User is responsible for notifying all county and city agencies (e.g. Murfreesboro Police Department) relating to the safe operation of the event.
 - j. The User is responsible for providing enough volunteers and security to conduct the Festival in a safe and enjoyable manner.
 - k. The User shall be responsible for the selection and coordination of events, vendors, presenters, crafts, concessions, sponsors and guests, including any associated fees and setup.
 - l. The User shall determine if the facility is safe before usage. The User shall immediately advise the Department's representative of any defective or unsafe condition on the Property, and shall not use any facility deemed unsafe until corrected.
 - p. The User shall provide adequate toilet facilities.
 - q. The User shall comply with all Murfreesboro Parks and Recreation Department rental regulations.
 - r. The User shall provide the City access to any and all records of User relative to this Use Agreement, and shall respond to the City's requests for information, as necessary for City to verify and/or determine User's compliance with the terms of this Use Agreement and User shall provide copies of same to City if necessary.
 - s. User shall maintain a liability insurance policy with a minimum limit of \$1,000,000.00 per occurrence during the term of the Use Agreement, which insurance policy shall list the City of Murfreesboro (111 West Vine St. Murfreesboro, TN 37130) as an additional insured. A certificate of insurance to this effect and the additional insured endorsement to User's insurance policy must be presented to the Department prior to the beginning of the event. (presented by _____)
 - t. The User accepts the Property as suitable for the purpose of the Hot Air Balloon Festival. User shall protect and maintain the Property except for maintenance to be performed by City as described herein. User shall pay City for any damage to Property during the term of this Use Agreement as determined by City based on pre- and post-event inspections.
 - u. The User shall pay the City \$1.00 for every ticket sold for the Festival.
 - v. If User provides a "Waiver of Liability" for participants in activities held at the Event, such waiver shall include the City of Murfreesboro.
5. Rules Relative to Sale of Beer During Festival.
- a. The sale, distribution, consumption, use or possession of beer shall be permitted and shall be in accordance with all state and local laws relative to sale, distribution, consumption, use or possession of alcoholic beverages. The sale, distribution,

consumption, use or possession of wine or liquor **shall not be** permitted during the event.

- b. The sale, distribution, consumption, use or possession of beer shall only be allowed at the area of Richard Siegel Park designated by the Parks and Recreation Director or designee. The sale, distribution, consumption, use or possession of wine or liquor shall not be permitted at any area of Richard Siegel Park during the event.
 - c. The only alcoholic beverages that may be brought onto the premises of the facility are those that are placed in the possession and control of the User or special event subcontractor. Responsible adult(s) under the direction of the User or subcontractor must dispense all alcoholic beverages. No alcoholic beverages shall be left unattended on the premises.
 - d. Persons serving or consuming any alcoholic beverage at a MPRD facility must be at least twenty-one (21) years of age.
 - e. The person or entity responsible for selling or distributing any alcoholic beverage must provide a copy of any required beer permit or liquor license to the MPRD prior to the event.
 - f. User has approval from the Director to use kegs during the Festival.
 - g. No individual shall be allowed to bring alcoholic beverages onto park property or facilities except in accordance with these rules. Such conduct shall be grounds for removal and for being barred from park property.
 - h. The MPRD parks and facilities are family oriented and drinking in excess will not be tolerated. All patrons must use good judgment and drink responsibly. Public drunkenness will not be tolerated and are grounds for removal and for being barred from the facility.
 - i. Alcoholic beverages may only be served and possessed in the specified location and during the specific hours of the special event or rental as approved by the Director or Director's designee.
 - j. Persons who are in possession of an alcoholic beverage must stay within the perimeters of the rented facility. Under no circumstances may individuals possessing alcoholic beverages be allowed onto the surrounding park property.
6. Indemnification. User shall indemnify, defend and hold harmless the City, its officers, agents, and employees from:
- a. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of User, its officers, employees, and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.
 - b. Any claims, damages, costs and attorney fees arising from any failure of User, its officers, employees, and/or agents, including its subcontractors or independent

contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.

c. User shall pay City any expenses incurred as a result of User's failure to fulfill any obligation in a professional and timely manner under the Agreement.

7. User's Representations

User covenants that it will not discriminate against any person on any unlawful basis, including but not limited to sex, race, religion, national origin, or disability and that its programs and services will comply with the Americans with Disabilities Act.

8. Signage

No signs or advertisements shall be posted, displayed or listed by User on the Property without the prior approval of City. All signs must conform to City's sign ordinance. Any signage must be removed at the request of City.

9. Termination of Use Agreement

This Use Agreement may not be assigned or transferred. The City shall have sole discretion to terminate this Use Agreement. Termination may result from User's failure to abide by the terms of this Use Agreement. In the event of a breach of this Use Agreement, the City may, but is not required to, give the User an opportunity to timely correct the default.

10. Amendment

This Use Agreement constitutes the entire Agreement between the City and User. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this Use Agreement on the day and date first written above.

CITY OF MURFREESBORO

MATT LOWNEY PRODUCTIONS

Angela Jackson, Director

Name: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

Kelley Blevins Baker, Assistant City Attorney