

VILLAGE OF VERNON HILLS

ORDINANCE 2024-006

AN ORDINANCE AUTHORIZING EXECUTION OF A FIVE YEAR CONTRACT BETWEEN THE VILLAGE OF VERNON HILLS AND WINDY CITY AMUSEMENTS, INC. TO SUPPLY AMUSEMENTS FOR VERNON HILLS DAYS

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (“*the Village*”) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, the Village of Vernon Hills desires to enter into a contract with Windy City Amusements, Inc. to perform certain services and supply amusements for the annual Vernon Hills Days event.

NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS:

SECTION 1: CONTRACT: That the Village Manager is authorized to execute a Contract between the Village of Vernon Hills and Windy City Amusements, Inc., as attached as Exhibit A.

SECTION 2: EFFECTIVE DATE: This Ordinance shall be in full force and effect from its passage and approval.

SECTION 3: ORDINANCE NUMBER: This Ordinance shall be known as Ordinance Number 2024-006.

Dated the 25th day of January, 2024.

Adopted by roll call vote as follows:

AYES: 6 – Schenk, Oppenheim, Forster, Marquardt, Koch, Byrne

NAYS: 0 - None

ABSENT AND NOT VOTING: 1 – Takaoka


Roger L. Byrne, Village President

PASSED: 01/25/2024

APPROVED: 01/25/2024

ATTEST: 01/25/2024

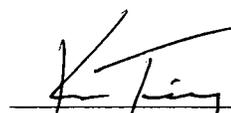

Kevin Timony, Village Clerk



EXHIBIT A

CONTRACT TO SUPPLY AMUSEMENTS

CONTRACT TO SUPPLY AMUSEMENTS

THIS CONTRACT TO SUPPLY AMUSEMENTS (“Contract”) is made by and between VILLAGE OF VERNON HILLS (hereinafter “Village”) and WINDY CITY AMUSEMENTS, INC. (hereinafter “Windy City”) (hereinafter “the Parties”), and is effective as of the 25th day of January, 2024 (“Effective Date”).

The Village desires to engage Windy City to perform certain services on the terms and conditions set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. Scope of Services. Windy City shall perform certain services with respect to the Village’s annual Vernon Hills Days celebration (“Event”); which shall include, providing amusement rides devices, supplying ticket booths, supplying amusement attractions, providing Concessions (only as defined herein) and concession stand(s) and providing “fun booths” (hereinafter collectively referred to as “Services”) for the use and enjoyment of the residents, guests, invitees, and employees of the Village, and all others in attendance at the Event. Windy City shall provide an amusement attraction list to be reviewed and approved by the Village no later than three months prior to the Event.

Windy City shall supply a multi-portion trailer or trailers for sales by the Event Committee of beer, wine, and other items that the Event Committee may determine.

In addition to the amusement attraction list noted above, the only items for sale by Windy City will be reviewed and agreed upon in writing by and between the Village and Windy City not less than three (3) months prior to the Event. There will be no other items allowed for sale by Windy City on the Vernon Hills Days grounds.

Windy City is permitted to offer multi-ticket specials to the public provided the Village and Windy City mutually agree to such specials. Discussion of such “specials” shall be agreed upon no later than three months prior to the Event. Windy City and the Event Committee agree to discuss whether or not to allow special discounts for wrist bands and special passes. The final decision shall be made by the Village.

The Village agrees that Windy City shall have the exclusive right to provide services described herein at the Event. Furthermore, the Village agrees that it shall make reasonable efforts to prevent other amusement attractions from exhibiting in the Village thirty (30) days prior to the Event.

2. Term. The term of this Contract shall be for a period of five (5) years (“Term”), commencing with the 2024 Event. In the event there is a change in ownership of Windy City any time during the Term of this Contract, Windy City shall notify the Village in writing within thirty (30) days of such change in ownership. Upon receipt of such notification, the Village may terminate this Contract upon thirty (30) days prior written notice to Windy City. This Term is also predicated on the continued approval of the Vernon Hills Park District for continued use of Century Park for the Event. Should the Village no longer have said approval to hold the Event, the Village may terminate this Contract upon one hundred twenty (120) days prior written notice to Windy City.

3. **Ticket Sales.** Windy City agrees to administer the sale of tickets, wrist bands, and hand stamps and agrees to be responsible for the control of such proceeds through the duration of the Event. In the event any shortage in cash or tickets (including wrist bands and hand stamps) exists following the completion of the Event, Windy City hereby agrees that it shall be solely responsible for the shortages, and it shall be required to reimburse to the Village any such amount. The ticket sales services shall be performed by Windy City at no diminishment of the shared revenues with the Village.

After the 2024 Event, the Village, in its sole discretion, shall have the option to take over the sale of tickets, wrist bands, and hand stamps from Windy City. If the Village chooses to exercise this option, the Village shall notify Windy City not less than thirty (30) days prior to the Event. Windy City shall furnish to the Village all tickets to be sold for the Event and shall supply ticket booths to the Village for use by the Event Committee for the sale of tickets, wrist bands, and hand stamps during the Event.

4. **Location/Duration of Event.** The Event shall take place at a location within the Village known as Century Park and shall be for a period of four (4) days and nights. The 2024 Vernon Hills Days Event shall take place on Thursday, Friday, Saturday, and Sunday, July 18-21, 2024. The Village will hold the Event annually on substantially the same dates each subsequent year. Should the Village be unable to hold the Event at Century Park due to some unforeseen circumstances at the time of the execution of this Agreement, but the Village desires to hold the Event at an alternate location, Windy City shall continue to provide the Services considered in this Agreement to the Village at the alternate location.

5. **Proceeds.** The settlement for all amounts collected during the Event shall occur as provided for herein. The proceeds collected by Windy City at the Event shall be disbursed to the Village as follows: the Village shall receive a payment at the close of the Event on Sunday in an amount equal to thirty-five percent (35%) of each dollar collected at the Event, less usual government taxes, Midway Insurance, State and Village sales taxes, and Amusement tax, if any. Windy City shall supply an accounting of the aforementioned costs as part of the disbursement.

In addition to the aforementioned, each game or concession stand set up by Windy City shall disburse to the Village One Hundred Fifty Dollars (\$150) by the end of the Event.

6. **Permits/Utilities.** The Village agrees to pay for, furnish and/or provide all licenses, permits, taxes, water service, police protection, bill posting, newspaper advertising, dumpsters, and portable toilets to Windy City in order that it may perform the services provided hereunder. The portable toilets and water service shall be provided to Windy City two (2) days prior to the Event. Further, the Village agrees that employees of Windy City may receive free gate admission to the Event.

Windy City shall be solely responsible for the provision of electric power and for payment thereof for any and all costs or expenses associated with diesel or electric power for the operation of its equipment in connection with providing the services described herein.

7. **Insurance/Indemnity.** Windy City shall provide to the Village a certificate(s) of insurance evidencing not less than a comprehensive general liability policy covering personal

injury and death and property damage and workers compensation in an amount of not less than Five Million Dollars (\$5,000,000) per occurrence. All of Windy City's contractors, agents or consultants shall comply with the foregoing insurance requirements. The Village shall be named as an additional insured on a non-contributory basis on all policies of insurance covering Windy City for the Event or the Services provided to the Village. Windy City shall provide proof of said coverage to the Village no later than sixty (60) days prior to the Event each year.

To the fullest extent permitted by law, Windy City agrees to defend, indemnify and hold harmless the Village, and its appointed and elected officials, officers, past, current and future presidents and trustees, agents, engineers, attorneys, employees and volunteers (the "Village's Affiliates") against all injuries, death, losses, damages of any kind, claims, lawsuits, liabilities, judgments, costs and expenses which may be brought or are brought against the Village and the Village's Affiliates relating to or arising out of the Services or other acts or omissions of Windy City or any owners, employees and agents of Windy City as well as any of its subcontractors, third-party vendors or third-party providers that Windy City engages to perform any of the Services under this Agreement, except to the extent that those claims, actions, lawsuits, damages, costs, expenses and liabilities arise from the willful or wanton actions of the Village or the Village's Affiliates. The Village may choose to defend itself with its own attorneys in the event of any claim or litigation filed as a result of the acts or omissions of Windy City.

8. Disputes, Negotiation and Remedies. If a dispute arises between the Parties concerning this Agreement, the Parties will first attempt to resolve the dispute by negotiation. Each Party will designate persons to negotiate on their behalf. The Party contending that a dispute exists must specifically identify in writing all issues and present it to the other Party. The Parties will meet and negotiate in an attempt to resolve the matter. If the dispute is resolved as a result of such negotiation, there must be a written determination of such resolution, and ratified by the corporate authorities of each Party, which will be binding upon the Parties. Each Party will bear its own costs, including attorneys' fees, incurred in all proceedings in this Section. If the Parties do not resolve the dispute through negotiation, either Party to this Agreement may pursue any other equitable or legal remedies to enforce the provisions of this Agreement. Any controversies arising between Windy City and the Village pertaining to this Agreement shall be resolved under the laws of the State of Illinois, and it is agreed by both Parties that the venue for any such dispute shall be in the Circuit Court of Lake County, Illinois. Any ambiguous language in this Agreement shall be interpreted as to its fair meaning, and not strictly for or against either Party.

9. Force Majeure. If the performance of this Agreement cannot be continued due to force majeure, the Parties may be exempted from liabilities in whole or in part according to the impact of the force majeure. If either party cannot perform this Agreement due to force majeure, it shall immediately notify the other party, and try its best to minimize the possible losses as sustained by the other party, and shall timely provide a proof to the other party.

10. Care, Maintenance and Restoration. Windy City shall be responsible for repairing any damage to any Village or Park District real or personal property or infrastructure (e.g., grass, streets, curbs, sidewalks, signs, utilities, etc.) (the "Village Property") caused by Windy City, its owners, employees and agents, or any of its subcontractors, third-party

vendors or third-party providers that Windy City engages to perform any of the Services at the Event.

11. **Notices.** All notices hereunder must be in writing and shall be deemed validly given when delivered by hand, by nationally recognized overnight express delivery service or by First Class United States mail, certified, return receipt required, addressed as follows:

To Village: Village of Vernon Hills
290 Evergreen Drive
Vernon Hills, IL 60061
Phone: (847) 918-3550
Attention: Village Manager

To Windy City: Windy City Amusements, Inc.
914 W. Main Street
St. Charles, IL 60174
Phone: (630) 443-4547
Attention: Tony Salerno

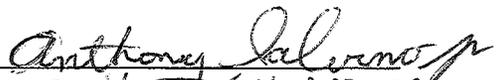
12. **Miscellaneous.** The rights and benefits of this Contract shall inure to the benefit of, and be enforceable by the Village. The rights and obligations of Windy City under this Contract may only be assigned with the prior written consent of the Village. This Contract shall be governed by and construed in accordance with the laws of the State of Illinois. If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect. This Contract embodies the entire agreement and understanding of the parties hereto, and supersedes all prior or contemporaneous written or oral communications or agreements between the Village and Windy City, regarding the subject matter hereof. This Contract may only be amended by written agreement between the Village and Windy City.

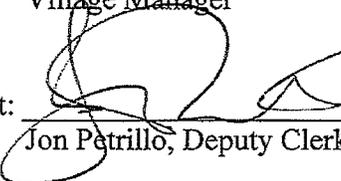
IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representative, as of the day and year first set forth above.

VILLAGE OF VERNON HILLS

WINDY CITY AMUSEMENTS, INC.

By: 
Name: Kevin Timony
Its: Village Manager

By: 
Name: ANTHONY SALERNO JR.
Its: PPCS.

Attest: 
Jon Petrillo, Deputy Clerk

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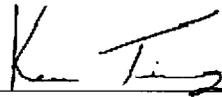
THE 25th DAY OF JANUARY 2024

Published in pamphlet form by the Authority of the
President and Board of Trustees of the Village of
Vernon Hills, Lake County, Illinois, this
25th day of January, 2024

AFFIDAVIT OF SERVICE

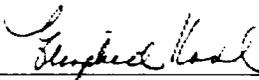
STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, KEVIN TIMONY, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2024-006 AN ORDINANCE AUTHORIZING EXECUTION OF A FIVE YEAR CONTRACT BETWEEN THE VILLAGE OF VERNON HILLS AND WINDY CITY AMUSEMENTS, INC. TO SUPPLY AMUSEMENTS FOR VERNON HILLS DAYS TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM JANUARY 25, 2024 TO FEBRUARY 4, 2024.



Kevin Timony, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 25th DAY OF JANUARY 2024



Notary Public

