

## QUARRY PARK AMPITHEATER MANAGEMENT AND OPERATING AGREEMENT

THIS QUARRY PARK AMPHITHEATER MANAGEMENT AND OPERATING AGREEMENT ("Agreement") is made at Rocklin, California as of \_\_\_\_\_, 2019, by and between the CITY of Rocklin, a municipal corporation ("CITY") and ST PRODUCTIONS, LLC, a limited liability company registered to transact business in California who agree as follows:

A. WHEREAS, CITY owns real and personal property known as the Quarry Park Amphitheater venue, as shown in Exhibit B, incorporated herewith by reference (collectively referred to herein as the "Amphitheater"); and

B. WHEREAS, ST PRODUCTIONS' principals have considerable expertise in the operation, management and production of entertainment events, concerts and concert venues; and

C. WHEREAS, ST PRODUCTIONS is interested in managing and operating the Amphitheater for CITY; and

D. WHEREAS, CITY and ST PRODUCTIONS desire to enter into an Agreement for the management and operation of the Amphitheater;

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

**1. DEFINITIONS.** Capitalized terms used but not defined herein shall have the meaning set forth in Exhibit A, incorporated herewith by reference.

### **2. AMPHITHEATER AND USE OF QUARRY PARK**

2.1 Appointment. During the term of this Agreement: (i) CITY (1) authorizes ST PRODUCTIONS to access the Amphitheater, and (2) engages and appoints ST PRODUCTIONS as the manager and operator of the Amphitheater, with the requirements, restrictions, responsibilities and obligations, and on the terms and conditions, set forth in this Agreement; and (ii) ST PRODUCTIONS, by its execution of this Agreement, does hereby accept such appointment.

2.2 ST PRODUCTIONS Representative. ST PRODUCTIONS shall at all times designate a Representative for the Amphitheater, and shall immediately replace any named Representative who is no longer employed by ST PRODUCTIONS. ST PRODUCTIONS may change the identity of the Representative at any time by written notice to CITY. Without limiting the obligations of ST PRODUCTIONS otherwise set out in this Agreement, the Representative shall coordinate the functions and services of ST PRODUCTIONS hereunder and shall perform certain ST PRODUCTIONS' functions and services required to be performed by ST PRODUCTIONS hereunder. The Representative shall be an agent of ST PRODUCTIONS. Notwithstanding the

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foregoing, all obligations of the Representative hereunder shall be obligations of ST PRODUCTIONS hereunder.

### 2.3 Use of the Amphitheater.

(a.) ST PRODUCTIONS agrees to use the Amphitheater primarily for entertainment purposes, in accordance with the CITY's adopted Quarry Park Amphitheater Policies. Current Amphitheater Policies are attached hereto and incorporated herewith by reference as set forth in Exhibit C. The CITY may modify the Amphitheater Policies from time to time, solely at the CITY's discretion. During the term of this Agreement, the CITY will confer with ST PRODUCTIONS before making material changes to the CITY's Amphitheater Policies. In the event of a conflict between the terms of the CITY's Amphitheater Policies and this Agreement, the terms of this Agreement shall prevail.

(b.) ST PRODUCTIONS' use of the Amphitheater shall not adversely affect the public's use and enjoyment of the remainder of Quarry Park, or the public's use and enjoyment of the Amphitheater when ST PRODUCTIONS is not managing or producing an Event at the Amphitheater. ST PRODUCTIONS shall return control of the Amphitheater to CITY within twelve (12) hours after the end of each Event, unless otherwise agreed upon by the parties.

(c.) ST PRODUCTIONS use of the Amphitheater shall comply with all CITY noise policies, as they may be amended from time-to-time. Current CITY noise policies are attached hereto as Exhibit D, and incorporated herein by reference.

(d.) ST PRODUCTIONS shall not use the Amphitheater in whole or in part during the term of this Agreement for any purpose other than as herein set forth without the prior written consent of CITY.

2.4 CITY's Right of Access. CITY and its representatives shall have the right to enter and inspect the Amphitheater at any time. CITY shall have the right, subject to the terms below, to use the Amphitheater at any time ST PRODUCTIONS is not using the Amphitheater for an Event.

2.5 Public Access. When either ST PRODUCTIONS or the CITY are not using the Amphitheater for an Event, the Amphitheater will be open and accessible to the public.

2.6 Emergency Access. ST PRODUCTIONS shall ensure emergency personnel have access to all areas of the Amphitheater at all times during their use of the Amphitheater.

**3. TERM.** Unless earlier terminated as expressly provided herein, the term of this Agreement shall be from the date of execution up to and including December 31, 2022.

3.1 Matching Right. If, after the term of this Agreement, the CITY in its sole discretion opts to continue operating the Amphitheater through a third party, ST PRODUCTIONS may participate in the CITY's competitive selection process. Provided ST PRODUCTIONS has performed its obligations under this Agreement to the satisfaction of CITY and submits a timely response to the request for proposals, ST PRODUCTIONS has the right to match any third-party offer received by CITY prior to, or within six months of the termination of this Agreement. The matching right applies if ST PRODUCTIONS' proposal is equally as favorable to CITY in all aspects of the evaluation criteria. This right is not transferrable, but is assignable as set forth in Section 18.22.

#### **4. MANAGEMENT AND OPERATION OF QUARRY PARK AMPHITHEATER**

##### **4.1 ST PRODUCTIONS RIGHTS AND OBLIGATIONS**

(a) Starting upon execution of this Agreement by both parties ("Commencement Date") and during the term of this Agreement, ST PRODUCTIONS shall manage and operate the Amphitheater, in accordance with the terms and requirements of this Agreement.

(b) ST PRODUCTIONS shall produce a minimum of six (6) Concert Events at the Amphitheater for the first Operating Season, a minimum of eight (8) Concert Events for the second Operating Season, and ten (10) Concert Events for the remaining term of this Agreement.

(c) ST PRODUCTIONS has the exclusive right to book Events at the Amphitheater up to 365 days per year, except for those specific days withheld for use by CITY or not booked for an Event by ST PRODUCTIONS.

(d) ST PRODUCTIONS shall be solely responsible for the production of all Events, excluding CITY-produced Events. Currently planned CITY-produced annual Events include the following:

- (i) Shakespeare in the Park (June)
- (ii) RUSD Jazz Festival (April/May)
- (iii) Patriot Day (September)
- (iv) Hot Chili Cool Cars (September)
- (v) REEF Starlight Soiree (October)
- (vi) Rocklin PD Honor Awards (May)
- (vii) Tree Lighting (December)
- (viii) Employee Appreciation (TBD)

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(e) Right of First Refusal. ST PRODUCTIONS has the first-right-of-refusal for all third-party requests to use the Amphitheater. When the CITY receives a request for use in accordance with the CITY's Amphitheater Policies, CITY will notify ST PRODUCTIONS. ST PRODUCTIONS will then notify CITY within seven (7) calendar days whether ST PRODUCTIONS will manage the Event. If ST PRODUCTIONS does not timely notify CITY of its decision, or rejects the request, the CITY may produce the Event.

(f) ST PRODUCTIONS shall provide CITY an up-to-date Master Calendar of Events on the first working day of each month.

(g) ST PRODUCTIONS will work with Rocklin community groups in a good faith attempt to avoid an adverse impact on community group's not-for-profit events in proximity to the Amphitheater.

(h) Event Tickets. ST PRODUCTIONS shall be solely responsible for all ticket sales and management of ticketing software for all Events, excluding CITY-produced Events. ST PRODUCTIONS will provide CITY ten (10) tickets to all ticketed Events, at no charge to CITY, at least seven days prior to the Event.

(i) Refund/Exchange. Excluding CITY-produced Events, should an Event be cancelled by an Artist or due to a Force Majeure event and not rescheduled to occur during the same Operating Season, ST PRODUCTIONS shall issue refunds or exchanges for tickets sold to the Event. The refund policy for each Event shall be clearly stated to purchasers at the time of purchase and shall be printed on tickets issued.

(i) Staffing and Personnel. ST PRODUCTIONS shall be solely responsible for providing all necessary staffing for all Events, except CITY-produced Events.

(i) Staffing shall meet CITY's minimum requirements for Events, including all security services staff and emergency medical staff. The minimum requirements will be determined by the CITY in its sole discretion, based upon the type of Event to be held.

(ii) ST PRODUCTIONS shall fully comply with all Laws pertaining to ST PRODUCTIONS' employees, including, but not limited to, those regarding antidiscrimination, workers' compensation, employer's liability insurance, immigration, social security, unemployment insurance, hours of labor, wages, working conditions and all other employer-employee related subjects (including, without limitation, tax withholding and information reporting requirements), and ST PRODUCTIONS shall not do any act, nor permit any act to be done that would constitute a violation of any of such Laws.

(iii) ST PRODUCTIONS represents that it is and will continue to be an equal opportunity employer and shall advertise as such, and that ST



PRODUCTIONS shall not engage in any form of discrimination in the employment or hiring as independent contractors, of any personnel, including, without limitation, discrimination as to race, color, creed, religion, age, gender, marital status, sexual preference, national origin or physical disability. ST PRODUCTIONS shall indemnify and hold CITY harmless from and against any Loss of whatsoever kind and nature which may be asserted by any governmental entity or person by reason of any act or failure to act by ST PRODUCTIONS in accordance with or in violation of any said Laws, if such act or failure to act is not caused or directed by CITY. All employment arrangements are solely ST PRODUCTIONS' concern and CITY shall have no liability with respect thereto.

(iv) All matters pertaining to the employment, supervision, compensation, promotion and discharge of ST PRODUCTIONS' employees, including, but not limited to, the immigration status of each employee, are the responsibility of ST PRODUCTIONS, which is in all respects the employer of such employees. Except for third-party vendor(s) providing services under a service contract(s) as provided for herein, all personnel responsible for providing services under the terms of this Agreement shall be direct employees or independent contractors of ST PRODUCTIONS or Affiliates of ST PRODUCTIONS, and ST PRODUCTIONS shall, for purposes of such employment relationship, be acting as an independent contractor and not as an agent or employee of CITY.

(j) Sub-contracting.

(i) ST PRODUCTIONS may subcontract with a third party to provide any of the operations services described in herein for an Event, with CITY approval. ST PRODUCTIONS shall provide a copy of the form agreement to CITY for its review and approval prior to entering into the first agreement with a subcontractor for an Event. CITY's review and approval shall be in accordance with Section 4.3(h) of this Agreement.

(ii) ST PRODUCTIONS shall have the right to rent the Venue to a third party for Events. ST PRODUCTIONS shall provide a copy of the form rental agreement(s), procedures, policies and fees to CITY for its review and approval prior to the first rental of the Amphitheater for an Event. CITY's review and approval shall be in accordance with Section 4.3(h) of this Agreement.

(iii) ST PRODUCTIONS shall have the right to enter into a partnership agreement with a third party to produce an Event, with CITY approval. ST PRODUCTIONS shall provide a copy of the partnership agreement to CITY for its review and approval prior to entering into an agreement with a partner for an Event. CITY's review and approval shall be in accordance with Section 4.3(h) of this Agreement. CITY is not responsible for honoring any such agreements entered into by ST PRODUCTIONS upon termination of this Agreement.

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(k) ST PRODUCTIONS is not authorized to negotiate or enter into any agreements on CITY's behalf.

(l) Non-discrimination-Access.

(i) ST PRODUCTIONS, its employees, or agents, in the management or operation of the Amphitheater, shall not discriminate because of race, color, ancestry, national origin, religion, creed, age (over 40), disability (mental and physical), sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions), sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, military or veteran status, against any person by refusing to furnish any such person any accommodation, facility, service or privilege offered to or enjoyed by the general public.

(ii) ST PRODUCTIONS shall provide disabled persons' access to the Amphitheater as required by applicable Law. ST PRODUCTIONS shall ensure that visitors with disabilities will have access to all of the services provided through the Amphitheater in accordance with the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, California Government Code Sections 4450 et. seq. and 7250, and any other applicable Law now in effect or coming into effect anytime hereafter, provided that, to the extent applicable Law requires permanent alterations to the Amphitheater, such alterations shall be at the sole discretion and expense of the CITY.

(iii) ST PRODUCTIONS may refuse to allow guest participation at the Amphitheater for good cause, and not in violation of any Laws, or the terms of this Agreement. If access is denied, ST PRODUCTIONS will notify CITY within 24 hours.

(m) Concessions. ST PRODUCTIONS shall be solely responsible for all concessions, including food and beverage operations and merchandising sales, for all Events, excluding CITY-produced Events.

(i) ST PRODUCTIONS may sell alcoholic beverages at all Events excluding CITY-produced Events, with CITY approval, which approval shall not be unreasonably withheld. Proof of liquor liability insurance satisfactory to the CITY will be required.

(ii) Alcohol sales and service shall be in compliance with all Laws.

(iii) Alcohol sales shall be limited to beer and wine-based beverages and shall be sold at a minimum price per beverage of five dollars (\$5) at each Event. The maximum size for each beverage shall be: Beer - sixteen (16) ounces; Wine - nine (9) ounces; and Wine or Beer-based Mixed Drink - twelve (12) ounces.

4.2 ST PRODUCTIONS- Quality of Operations

(a) ST PRODUCTIONS shall perform all of the duties normally associated with the operation of an Amphitheater and shall operate the Amphitheater in the manner that is customary and usual to such an operation and consistent with generally accepted professional procedures and standards, including but not limited to the following:

(i) ST PRODUCTIONS shall operate the Amphitheater in a safe and efficient manner. ST PRODUCTIONS shall maintain a written Emergency Action Plan and provide its employees with training designed to reduce the risk of injury to employees or guests. The training program shall, as applicable, involve CITY's emergency responders.

(ii) ST PRODUCTIONS shall operate the Amphitheater in a manner that is in compliance with all applicable Laws, CITY policy, and the terms of this Agreement.

(iii) ST PRODUCTIONS shall use its best efforts to ensure its employees, contractors and agents working at the Amphitheater wear appropriate apparel, are courteous, and exhibit good customer service.

(iv) ST PRODUCTIONS will maintain trained and competent personnel for the management and operation of the Amphitheater, in accordance with any generally applicable industry standards for staffing. ST PRODUCTIONS shall have in its employ at all times a sufficient number of capable employees to enable it to properly, adequately, and safely manage and operate the Amphitheater.

(v) ST PRODUCTIONS shall monitor whether or not the management and operation of the Amphitheater is in compliance with all ST PRODUCTIONS obligations.

(vi) In no event shall the scope or quality of the services provided by ST PRODUCTIONS be less than those generally performed by professional managers of similar properties in the industry.

(b) ST PRODUCTIONS shall make available to CITY the full benefit of the judgement, experience and advice of members of ST PRODUCTIONS regarding the management, operation, and production of Events.

(c) ST PRODUCTIONS will draft Standard Operating Procedures and an Emergency Action Plan for the safe operation of the Amphitheater. ST PRODUCTIONS shall provide copies of such Procedures and Plans, and all updates thereto, to CITY.

(d) ST PRODUCTIONS shall use its best efforts to operate the Amphitheater in a manner that is compatible with the interests of CITY, the

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surrounding community and the patrons of the Amphitheater, consistent with this Agreement.

(e) ST PRODUCTIONS shall be available for communication with CITY, including without limitation attending periodic meetings with CITY at times and locations designated by CITY.

(f) ST PRODUCTIONS shall keep CITY advised of items that affect the Amphitheater in any significant manner.

(g) ST PRODUCTIONS shall provide to CITY written documentation of all incidents involving personal injury, property damage, or criminal activity that take place at Events at the Amphitheater, within 24 hours of their occurrence, with the exception of CITY-sponsored Events. ST PRODUCTIONS shall promptly report all criminal activity to the Rocklin Police Department.

### 4.3 CITY RIGHTS AND OBLIGATIONS

(a) CITY shall designate one or more CITY Staff members as ST PRODUCTIONS liaison for all communications and scheduling with all CITY Departments.

(b) CITY shall have final approval of all artists prior to ST PRODUCTIONS entering into a contract with an artist for an Event at the Amphitheater. ST PRODUCTIONS shall submit a list of desired talent by January 15<sup>th</sup> of each Operating Season for CITY review and approval. Any additional talent not listed must be reviewed and approved by CITY. CITY will review and approve/deny within two (2) business days of ST PRODUCTIONS' submittal of the list to CITY.

(c) CITY shall retain responsibility and control over the Amphitheater for all days not reserved by ST PRODUCTIONS for an Event, provided, however, that CITY agrees to grant ST PRODUCTIONS access to the Amphitheater up to a maximum of two (2) days prior to each Event, which shall be determined between the parties prior to each Event. ST PRODUCTIONS shall indicate on the Master Calendar when access to the Amphitheater in advance of an Event is needed.

(d) CITY shall have the right to reserve the Amphitheater to host up to ten (10) Events each Operating Season.

(i) CITY shall submit a request to ST PRODUCTIONS for CITY's selected dates by the 30<sup>th</sup> day of January of the Operating Season. CITY will receive those requested days unless ST PRODUCTIONS has an existing conflict with an executed or pending contract with Artist or a third-party renter for an Event on the same date(s), in which case the Parties will meet and confer to identify a suitable alternative date(s) for the CITY-produced Event(s).

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(e) CITY shall have the right throughout each Operating Season, to select additional dates for use by CITY up to 120 days in advance, when ST PRODUCTIONS has no Events scheduled on the Master Calendar for that date(s). Such additional CITY-produced Events shall be for free public Events or Events in which ST PRODUCTIONS has opted not to produce the Event.

(f) CITY shall be solely responsible for all parking operations at the Amphitheater, for all Events.

(g) CITY shall be solely responsible for setup and takedown of fencing at Amphitheater for all Events. Exhibit E, attached hereto and incorporated herewith by reference, is the diagram describing extent of fencing to be provided by CITY for Events.

(h) CITY will review and comment on any ST PRODUCTIONS proposed form agreements, procedures, and policies, within twenty-one (21) days from submittal to CITY.

### 4.4 Equipment

(a) CITY will provide ST PRODUCTIONS with the materials and equipment identified in Exhibit F, incorporated herewith by reference, for use in operating the Amphitheater, which shall remain the sole and exclusive property of CITY. This Equipment will be provided if available, upon timely request, which is at least fourteen (14) calendar days prior to the desired date for use.

(b) At the termination of this Agreement, ST PRODUCTIONS shall return the equipment identified in Exhibit F to CITY, in the same condition as when it was received by ST PRODUCTIONS, with the exception of ordinary wear and tear.

## 5. **MAINTENANCE, REPAIR AND IMPROVEMENTS**

### 5.1 Maintenance/Repair.

(a) ST PRODUCTIONS' obligations:

(i) ST PRODUCTIONS shall be solely responsible for Routine Maintenance of the Amphitheater following all Events, excluding CITY-produced Events. ST PRODUCTIONS shall return the Amphitheater to its pre-Event condition within twelve hours of the Event, unless otherwise agreed upon by the Parties.

(ii) Should ST PRODUCTIONS neglect, or refuse to undertake and complete any Routine Maintenance, CITY shall have the right to perform such maintenance for ST PRODUCTIONS. In this event, ST PRODUCTIONS shall promptly reimburse CITY for the cost thereof; provided, however, that CITY shall first give ST PRODUCTIONS notice of its intention to perform such maintenance.

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(iii) ST PRODUCTIONS shall be solely responsible for any and all repairs to the Amphitheater resulting from ST PRODUCTIONS use, with the exception of normal wear and tear. CITY will appoint staff to walk through the Amphitheater with ST PRODUCTIONS after each non-CITY-sponsored Event. CITY will provide notice of damage in writing, within 48 hours of Event/walk-through to ST PRODUCTIONS. If ST PRODUCTIONS, its officers, agents, employees, artists, artists agents, or patrons of the Amphitheater cause injury or damage to the Amphitheater, ST PRODUCTIONS shall promptly replace or repair the damage or cause the damage to be repaired, to the reasonable satisfaction of the CITY.

(b) CITY's Obligations.

(i) CITY is responsible for Routine Maintenance of the Amphitheater for CITY-produced Events.

(ii) CITY is also responsible for the following maintenance:

- (1) Mowing
- (2) Day-to-day trash removal
- (3) Trash removal for CITY-produced Events
- (4) Day-to-day restroom cleaning
- (5) Restroom cleaning for CITY-produced Events
- (6) Irrigation system operations
- (7) Park lighting and electrical systems
- (8) Parking Area maintenance

(9) General Amphitheater maintenance and repairs due to normal wear and tear, including any damages to Amphitheater unrelated to ST PRODUCTIONS use.

### 5.2 Improvements

(a) If ST PRODUCTIONS elects to make improvements to the Amphitheater the improvements must be approved by the City, and installed in a manner to avoid causing damage to the Amphitheater. The improvements will become the property of the City at the termination of the Agreement. If the improvements require City permits, Approvals or inspections, the City will facilitate the permit/approval/inspection process, and will waive the City's fee(s).

(b) CITY has no obligation to construct any capital improvements at the Amphitheater through the term of this Agreement.

(c) ST PRODUCTIONS shall fully fund the purchase and installation of a mutually agreed upon stage shade for the Amphitheater, which will be installed prior to May 2021.

## **6. MARKETING**

6.1 ST PRODUCTIONS shall be solely responsible for marketing all non-CITY sponsored Events, as well as marketing the Amphitheater for use as an Event location.

(a) ST PRODUCTIONS shall market the Amphitheater under the name "Quarry Park Amphitheater." ST PRODUCTIONS may utilize branding and logo provided by CITY, or ST PRODUCTIONS may utilize other branding and logo, if that branding and logo are approved by the CITY. If ST PRODUCTIONS uses branding or logo for the Amphitheater in addition to that provided by the CITY, ST PRODUCTIONS shall transfer the additional branding/logo/copyright/trade or service marks and all rights thereto, to CITY upon termination of this Agreement.

6.2 Customer data/lists. All customer lists and records generated by ST PRODUCTIONS pertaining to the management and operation of the Amphitheater under this Agreement, whether in existence at the commencement of ST PRODUCTIONS' operation of the Amphitheater or compiled thereafter, shall be treated as the property of ST PRODUCTIONS. CITY and ST PRODUCTIONS shall each control their respective customer lists, records or similar information pertaining to the Amphitheater. The parties may mutually agree to distribute advertising for CITY and ST PRODUCTIONS' Events to the other party's customer database.

6.3 ST PRODUCTIONS' marketing of the Amphitheater shall be family-friendly.

6.4 Sponsorships. ST PRODUCTIONS shall be responsible for acquiring and managing all sponsorships. All sponsors are subject to the approval of CITY, which approval shall not be unreasonably withheld.

(a) CITY shall remove all existing sponsor signage from Amphitheater within thirty (30) days from the date of expiration or termination of each existing sponsorship agreement.

(b) ST PRODUCTIONS shall provide CITY with copies of all sponsorship agreements entered within thirty (30) days of execution.

6.5 CITY will advertise Events through CITY's subscriber email system and social media accounts upon a timely request from ST PRODUCTIONS without charge, whenever feasible. An advertising request is timely if all final advertising copy to be distributed is provided to CITY in a form acceptable to CITY at least thirty (30) calendar days prior to ST PRODUCTIONS' desired date for distribution. CITY reserves the right to deny any request.

## **7. QUARRY PARK AMPHITHEATER WEBSITE**

~~7.1~~ Website. Website content relating to the management and operation of the Amphitheater by ST PRODUCTIONS is subject to the review and approval of the CITY. At the expiration or early termination of this Agreement, or if in CITY's sole discretion ST PRODUCTIONS' use of the website is not within generally-accepted industry standards, ST PRODUCTIONS' use of the website content shall cease and ST PRODUCTIONS shall transfer the website content to the CITY for its use.

## **8. TRADE OR SERVICE MARKS**

8.1 Any names, logos, trademarks and/or copyrights developed during the term of this Agreement that in any way associate, identify, or implicate an affiliation with the Amphitheater shall be approved by CITY prior to registration or use, shall belong to CITY upon creation, and shall continue in CITY's exclusive ownership upon expiration or early termination of this Agreement.

8.2 ST PRODUCTIONS and its representatives, upon reasonable advance notice to CITY, shall have full access to records, information and materials related to the use of CITY Marks as reasonably necessary for CITY to verify such use meets the applicable quality standards of CITY.

## **9. AMPHITHEATER OPERATING FINANCIALS**

### **9.1 ST PRODUCTIONS**

#### **(a) Operations Costs & Revenues**

(i) Except as otherwise expressly agreed to in the Agreement, ST PRODUCTIONS shall be responsible for all Event operations costs, which includes all costs associated with Event operations not otherwise addressed in the Agreement, and shall retain all revenue from Event operations.

(ii) ST PRODUCTIONS shall be responsible for acquiring and managing all sponsorships and shall retain 80 percent of all gross revenue, excluding in-kind services or donations, from sponsorships. All sponsorship agreements shall terminate upon termination of this Agreement.

(iii) ST PRODUCTIONS shall pay to CITY one dollar (\$1.00) per ticket sold or otherwise provided to a third party at full cost or reduced cost, for each Ticketed Concert Event. This fee shall not be published in connection with the sale of tickets (i.e., on ST PRODUCTIONS' website, at the time of ticket purchase, or on the tickets issued to purchasers). ST PRODUCTIONS shall provide City with a report of tickets issued through a third-party (i.e., Ticketmaster or Eventbrite) within seven (7) calendar days following each Concert Event.



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(iv) ST PRODUCTIONS shall pay to CITY a rental fee of \$500 for any non-Concert Event produced by ST PRODUCTIONS or any rental to any third party for any reason. In the case of such rentals, CITY shall not charge ST PRODUCTIONS one dollar (\$1.00) per ticket sold.

(v) ST PRODUCTIONS is responsible for, and will pay all fees associated with music licensing and other permits required for an Event, other than CITY-sponsored Events.

(vi) ST PRODUCTIONS and its subcontractors are responsible for payment of sales tax, if any, associated with Events, other than CITY-sponsored Events.

### (b) Utilities

(i) ST PRODUCTIONS will pay CITY three hundred dollars (\$300) per Concert Event and one hundred fifty dollars (\$150) for any non-concert Event (excluding CITY-sponsored Events). This cost will cover the expense for water, sewer, electrical, utilities during the first year of the Agreement as an agreed-upon estimated "fair-share" of utility costs for Amphitheater operations. The amount may be adjusted by CITY on January 1, 2021, and annually thereafter, to ensure the amount accurately represents ST PRODUCTIONS' estimated "fair-share" of these utility costs for the Amphitheater.

### (c) Payment Terms

(i) CITY shall invoice ST PRODUCTIONS for the fees described herein within forty-five (45) calendar days following each Event. ST PRODUCTIONS shall remit payment to CITY net 30 days from receipt of invoice.

## 9.2 CITY

### (a) Operations Costs & Revenues

(i) CITY shall be responsible for all costs for any services provided by the Rocklin Police Department for all Events.

(ii) CITY shall be responsible for all operating costs for parking operations and shall retain all revenue from parking operations. The Event parking fee per vehicle shall not exceed fifteen dollars (\$15).

(iii) CITY is responsible for all costs associated with Amphitheater fencing.

(iv) CITY is entitled to twenty (20) percent of all gross revenue from ST PRODUCTIONS' sponsorships, excluding in-kind donations and arrangements.

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### (b) Artist Contract Deposit Advance

(i) CITY shall make available, an Artist Contract Deposit Advance totaling up to \$100,000 to be used by ST PRODUCTIONS for contract deposits necessary to secure Artists for Events. These funds will be available to ST PRODUCTIONS upon documented request supporting the amount of the advance requested, within thirty (30) days of execution of this Agreement.

(ii) ST PRODUCTIONS shall reimburse CITY for each Artist Contract Deposit within thirty (30) days after the completion or cancellation of each corresponding Event, or upon termination of this Agreement if CITY terminates this Agreement due to ST PRODUCTIONS's default.

(iii) ST PRODUCTIONS shall be solely responsible for ensuring that the Artist Contract Deposits Advance is repaid to the CITY in full at the end of each Operating Season.

(iv) CITY shall make the Artist Contract Deposit Advance available to ST PRODUCTIONS until December 31, 2020. CITY may choose to maintain the availability of the Artist Contract Deposit Advance into future Operating Seasons at CITY's sole discretion.

## **10. FINANCIAL REPORTING**

10.1 The 2020 Operating Budget for calendar year ending 12/31/2020 is attached to this Agreement as Exhibit G. ST PRODUCTIONS will provide City with a copy of their Operating Budget by October 1 each year of the Term.

10.2 In addition to the ticket sales reports provided to CITY pursuant to 9.1(a)(iii) above, ST PRODUCTIONS shall keep an accurate record of attendance at ST PRODUCTIONS managed or produced Events. Such records shall be made available to CITY upon request.

10.3 ST PRODUCTIONS shall provide CITY with a quarterly report of sponsorship receipts, which is due to CITY thirty (30) days after the close of each calendar quarter.

10.4 Following delivery of each Amphitheater Report, ST PRODUCTIONS shall consult with CITY to discuss the issues raised in the report or other topics of concern to CITY.

10.5 ST PRODUCTIONS shall also provide any written reports and information which may be reasonably requested by CITY from time to time.

10.6 ST PRODUCTIONS shall designate Rocklin as the point of sale on their Seller's Permit.

## 11. INSURANCE

11.1 Commercial General Liability Insurance: At its sole expense, ST PRODUCTIONS agrees to maintain in force during the term of this Agreement comprehensive commercial general liability insurance, to cover all of ST PRODUCTIONS' activities in or associated with the Amphitheater including coverage for Premises/Operations/Products/Independent Contractor's liability, personal injury, explosion/collapse/underground and contractual liability insuring the indemnity provision contained in this Agreement and fully insuring ST PRODUCTIONS or its subcontractor's liability for bodily injury or death or property damage.

- (a) Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence.
- (b) Annual aggregate limit of \$2,000,000.
- (c) Products-components/operations aggregate of \$1,000,000.
- (d) Personal and Advertisement Injury (with employment exclusion deleted) of \$1,000,000.
- (e) Contractual Liability: bodily injury \$1,000,000 each occurrence; property damage of \$1,000,000 each occurrence;
- (f) Explosion, collapse, underground.
- (g) Claims made policies are not acceptable.
- (h) Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001, on an "occurrence" basis.

11.2 Business Commercial Automobile Liability Insurance: At its sole expense, ST PRODUCTIONS agrees to maintain in force during the term of this Agreement business commercial automobile liability insurance, to include coverage for owned/leased vehicles, non-owned vehicles and hired vehicles, as follows:

- (a) Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

11.3 Commercial Crime Insurance: At its sole expense, ST PRODUCTIONS agrees to maintain in force during the term of this Agreement commercial crime

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insurance, to include coverage for employee dishonesty, forgery or alteration and theft, disappearance and destruction and meet the following:

- (a) Coverage shall be on a blanket basis;
- (b) Limits shall be equal to \$1,000,000 per occurrence; and
- (c) Insurance on the improvements, fixtures, furnishings and equipment of ST PRODUCTIONS on the Amphitheater shall be in an amount adequate to insure the replacement and/or removal of said property in the event of Loss.

### 11.4 Property Insurance:

(a) All Risk Coverage. CITY shall obtain and keep in force a policy of insurance covering loss or damage to the Amphitheater, the Amphitheater improvements, the capital improvements and all furniture, fixtures and equipment in the amount of the full replacement value thereof, as the same may exist from time to time, against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief and special extended perils ("all risk," as that term is known in the insurance industry), but excluding damage due to flood, earthquake or terrorist activities. CITY is not obligated to rebuild the Amphitheater following destruction or a casualty Loss.

(b) Workers' Compensation: At its sole expense, ST PRODUCTIONS agrees to maintain in force during the term of this Agreement, Workers Compensation on a State of California approved policy form providing statutory benefits as required by California law with employer's liability insurance, with minimum limits of \$1,000,000 per occurrence.

(c) General conditions pertaining to provision of insurance by ST PRODUCTIONS:

(i) Insurance procured pursuant to these requirements shall be written by insurers that are authorized to transact the relevant type of business in the State of California and with an A.M. Best's rating of A:VII

(ii) Additional Insured Status. CITY, its officers, agents, officials, employees and volunteers are to be covered as additional named insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of ST PRODUCTIONS, including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

(iii) Primary Coverage. For any claims related to this Agreement or the Amphitheater Operations, ST PRODUCTIONS' insurance coverage

## Amphitheater Management and Operating Agreement

shall be primary with coverage at least as broad as ISO CG 20 01 04 13 as respects CITY, its officers, agents, officials, employees or volunteers and CITY's insurance shall be excess of ST PRODUCTIONS' insurance and shall not contribute to it.

(iv) Notice of Suspension or Cancellation. Each required insurance policy shall not be suspended or canceled, except with prior written notice to CITY (30 calendar days written notice, ten calendar days if cancellation is due to nonpayment of premium). In the event required insurance is suspended or canceled at any time and no replacement coverage is provided, ST PRODUCTIONS shall immediately cease operation of the Amphitheater, and CITY may declare default, or terminate this Agreement in accordance with the provisions of this Agreement.

(v) Waiver of Subrogation. ST PRODUCTIONS hereby grants to CITY a waiver of any right to subrogation which any insurer may acquire against CITY by virtue of the payment of any Loss under such insurance. ST PRODUCTIONS agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not CITY has received a waiver of subrogation endorsement from the insurer.

(d) Self-insured retentions must be declared to and approved by CITY. CITY may require ST PRODUCTIONS to provide proof of ability to pay Losses and related investigations, claim administration and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or CITY.

(e) Verification of Coverage. ST PRODUCTIONS shall furnish CITY with original Certificate of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to CITY prior to the execution of this Agreement. However, failure to obtain the required documents prior to the work beginning shall not waive ST PRODUCTIONS' obligation to provide them. CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(f) Subcontractors. Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that CITY is an additional insured on insurance required from subcontractors.

(g) Special Risks or Circumstances. CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

(h) All insurance coverage and limits provided by ST PRODUCTIONS are intended to apply to the full extent of the policies.

## Amphitheater Management and Operating Agreement

(i) None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to CITY and approved of in writing.

(j) No liability policy shall contain any provision or definition that would serve to eliminate so-called “third party action over” claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.

(k) ST PRODUCTIONS shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) without CITY’s prior written consent.

**12.5 Suspension for Lack of Insurance.** ST PRODUCTIONS shall immediately cease all operations associated with the Amphitheater in the event of a cancellation or alteration in insurance coverage that does not meet the requirements of this Agreement. If ST PRODUCTIONS’ insurance is suspended or canceled for any amount of time, it shall constitute a default of the Agreement.

## **12. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

12.1 To the fullest extent permitted by Law, ST PRODUCTIONS shall indemnify, hold harmless and defend CITY, its officers, officials, agents, volunteers and employees against any and all Losses (including but not limited to attorney fees, experts fees and costs of suit), arising indirectly or directly out of ST PRODUCTIONS’ management and/or operation of the Amphitheater, or in any way related to ST PRODUCTIONS’ performance of this Agreement, by reason of its acts or omissions relating to the Amphitheater and/or its obligation pursuant to this Agreement and/or by reason of injury, death, property damage, or any claim arising from the alleged violations of any applicable Law by ST PRODUCTIONS, , however caused or alleged to have been caused, provided, however, in no event shall ST PRODUCTIONS be obligated to defend or indemnify CITY with respect to the negligence or willful misconduct of CITY, its officers, agents officials, employees, or volunteers.

12.2 Should any claims, demands or other legal proceedings be made or instituted by any person against CITY, its officers, officials, agents volunteers and employees, which arise out of any of the matters relating to this Agreement or information in ST PRODUCTIONS’ possession relating to the Amphitheater, ST PRODUCTIONS shall give CITY all pertinent information within its possession and reasonable assistance in the defense or other disposition thereof.

12.3 CITY shall indemnify, hold harmless and defend ST PRODUCTIONS, its officers, agents and employees against any and all Losses (including but not limited to attorney fees, experts fees and costs of suit), arising from negligent, intentional or reckless acts of CITY, its officers, agents, or employees.

### **13. LIMITATION OF LIABILITY**

13.1 Except as is otherwise provided herein, except as may be covered by a party's insurance policies, and except as may arise from a party's: (i) liability for personal injury; or damage to real or tangible personal property arising from ST PRODUCTIONS' negligent, illegal or willful misconduct; or (ii) disclosure of confidential, proprietary, or privileged information; or (iii) obligations pursuant to Section 12 (Indemnification), neither party shall be liable to the other for the other's special, consequential, punitive, incidental or indirect damages, however caused, on any theory of liability, and whether or not they have been advised of the possibility of such damages.

13.2 CITY shall not have any liability for Operational or Financial Losses in the operation of the Amphitheater over the term of this Agreement.

### **14. TERMINATION**

14.1 Termination for Convenience. During the term of this Agreement, either party may terminate the Agreement for convenience, without cause, upon 180 days written notice to the other Party. Said notice shall only be given between March 1<sup>st</sup> and June 30<sup>th</sup> of each calendar year. The Party that terminates the Agreement for convenience shall be responsible for the actual financial losses of the non-terminating Party resulting from said termination, not to exceed \$10,000.

(a) Liquidated damages. The party terminating for convenience may elect to pay liquidated damages to the non-terminating party in the amount of Ten Thousand dollars (\$10,000.00) within thirty (30) calendar days of providing written notice, and the non-terminating party shall accept the payment of liquidated damages as payment in full for any and all losses associated with said termination for convenience. The Parties acknowledge and agree the harm caused by a party's termination for convenience would be impossible or very difficult to accurately estimate at the time of this Agreement, and the Liquidated Damages are a reasonable estimate of the harm caused by said termination, and do not unreasonably exceed the amount of harm the parties anticipate at the time of this Agreement. The Parties intend the Liquidated Damages to constitute compensation, and not a penalty. Payment of Liquidated Damages by a party terminating this Agreement for convenience is the terminating party's sole liability and entire obligation, and the non-terminating party's exclusive remedy.

14.2 Default. Any failure by a Party to this Agreement to observe or perform a provision of this Agreement, where such failure continues for thirty (30) calendar days, or sooner as otherwise detailed herein, after written notice of such failure, shall constitute a default and breach of this Agreement. However, if the nature of the default is does not involve a financial obligation and is such that it cannot be reasonably cured within the thirty (30) calendar day period, the offending party shall not be deemed to be in default if an effective cure is commenced within the thirty (30)

## Amphitheater Management and Operating Agreement

calendar day period and thereafter diligently prosecuted to completion; provided, however, that in no event shall such default remain uncured for more than 90 calendar days. Upon default by either Party, which remains uncured beyond any reasonable notice and cure period as set forth herein, the non-defaulting Party shall have the right to terminate this Agreement by providing written notice to the other Party.

14.3 CITY may terminate this Agreement immediately, upon written notice to ST PRODUCTIONS for the following:

- (a) In the event of an accident or accidents resulting from ST PRODUCTIONS' negligent operation of the Amphitheater which causes severe injury or death.
- (b) Due to cancellation of or reduction in any required insurance coverage as provided herein.
- (c) For ST PRODUCTIONS' violation of the assignment provisions of this agreement.
- (d) Destruction, casualty or taking of more than ten percent (10%) of the Amphitheater, if CITY does not elect to rebuild.
- (e) The filing of any bankruptcy petition by ST PRODUCTIONS or any permitted assignee, or the filing of any liens against the Amphitheater, if the lien is not removed within 30 days' notice thereof.

14.4 Effect of Termination. In the event of any termination or expiration of this Agreement:

- (a) Transition Plan. The CITY and ST PRODUCTIONS shall cooperate in developing a mutually acceptable transition plan. Such transition plan shall establish a date for the transfer of operations, transfer of books, records and financial information for the Amphitheater, the return of all CITY property to the CITY, and other matters deemed necessary or appropriate by the Parties. Prior to such transition, the Parties shall fulfill their responsibilities and obligations described in this Agreement, unless waived in writing by the other Party.
- (b) ST PRODUCTIONS shall pay the CITY any amount due and owing from the Artist Deposit Advance within 30 days of the CITY's Notice of Termination for cause/breach of this Agreement.
- (c) ST PRODUCTIONS shall remove its property stored or maintained at the Amphitheater within thirty (30) days of termination. In removing ST PRODUCTIONS' property, ST PRODUCTIONS shall not damage or render inoperable any of the other Amphitheater improvements or capital improvements, attractions, rides and facilities at the Amphitheater.



## Amphitheater Management and Operating Agreement

(d) ST PRODUCTIONS shall return CITY purchased equipment, materials and property to CITY within 30 days after the termination of this Agreement. The items shall be returned in the same condition as they were received, excepting ordinary wear and tear.

(e) Condition of Amphitheater at Termination. At the expiration or earlier termination of this Agreement, ST PRODUCTIONS shall terminate its service and vacate the Amphitheater, leaving all improvements, equipment, fixtures and trade fixtures in good and reasonably clean condition, subject to ordinary wear and tear.

14.5 Transition Rights. Upon termination or expiration of this Agreement for any reason, CITY will have the right, for a period of 180 days following the date of full or partial termination (the "Transition Period"), to elect to have ST PRODUCTIONS continue to perform the services under this Agreement; and ST PRODUCTIONS shall make available to CITY all other services necessary to ensure a smooth transition of the services to a new vendor, including providing all CITY data and lists in a format reasonably-requested by CITY. If CITY elects to have ST PRODUCTIONS continue to perform services under this Agreement during such Transition Period this Agreement will remain in full force and effect. At the end of the Transition Period, the Agreement will terminate.

### 14.6 Survival.

(a) Upon any expiration or termination of this Agreement, Sections 7, 8, 9, 10, 12, 13 and 14, and any section which by its nature should survive, shall survive any expiration or termination of this Agreement.

(b) Should this Agreement expire or be terminated for any reason by either party, the requirements for insurance shall remain in full force and effect for no less than six months after termination of this Agreement.

## **15. COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES.**

ST PRODUCTIONS shall comply with all applicable Laws existing during the term of this Agreement, including obtaining and maintaining all necessary permits and licenses. ST PRODUCTIONS acknowledges and warrants that it is, or will make itself, through its responsible managers, knowledgeable of all pertinent Laws or other requirements having the force of Law affecting the operation of the Amphitheater.

## **16. HAZARDOUS SUBSTANCES AND ACTIVITIES**

In the management and operation of the Amphitheater, ST PRODUCTIONS shall not: keep, store, or sell any goods, merchandise, or materials that are in any way explosive or hazardous; or carry on any offensive or dangerous trade, business, or occupation, as determined by CITY in its sole discretion.

**17. MISCELLANEOUS**

17.1 Prohibitions Against Assigning, Subletting. This Agreement and/or any interest therein or thereunder shall not be assigned, delegated, mortgaged, hypothecated or transferred by ST PRODUCTIONS without obtaining the prior written consent of CITY, except as set forth in Section 18.22, below.

17.2 ST PRODUCTIONS may use subcontractors to perform ST PRODUCTIONS' obligations under the Agreement, but only in compliance with this Agreement and then only to the extent expressly authorized by CITY. ST PRODUCTIONS will be responsible for the performance of its subcontractors. Before engaging a subcontractor to perform ST PRODUCTIONS' obligations under this Agreement, ST PRODUCTIONS will enter into a written subcontract with the subcontractor that contains terms consistent with and no less protective of CITY than the terms of this Agreement. ST PRODUCTIONS will enforce such agreements with at least the same degree of diligence that ST PRODUCTIONS uses to enforce its own similar agreements but in no event less than reasonable efforts. Notwithstanding the foregoing, ST PRODUCTIONS shall not be relieved of any of its duties or obligations under this Agreement as a result of entering into a written agreement with a permitted subcontractor.

17.3 Notices. Any notice and/or report required to be given or that may be given by either Party to the other shall be deemed to have been fully given when made in writing and deposited in the United States Postal Service, postage prepaid, and addressed as follows:

CITY:	CITY of Rocklin, attn. CITY Manager 3970 Rocklin Road Rocklin, CA 95677
	CITY of Rocklin, attn. CITY Attorney 3970 Rocklin Road Rocklin, CA 95677
ST PRODUCTIONS:	ST PRODUCTIONS, 4318 Castleglen Way Fair Oaks, Ca 95628

17.4 Right of Entry. Nothing in this Agreement shall be deemed to limit CITY'S right to do anything regarding the Amphitheater which an owner of the Amphitheater would otherwise be entitled to do, including but not limited to the right to enter on the Amphitheater, to inspect the Amphitheater, to perform any repair or maintenance thereof, and to do anything required of ST PRODUCTIONS hereunder if ST PRODUCTIONS fails to do so in a timely manner (following any required notice and cure periods).

## Amphitheater Management and Operating Agreement

17.5 Signs and Advertising. Additional temporary signs, logos, names, placards, or advertising material may be inscribed, painted, or affixed upon Amphitheater, or circulated or published upon receipt of written approval of CITY, which shall not be unreasonably withheld, conditioned, or delayed. Signs or advertising should be consistent with the purposes of this Agreement. At the termination of this Agreement, ST PRODUCTIONS shall remove all such signs and advertising, and return the Amphitheater to its original condition.

17.6 Section Titles. The Section titles in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect this Agreement.

17.7 Agreement in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

17.8 Successors in Interest. Unless otherwise provided in this Agreement, the terms, covenants and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of all the Parties hereto, all of who shall be jointly and severally liable hereunder.

17.9 No Third Party Beneficiaries. Except for the provisions of this Agreement relating to the indemnification of employees, agents and representatives of either Party, there are no third-party beneficiaries to this Agreement and no third-party beneficiaries are intended by implication or otherwise.

17.10 Partial Invalidity. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

17.11 Time of Essence. Time shall be of the essence in the performance of this Agreement.

17.12 Duration of Public Facilities. By entering into this Agreement, CITY makes no representation or stipulation as to the type, size, location, or duration of public facilities and improvements to be maintained at the Amphitheater, nor does CITY guarantee the accuracy of any financial or other factual representation that may be made regarding the Amphitheater.

17.13 Waiver of Rights, Claims and Agreement Terms. Unless otherwise provided by this Agreement, no waiver by either party at any time of any of the terms, conditions, or covenants of this Agreement shall be deemed as a waiver at any time thereafter of the same or of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of a Party to exercise any right, power, or privilege, or option arising from any breach, nor any subsequent acceptance of funds then or thereafter accrued shall impair any such right, power, privilege, or option, or be construed as a waiver of such breach or

relinquishment of any right or acquiescence therein. No notice to shall be required to restore or revive time as of the essence after the waiver by a Party of any breach. No option, right, power, remedy, or privilege of either Party shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given to the parties by this Agreement shall be deemed cumulative.

17.14 Interpretation of Agreement. The paragraph titles in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of intent of this Agreement or in any way affect this Agreement.

17.15 Governing Law. This Agreement is made under and is subject to the Laws of the State of California in all respects as to interpretation, construction, operation, effect and performance.

17.16 Dispute Resolution. The parties agree to meet and confer on any issue that is the subject of a dispute under the Agreement, and use good faith efforts to resolve the matter through negotiation. If the matter has not been resolved within sixty (60) calendar days, then any controversy or claim arising out of or relating to the Agreement, or the breach thereof, to the extent not otherwise resolved through the negotiation process described in this Section, may be settled by litigation. Venue for any such litigation shall be in the courts having jurisdiction in Placer County, California.

17.17 Independent Contractor. In the performance of this Agreement, ST PRODUCTIONS and the agents and employees of ST PRODUCTIONS shall act in an independent capacity and not as officers or employees or agents of CITY. All employees and agents hired or retained by ST PRODUCTIONS are employees and agents of ST PRODUCTIONS and not of CITY. CITY shall not be obliged in any way to pay any wage claims or other claims made against ST PRODUCTIONS by any such employees or agents, or any other person resulting from the performance of this agreement.

17.18 Modifications and Approval of Agreement. This Agreement including the exhibits hereto, contains and embraces the entire Agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited, or extended orally or by any Agreement between the parties unless such Agreement be expressed in writing, signed and acknowledged by CITY and ST PRODUCTIONS, or their successors in interest.

Notwithstanding any of the provisions of this Agreement, the parties may hereafter, by mutual consent expressed in writing, agree to modifications thereof, additions thereto, or terminations thereof, which are not forbidden by Law.

## Amphitheater Management and Operating Agreement

Upon the written request of either Party, the Parties shall meet and confer within 60 days after the first anniversary date of this Agreement to discuss the need for potential modifications to this Agreement.

17.19 Force Majeure; Damage; Condemnation. In the event of a Force Majeure Event, the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of Force Majeure Event shall deliver written notice of the commencement of any such delay resulting from such Force Majeure Event not later than seven (7) calendar days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a Force Majeure Event causing such delay and the other party shall not otherwise be aware of the Force Majeure Event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this paragraph.

17.20 No Presumption Regarding Drafter. The terms and provisions of this Agreement have been thoroughly negotiated and discussed between CITY and ST PRODUCTIONS. This document reflects their mutual agreement regarding the subject matter of this document. Because of the nature of such negotiations and discussions, neither CITY nor ST PRODUCTIONS shall be deemed or construed to be the drafter of this Agreement. Therefore, no presumption for or against the drafter shall be applicable for interpreting or enforcing the terms contained therein.

17.21 Taxes, Assessments and Fees. If any ad valorem real and personal property taxes assessed against the Amphitheater are assessed as a result of the operation of the Amphitheater by ST PRODUCTIONS, then such shall be responsibility of ST PRODUCTIONS. CITY shall have the right in good faith to contest any such taxes, charges and assessments.

17.22 Assignment. ST PRODUCTIONS may not assign or transfer any of its rights or obligations under this Agreement without CITY's prior written consent. ST PRODUCTIONS may assign its rights or obligations under this Agreement to a lawfully organized business operated by a current owner of ST PRODUCTIONS if s/he has at least a 50 percent ownership interest in the assignee business. The assignee is subject to all of the terms and conditions of this Agreement. Any attempted assignment or transfer in violation of the foregoing will be null and void.

**(SIGNATURES ARE ON FOLLOWING PAGE)**

Amphitheater Management and Operating Agreement

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

**ST PRODUCTIONS:**

ST PRODUCTIONS LLC, a Limited Liability Company registered to transact business in California

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

**CITY:**

CITY of Rocklin

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Date:\_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Sheri Chapman, CITY Attorney

**ATTEST:**

By: \_\_\_\_\_  
Hope Ithurburn, Deputy CITY Clerk

**EXHIBIT A**

**DEFINITIONS**

Wherever used in this Agreement, the capitalized terms in this Section shall have the following meanings:

“Affiliate” means with respect to any person or entity, any other person or entity controlling, controlled by, or under common control with the person or entity in question. For purposes hereof, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of any person or entity, or the power to veto major policy decisions of any person or entity, whether through the ownership of voting securities, by agreement, or otherwise.

“Approvals” means all licenses, certificates (including certificates of occupancy), consents, variances, waivers, authorizations, permits and similar approvals required for the operation, management, maintenance, or occupancy of the Amphitheater issued by any governmental authorities having jurisdiction over the Amphitheater, or by private parties or associations under any Land Use Requirement.

“Business Day” means any weekday except for those weekdays that the CITY offices are closed (a “Holiday”). Should this Agreement require an act to be performed or a notice to be given on a Saturday, Sunday, or Holiday, the act shall be performed or notice given on the following Business Day.

“Commencement Date” means the date upon which both parties have executed this Agreement. ST PRODUCTIONS

“Concert Event” is defined as any ticketed performance with musical entertainment as the main purpose of Event (1) produced directly by ST PRODUCTIONS; (2) produced by a third party who has rented the venue through ST PRODUCTIONS; or (3) produced by ST PRODUCTIONS through a partnership agreement with a third party.

“Event” is defined as any planned function or activity held primarily for entertainment purposes, regardless of whether such activity is: (1) private or open to the public; or (2) requires payment of a fee or is no cost to attend. “Event” also includes the rental of the Amphitheater to a third party for an Event. All Events must be consistent with CITY adopted Quarry Park Amphitheater Policies.

“Non-Concert Event” is defined as any ticketed or non-ticketed event not qualifying as a Concert Event defined above.

“Force Majeure Event” shall mean: (a) governmental action or restriction, regulation, or control, failure of power, water, fuel, electricity or other utilities, riots, insurrection, civil commotion, enemy or terrorist action, war, acts of God, fire or other

## Amphitheater Management and Operating Agreement

casualty; or (b) any other matter, cause or circumstance which is beyond the unforeseeable reasonable control of a Party and which materially and adversely affects the performance by the affected Party of the terms and provisions of this Agreement, in each case with respect to the party alleging or claiming the benefit of "Force Majeure Event," to the extent the same has not arisen by reason of any breach by such Party (or any other person for whom such party is responsible) of any of such Party's obligations under this Agreement; provided, that a Party's lack of funds shall not constitute a "Force Majeure Event."

"Insurance Requirements" means all present and future rules, regulations, or orders of any national or local Board of Fire Underwriters or other similar body, or any terms of any existing policies of insurance on or regarding the Amphitheater.

"Laws" means all laws, statutes, ordinances, codes, regulations, decrees and orders of a governmental authority.

"Master Calendar of Events" is defined as a complete list of all dates and times which an event will occur at the Amphitheater in which ST PRODUCTIONS is responsible for.

"Operating Season" is defined as January 1<sup>st</sup> through December 31<sup>st</sup>.

"Routine Maintenance" shall include the work required to keep the Amphitheater in a safe and sanitary condition in accordance with industry standards and free of trash, garbage, or obstructions of any kind. The following are examples of Routine Maintenance: janitorial services, trash removal, and restroom cleaning.



Amphitheater Management and Operating Agreement

**EXHIBIT B**

**DESCRIPTION OF PREMISES**

Premesis Map - Exhibit B





# Green Room Location

GIS Division



Premesis Map - Exhibit B



Amphitheater Management and Operating Agreement

**EXHIBIT C**

**CITY AMPHITHEATER POLICIES**

*(Attached)*





# **City of Rocklin**

## **Quarry Park Amphitheater Rental**

### **Policies and Procedures**



**Purpose of the Quarry Park Amphitheater**

When not in use for entertainment purposes, the amphitheater is part of Quarry Park, a space open to the public. To limit impacts to the public and preserve Quarry Park for general public enjoyment, rental of the amphitheater shall be limited primarily to entertainment purposes including music and performing arts.

**Contract**

Based on information submitted in the application and any additional information submitted to the Department of Parks and Recreation, a contract will be prepared for the renter including rental fees, required documents and timeframes for submission of documents or other information. Upon execution of the contract and when the standards as described in Rocklin Municipal Code Section 12.20.025 are met, the contract shall serve as a permit entitling renter to use of the Quarry Park Amphitheater as described in the contract. For information purposes only the application form is attached hereto as Attachment A.

**Fees**

Every event is unique and final fees will be determined based on information submitted in the application and specific needs of the event proposed. Fee rates will be included as part of the City's Fee Schedule and are subject to annual updates. Current Fee Rates are shown on Exhibit B. Based on the information submitted in the application and any additional information requested by the City, the City will determine how many City personnel are required to be onsite, in what positions and what length of time, at which time the renter will be charged the associated fees applicable. Fees will be determined and entered into the renter's contract. Fees owed in the form of food or alcohol sales fees are payable to the City in the timeframe as specified in the contract.

The City may choose to reduce or waive fees for certain events if certain criteria are met. The City Manager and Director of Parks and Recreation will consider such requests for events that meet the majority of the following criteria;

- Event is an entertainment, art or performing art related event (all requests must meet this criteria).
- Nonprofit sponsored event that is open to the public and is low or no-cost
- Event advances the City's art objectives as identified in the Rocklin Public Art Master Plan or provides a unique public benefit.
- Event supports or provides benefit to other city programs or services or enhances the city's ability to attract additional events the city might not otherwise be able to attract and that would pay full cost.
- Event proposed for non-peak day(s) or season.

**Refunds and Deposits**

A refundable security deposit is due at the time of submission of signed contract to City. Timeframes for submission of the security deposit, notice of cancellations and refunds or retention of the security deposit will be established by the Director of Recreation, Arts and Event Tourism. Deposits will be used by the Department of Parks and Recreation to repair, replace or pay for any property damage that occurs during the rental either by the renter or any participant at the event produced by the renter or for staffing costs if event exceeds stated time frame. The unused portion of the deposit will be refunded to the renter after the event. However, the deposit may be held at the discretion of the Department of Recreation, Arts, and Event Tourism for any period of time necessary to determine the full extent of damages and to make all repairs and/or secure replacements. The deposit will be refunded upon the following conditions: 1. All terms of the contract have been met. 2. All facilities are left in good condition. 3. Cancellation procedures have been followed.

**Reservation Procedures**

No oral agreements for use of the Quarry Park Amphitheater shall be valid. All valid reservations will be confirmed in writing in the form of a contract and all conditions and terms of the contract are met. Use of the Quarry Park Amphitheater is determined on a first-come, first-served basis. Maximum reservation periods will be established by the Director of Parks and Recreation. Reservations are not confirmed until

Initials \_\_\_\_\_

this application is completed and signed by the renter, received and approved for use by the Department of Parks and Recreation, a rental agreement is produced and fully executed and all conditions and terms of the rental agreement have been met. All fees must be paid in advance of the rental date in a timeframe specified in the contract. Failure to pay all fees as specified in the contract constitutes a breach of rental agreement for use of the Quarry Park Amphitheater and will result in the immediate cancellation of the rental date. All applicable fees, necessary documents, correct insurance certificates and endorsements must be received by the City before or on date items are stated as due in rental contract. If renter fails to meet said deadlines rental will be cancelled by the City. At this time, renter may be offered a new rental date if available and renter will complete a new application and begin a new reservation procedure.

Additional charges may be assessed for property damages and extended occupancy periods beyond what is stated in the rental agreement. Upon submittal of an invoice of additional charges and within the time period specified in the contract, the renter shall pay all additional charges in excess of the deposit.

### **Use of Volunteers Supplied by Renter**

Renter's use of volunteers to support the event is subject to approval by the City. Approved volunteers may perform nonessential job duties. Examples of nonessential job duties include selling raffle tickets, handing out brochures, beer/wine service, merchandise sellers and ushering. Paid staff must be used in positions of security, ticketing and bag check at entry gates, and secured backstage areas. Volunteers may also not be used for, parking attendants, traffic control, trash removal and restroom maintenance as these positions are managed by City personnel and inclusive in rental fee for venue use unless otherwise agreed upon and evidenced in writing signed by both parties.

### **Sponsorship, Marketing, Advertising**

Sponsorships shall not be secured, and advertising/announcements/websites shall not be made public, prior to written confirmation from the City of Rocklin Department of Recreation, Arts, and Event Tourism in the form of a contract. Advertising or announcements, including all marketing materials and collateral, passes and tickets, must be pre-approved by the Department of Recreation, Arts, and Event prior to release. Tickets may not be sold prior to written confirmation from the City of Rocklin Department of Recreation, Arts, and Event in the form of a rental agreement. Renter may be required to include in all marketing/advertising materials policy statements pertaining to the Quarry Park Amphitheater and/or the City of Rocklin.

### **Concessions**

Renter may contract with a third party or parties to provide food and beverage (non-alcoholic and alcoholic) concessions at Event. Should renter choose not to provide food and beverage concessions, the City reserves the right to provide food and beverage concessions. Alcohol sales shall be limited to beer and wine, beer or wine-based drinks (i.e., wine margaritas) or malt beverages with less than 6% ABV. No other type of alcoholic beverages including cocktails, drinks made with distilled spirits, etc. will be allowed and all required licensing must be obtained. No bottles or glass containers will be allowed. Alcohol sales require Renter to enter into separate agreement with the City. For information purposes only the current Beverage Service Policies are attached.

Renter agrees to pay the City a base fee (dependent upon attendance) and a flat fee of \$100 per food or other non-alcoholic beverage vendor or food truck. These fees shall be paid within the time period specified in the contract.

Renter shall be responsible for obtaining all necessary licenses required through the State of California Alcohol and Beverage Control (ABC), the Placer County Department of Health as well as the Rocklin Police Department, and comply with all state and local laws regarding the sale of alcohol or food. Copies of any license(s) or permit(s) from other state or local agencies shall be submitted to the city within the time period specified in the contract. In the event that the required permits are not obtained, or inappropriate alcohol is sold at the Event, City has the exclusive right to delay or cancel the Event at no cost or obligation to City.

Initials \_\_\_\_\_

**Restroom Facilities**

Quarry Park Amphitheater is equipped with permanent restroom facilities: two separate 4-stall women's restrooms (8 stalls total) and two separate 4-stall men's restrooms (8 stalls total). Based on information submitted in the application and projected event attendance, additional portable restroom facilities may be required. Renter agrees to provide and pay for the necessary number of portable restroom facilities in compliance with current building code and ADA standards. The City will determine the timeframe for delivery and pickup of portable restrooms. It is the renter's responsibility to ensure any required portable restrooms are delivered and picked up within the time frames specified. Failure to do so may result in a delay or cancelling of the event.

**Merchandise Sales and Revenue**

The City acknowledges and agrees that renter shall have the right to sell, and/or to authorize third parties to sell, non-food and non-beverage merchandise at the Event. Merchandise sales must be consistent with the policies adopted by City of Rocklin Resolution 2014-4. All revenue (100%) derived from such merchandise sales shall be retained by renter or its authorized third parties. The City shall be allowed to sell venue merchandise and tickets to future events from a designated structure within the venue. All revenue (100%) derived from such venue merchandise and ticket sales shall be retained by the City.

**Venue Rules**

Renter agrees to notify and make available to all ticketholders the City's Rules and Regulations for the venue as well as parking information. This information shall be available on renter's ticketing website once ticket sales begin and shall remain posted through the duration of the event. (For information purposes only the current Rules and Regulations are attached )

**Traffic Control & Parking**

The City of Rocklin has the discretion to manage all parking operations for Renter's event. The City will determine the number and location of parking lots to be used for Renter's event based on the information contained in the application. Parking lots shall be used for their intended purposes and will be manned and controlled by City staff or professional parking firm contracted through the City. Renter may not sell, as any part of a ticket package or sponsorship, City parking lots. The City will designate and provide Renter with areas to be used for equipment Loading/Unloading, Bus and/or RV parking for performers. No other passes will be recognized and/or approved to park in these designated areas. If it is determined that traffic control by the Rocklin Police Department is needed on Rocklin Road, Pacific Street or other surrounding public thoroughfares as a result of Renter's event, all costs associated with traffic control will be borne by the Renter.

**Noise & Lighting**

To minimize negative noise impacts and comply with the City of Rocklin noise level standards, the City of Rocklin requires any event with amplified sound to contract with an approved sound production company. In addition, all amplified sound shall end by 10 pm. Concert speakers should be placed on the stage or if suspended above the stage, shall be angled downward towards the audience. Average and maximum sound levels should be limited to 90 dB Leq and 95 dB Lmax at the sound mixing stage. Additional stage lighting shall be angled towards the stage or audience and shall not flash or project outside of the venue.

**Photography/Recording/Broadcast**

Renter has the right (at its sole cost and expense) to photograph, make audio or video recordings of, broadcast, and/or stream the Event. The renter shall own the copyright in any such photographs, recordings (audio and/or video) and/or broadcasts and shall have the free and unrestricted right to use any such photographs, recordings (audio and/or video) and/or broadcasts in any manner it sees fit in perpetuity, including, without limitation, broadcast on its radio stations or on its website. The renter shall be solely responsible for obtaining any and all consents required from the artists performing at the Event required for the renter to fully exercise its rights.

Initials \_\_\_\_\_



The City of Rocklin uses surveillance cameras to monitor the facility for safety and security purposes. These cameras are monitored by the Rocklin Police Department and capture video only with no audio. The video is stored pursuant to the City of Rocklin's retention schedule.

#### **Law Enforcement**

The City will determine if Rocklin Police staffing will be required for rental event using information provided in this application. The City reserves the right to, and shall have the authority to, require a reasonable number of officers which it deems necessary for a particular event to insure the safety of the public, the premises and the Quarry Park Amphitheater at all times during which the facility is used and occupied by the Renter, or by persons authorized by the Renter. This includes but is not limited to officers stationed within the venue, traffic control and dispatch. Assigned officers will provide services only as stated in the contract. Renter is responsible for providing private security or other staffing for any services outside of the scope of the contract. Renter is responsible for all costs for police staffing associated with the event. A deposit for police staffing costs is required within the time period specified in the contract.

#### **Security**

If renter will be providing private security, information on security firm must be submitted to city within the time period specified in the contract. It is the Renter's responsibility to ensure that all security guards have a current and valid registration with the California Bureau of Security and Investigative Services.

#### **Emergency Medical Personnel**

The City will determine if an ambulance will be required to be onsite during rental event. The renter bears all associated costs for providing ambulance services, if required. A copy of the ambulance/paramedic service contract must be submitted to the city within the time period specified in the contract.

#### **Missing/Damaged Equipment Charges**

If after the event any equipment or facilities are found to be damage or missing, staff will determine costs for repair and replacement. The deposit will be withheld until such time as repair or replacement costs can be determined and the costs will be deducted from the deposit. Any costs above and beyond the deposit amount will be billed to the renter. Renter agrees to pay for costs above and beyond the deposit amount.

#### **Insurance Requirements for Renter**

The City will determine the appropriate insurance and insurance amounts based on information provided in this application.

#### **Insurance Requirements for Renter's Vendors, Sub-Contractors, Service Providers**

The Renter shall ensure that its' vendors, entertainers, sub-contractors and service providers will be required to obtain and provide a certificate of liability insurance and endorsements to the City of Rocklin within the time period specified in the contract. Insurance liability limits will be determined by the City of Rocklin using information provided in this application. Insurance requirements will be identified and entered into the rental agreement.

#### **Misrepresentation of Event**

Any misrepresentation as to the nature of the rental as described in this application and referred to in the rental contract, or to the number of attendees expected, contact or payment information, or any other falsification of permits and/or documents will result in the immediate cancellation of the rental and forfeit of all fees paid, and may result in legal action.

#### **Authority to Cancel Event**

The City reserves the right to cancel and event if it is determined there is a risk to the public health, safety or welfare or place additional restrictions or requirements on the event, if determined these additional restrictions or requirements will mitigate any concerns.

#### **Renters Property/ Loss/Damage/Defacement**

Initials \_\_\_\_\_

The City of Rocklin shall assume no responsibility for any property placed on or in its facilities or grounds. The City of Rocklin, its officers, agents and employees, are released and discharged from any and all liability for loss, injury or damaged to persons or property that may be sustained by the use or occupancy of the facility and its environs. No decorative or other material will be taped, wired, glued, nailed, tacked, screwed or otherwise physically attached to any part of the Quarry Park Amphitheater rental space, including but not limited to fencing, gates, stages, buildings, windows, vegetation, restrooms, without prior approval from the City. Renters must receive prior approval to hang any banner or signage on City property. Drilling into any fence, cement, wall, and/or brick on/in any part of the park rental space is strictly prohibited. Driving onto rental park space grass or pavers, including but not limited to golf carts is strictly prohibited. No items will be laid or placed on the rental park space turf that might cause damage to it. Any group using the Quarry Park Amphitheater rental space agrees to leave the premises in the same condition it was prior to their usage. Renter agrees to assume all responsibility for any damages done to the premises in the same condition it was prior to their usage. Renter agrees to assume all responsibility for any damages done to the premises or facility as a result of their usage. Renter is responsible for any loss, damage or theft of personal property that is incurred by the Renter, performers, and/or those in attendance.

#### **Laws & Ordinances**

Renters shall be responsible for compliance with all federal, state and local laws, ordinances and regulations applicable to such party's activities and obligations in connection with the Event and use of the venue.

#### **Anti-Discrimination**

Discrimination by renter, its officers, agents, or employees, based on age, race, color, religion, sexual orientation, gender, disability, or national origin is prohibited.

#### **Business License & Taxes**

Any individual or entity selling ticket, souvenirs, or any other merchandise or service before, during or after the event must obtain a City of Rocklin business license in accordance with Chapter 5.04.060 of the Rocklin Municipal Code. Renters will be responsible for collecting all applicable taxes, Including Federal, State and City taxes.

**Print Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Initials \_\_\_\_\_

## **RULES & REGULATIONS**

*The City of Rocklin is dedicated to providing a high quality entertainment experience. Guests who do not choose to abide by our policies will be ejected from the amphitheater. Ejections are documented and anyone ejected from the amphitheater may be banned from future events. The purpose of our policies is to help ensure that all Quarry Park guests enjoy a positive and safe experience.*

The following rules and regulations will be enforced for all ticketed concerts at Quarry Park. All individuals and their belongings are subject to search. The Following information is subject to change without notice;

### **PERMITTED:**

- Each attendee can bring in a single towel/blanket for seating in General Admission areas, not to exceed 3' x 5' **OR** a single low profile chair\*
- One (1) Sealed plastic water bottle per attendee
- Seat cushions
- Guests with medical bags or items they must carry with them will be inspected and either have a wristband or sticker placed on it to show that it has been inspected
- Cameras with 3 inch lenses or shorter
- Smoking only permitted in designated areas of the venue.

\*Low Profile Chairs: The specific measurements for a chair to qualify as low-profile are; no more than 6 inches from the ground to the seat, and no more than 20 inches from the top of the chair to the ground.

*Anyone possessing PROHIBITED items will be asked to return them to their vehicles before being allowed to enter the amphitheater or will be asked to dispose of the item/items in the garbage cans provided at the gate.*

### **PROHIBITED:**

- Chairs exceeding the low profile regulations
- Blankets exceeding size regulations
- Any outside food or beverages; Cans, glass bottles or alcoholic beverages
- Coolers of any size (including soft sided coolers)
- Pets (with the exception to service animals)
- Weapons of any kind (including silverware) or Pepper Spray
- Bullhorns, klaxons, whistles, or any other noise makers that will disrupt the performance
- Laser pointers of any type
- Musical instruments
- Projectiles or throwing objects of any kind (such as beach balls, Frisbees, hula hoops, footballs, or any other throwing type item)
- Any object that will create a fire (lighters, candles, fireworks, sparklers, etc.)
- Professional recording devices of any kind
- Umbrellas
- Strollers or playpens
- Signs, banners, or tripods that interfere with the view of the performance for other guests
- Skateboards, bicycles, roller skates, in-line skates, scooters, Segway's, or hoverboards
- Wallet chains, spiked bracelets or belts
- Occupying any seat without the appropriate ticket
- Irresponsible drinking or behavior

Initials \_\_\_\_\_

- Illegal substances or drugs
- Any gestures and/or clothing that utilizes profane language or content that promotes fosters, or perpetuates discriminations on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, sexual orientation, conduct or encouragement of illegal activity.
- Any distraction to the performance or performers
- Mistreatment to other guests or staff/personnel, including but not limited to, verbal abuse, harassment, profanity, confrontations, intimidation, or threatening behavior
- Failure to follow the directions of law enforcement, security, ushers, ticket takers, or any other City of Rocklin personnel will result in ejection from the location.

**Print Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Initials \_\_\_\_\_

## **BEVERAGE SERVICE POLICIES (BEER/WINE SALES)**

- Beer-based or wine-based drinks (such as wine margaritas) may be sold, so long as drinks do not include any other liquor or alcoholic beverage. Malt-based beverages with an alcohol volume of 6% or less may only be allowed upon review and approval by the City of Rocklin Director of Parks and Recreation (or designee) and Police Chief (or designee). Requests must be submitted to the Director of Parks and Recreation at least 10 days prior to the event date. No other alcoholic beverages, spirits or liquors shall be served.
- Renter or contracted beverage Service Company is required to obtain all required permits and licenses as required by California State Department of Alcoholic Beverage Control ("ABC"). This is typically done by completing ABC Form 221. This form requires signatures by the City of Rocklin Director of Parks and Recreation (or designee) and Police Chief (or designee) and must be submitted to the City at least 30 days prior to the event date.
- Renter shall comply with all requirements of ABC and applicable, federal, state and local laws. In addition, Renter is responsible for the following;
  - Compliance with provisions of ABC Form 532 "Information for Special Daily Licenses" (<http://www.abc.ca.gov/forms/pdfall.asp>).
  - Service Club or Nonprofit staff may not sell, furnish or give alcoholic beverages to persons who are obviously intoxicated.
- Up to two booths can be set-up for beer/wine sales. Each booth must have a sign posted that beer/wine sales will end 30 minutes prior to end of event.
- A separate ID Check booth must be staffed to check ID's and issue wristbands. Anyone issued a wristband must have proper (government) photo-ID indicating they are 21-years old or older. Anyone without a proper ID will NOT be issued a wristband (regardless of appearance of age).
- Beer/wine sales can begin at "door open" time and must end 30 minutes prior to the end of the show.
- At the conclusion of beer and wine sales, Renter is responsible for clean-up of beer/wine sales and ID area. All trash shall be disposed of in trash receptacles. Leftover ice or other liquids shall not be disposed of on the grass, on paved areas or in landscape areas.
- The City of Rocklin reserves the right to end beer and wine sales at any time if Renter or Renter's contracted beverage service fails to comply with these requirements or if problems arise related to beer and wine sales including, but not limited to property damage, excessive noise or actions that may affect the health or welfare of attendees or other members of the public.
- Renter or Renter's contracted beverage service shall provide at its sole cost and expense, all facilities, equipment, and other materials which may be required for furnishing beer/wine services.
- Plastic cups or bottles must be used for beer and wine sales. No glass or bottles will be allowed to be sold.

Initials \_\_\_\_\_

- Renter shall pay City a flat rate of \$500 as a vendor fee for all beverages sold at Renter's event. Payment shall be remitted to the City within 10 business days after the event along with Exhibit C

#### Insurance Requirements

1. Renter or Renter's contracted beverage service shall maintain in full force and effect a policy of commercial general liability insurance (ISO occurrence form CG0001) fully covering all activities and undertakings of Service Club or Nonprofit connected with this event. All coverage available to Service Club or Nonprofit as named insured shall be made available to the City, its officers, employees and volunteers as additional insured. Principal shall provide to City the full policy limits of Service Club or Nonprofit's insurance, with limits no less than, a combined single limit of Two million dollars (\$2,000,000) per occurrence for injury or death to any person and One Hundred Thousand Dollars (\$100,000) for damage to property.
2. Each policy shall contain or shall be endorsed to contain the following provisions:
  - a. City, its officers, employees, agents and volunteers shall be added as "insureds," except that coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of section 2782 of the Civil Code;
  - b. Renter or Renter's contracted beverage service insurance coverage shall be primary as to City, its officers, employees, agents and volunteers, and City's insurance or self-insurance coverage shall be excess of the Event's insurance and shall not contribute with it;
  - c. Renter or Renter's contracted beverage service insurers shall provide City at least thirty days prior written notice of material changes to or cancellation of the insurance policy, or a reduction in limits below the minimums required by this Agreement.
3. The insurance company or companies providing Renter or Renter's contracted beverage service coverage as required by this Agreement shall be admitted in the State of California and have a current A.M. Best's rating of no less than A:VIII or equivalent, unless otherwise approved by the City Manager in his sole discretion.
4. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees and volunteers; or Renter or Renter's contracted beverage service shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Initials \_\_\_\_\_

5. The insurance shall be maintained from the time set-up first commences until completion of the Event and related activities described in this Agreement, and shall be an occurrence policy.
6. Renter or Renter's contracted beverage service, for any reason, fails to maintain insurance coverage which is required under this Agreement, the failure shall be deemed a material breach of this Agreement and City may, at its sole option, terminate this Agreement and obtain damages from Renter or Renter's contracted beverage service resulting from the breach.
7. Renter or Renter's contracted beverage service shall furnish City with original certificates and amendatory endorsements effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the City before the activities commence. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Agreement at any time. Renter or Renter's contracted beverage service shall replace certificates of insurance for policies expiring prior to completion of the activities under the Agreement.
- **Indemnification.** Renter or Renter's contracted beverage service shall indemnify and defend the City against any and all loss, damage, and liability for damages, including attorney's fees and other costs of defense incurred by the City, whether for damage to or loss of property, or injury to or death of City, employees, agents, or other members of the public which shall in any way arise out of or be connected with Service Club or Nonprofit's operation hereunder, unless damage, loss, injury, or death shall be caused solely by the negligence or willful misconduct of the City.

**Print Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Initials \_\_\_\_\_

## BEER & WINE SALES STAFFING, EQUIPMENT & SUPPLIES

### Event Information

Event Name: \_\_\_\_\_  
Event Date: \_\_\_\_\_  
Event Doors Open Time: \_\_\_\_\_  
Event Start Time: \_\_\_\_\_  
Event End Time: \_\_\_\_\_  
Beer/Wine Sales Start Time: \_\_\_\_\_  
Beer/Wine Sales End Time: \_\_\_\_\_  
(30 minutes before end of show) \_\_\_\_\_  
Expected Event Attendance: \_\_\_\_\_  
Number of Beer/Wine Sales \_\_\_\_\_  
Booths: \_\_\_\_\_  
Size of tent(s) to be used: \_\_\_\_\_  
Min. # of taps per booth: \_\_\_\_\_  
Min. # staff per booth\*: \_\_\_\_\_  
Min. # staff for ID Check booth: \_\_\_\_\_  
Other wine, beer or malt-based beverage? (must be 6% or less ABV) ☐ No  
☐ Yes Name: \_\_\_\_\_ ABV: \_\_\_\_\_ Sales Price: \_\_\_\_\_

\* City recommends assigning separate staff for cashier, beer pouring/serving and wine pouring/serving

### Checklist for Beer/Wine Sales

	ABC application submitted to the City of Rocklin Department of Recreation, Arts & Event Tourism at least 10 days prior to event.
	ABC application submitted to the City of Rocklin Police Department at least 10 days prior to event (must include sign off from Recreation, Arts & Event Tourism)
	Insurance certificates submitted to City of Rocklin Department of Recreation, Arts & Event Tourism at least 10 days prior to event.
	Compliance with provisions of ABC Form 532 "Information for Special Daily Licenses"
	Remit Exhibit C along with payment within 10 business days after event

Initials \_\_\_\_\_



## BEER/WINE SALES PAYMENT REMITTANCE

Renter: \_\_\_\_\_  
Event: \_\_\_\_\_  
Date: \_\_\_\_\_  
  
Gross Income: \_\_\_\_\_  
Vendor Fee: \_\_\_\_\_

Please submit this form within 10 business days of conclusion of event. Please make check payable to: City of Rocklin and submit form and payment to:

**City of Rocklin  
Parks and Recreation Department  
5460 5<sup>th</sup> Street  
Rocklin, CA 95677**

Initials \_\_\_\_\_

Amphitheater Management and Operating Agreement

**EXHIBIT D**

**CITY NOISE POLICIES**

*(Attached)*



## Quarry Park Amphitheater Sound Decibel Guidelines & Reporting Requirements

### Noise Level Guidelines for Quarry Park Amphitheater

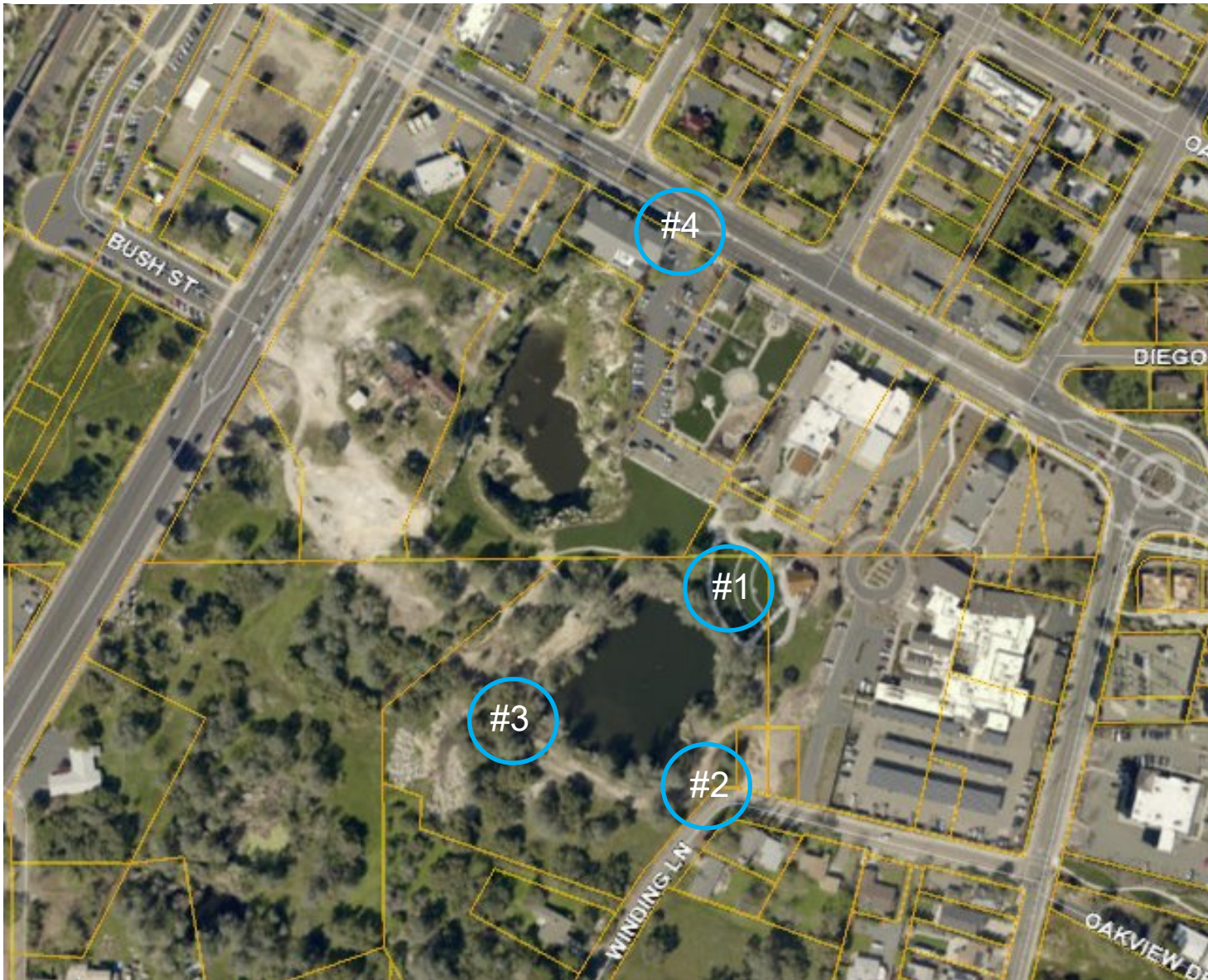
The City's General Plan includes noise policies that apply to stationary noise sources such as the amphitheater. Though the city strives to meet these policies, it is recognized that there are several factors that affect noise exposure including increased sensitivity during nighttime hours, variations due to topography, vegetation, intervening structures, climatic conditions, ambient noise levels as well as individual tolerances and sensitivities. The amphitheater is subject to all of these factors and recognizes that because of these conditions, sound generated from the amphitheater may at times exceed noise standards. In an effort to maintain noise levels as close to city standards as possible, the following noise levels and measurement guidelines shall be implemented for any performance at the amphitheater using amplified sound including city sponsored and co-sponsored events as well as non-city uses including rentals or no-fee uses.

- Sound level readings shall be conducted by qualified individuals using industry-standard decibel measurements tools. Sound measurement tools, such as phone apps, are not acceptable.
- A minimum of two readings shall be conducted. The first reading will take place within the first 30 minutes of the performance or as directed by city staff. If decibel readings exceed standards below, adjustment shall be immediately made to sound equipment and decibel levels re-checked until levels are within acceptable limits. A second reading shall be conducted within first 30 minutes of headliner or last performer. If decibel readings exceed standards, adjustment shall be immediately made to sound equipment and decibel levels re-checked until levels are within acceptable limits.
- Maximum decibel readings shall be as follows (see attached map for explanation of locations);
  - Location #1 (measured at sound mixing stage or center top tier of amphitheater if sound mixing stage is not located on the seating tiers). Average and maximum sound levels should be limited to 90 dB Leq and 95 dB Lmax.
  - Location #2 (measured at curve of Winding Lane near corner residential property line). Average and maximum sound levels should be limited to 65 dB Leq and 70 dB Lmax.
  - Locations #3 (measured at backside of Quinn Quarry near water inlet). Average sound levels should be limited to 55 dB Leq
  - Location #4 (measured at Rocklin Road near City Hall driveway). Average sound levels should be limited to 55 dB Leq
- All amplification shall cease at 10 p.m.
- Speakers or amplifications shall be placed on stage or ground level or may be suspended if speakers are angled towards the crowd and sloped portion of the amphitheater.
- Events that are primarily non-musical in nature and use amplification for the purpose of speaking may be granted a waiver for monitoring sound upon written approval by the City Manager or Parks and Recreation Director.
- This form shall be completed and submitted to city staff at the end of the show or within 24 hours.

*\*The City's General Plan policy for stationary noise sources for Daytime (7 a.m. to 10 p.m.) is 55 dBA and is measured as an hourly average. Point of measurement for noise levels is at a location at least 5 feet inside the property line of the receiving land use and 5 feet above ground level or at designated outdoor activity area (at the discretion of the City).*



## Quarry Park Amphitheater Sound Decibel Measurement Locations



Location #1 (sound mixing stage or center top tier of amphitheater if sound mixing stage is not located on tiers).

Reading	Time

Location #2 (curve of Winding Lane near corner residential property line).

Reading	Time

Locations #3 (backside of Quinn Quarry near water inlet).

Reading	Time

Location #4 (Rocklin Road near City Hall driveway).

Reading	Time

*Notes on weather/wind conditions or other factors may be made on map.*

Event Name \_\_\_\_\_

Person Submitting Form (print) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**EXHIBIT E**

**FENCING DIAGRAM**

*(Attached)*



Fencing Diagram - Exhibit E





**EXHIBIT F**

**EQUIPMENT LIST**

- (1) Portable tables
- (2) Chairs for Venue seating
- (3) Folding chairs
- (4) EZ-Ups
- (5) Ice chests
- (6) Portable communication radios
- (7) Gator
- (8) Stage Lift Equipment

**EXHIBIT G**

**ST PRODUCTIONS OPERATING BUDGET**

*(Attached)*



# Operating Budget - Exhibit G

## Operator Proposed Annual Budget 2020 QP Season - 6 Shows

Revenue	
VIP 288 @ \$50	\$14,400
General Admission 3800 @ \$35	\$133,000
General Admission 2350 @ \$30	\$70,500
Non-Profit Alcohol Vendor Booth Fee	\$9,000
VIP Gross Sponsorship	\$64,000
Other In-Kind Sponsorship	\$20,000
Food Vendor Fee - \$150	\$3,000
Total	<b>\$313,900</b>

Expenses	
Artist's HL	\$126,000
Support Artists	\$9,000
Rider: All bands + Skip & Todds Teams: 20 People	\$4,350
Hotel	\$8,400
Security	\$4,500
Supplies	\$600
Sound & Lighting (Skip's) includes stage techs, etc	\$46,200
Music License Fee's (BMI & ASCAP)	\$1,500
Janitorial	\$4,800
Ops Fee	\$12,000
Marketing	\$30,000
P/T Staff	\$12,000
VIP Dinners 58 people x \$9.13	\$3,000
Staff/Volunteer Food	\$1,500
Banners	\$1,800
Water & Ice	\$450
Temp Fencing / Portable Restrooms	\$3,300
\$1 per ticket back to COR	\$6,150
COR 20% net Sponsor Fee	\$12,800
Total	<b>\$288,350</b>

Revenue	<b>\$313,900</b>
Expenses	<b>\$288,350</b>
Total	<b>\$25,550</b>

City Revenue Sources - 2020		City Expenses - 2020	
Sponsorship	\$ 12,800.00	Fencing Staff	\$ (1,000.00)
Ticket Sales	\$ 6,150.00	Parking Staff	\$ (750.00)
Rental Fees	\$ 2,500.00	PD OT	\$ (4,500.00)
Parking	\$ 6,000.00	Utilities	\$ (3,000.00)
Utilities	\$ 3,000.00		
Total Revenue	\$ 30,450.00	Total Expense	\$ (9,250.00)
Net Revenue	<b>\$ 21,200.00</b>		

\* Proposed Annual Budget for operator based on 2 profitable shows and 1 loss from each 15k and 30k talent cost (3 Shows from each talent cost).

\*\*Operator Annual Budget does not include rental revenue for operator.  
City revenue sources includes as estimated 5 rentals for City budget.