

THIRD AMENDMENT TO QUARRY PARK AMPHITHEATER MANAGEMENT AND OPERATING AGREEMENT

This Third Amendment ("Amendment") to the Quarry Park Amphitheater Management and Operating Agreement ("Agreement") is made at Rocklin, California as of February 8, 2022, by and between the City of Rocklin ("City") and ST Productions LLC, who agree as follows.

WHEREAS, on December 10, 2019, the City and ST Productions LLC entered into an Agreement for the management and operation of the Quarry Park Amphitheater;

WHEREAS, on August 25, 2020, the City and ST Productions LLC entered into the First Amendment to the Agreement to amend the term, various financial provisions, and the equipment list;

WHEREAS, on August 24, 2021, the City and ST Productions LLC entered into the Second Amendment to the Agreement to amend an address for the purpose of sending and receiving any notices required under this Agreement; and

WHEREAS, the City and ST Productions LLC desire to amend certain portions of the Agreement related to amphitheater operating financials, parking, storage, event cancellation, reporting, and improvements.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the City and ST Productions LLC hereto agree as follows:

1. Section 2.7 of the Agreement is hereby added to read as follows:

2.7 Areas Outside Amphitheater.

(a) All CITY owned parking areas outside of the Amphitheater boundary, as set forth in Exhibit B, attached hereto and incorporated herein, shall remain available for CITY operations at CITY's sole discretion. Any use of CITY owned parking areas outside of the Amphitheater boundary must be approved by CITY in advance of an Event.

(b) If any area outside of the Amphitheater is required for emergency CITY operations, CITY may, at its sole discretion require any non-CITY vehicles, items, or personnel occupying the CITY-owned spaces to immediately vacate the area. ST PRODUCTIONS agrees to immediately vacate any CITY owned parking areas, regardless of whether prior permission was granted to occupy the area, in the event of an emergency, as directed by CITY personnel.

(c) No parking is permitted at any time within the Fire Department or Police Department boundaries, as set forth in Exhibit B. ST PRODUCTIONS shall ensure that the Fire Department and Police Department boundaries are free from obstruction at all times during their use of the Amphitheater.

2. Section 4.2(h) of the Agreement is hereby added to read as follows:

(h) ST PRODUCTIONS shall provide all necessary storage for all items related to a Concert Event. Any storage containers required in addition to those pre-approved by CITY must be approved by CITY, at CITY's sole discretion, prior to their use on CITY property.

3. Section 5.2(c) of the Agreement is hereby deleted.

4. Section 9.1(a)(ii) of the Agreement is hereby amended in its entirety to read as follows:

(ii) ST PRODUCTIONS shall be responsible for acquiring and managing all sponsorships. All sponsorship agreements shall terminate upon termination of this Agreement. ST PRODUCTIONS shall retain 100% of sponsorship revenue.

5. Section 9.1(a)(iii) of the Agreement is hereby amended in its entirety to read as follows:

(iii) ST PRODUCTIONS shall pay to CITY three dollars (\$3.00) 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 not be required to pay the above three-dollar (\$3.00) fee to CITY for the first 100 tickets that are provided free of charge per Event. 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.

6. Section 9.1(a)(iv) of the Agreement is hereby amended in its entirety to read as follows:

(iv) ST PRODUCTIONS shall pay to CITY a rental fee of \$1,000 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 three dollars (\$3.00) per ticket sold.

7. Section 9.1(b)(ii) of the Agreement is hereby added to read as follows:

(ii) ST PRODUCTIONS shall reimburse City for Green Room septic tank pump out fee within seven (7) calendar days following CITY's issuance of an invoice to ST PRODUCTIONS for reimbursement.

8. Section 9.1(b)(iii) of the Agreement is hereby added to read as follows:

(iii) ST PRODUCTIONS shall reimburse CITY three hundred thirty dollars (\$330.00) per month for the use of Wi-Fi. The reimbursement shall be paid on the first calendar day of each month for the subsequent month's use of Wi-Fi.

9. Section 9.2(a)(ii) is hereby amended in its entirety to read as follows:

(ii) CITY shall be responsible for all operating costs for parking operations and shall retain all revenue from parking operations. Each Event parking fee per vehicle shall be set at CITY's sole discretion.

10. Section 9.2(a)(iv) of the Agreement is hereby deleted.

11. Section 9.2(b)(iv) of the Agreement is hereby amended in its entirety to read as follows:

(iv) CITY shall make the Artist Contract Deposit Advance available to ST PRODUCTIONS until December 31, 2022. CITY may choose to maintain the availability of the Artist Contract Deposit Advance into future Operating Seasons at CITY's sole discretion.

12. Section 10.3 of the Agreement is hereby deleted with Sections 10.4, 10.5, and 10.6 of the Agreement being renumbered to 10.3, 10.4, and 10.5, respectively.

13. Section 10.5 of the Agreement, which following this Amendment shall be known as Section 10.4, is hereby amended in its entirety to read as follows:

10.4 ST PRODUCTIONS shall also provide any written reports, financial reports, and information which may be reasonably requested by CITY from time to time. ST PRODUCTIONS shall provide CITY with proof of reporting and payment to Broadcast Media Inc. ("BMI"), the American Society of Composers, Authors, and

Publishers ("ASCAP"), and the Society of European Stage Authors and Composers ("SESAC") of royalties within five (5) calendar days of the end of each Operating Season.

14. Section 17.19 of the Agreement is hereby amended in its entirety to read as follows:

17.9 Force Majeure; Damage; Condemnation.

(a) 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.

(b) Notwithstanding the above subsection (a), CITY shall have the right to, in its sole discretion, cancel any Event due to a Force Majeure Event related to an outbreak of COVID-19, or other virus or disease, or the presence of smoke or poor air quality within the CITY.

- (i) In the event of unhealthy air quality in the CITY, such that the Air Quality Index ("AQI") for the CITY is between 151 and 199, ST PRODUCTIONS may proceed with the Event. However, ST PRODUCTIONS must refund any ticketholder making a request for a refund due to health concerns if the CITY determines the AQI for the Event is between 151 and 199.
- (ii) In the event of unhealth air quality in the CITY, such that the AQI for the CITY is 200 or greater, ST PRODUCTIONS shall cancel the Event.
- (iii) AQI for the CITY shall be determined by a search for the CITY's air quality data on the federal government's "AirNow" website (www.airnow.gov) or based on the closest available air quality monitor location to the Amphitheater on the "AirNow" website, whichever has a higher AQI. ST PRODUCTIONS may use an on-site meter

located at the Amphitheater if such meter is installed by CITY and the use of such meter by ST PRODUCTIONS is approved by CITY.

- (iv) The final AQI reading to determine whether the Event shall proceed shall occur six (6) hours prior to gates opening for the Event.

- 15. The term "Force Majeure Event" in Exhibit A of the Agreement is hereby amended in its entirety to read as follows:

"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, epidemic, pandemic, outbreak of illness related to an epidemic or pandemic, unhealthy air quality levels, fire or other 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."

- 16. Exhibit B of the Agreement is replaced in its entirety with the revised Exhibit B, attached hereto and incorporated herein.
- 17. Except as set forth herein, all remaining terms in the Quarry Park Amphitheater Management and Operating Agreement remain in full force and effect.
- 18. In the event of a conflict between the terms of the Agreement and this Amendment, the terms of this Amendment control.

IN WITNESS WHEREOF, the parties have executed this Third Amendment to the Agreement on the day and year first above written.

[Signatures on next page.]

ST PRODUCTIONS LLC:

ST Productions LLC, a California
limited liability company

By: _____

Name: _____

Title: _____

Date: _____

CITY:

City of Rocklin

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Sheri Chapman, City Attorney

ATTEST:

By: _____
Hope Ithurnburn, City Clerk

EXHIBIT B

