

AGREEMENT

THIS AGREEMENT, made effective as of this ____ day of _____, 20 ____, by and between E720 LLC, hereinafter “Promoter”, and the County of Washoe on behalf of its Community Services Department, hereinafter “County”.

WITNESSETH

WHEREAS, Promoter desires to hold an event called “Battle Axe and Tracks Music Festival” hereinafter “Event”, a which will involve approximately 2 days of live performances and spectator participation; and

WHEREAS, County owns and operates a public park facility known as Washoe County Rancho San Rafael Regional Park, hereinafter “Park”, which is suitable for the needs of Promoter; and

WHEREAS, County is willing to allow Promoter to use a portion of the Park for the Event from October 7 & 8, 2023; and will need the park on October 3 through 6 for set-up and 9 & 10 for breakdown

NOW THEREFORE, the parties agree as follows:

1. Right to Use Park. Promoter shall have the exclusive right to use that portion of the Park designated on the map attached hereto as “Exhibit A” (map), as “Reserved Area”, for the purpose of holding the Event upon the conditions set forth herein. It is acknowledged that other portions of the Park may be used simultaneously by other parties and the Promoter’s use shall not interfere with such other use.
2. Access and Parking. Promoter will be allowed to set up two stages, set up sound and lighting equipment and provide spectator viewing and parking only on those areas designated as “Reserved Area” on the map.

Parking for spectators and Promoter’s staff and volunteers will be restricted to those areas in the event map attached hereto as Exhibit “A” which have been designated as parking areas by the Director or designee of the Community Services Department, hereinafter “Director”.

Only Promoter and its participants will be allowed access to the Park at times when the Park is otherwise closed for the purpose of ingress and egress to the Reserved Area, provided that uniformed security is posted at the Park during such times. The Director may, at his discretion, require an identification card or other type of pass to be issued by Promoter to participants in this Event. Access to the park outside of normal park hours (8:00 a.m.-7:00 p.m.)

by other than the Promoter and its participants is prohibited.

Promoter shall have responsibility for and control over the location and manner in which permitted fencing or other barriers are placed around or within the Reserved Area which is set forth in the event map attached hereto as Exhibit “A”, and which the location and type thereof has been approved by the Director. Without limiting the Director’s power to disapprove, approval may be denied if the proposed use would present a safety hazard or would unreasonably interfere with the use of other areas of the Park by persons not involved with the Event.

3. Rules and Regulations. The promoter and all participants of the Event must comply with all general park rules and regulations. In addition to the general park rules and regulations, the following rules will apply during the events:

- a. Glass bottles or containers are prohibited.
- b. Posted park speed limits must be adhered to.
- c. All access in and out of the park after normal park hours will be limited to the Sierra Street gate only. Spectators must make every reasonable effort to enter and exit the park quietly and respectfully.

4. Responsibilities of Promoter. Promoter shall obtain all necessary licenses and permits required by applicable agencies to conduct the Event and shall provide written proof of such licenses and permits to the Department prior to commencement of the Event. Applicant shall meet with the Washoe County Community Services Department to determine the licenses and permits required by that agency. Promoter shall provide restrooms and sanitary facilities as are required by the Washoe County Health District.

Promoter will be responsible to protect the Park and keep the Reserved area clean throughout the Event and, at the conclusion of the Event, will return the Reserved area to its original condition, normal wear and tear excepted.

Promoter shall be responsible to coordinate the parking layout, ingress, and egress for the spectators.

Promoter shall be responsible for assigning locations for spectators.

Promoter shall be responsible for any and all setup and breakdown associated with the Event.

Promoter shall provide a uniformed security guard at the Sierra Street park entrance gate from 6:30 p.m. until all spectators and Promoter’s staff and volunteers have left the Park, daily

during the duration of the event to control unauthorized entrance to the park.

Promoter shall be fully responsible for the security of their equipment, structures, supplies, vehicles and trailers throughout the set up and take down stages for the Event and during the Event itself, and will provide uniformed security to the extent necessary during the Event.

All Promoter improvements required for the successful completion of the Event shall be Promoter's responsibility and must be authorized in writing by the Director or designee. Promoter will be responsible to inspect the area of the Park being used by it before it accepts said area from County. Promoter will either notify County of any such hazard(s), and/or take steps to eliminate such hazards which it is reasonably able to fix when presented to it in said area during the inspection. If Promoter is able to, it will take steps to eliminate such hazards presented to it which are necessary to adequately protect Promoter's users of said portion of the Park, without affecting that portion of the Park's normal use. If hazard(s) are identified by Promoter during its initial inspection, it will take reasonable steps to protect its users of said portion of the Park from hazards by either the installation of barricades, coverings, or warning signs. Inspection of and acceptance of the area of the Park being used for the Event by Promoter, without first providing notice to County of said hazard, constitutes waiver of any subsequent claim(s) related to the condition of that area of the Park being used by Promoter, for which Promoter knew about without first notifying County, or which they could have reasonably discovered during the initial inspection of the Park prior to acceptance of the area of the Park.

Promoter shall provide dumpsters and trash receptacles as deemed necessary and agreed by County.

Promoter shall be responsible for arranging for recycling collection services for participants and spectators. The following items will be collected:

Beverage containers - plastic bottles, aluminum cans

Packaging material - cardboard boxes, boxboard, and clean paper

Promoter agrees to arrange for portable recycling containers next to trash cans, and service the containers as necessary. Appropriate signage for vendors and attendees should be set up to provide notice of where to place recyclables.

Promoter shall provide the necessary ample lighting as deemed necessary for safe use of

the Reserved Area. County shall provide services as outlined in Section 4 of the Agreement. In the event it becomes necessary for County to provide additional services not otherwise described herein, or if County provides any additional services requested by Promoter, Promoter agrees to pay County its customary charge for such services.

Promoter shall only permit 4000 or fewer spectators for each daily event.

Promoter shall be responsible for ensuring that all Event spectators are aware and comply with the rules and regulations outlined in Section 3 in addition to the general park rules and regulations.

Promoter will provide sound monitoring services at regular intervals throughout the scheduled events. The maximum amplified sound level will be 100 decibels at the Coleman Street and Washington Street entrances to the park. The sound must be measured at least once during practice sessions and no less than two other times during the scheduled amplified performances. Findings shall be documented and a report provided to Department within 30 days of the completion of the event.

Promoter shall not commence any setup before 8:00 a.m. on Tuesday, October 3, 2023.

Promoter shall remove, or have removed, from the park all equipment, vehicles, trailers, and/or other event items prior to 7:00 p.m. on Tuesday, October 10, 2023. If Promoter does not have all equipment, vehicles, trailers, and/or other event items removed by 7:00 p.m. on October 10, 2023, a fee of \$500.00 will be charged as a late fee. An additional \$500.00 will be charged per day for every day after until all equipment, vehicles, trailers, and/or other event items are removed and cleanup is complete.

5. Services by Parks. County shall provide the following assistance:

Ranger Patrol provided by Parks from its staff, as are available during the event.

6. Advertising and Promotion. Promoter will be solely responsible for any advertising or promotion of the Event, provided that any advertising or promotion shall refer to the location as “Washoe County's Rancho San Rafael Regional Park”.

7. Indemnification and Insurance. County has established specific indemnification and insurance requirements for organizations using County facilities or property. Indemnification and hold harmless clauses are intended to assure that the organization accepts and is able to pay for the loss or liability related to its activities.

Attention is directed to the insurance requirements below. It is highly recommended that

the Promoter confer with their respective insurance carriers or brokers to determine in advance of the availability of insurance coverage and notification requirements as prescribed and provided for herein.

Indemnification Agreement: Promoter agrees to hold harmless, indemnify, and defend County, its officers, officials, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death, personal injury, or property damage to property of others and to Promoter's property caused by any action, either direct or passive, the omission of, failure to act, or negligence on the part of Promoter, its employees, volunteers, agents, representatives, contractors, or subcontractors arising out of the use of the Park premises or by those other(s) who are specifically identified as being under the direction, supervision, or invitation of Promoter.

In the event of a lawsuit against the County, its officers, officials, agents, employees, or volunteers who are not otherwise being defended by Promoter and/or Promoter's insurance carrier, then in that event, Promoter shall reimburse County at the conclusion of litigation for costs of County personnel in having to defend such actions, unless litigation determines that County was solely negligent, and/or had engaged in intentional tort(s). Reimbursement for the time actually spent by County's Counsel in having to defend County in said action, shall be charged at the rate which would be charged by private counsel for their services.

General Requirements: Promoter shall purchase Industrial Insurance and General Liability as described below. The cost of such insurance shall be borne by the Promoter.

Industrial Insurance: It is understood and agreed that there shall be no Industrial Insurance coverage provided for Promoter by the County. As Promoter has no employees, it is their intent not to purchase Industrial Insurance. Promoter is to require all subcontractors to provide industrial insurance coverage and agrees to hold harmless, indemnify, and defend County from and against any claim filed by any Promoter employee or volunteer which would have been covered by Industrial Insurance, had it been in place.

Minimum Limits of Insurance:

- a. General Liability: \$2,000,000 combined single limit per occurrence \$2,000,000 annual aggregate for bodily injury, personal injury and property damage. The limit provided by this policy will be dedicated to this event and any aggregate limit will not be eroded by any other extent loss or party. Coverage shall not be less than

equivalent to the above form except upon prior written approval by County's Risk Management Division. All liability coverage shall be on an "occurrence" basis.

Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County's Risk Management Division, in writing. The County reserves the right to request additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy must be approved by the County's Risk Manager prior to the change taking effect.

Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

- a. The County, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability, arising out of the activities performed by or on behalf of Promoter, including the insured's general supervision of Promoter; products and completed operations of Promoter; premises owned, occupied or used by Promoter; or automobiles owned, leased, hired or borrowed by Promoter. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officer, officials, employees or volunteers.
- b. Under the property damage coverage provided by the Promoter's insurance contract, it is understood that with respect to damage to County property by Promoter or by others under its direction, supervision, auspices, or invitation, it will be covered by the policy without regard to the County being an insured and the operation care custody and control exclusion.
- c. The full limits of liability provided by this policy including any general aggregate limit will apply separately to this event.
- d. Promoter's insurance coverage shall be primary insurance as respects as to County, its officers, officials, employees, and volunteers. Any insurance or self- insurance maintained by County, its officers, officials, employees, or volunteers shall be excess to Promoter's insurance and shall not contribute with it in any way.
- e. Any failure to comply with reporting provisions of the policies shall not affect coverage provided by the Promoter to County, its officers, officials, employees or

volunteers.

- f. Promoter's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- g. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or not renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to County.

Verification of Coverage: Promoter shall furnish County with original endorsements effecting coverage and with certificates for all insurance required by this contract. The endorsements and certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by County thirty (30) days prior to the event. County reserves the right to require complete certified copies of all required insurance policies at any time.

- 8. Termination. County shall have the right to terminate this Agreement and require immediate vacation of the premises in the event Promoter fails to comply with all the terms of this Agreement or any applicable federal, state, county or city laws, ordinances or rules.
- 9. Governing Law. The Agreement shall be governed by the laws of the State of Nevada, both as to interpretation and performance. Any lawsuit arising out of this Agreement shall be brought in the Second Judicial District for the State of Nevada.
- 10. Attorney Fees. In the event either party is required to bring legal action to enforce the provisions of this Agreement, the prevailing party shall also recover reasonable attorneys' fees and costs of suit. Any legal action will be brought in the Second Judicial District for the State of Nevada.
- 11. Assignment. This Agreement shall be binding upon the parties, their representatives, successors and assigns. No assignment or transfer of this Agreement or any part thereof shall occur unless mutually agreed upon in writing by both parties.
- 12. Modification. This Agreement may be modified in writing and signed by both parties.
- 13. Severability. Each paragraph and provision of the Agreement is severable, and if one or more paragraphs or provisions of the Agreement are declared invalid, the remaining paragraphs and provisions of this Agreement will, if possible, remain in full force and effect.
- 14. Entire Agreement. This Agreement and referenced exhibits incorporated herein

constitutes the entire agreement between the parties with regard to the subject matter herein and supersedes all prior agreements, both written and oral, and all other written and oral communications between the parties.

15. Renewal. In the event the promoter successfully performs and complies with all the conditions of this Agreement, and the County determines that holding the event is in the best interest of the County, the Purchasing and Contracts Manager shall have the right to renew this agreement, with possible revisions including dates and fees, as specified by the County for future years of 2024 through 2027. Promoter and County have the right to not renew the agreement and discontinue the following year’s festival based on the festival performance of the current year. The party that does not want to renew the agreement should notify the other party in writing no later than six months after the festival ending of the current year.

15. Payment to County. Promoter will pay \$12,235 for the event. Payment is due in full no later than July 3, 2023, 90 days prior to event start date.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

WASHOE COUNTY, NEVADA

E720 LLC

By _____
Open Space and Regional Park
Commission Chair

By _____
NAME

STATE OF NEVADA)
)ss
COUNTY OF WASHOE)

On the _____ day of _____, 2023, **NAME** personally appeared before me, a Notary Public, and acknowledged to me that he executed the above instrument for the purpose therein contained.

Notary Public

DRAFT