

**FIRST AMENDMENT TO AGREEMENT BETWEEN FUNDWAYS OF ILLINOIS
AND WHEATON PARK DISTRICT**

This First Amendment (“Amendment”) is made and entered into this 1st day of February, 2022, by and between the JBR Incorporated dba Fundways of Illinois, an Illinois Corporation (“Fundways”) and Wheaton Park District, an Illinois park district and unit of local government (“Park District”), and amends, modifies, and supplements, in certain respects, that certain Agreement between Fundways and the Park District dated January 15, 2019, and the Addendum between Fundways and the Park District and Wheaton Park District related to same (collectively, the “Agreement”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

RECITALS

WHEREAS, Fundways and the Park District are parties to an Agreement regarding Fundways’s operation of certain amusement rides and concessions at the annual Taste of Wheaton (also known as the Cream of Wheaton) for a three year period covering 2019, 2020, and 2021; and

WHEREAS, the Taste of Wheaton was cancelled in 2020 and 2021 due to the ongoing COVID-19 pandemic; and

WHEREAS, the parties desire to honor the original three year commitment set forth in the original Agreement, and, as a result, seek to amend the Agreement to extend the term for years 2022 and 2023 to replace the final two years of the Agreement that were cancelled due to the COVID-19 pandemic; and

WHEREAS, the parties have determined that it is in their respective best interests to amend the Agreement on the terms and subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties agree to the following:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein by reference as though fully set forth in this Section 1.

2. Term. Notwithstanding anything to the contrary set forth in the Agreement, the term of the Agreement is extended for two additional years (2022 and 2023). Any references to the years 2020 and 2021 shall be replaced with 2022 and 2023, respectively, if and as appropriate.

3. Dates and Times. Specific dates and times for the 2022 and 2023 Taste of Wheaton shall be confirmed by and between the parties.

4. Ticket Prices. Ticket prices for the 2022 and 2023 carnival seasons are as follows:

Single tickets: \$1.25
Sheet ticket (18 coupons): \$20.00
Sheet ticket (40 coupons): \$40.00
Pay One Price (day of purchase): \$30.00 per person
Pay One Price (advance purchase): \$25.00 per person

Pay One Price – Hours of Operation

Thursday 4:00 pm – 10:00 pm
Saturday 12:00 pm – 5:00 pm
Sunday 1:00 pm – 5:00 pm

4. Counterparts. This Amendment may be executed in counterparts, each of which shall be an original but all of which taken together shall constitute but one and the same instrument. In the event any signature is delivered by facsimile or by e-mail delivery of a scanned .pdf file, such signature shall create a valid and binding obligation of the party with the same force and effect as if the facsimile or scanned .pdf signature page were an original thereof.

5. Entire Agreement; Modification. All other terms and conditions contained in the Agreement remain unchanged. The Agreement and this Amendment contain all of the terms and conditions agreed on by the parties with respect to the subject matter hereof, and no other alleged communications or agreements between the parties, written or otherwise, shall vary the terms hereof. Any modification of the Agreement or this Amendment must be in writing and signed by all parties.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date set forth below.

JBR Incorporated dba Fundways of Illinois

WHEATON PARK DISTRICT

By: _____

By: _____

Its: _____

Its: _____

Attest: _____

Attest: _____

Its: _____

Its: _____

Date: _____

Date: _____

FUNDWAYS OF ILLINOIS

330 W. Laura Dr., Addison, Illinois 60101 • Phone: 630-543-5453 • Fax: 630.543-5380

This agreement made January 15, 2019, by and between *FUNDWAYS OF ILLINOIS*, an Illinois corporation, Party of the First Part or "Fundways" and Wheaton Park District or "Wheaton"; 102 East Wesley Street, Wheaton, IL 60187 Party of the Second part.

This is a three (3) year contract for the years of 2019, 2020 and 2021

To Wit: Wheaton agrees to furnish a location to be known as Wheaton Park District for the erection of and operation of a combination of rides, shows and concessions known as Fundways of Illinois. Wheaton also agrees to furnish and pay for any tax, permits or licenses that may be required for operation, and for all water, lot and street privileges necessary for the satisfactory operation, conduction and placing of all attractions and concessions (the location of which must be agreeable and acceptable to Fundways), also to furnish and pay for the following: sufficient police protection.

Wheaton also agrees to furnish all publicity (newspapers, radio, and television, and poster advertising) and further agrees to pay for and distribute the same.

Fundways further agrees to furnish all electrical connections and electric current for the power and illumination of all rides, shows and concessions and other exhibits necessary for the conduction of said engagement. Said current to be for the operation hours and to be supplied until all attractions are dismantled at the close of the engagement.

Wheaton also agrees to have on location, electrical service, water and portable toilets for Fundways employees available 2 days prior to opening. If streets are used for location of said attractions, Wheaton agrees to have them closed to traffic and parking 2 days prior to opening.

IN CONSIDERATION OF THE ABOVE, Fundways agrees:

To furnish, present and operate Midway attractions, consisting of amusement rides and concessions at Wheaton, IL for a period of 4 days, starting May 30th (hereinafter referred to as "opening" or "opening day") and ending June 2nd (hereinafter referred to as "closing" or "closing day"), also referred to as "year" or "term" 2019 for an event known as Taste of Wheaton Week (herein referred to as "engagement"). Dates for 2020 & 2021 are tentatively to be June 4-7, 2020 and June 3-6, 2021 both parties to confirm dates by December 1st of the preceding year.

To pay Wheaton the sum of two hundred dollars (\$200.00) for each game concession or game booth operated on the grounds during this engagement. In the event any concession or booth is closed or unable to operate, Fundways agrees to pay Wheaton the pro rated sum equal to the actual days operated.

To pay Wheaton thirty-nine percent (39%) of the net revenue derived from the sale of admission tickets at the various shows and rides up to \$100,000; forty-one percent (41%) from \$100,001 to \$200,000 and forty-two percent (42%) for sales over \$200,000. For the purposes of this provision, net revenue shall mean gross revenue from admission tickets sales less any federal, state, county and/or local taxes and midway insurance costs.

The settlement for the concessions and booths is to be made on the closing day of the engagement. The settlement for the percentage on the shows and rides shall be made on the closing day of the engagement. Either party may terminate this agreement by giving the other party at least 90 days advance written notice delivered by certified mail. This agreement is fully assignable by *Fundways of Illinois*.

Wheaton Park District is responsible for the following services:

- To furnish and pay for all necessary licenses and permits that may be required for operation
- The handling of all festival advertising and promotions.
- Sufficient police protection and security.
- A 24-hour access to sanitary toilet facilities, starting Monday morning
- Trash receptacles for Midway clean-up operations.
- Parking area for semi-trailers, trucks and travel trailers.
- A 24-hour access to water for sanitary conditions on the midway.

IT IS FURTHER UNDERSTOOD AND AGREED:

Fundways assumes no liability for any damage or personal injury that may be directly or indirectly caused by streets or other locations being left open to local traffic or parking during erection, dismantling, or operation of equipment or to trespassers while equipment is not in operation. Fundways assumes no liability for reasonable or expected damage to landscape caused by the operation or set up of any of its equipment. Any large and unusual landscaping damage caused directly by the operation of equipment owned by Fundways will be the responsibility of Fundways. Fundways of Illinois holds harmless and indemnifies the Wheaton Park District, Inc from any accident, injury, damage or death resulting or arising from a ride, concession or attraction operated by Fundways of Illinois during their occupancy on Festival grounds.

Sign both copies and return one copy to the address listed above.

This contract is in full force and effective when confirmed by Fundways of Illinois

FUNDWAYS OF ILLINOIS

It is understood and agreed that there shall be no other riding devices (excluding pony rides) other than those furnished by Fundways. Additionally, prohibited attractions shall include, but are not limited to virtual reality, arcade games, Space Ball and orbitron.

Hours for the festival are as follows:

- Thursday, May 30, 2019 4pm-10pm
- Friday, May 31, 2019 4pm-11pm
- Saturday, June 1, 2019 Noon-11pm
- Sunday, June 2, 2019 1pm-8pm

'Pay One Price' Ride Specials shall be on the following days and times:

- Thursday, May 30, 2019 4pm-10pm
- Saturday, June 1, 2019 Noon-5pm
- Sunday, June 2, 2019 1pm-5pm

"Pay One Price" ride specials to be priced at \$25 per time, per patron on site; 'Advanced Sales' to be priced at \$20 with \$3 of sale proceeds to be given to local foundations for their assistance in selling tickets, also and \$10 fundraiser ticket with \$3 of sale proceeds to given to local PTA and Churches for their assistance in selling tickets. Documentation of 'Advanced Sales' to be provided to Fundways of Illinois with evidence of donations made to local foundations, schools or churches.

Ticket Prices for the 2019 Carnival Season are as follows: Single Tickets \$1.00; Family Pack (22 Coupon Sheet) \$20.

Hours and specials for 2020 & 2021 to be agreed upon no later than January 15th of each year.

That this agreement in part or entirety is subject to strikes, suspension of electrical services, failure of transportation facilities, Government decrees, fire, floods, wrecks, tornadoes, war, riots, public demonstrations, or other good and sufficient reasons beyond the control of either party hereto. Either party may terminate this agreement by giving the other party at least 90 days advance written notice delivered by certified mail.

In the event that the sponsoring organization is required to file any disclosure report with a state, county or municipal board of elections or similar regulatory agency, the sponsoring organization shall categorize all funds received from Fundways of Illinois or its affiliates under the Illinois Election Code (10 ILCS 5/9-11.9) as proceeds received by such organization from: (a) the sale of tickets for each dinner, luncheon, cocktail party, rally and other fund raising events; or (b) mass collections made at such events. In no event shall any funds received from Fundways of Illinois or its affiliates be considered or categorized as a political or individual contribution to the sponsoring organization.

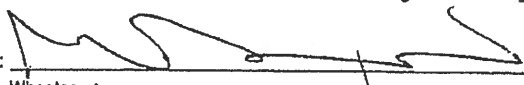
Wheaton agrees to use its influence to keep all attractions of this nature from exhibiting in or in the vicinity of or at this location Memorial Park; Wheaton, IL for 30 days prior to this event until after termination of this agreement. Both parties agree to work together to make this event a success. The committee and/or sponsoring organization and its members further agree not to change its legal identity and/or authority for the purpose of seeking a release from or otherwise compromising its obligations under this contract.

The laws of the State of Illinois shall govern the terms and conditions of this agreement. Any lawsuit filed to enforce the terms and conditions of this agreement shall be brought in the Circuit Court of DuPage County. In the event of such legal action, Fundways shall be entitled to recover its attorney's fees and costs incurred.

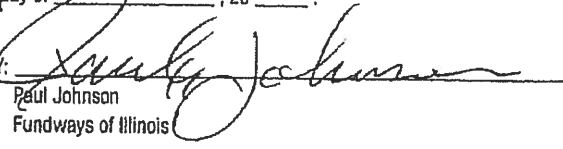
IN WITNESS WHEREOF, we set our hands and seal in good faith this April 15, 2019 day of _____, 20_____.

BY:

Wheaton


Michael J. Bernard
Executive Director
Wheaton Park District

BY:


Paul Johnson
Fundways of Illinois

Sign both copies and return one copy to the address listed above.
This contract is in full force and effective when confirmed by Fundways of Illinois

ADDENDUM TO FUNDWAYS OF ILLINOIS AGREEMENT

This Addendum ("Addendum") is made to that particular agreement dated January 15, 2019 ("Agreement") by and between Fundways of Illinois, an Illinois corporation ("Fundways"), and Wheaton Park District, an Illinois park district (the "District"). This Addendum modifies and supplements the Agreement. In the event of any conflict between the provisions of the Agreement and this Addendum, the provisions of this Addendum shall control. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

- A. The following language is added at the end of Paragraph 4 of the Agreement as follows:

"Fundways grants to the District a limited, non-exclusive, non-transferable, royalty-free license to use Fundways' graphics, trademarks, trade names, logos, designs, company descriptions and other intellectual property prepared and delivered to the District by Fundways in any and all publicity (newspapers, radio, television and poster advertising), emails, or promotional goods furnished, produced or distributed by the District in connection with this Agreement."

- B. The last sentence ("In the event of such legal action, Fundways shall be entitled to recover its attorney's fees and costs.") of Paragraph 22 of the Agreement is stricken in its entirety and replaced with the following language:

"The parties to this Agreement agree to pay all reasonable expenses incurred by the prevailing party in enforcing the provisions of this Agreement including, but not limited to, attorneys' fees, costs and expenses. The party prevailing in any litigation arising out of any dispute concerning this Agreement shall be entitled to recover all reasonable expenses incurred in any such litigation including, but not limited to reasonable attorneys' fees."

- C. Insert new Paragraph 23. **Indemnification.**

To the fullest extent permitted by law, Fundways shall indemnify the District, the Wheaton Chamber of Commerce ("Chamber"), the City of Wheaton ("City") and DuPage County ("County") and defend and hold the District, Chamber, City and County, and their respective elected officials, officers, employees, volunteers and agents harmless from and against any and all loss, cost, damage and expense, including without limitation court costs and attorneys' fees, which the District, Chamber, City or County may suffer, incur or sustain, or for which the District, Chamber, City, or County may become liable by reason of a lawsuit or claim for compensation arising in favor of any person including, without limitation, the employees, officers, independent contractors or subcontractors of Fundways or District, Chamber, City, or County on account of the injury to or the death of any person(s), or the loss or damage of any property arising out of, incident to, resulting directly or indirectly from, or in connection with the breach by Fundways of any provisions of this Agreement, or the exercise by Fundways of the rights and privileges granted to Fundways or the performance of any of the obligations undertaken by Fundways under this Agreement, except that Fundways shall have no liability for damages or the costs incident thereto to the extent caused by the negligence or intentional wrongful acts or omissions of District, Chamber, City, or County or their employees or agents. In defending against any such claims, Fundways may select legal counsel of its own choice and District, Chamber, City, and County will reasonably cooperate with such counsel in the defense of such claim; provided, however, that the District, Chamber, City, and County shall not have to incur any expense in connection therewith. The District reserves the right to independently defend against or participate in Fundways' defense of any such claim, at the District's own expense. This

reserved right shall not in any way diminish Fundways' indemnification, defense and hold harmless obligations hereunder. Except with the written consent of the District, Chamber, City, or County, Fundways shall not consent to the entry of any judgment or settlement which does not include as an unconditional term thereof, the giving by the claimant or plaintiff to the District, Chamber, City, or County of an unconditional release from all liability in respect of such third-party claim or demand.

D. **Insert new Paragraph 24. Insurance and Waiver.**

In furtherance of and not in limitation of its responsibilities and promises in this Agreement, Fundways shall secure and maintain at its own expense insurance with coverages and terms as provided in Exhibit A attached to and incorporated herein by reference. Fundways shall also require each and all of its respective contractors and subcontractors performing any work for Fundways in the exercise of any and all of the rights and privileges granted Fundways hereunder, to secure and maintain at their own expense insurance with like coverages and terms.

Fundways shall be responsible for maintaining, at its sole cost and expense, insurance covering its rides, booths and other property used to offer midway attractions at the District's Memorial Park (collectively, the "Equipment"). The District, Chamber, City, and County shall not be responsible or liable for injury to or death of any person, or for damage to, loss, theft or destruction of any materials, tools, machinery, equipment or other property, incurred or sustained as a direct or indirect result of or relating to the exercise by Fundways, its agents, employees or other persons acting on behalf of Fundways or with Fundways' consent, of the rights and privileges granted to Fundways under this Agreement, except to the extent any injury, damage or loss is caused by the negligent or intentional acts or omissions of the District, Chamber, City, or County or their employees or agents.

To the fullest extent permitted by the laws of the State of Illinois, Fundways hereby waives any and all rights or claims Fundways may have at any time against the District, Chamber, City, or County or their respective elected officials, officers, employees, volunteers, agents or other persons acting on its behalf, for injury to or the death of any person or for the damage to or destruction of the Equipment or any other property sustained or incurred by Fundways, or any person claiming by, through or under Fundways in connection with the exercise by such persons of rights and privileges granted to Fundways, or the performance of Fundways' obligations under this Agreement, except to the extent any injury or death, or damage or destruction of the Equipment or other property is proximately caused by or results from the negligence, or from the intentional wrongful acts or omissions, of the District, Chamber, City, or County or their respective employees, volunteers, agents, or others acting on their behalf.

E. **Insert new Paragraph 25. Fundways Employees.**

Fundways will provide trained personnel ("Fundways Employees") to operate, present, and conduct Midway attractions, consisting of amusement rides and concessions. Fundways will select, train and direct Fundways Employees to perform the required tasks and Fundways will be responsible for their appearance and conduct while on the District's property. Fundways Employees will wear uniforms for identification purposes at all times while on the District's property to perform the required tasks under this Agreement. Fundways represents that it has performed and will perform criminal background checks on each of Fundways Employees and shall confirm the absence of a conviction for any offense which would make such employee ineligible for employment by Park District pursuant to Section 8-23 of the Park District Code [70

ILCS 1205/8-23], a copy of which is attached to and incorporated by reference in this Agreement as Exhibit B.

Fundways Employees will be subject to the rules and regulations of the District while on the District's property.

It is understood, acknowledged and agreed by the parties that the relationship of Fundways to the District arising out of this Agreement shall be that of an independent contractor. Neither Fundways nor any employee or agent of Fundways is an employee or agent of the District and therefore they are not entitled to any benefits provided employees of the District. Fundways has no authority to employ/retain any person as employee or agent for or on behalf of the District for any purpose. Neither Fundways nor any person engaging in any work or services related to this Agreement may represent itself or himself as being an employee or agent of the District.

F. **Insert new Paragraph 26. No Waiver of Tort Immunity.**

Nothing contained in the Agreement or these terms shall constitute a waiver by the District of any right, privilege or defense available to the District under statutory or common law, including, but not limited to, the Illinois Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 *et seq.*, as amended.).

G. **Insert new Paragraph 27. Conflict of Interest.**

Fundways represents and certifies that, to the best of its knowledge, (1) no District employee or agent is interested in the business of Fundways or this engagement; (2) as of the date of the Agreement and these terms neither Fundways nor any person employed or associated with Fundways has any interest that would conflict in any manner or degree with the performance of the obligations under this engagement; and (3) neither Fundways nor any person employed by or associated with Fundways shall at any time during the term of this engagement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this engagement.

H. **Insert new Paragraph 28. No Collusion.**

Fundways represents and certifies that (1) Fundways is not barred from contracting with a unit of state or local government as a result of (a) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Fundways is contesting, its liability for the tax or the amount of the tax in accordance with the procedures established by the appropriate revenue act; or (b) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Illinois Criminal Code of 1961 (720 ILCS 5/33E-1 *et seq.*); (2) only persons, firms, or corporations interested in this engagement as principals have been those disclosed to the District prior to the execution of this Agreement; and (3) this engagement is made by Fundways without collusion with any other person, firm, or corporation. If at any time it shall be found that Fundways has, in procuring this engagement, colluded with any other person, firm, or corporation, then Fundways shall be liable to the District for all loss or damage that the District may suffer, and this Agreement and these terms shall, at the District's option, be null and void.

I. **Insert new Paragraph 29. Sexual Harassment Policy.**

Fundways certifies that it has a written Sexual Harassment Policy in full compliance with 775 ILCS 5/2-105(A)(4).

J. **Insert new Paragraph 30. Non-Discrimination.**

In all hiring or employment by Fundways pursuant to this engagement, of age, race, gender, creed, national origin, marital status, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. Fundways agrees that no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by, or resulting from, this engagement.

K. **Insert new Paragraph 31. Freedom of Information Act.**

Fundways agrees to furnish all documentation related to this engagement, and any documentation related to the District required under an Illinois Freedom of Information Act (5 ILCS 140/1 *et. seq.*) ("FOIA") request within five (5) days after the District issues notice of such request to Fundways. Fundways agrees to defend, indemnify and hold harmless the District, and agrees to pay all reasonable costs connected therewith (including, but not limited to reasonable attorneys' and witness fees, filing fees and any other expenses) for the District to defend any and all causes, actions, causes of action, disputes, prosecutions, or conflicts arising from Fundways' actual or alleged violation of FOIA or Fundways' failure to furnish all documentation related to a request within five (5) days after the District issues notice of a request for same.

L. **Insert new Paragraph 32. Waiver.**

No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this engagement (whether or not similar) nor shall any such waiver be deemed to constitute a continuing waiver unless otherwise expressly provided in this Agreement or these terms.

M. **Insert new Paragraph 33. Rights Cumulative.**

Unless expressly provided to the contrary in this Agreement or these terms, each and every one of the rights, remedies, and benefits provided by this Agreement and these terms shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

N. **Insert new Paragraph 34. No Third-Party Beneficiaries.**

No claim as a third-party beneficiary under this engagement by any person, firm, or corporation other than Fundways shall be made, or be valid, against the District.

O. **Insert new Paragraph 35. Authority.**

The individual officers of the District and Fundways who have executed this Agreement and terms represent and warrant that they have the full power and lawful authority to execute the Agreement and terms and perform and fulfill the obligations and responsibilities contemplated in this Agreement and terms on behalf of and in the name of their respective governing boards.

P. **Insert new Paragraph 36. Compliance with Laws.**

The parties shall comply with all applicable federal, state, county, and local statutes, ordinances, rules, regulations, and codes.

Q. Insert new Paragraph 37. Counterparts.

This Agreement and these terms may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement.

All other terms and conditions contained in the Agreement remain unchanged. The Agreement and this Addendum contain all of the terms and conditions agreed to by the parties with respect to the subject matter hereof, and no other alleged communications or agreements between the parties, written or otherwise, shall vary the terms hereof. Any modification of the Agreement must be in writing and signed by all parties.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the dates set forth below.

FUNDWAYS OF ILLINOIS

330 W. Laura Drive
Addison, IL 60101

By: _____

Its: _____

WHEATON PARK DISTRICT

102 E. Wesley Street
Wheaton, IL 60187

By: _____

Its: _____

ATTEST: _____

Its: _____

Date: _____

ATTEST: _____

Its: _____

Date: _____

EXHIBIT A

INSURANCE REQUIREMENTS

Fundways shall obtain and maintain insurance of the types in the amounts listed below.

A. Commercial General and Umbrella Liability Insurance

Commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$3,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this contract/location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under insured contract (including the tort liability of another assumed in a business contract).

The District, Chamber, City, and County each shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 26 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the District, Chamber, City, or County.

B. Business Auto and Umbrella Liability Insurance

If applicable, business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$3,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired, and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

If District has not been included as an insured under the CGL using ISO additional Insured endorsement CG 20 26 under the Commercial General and Umbrella Liability Insurance required in this Agreement, Fundways waives all rights against the District, Chamber City, and County and their officers, offices, employees, volunteers, and agents for recovery of damages arising out of or incident to Fundways' services.

C. Workers Compensation Insurance

If applicable, workers compensation and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

D. General Insurance Provisions

1. Evidence of Insurance

At least fifteen (15) days prior to the commencement of the contract or commencement of services whichever first occurs, Fundways shall furnish the District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for thirty (30) days' written notice to the District, Chamber City, and County prior to the cancellation or material change of any insurance referred to therein. Written notice to the District, Chamber, City, and County shall be by certified mail, return receipt requested.

Failure of the District, Chamber, City, or County to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the District, Chamber, City, or County to identify a deficiency from evidence that is provided shall not be construed as a waiver of Fundways' obligation to maintain such insurance.

The District, Chamber, City, and County shall have the right, but not the obligation, of prohibiting Fundways from beginning work until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the District.

Failure to maintain the required insurance may result in termination of this Agreement at the District's or Chamber's option.

Fundways shall provide certified copies of all insurance policies required above within ten (10) days of any written request for said copies.

2. Acceptability of Insurers

For insurance companies with a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the District has the right to reject insurance written by an insurer it deems unacceptable.

3. Cross-Liability Coverage

If Fundways' liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

4. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the District, Chamber, City, and County. At the option of the District, Chamber, City, or County, Fundways may be asked to eliminate such deductibles or self-insured retentions as respects the District, Chamber, City or County, or their respective officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

5. Subcontractors

Except as otherwise provided in this Section 5, Fundways shall cause each subcontractor employed by Fundways to purchase and maintain insurance of the type specified above. When

EXHIBIT B

70 ILCS 1205/8-23

1205/8-23, Criminal background investigations

Effective: August 22, 2016

§ 8-23. Criminal background investigations.

(a) An applicant for employment with a park district is required as a condition of employment to authorize an investigation to determine if the applicant has been convicted of any of the enumerated criminal or drug offenses in subsection (c) or (d) of this Section, or adjudicated a delinquent minor for any of the enumerated criminal or drug offenses in subsection (c) or (d) of this Section, or has been convicted, within 7 years of the application for employment with the park district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the investigation shall be furnished by the applicant to the park district. Upon receipt of this authorization, the park district shall submit the applicant's name, sex, race, date of birth, and social security number to the Department of State Police on forms prescribed by the Department of State Police. The Department of State Police shall conduct a search of the Illinois criminal history records database to ascertain if the applicant being considered for employment has been convicted of any of the enumerated criminal or drug offenses in subsection (c) or (d) of this Section, or adjudicated a delinquent minor for committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) or (d) of this Section, or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the park district, any other felony under the laws of this State. The Department of State Police shall charge the park district a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry. The applicant shall not be charged a fee by the park district for the investigation.

(b) If the search of the Illinois criminal history record database indicates that the applicant has been convicted of any of the enumerated criminal or drug offenses in subsection (c) or (d), or adjudicated a delinquent minor for committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) or (d), or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the park district, any other felony under the laws of this State, the Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint based background check, records of convictions or adjudications as a delinquent minor, until expunged, to the president of the park district. Any information concerning the record of convictions or adjudications as a delinquent minor obtained by the president shall be confidential and may only be transmitted to those persons who are necessary to the decision on whether to hire the applicant for employment. A copy of the record of convictions or adjudications as a delinquent minor obtained from the Department of State Police shall be provided to the applicant for employment. Any person who releases any confidential information concerning any criminal convictions or adjudications as a delinquent minor of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) No park district shall knowingly employ a person who has been convicted, or adjudicated a delinquent minor, for committing attempted first degree murder or for committing or attempting to commit first degree murder, a Class X felony, or any one or more of the following criminal offenses: (i) those defined in Sections 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-9, 11-14.3, 11-14.4, 11-15, 11-15.1, 11-16, 11-17, 11-18,

11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-30 (if convicted of a Class 4 felony), 12-7.3, 12-7.4, 12-7.5, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961¹ or the Criminal Code of 2012; (ii) (blank); (iii) (blank); (iv) (blank); and (v) any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, no park district shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.² No park district shall knowingly employ a person for whom a criminal background investigation has not been initiated.

(d) No park district shall knowingly employ a person who has been convicted of the following drug offenses, other than an offense set forth in subsection (c), until 7 years following the end of the sentence imposed for any of the following offenses: (i) those defined in the Cannabis Control Act,³ except those defined in Sections 4(a), 4(b), 4(c), 5(a), and 5(b) of that Act;⁴ (ii) those defined in the Illinois Controlled Substances Act;⁵ (iii) those defined in the Methamphetamine Control and Community Protection Act;⁶ and (iv) any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. For purposes of this paragraph, "sentence" includes any period of supervision or probation that was imposed either alone or in combination with a period of incarceration.

(c) Notwithstanding the provisions of subsections (c) and (d), a park district may, in its discretion, employ a person who has been granted a certificate of good conduct under Section 5-5.5-25 of the Unified Code of Corrections by the circuit court.

Credits

Laws 1947, p. 1292, § 8-23, added by P.A. 91-885, § 10, eff. July 6, 2000. Amended by P.A. 93-418, § 6, eff. Jan. 1, 2004; P.A. 94-556, § 935, eff. Sept. 11, 2005; P.A. 96-1551, Art. 2, § 950, eff. July 1, 2011; P.A. 97-700, § 5, eff. June 22, 2012; P.A. 97-1150, § 215, eff. Jan. 25, 2013; P.A. 99-884, § 5, eff. Aug. 22, 2016.

Footnotes

¹ 720 ILCS 5/11-1-20, 5/11-1-30, 5/11-1-40, 5/11-1-50, 5/11-1-60, 5/11-6, 5/11-9, 5/11-14.3, 5/11-14.4, 5/11-15, 5/11-15.1, 5/11-16, 5/11-17, 5/11-18, 5/11-19, 5/11-19.1, 5/11-19.2, 5/11-20, 5/11-20.1, 5/11-20.1B, 5/11-20.3, 5/11-21, 5/11-30, 5/12-7.3, 5/12-7.4, 5/12-7.5, 5/12-13, 5/12-14, 5/12-14.1, 5/12-15, and 5/12-16.

² 705 ILCS 405/2-1 et seq.

³ 720 ILCS 520/1 et seq.

⁴ 720 ILCS 550/4 and 550/5.

⁵ 720 ILCS 570/100 et seq.

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720 ILCS 646/1 et seq.

730 ILCS 5/5-5.5-25.

70 I.L.C.S. 1205/8-23, IL ST CH 70 § 1205/8-23

Current through P.A. 100-1180 of the 2018 Reg. Sess., and P.A. 101-1 of the 2019 Reg. Sess.