

## Donna Siciliano

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**From:** Dan Novak  
**Sent:** Wednesday, February 24, 2016 10:24 AM  
**To:** Mike Benard  
**Cc:** Donna Siciliano  
**Subject:** Carnival 2016 Taste of Wheaton  
**Attachments:** 2016 Carnival Taste of Wheaton.pdf

Mike: Attached for your signature(s) is the 2016 Carnival Agreement for the Taste of Wheaton

Include in Attachment:

1. Agreement
  - a. Our % points increased by 2% across the board
    - i. With historic gross rev figures / WPD earns 40%
  - b. Also includes the 90 day written notice out
  - c. No increases in public ticket prices
2. COI
  - a. List WPD / City / Chamber / County as Additionally Insured
3. Indemnification & Insurance Rider
  - a. Same version we used the last few years / it was previously bounced off legal
4. Exhibit A To Rider
  - a. Insurance Requirements

Let me know if you have any questions.

Looking forward to another safe & successful event!

Thanks – Dan



Daniel Novak | Superintendent of Special Facilities  
630.510.5117 | Cell: 630.624.3574 | [wheatonparkdistrict.com](http://wheatonparkdistrict.com)

*create. discover. play.*

855 W. Prairie Ave. Wheaton IL 60187 | [dnovak@wheatonparks.org](mailto:dnovak@wheatonparks.org)



# NORTH AMERICAN MIDWAY ENTERTAINMENT

## All Star Amusement, Inc

A Division of North American Midway Entertainment, LLC  
● 2200 West Higgins Road, Suite 135 ● Hoffman Estates, IL 60169 ●  
● Phone: 847-885-2100 ● Fax: 847-885-2177 ●

This agreement made this 10<sup>th</sup> day of February, 2016 by and between NORTH AMERICAN MIDWAY ENTERTAINMENT-ALL STAR AMUSEMENT, INC., an Illinois corporation, Party of the First Part or 'All Star' 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 2016, 2017 and 2018

**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 All Star Amusement. 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 All Star), 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. Advertising to include new North American Midway Entertainment logo.

All Star 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 All Star 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, All Star agrees:

To furnish, present and operate Midway attractions, consisting of amusement rides and concessions at Wheaton, IL for a period of 4 days, starting June 2nd (hereinafter referred to as "opening" or "opening day") and ending June 5th (hereinafter referred to as "closing" or "closing day"), also referred to as "year" or "term" 2016 for an event known as Taste of Wheaton Week (herein referred to as "engagement"). Dates for 2017 & 2018 to be agreed upon by both parties to be at a similar time.

To pay Wheaton the sum of one hundred dollars (\$ 125.00) 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, All Star agrees to pay Wheaton the pro rated sum equal to the actual days operated.

To pay Wheaton thirty-eight percent (38%) of the net revenue derived from the sale of admission tickets at the various shows and rides up to \$100,000; forty percent (40%) 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 North American Midway Entertainment-All Star Amusement, Inc.

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:

All Star 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. All Star assumes no liability

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

This contract is in full force and effective when confirmed by North American Midway Entertainment-All Star Amusement, Inc.



# NORTH AMERICAN MIDWAY ENTERTAINMENT

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 All Star will be the responsibility of All Star. North American Midway Entertainment 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 North American Midway Entertainment during their occupancy on Festival grounds.

It is understood and agreed that there shall be no other riding devices (excluding pony rides) other than those furnished by All Star. 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, June 2<sup>nd</sup>, 2016 4pm-10pm
- Friday, June 3<sup>rd</sup>, 2016 4pm-11pm
- Saturday, June 4<sup>th</sup>, 2016 Noon-11pm
- Sunday, June 5<sup>th</sup>, 2016 1pm-8pm

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

- Thursday, June 2<sup>nd</sup>, 2016 4pm-10pm
- Saturday, June 4<sup>th</sup>, 2016 Noon-5pm
- Sunday, June 5<sup>th</sup>, 2016 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 \$18 fundraiser ticket with \$3 of sale proceeds to be given to local PTA and Churches for their assistance in selling tickets. Documentation of 'Advanced Sales' to be provided to North American Midway Entertainment with evidence of donations made to local foundations, schools or churches.

Ticket Prices for the 2016 Carnival Season are as follows: Single Tickets \$1.25; Family Pack (22 Coupon Sheet) \$25; Mega pack (55 Coupon Sheet) \$60.

Hours and specials for 2017 & 2018 to be agreed upon no later than January 15<sup>th</sup> 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 North American Midway Entertainment-All Star Amusement, Inc 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 North American Midway Entertainment-All Star Amusement, Inc 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, All Star 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

25<sup>th</sup> day of Feb 2016

BY:

Wheaton

*Executive Director  
Judson Pk Dist*

BY:

All Star

North American Midway Entertainment-All Star Amusement, Inc

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

This contract is in full force and effective when confirmed by North American Midway Entertainment-All Star Amusement, Inc.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/10/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Allied Specialty Insurance, Inc.</b> 10451 Gulf Boulevard Treasure Island, FL 33706-4814 1-800-237-3355	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C, No, Ext):</b> <b>FAX (A/C, No):</b>	
<b>INSURED</b> <b>All Star Amusement Co., Inc</b> <b>North American Midway Entertainment</b> 2200 W Higgins Rd, Suite 135 Hoffman Estates, IL 60169	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
	<b>INSURER A : T.H.E. Insurance Company</b>	<b>12866</b>
	<b>INSURER B :</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			CPP0102256-06	12/20/2015	12/20/2016	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$N/A PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$UNLIMITED PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			CPP0102256-06	12/20/2015	12/20/2016	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WCP0005023-006	12/20/2015	12/20/2016	WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**ADDITIONAL INSURED:** City of Wheaton and Wheaton Park District Wheaton Chamber of Commerce, DuPage County Division of Transportation as respects to General Liability and to the operations of the named insured.

## CERTIFICATE HOLDER

Wheaton Park District  
102 E. Wesley  
Wheaton, IL 60187

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Carol A. Serra*

## **INDEMNIFICATION AND INSURANCE RIDER**

This Rider amends, supplements and supersedes that certain Agreement dated as of 2/22, 2016 by and between North American Midway Entertainment-All Star Amusement, Inc. and the Wheaton Park District ("Agreement"). In the event of any conflict between any of the provisions of this Rider and the provisions of the Agreement, the provisions of this Rider will control.

To the fullest extent permitted by law, North American Midway Entertainment-All Star Amusement, Inc. ("All Star") shall indemnify the Wheaton Park District ("District"), the Wheaton Chamber of Commerce ("Chamber"), the City of Wheaton ("City") and DuPage County ("County") and defend and hold 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 District, Chamber, City or County may suffer, incur or sustain, or for which 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 All Star 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 All Star of any provisions of this Agreement, or the exercise by All Star of the rights and privileges granted to All Star or the performance of any of the obligations undertaken by All Star under this Agreement, except that All Star 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, All Star 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 District, Chamber, City, and County shall not have to incur any expense in connection therewith. District reserves the right to independently defend against or participate in All Star's defense of any such claim, at District's own expense. This reserved right shall not in any way diminish All Star's indemnification, defense and hold harmless obligations hereunder. Except with the written consent of the District, Chamber, City, or County All Star 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.

In furtherance of and not in limitation of its responsibilities and promises in this Agreement, All Star 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. All Star shall also require each and all of its respective contractors and subcontractors performing any work for All Star in the exercise of any and all of the rights and privileges granted All Star hereunder, to secure and maintain at their own expense insurance with like coverages and terms.


All Star 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"). 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 All Star, its agents, employees or other persons acting on behalf of All Star or with All Star's consent, of the rights and privileges granted to All Star under this Agreement, except to the extent any injury, damage or loss is caused by the negligent or intentional acts or omissions of District, Chamber, City, or County or their employees or agents.


To the fullest extent permitted by the laws of the State of Illinois, All Star hereby waives any and all rights or claims All Star may have at any time against 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 All Star, or any person claiming by, through or under All Star in connection with the exercise by such persons of rights and privileges granted to All Star, or the performance of All Star's 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 District, Chamber, City, or County or their respective employees, volunteers, agents, or others acting on their behalf.

Nothing contained in this Rider or elsewhere in the Agreement is intended or shall be construed as a waiver by District, City, or County or their employees, volunteers, agents or others acting on its behalf of the privileges, defenses or immunities from liability afforded under Illinois law, including without limitation the Illinois Governmental and Governmental Employees Tort Immunity Act.

WHEATON PARK DISTRICT

By:   
Date: 2/25/16

NORTH AMERICAN MIDWAY  
ENTERTAINMENT-ALL STAR  
AMUSEMENT, INC.

By:   
Date: 2/25/16

## **EXHIBIT A TO RIDER**

### **INSURANCE REQUIREMENTS**

North American Midway Entertainment-All Star Amusement, Inc. ("All Star") 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).

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 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 Contract, All Star waives all rights against District, Chamber City, and County and their officers, offices, employees, volunteers, and agents for recovery of damages arising out of or incident to All Star's 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, All Star shall furnish 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 District, Chamber City, and County prior to the cancellation or material change of any insurance referred to therein. Written notice to District, Chamber, City, and County shall be by certified mail, return receipt requested.

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

District, Chamber, City, and County shall have the right, but not the obligation, of prohibiting All Star 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 District.

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

All Star 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 obtain 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 All Star's 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, All Star 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, All Star shall cause each subcontractor employed by All Star to purchase and maintain insurance of the type specified above. When requested by the District, Chamber, City, or County, All Star shall furnish copies of the certificates of insurance evidencing coverage for each subcontractor.

Signature:



Date: 2/22/16

North American Midway Entertainment-All Star Entertainment Inc.