SPECIAL EVENT AGREEMENT BETWEEN WHEATON PARK DISTRICT AND WHEATON CHAMBER OF COMMERCE

The Special Event Agreement ("Agreement") is made and entered into as of this 1st day of February ("Effective Date"), by and between Wheaton Park District, an Illinois park district and unit of local government ("Park District"), and the Wheaton Chamber of Commerce, an Illinois not for profit corporation ("Chamber"). Park District and Chamber are sometimes hereinafter referred to individually as a "Party" and together as the "Parties."

Recitals

WHEREAS, the Park District owns, operates, and maintains certain real property located at 225 Karlskoga Avenue, Wheaton, Illinois, commonly referred to as "Memorial Park;" and

WHEREAS, the Park District hosts a variety of special events in portions of Memorial Park, including the "Cream of Wheaton;" and

WHEREAS, the Park District also hosts a variety of special events on streets owned, maintained and controlled by the City of Wheaton via permit; and

WHEREAS, the Park District has a history of working with various local entities to co-host certain special events, including the Chamber; and

WHEREAS, the Park District desires to work with and co-host the 2023 "Cream of Wheaton" with the Chamber and desires to enter into this Agreement to formalize the Parties' relationship with respect thereto; and

WHEREAS, the Park District has determined that it is in the best interests of both its residents and the general public to work with and co-host the June 1-4, 2023, "Cream of Wheaton" with the Chamber, subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Parties have determined that the partnership and anticipated cooperation in co-hosting the June 1-4, 2023, "Cream of Wheaton" will result in financial economies and enhanced benefits to Wheaton residents and the general public.

NOW THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals**. The Recitals set forth above are hereby incorporated by reference into this Agreement as though fully set forth herein, and all covenants, terms, conditions, and provisions of this Agreement shall be construed, interpreted, and enforced in

accordance therewith. In the event of a conflict between the above-Recitals and these numbered paragraphs below, these numbered paragraphs below shall control.

2. **Term**. The term of this Agreement shall commence on February 1, 2023, and end on June 30, 2023 ("Term"), unless earlier terminated pursuant to Section 12 of this Agreement.

3. **Designated Representative**. Each Party shall designate a representative in writing to the other Party, including the designated representative's name, position, telephone, cellular phone, and email address ("Designated Representative"). Each Party's Designated Representative shall oversee the operation and administration of, and ensure compliance with, the terms of this Agreement, and shall serve as the primary contact for the other Party with respect to the same, including but not limited to planned or scheduled use of the Park District's grounds and facilities and changes in planned or scheduled uses of same.

4. **Park District's Duties and Obligations**. In addition to the other responsibilities in this Agreement, the Park District shall:

A. Secure all city, county and state permits and licenses.

B. Manage all event logistics including but not limited to the RFP process, set up, take down, arts and crafts show, security, food vendors, signage, and carnival.

C. Secure and coordinate all sound & light and entertainment.

D. Solicit, secure, and coordinate sponsorships (responsible for securing 50% of mutually agreed upon budget goal of $35,000).

E. Marketing and promotion of event.

5. **Chamber's Duties and Obligations**. In addition to the other responsibilities in this Agreement, Chamber shall:

A. Solicit, secure, and manage business expo (budget goal of $25,000).

B. Solicit and secure sponsorships (responsible for securing 50% of mutually agreed upon budget goal of $35,000).

C. Recruit, assign and coordinate all event volunteers.

D. Assist with marketing and promotion of event.

6. **Maintenance**. Except as otherwise specifically provided in this Agreement, the Park District shall provide normal and customary maintenance, custodial services, utilities, and restoration at Memorial Park at no cost to Chamber.

7. **Supervision**. Neither Party shall have any responsibility whatsoever for supervising the other Party's employees, agents, volunteers, invitees, or affiliates. Each Party acknowledges and assumes complete responsibility for its employees, agents or volunteers used to supervise its activities hereunder.

8. **Financial Outcome of Event.** Parties agree that they will share equally in profit or loss resulting from all revenues and expenses related to the event.

9. **Repairs and Replacement**. The Parties understand and agree that, during the Term of this Agreement, the Park District may incur costs for certain repairs and replacements to the Park District's equipment, grounds, or facilities (individually and collectively the "Property"), including those costs due to normal wear and tear. The Parties agree that the Park District shall be responsible for and shall pay for such repairs and replacements that occur as a result of normal wear and tear.

10. **Insurance**. Each Party, at its sole cost and expense, shall keep in full force and effect at all times during the Term of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with this Agreement. Each Party shall provide coverage that is at least as broad as:

A. Comprehensive general liability insurance, including contractual liability coverage, and such other types of insurance in such amounts and with such A-rated companies or through self insurance risk pools as are reasonably acceptable to the Chamber and the Park District, but, in any event, no less than $3,000,000 per occurrence. Such insurance shall be evidenced by providing certificates of insurance to the other Party. Said insurance shall name the other Party as an additional insured and will further provide that the insurance may not be modified, terminated, cancelled or non-renewed without at least thirty (30) days advance written notice by certified mail, return receipt requested, to the other Party.

B. Each Party shall keep and maintain Workers' Compensation Insurance covering all costs, statutory benefits and liabilities under State Workers' Compensation and similar laws for their respective employees. Any employee claim related to this Agreement will be the responsibility of the Party employer and the other Party shall have no obligation whatsoever to provide workers' compensation for the other Party's employees.

The minimum insurance coverage specified in this Paragraph 10 may be provided by self-insurance, participation in a risk management pool, commercial policies of insurance, or a combination thereof.

11. Indemnification. To the fullest extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party, its elected and appointed officers, officials, employees, volunteers and agents (collectively, the "Indemnitees"), from and against any and all claims, damages, losses and expenses, including but not limited to legal fees (attorneys' and paralegals' fees and court costs), incurred by any of the Indemnitees for injuries to persons or for omission of the indemnifying Party, or of any employee, agent, affiliate, vendor, co-sponsor, invitee, contractor, student or volunteer of the indemnifying Party (the indemnifying Party and each and every such other person being hereinafter individually and collectively referred to as the "Indemnitor"), but only to the extent caused in whole or in party by any wrongful or negligent act or omission of the Indemnitor. Similarly, each Party shall indemnify, defend and hold harmless the Indemnitees from and against any and all claims, damages, losses and expenses, including but not limited to legal fees (attorney's and paralegals' fees and court costs), incurred by any of the Indemnitees by reason of the Indemnitor's breach of any of its obligations under this Agreement.

12. Termination. Either Party may terminate this Agreement as follows:

A. This Agreement may be terminated immediately by either Party in the event of the other Party's material breach of any of its obligations under this Agreement, provided that, except as provided herein with respect to insurance coverage, the breaching Party has failed to cure any such breach within fourteen (14) days after receiving written notice of same from the non-breaching Party. Notwithstanding the foregoing, if the breaching Party shall have repeatedly breached the same or other provisions previously, the non-breaching Party may terminate this Agreement immediately without affording the breaching Party an opportunity to cure the breach, upon seven (7) days written notice to the breaching Party. Failure to maintain required insurance coverage shall be cause for immediate termination of this Agreement, or the immediate suspension of this Agreement until such insurance has been obtained and satisfactory proof thereof provided to the non-breaching Party, in either case upon written notice to the breaching Party without opportunity to cure.

B. In the event Party shall have: (i) filed a voluntary petition in bankruptcy or made an assignment for the benefit or creditors; or (ii) consented to the appointment of a receiver or trustee for all or a part of its property; or (iii) an involuntary petition in bankruptcy shall have been filed and the same shall not have been dismissed within thirty (30) days of such filing, then in said event this Agreement shall automatically terminate.

C. Either Party may terminate this Agreement for any reason, or no reason, upon not less than one (1) year prior written notice delivered to the other Party in accordance with Paragraph 14 of this Agreement.

D. The Parties may mutually agree to terminate this Agreement in writing at any time.

The rights and obligations imposed by Paragraphs 8, 9, 10 & 11 of this Agreement shall survive the expiration or termination of this Agreement.

13. No Waiver of Tort Immunity Defenses. Nothing contained in this Agreement is intended to constitute nor shall constitute a waiver of the rights, defenses, and immunities provided or available to the Park District under the Illinois Local Governmental and Governmental Employees Tort Immunity Act with respect to claims by third parties.

14. Notice. Notices shall be deemed properly given hereunder if in writing and either hand delivered or sent by United States certified mail, return receipt requested, postage prepaid, or by fax or email transmission with the sending Party retaining confirmation of receipt, to the Parties at their respective address provided below, or as either Party may otherwise direct in writing to the other Party from time to time:

If to Chamber:	If to Park District:
Wheaton Chamber of Commerce	Wheaton Park District
108 E. Wesley St.	102 E. Wesley St.
Wheaton, IL 60187	Wheaton, IL 60187
Attn: Executive Director	Attn: Executive Director

Notices sent by certified mail shall be deemed delivered the second business day following deposit in the mail, notices hand delivered shall be deemed given on the date of delivery, and notices sent by fax or email transmission shall be deemed given on the date of transmission if between 9:00 AM and 5:00 PM on a business day, or, if later, the next business day.

15. Compliance with Laws. The Parties shall comply with all applicable federal, state, county, and local statutes, ordinances, rules, regulations, and codes.

16. Payment. Payments due and unpaid under this Agreement shall bear interest in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*).

17. Relationship of the Parties. Nothing in this Agreement shall be deemed to create any joint venture or partnership between the Parties. Neither the Park District nor the Chamber shall have the power to bind or obligate the other except as to the extent expressly set forth in this Agreement.

18. No Third Party Beneficiaries. Notwithstanding any provision herein to the contrary, this Agreement is entered into solely for the benefit of the contracting Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a Party to this Agreement or to acknowledge, establish or impose any legal duty to any third party. No claim as a third party

beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the Chamber and/or the Park District.

19. No Implied Waiver. No waiver of any rights which either Party has in the event of any default or breach by the other Party under this Agreement shall be implied from the non-breaching Party's failure to take any action on any such breach or default and no express waiver shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

20. Assignment. This Agreement may not be assigned, in whole or in part, by either Party without the prior written consent of the other Party.

21. Entire Agreement; Modifications. This Agreement constitutes the entire agreement of the Parties with respect to the matters contained herein, and this Agreement supersedes any and al prior agreements and understandings, whether written or oral, formal or informal. Any modifications to this Agreement must be in writing, signed by both Parties, and dated on or subsequent to the date hereof.

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

23. Successor. It is the intention of each Party hereto that this Agreement and each and every provision shall be binding on its successors.

24. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, constitute a duplicate original.

25. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

26. Heading. The various headings used in this Agreement as headings for sections or otherwise are for convenience only and shall not be used in interpreting the text of the section in which they appear.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed by a duly authorized officer thereof as of the year and date first written above.

WHEATON CHAMBER OF COMMERCE

By: Julie Aust

~~Executive Director~~

President / CEO

WHEATON PARK DISTRICT

By:

Executive Director