

CONTRACT FOR LICENSE OF INDEPENDENCE SQUARE PUBLIC AREA FOR SANTA-CALI-GON FESTIVAL

THIS CONTRACT, made and entered into this ___, 2021 by and between the **CITY OF INDEPENDENCE, MISSOURI**, a municipal corporation, the "**City**", party of the first part, and the **INDEPENDENCE CHAMBER OF COMMERCE**, 210 W. Truman Rd., Independence, Missouri, a Missouri corporation, the "**Chamber**", party of the second part.

WITNESSETH: That the City Council of the City deems it to be in the best interests of the City and its citizens to promote City pride, commerce and tourism through cooperation with the Chamber, in the production of the Santa-Cali-Gon Festival, the "Festival". In order to further this purpose, the City hereby grants permission and authority to the Chamber, upon the terms and subject to the conditions of this contract, to use all of the public areas in and around the area generally known as the Independence Square, which the City presently owns or controls, and contained within the boundaries as shown on the sketch attached hereto as **Exhibit A**, the "Festival grounds", and made a part hereof by reference for the purpose of conducting the Festival from September 3 through September 6, 2021 inclusive.

SECTION I. In consideration of the granting the use of the "Festival ground," the Chamber, its employees, agents, contractors, vendors, exhibitors, and persons or organizations participating in the operation of the Festival hereby agree and covenant:

A. The Festival grounds shall be used only for the purposes of conducting the Festival, with the following restrictions:

1. Parking Lot – northeast corner of Lexington and Lynn. The Chamber shall refrain from placing any structures or exhibits on the municipal parking lot at the northeast corner of Lexington Street and Lynn Avenue as shown on the sketch attached hereto as **Exhibit B** or otherwise using the lot or interfering with access to it until at least 6:00 p.m. on the Thursday of the Festival. The use of this parking lot will be available to the Chamber until noon on Tuesday following the Festival. Debris shall be removed from this lot in accordance with this contract.
2. Parking Lot – southeast corner of Truman Road and Lynn. At no time during the Festival shall Chamber obstruct the entrances to or access to the parking spaces in the municipal parking lot at the northwest corner of Maple Street and Higashimurayama Avenue as shown on the sketch attached hereto as **Exhibit C**. Dumpsters for trash collection may be used at this location, but access to the parking spaces may not be restricted and the area must be kept free of loose trash and debris. The Chamber will issue permits for parking in this lot.
3. Parking Lot – north side of City Hall. To allow the public to conduct business in City Hall, the Chamber will post signs and provide security personnel to restrict the use of the parking lot north of City Hall as shown on the sketch attached

hereto as **Exhibit D** by Festival participants prior to 5:00 PM on the Friday of the Festival opening.

4. Parking Lot – southeast corner Osage and Maple. The Chamber shall refrain from placing any structures or exhibits on the municipal parking lot at the southeast corner of Osage Street and Maple Street as shown on the sketch attached hereto as **Exhibit E** or otherwise using the lot or interfering with access to it until at least 6:00 p.m. on the Thursday of the Festival. The use of this parking lot will be available to the Chamber until noon on Tuesday following the Festival. Debris shall be removed from this lot in accordance with this contract.

5. Old Jail Museum and the Truman Home Tour Information Center. The Chamber shall maintain the sidewalk immediately in front of the Old Jail Museum and the Truman Home Tour Information Center from a point 10 feet South of the entranceway at 217 N. Main north to Truman Road as shown on the sketch attached hereto as **Exhibit F** free from stages, bleachers, chairs or any other objects whatsoever in order that same remains unobstructed and clear for pedestrian traffic throughout the Festival.

6. Truman Courthouse. The Chamber shall not allow the display or use of anything heavier than a total of 5,400 pounds on the Truman Courthouse area as shown on the sketch attached hereto as **Exhibit G**. Any item over 3,000 pounds per axle shall be prohibited from entering this area.

7. Public Streets and City Parking Lots. The Chamber will neither drill holes nor allow any of its contractors, vendors or exhibitors to drill holes for anchoring or stabilizing any structure or device in any public street or City parking lot. If the installation or erection of any device, structure or exhibit requires the anchoring or stabilizing of such structure by the drilling of holes in the pavement of the public parking lots, such drilling, shall be done by the City or shall be approved by the City. The Chamber will cooperate with the City in the determination of the best location for the anchors. Additionally, the Chamber will pay an amount not to exceed \$15.00 each for the material cost of installing the anchors. Drilling in concrete must be approved in advance on a site-by-site basis by City inspectors. There shall be no drilling in brick work.

After such devices, structures and exhibits are removed, the City shall make the necessary repairs to the holes that were drilled and bill the Chamber on a cost of \$10.00 per-hole for said repairs. This bill shall include only those holes drilled by Chamber for the current year. Said repairs are to be performed and the Chamber invoiced prior to the end of the calendar year.

Only the use of white chalk location markings on asphalt is authorized. Vendor location markings must be visible until inspections are complete. Markings on the curbs or sidewalks must be removed by 6:00 PM on Tuesday following the close of the Festival.

8. The Chamber, further agrees that upon the termination of the Festival, all booths shall be promptly removed from the Festival grounds not later than midnight of the last day of the Festival. Bleachers, tables and chairs shall be removed by 10:00 a.m. the day following the Festival. Sidewalks, steps, crosswalks, and other areas of the Festival grounds used for foot traffic shall be cleared prior to 8:00 AM on Wednesday following the Festival.

B. To provide for the conduct of the Festival, Chamber agrees that:

1. Security. The Chamber shall provide necessary security from midnight to 8:00 a.m. each night of the Festival. The Chamber shall assure that the carnival operator provides reasonable and adequate security personnel, in quantity and during hours of operation, as specified by the Chief of Police.

2. Waste and Waste Water. Chamber shall provide for a system of disposal of waste and waste water for the Festival grounds acceptable to the City. The Chamber shall prohibit all vendors and exhibitors from disposing of waste or waste water into the storm sewers.

3. Trash and Debris – Festival Area. The Chamber shall during the course of the Festival, provide on a daily basis, a sufficient number of dumpsters for depositing trash and debris resulting from the Festival and shall further provide for the removal of said trash and debris from said dumpsters on a daily basis. The Chamber shall provide, while the Festival is in operation, sufficient personnel for the removal of trash. Liners for the trash containers shall be provided by the Chamber. The City shall deliver trash containers to the Festival grounds prior to the Festival and remove them following the Festival.

4. Trash and Debris – City Parking Lots and Right-of-Way. Trash and debris, including material (screws and other forms of metal fasteners) left after the dismantling of any performance structure, in the public parking lots and right-of-way in the area of City Hall and the Police Building as shown on the sketch attached hereto as **Exhibit B-D** will be removed by noon on Tuesday following the Festival and will be removed from the remaining area of the Festival grounds by 5:00 p.m. on Tuesday following the Festival. The Chamber will be responsible for any damage to public or private property caused by the failure to comply with this provision of the Contract.

6. Electrical Service. The Chamber shall provide electrical service on the Festival grounds, subject to the following terms and conditions:

a) Chamber shall be responsible for the ordinary and reasonable cost of installation of temporary service meters on the Festival grounds, at an amount of \$40.00 per temporary meter. City shall be responsible for any amounts that exceed the said sum. The \$40.00 cost shall be in addition to the cost of the electrical consumption as described below.

b) Chamber shall use receptacles on the Festival grounds rather than temporary service meters where such receptacles are available and shall pay the amount of \$50.00 per receptacle for this use. The \$50.00 cost shall be in addition to the cost of electrical consumption as described below.

c) The Chamber, vendors, and exhibitors on the Festival grounds shall be responsible for the cost of electrical consumption at the metered rate as set forth in schedules adopted by the City for the supply of such electric service. (* agreed rate of .16) If for any reason any meter fails to record the consumption of electricity, the consumption during any such period that the meter is out of service shall be considered to be the same as the consumption for a like period immediately before or immediately after the interruption, as selected by the City.

d) The Chamber agrees that the voltage available and the manner and place of making connections with the above utilities used by the Chamber shall be determined by the City.

e) The installation of temporary electrical service on, in, or adjacent to the sections of streets immediately surrounding the Truman Courthouse (i.e. Lexington between Liberty and Main Streets, Liberty between Maple and Lexington, Maple between Liberty and Main Streets, and Main between Maple and Lexington Streets) will only be allowed during the period from Monday, August 16, 2021 through Saturday, September 11, 2021. For all other areas of the Festival grounds outside of the streets immediately surrounding the Truman Courthouse, electrical service installation to support or facilitate the event may be installed no earlier than Monday, August 16, 2021.

f) The Chamber and the City, through its Community Development Department and Power & Light Department, will work together to ensure the safe delivery of electrical service to the Festival grounds.

7. Accessibility. The Chamber shall do all things necessary to assure handicap access to the Festival grounds is maintained. That the Chamber shall provide for handicapped parking in the municipal parking lots at the northeast corner of Lynn Avenue and Kansas Street and the southeast corner of Lynn Avenue and Truman Road as shown on the sketch attached hereto as **Exhibit C and H**. At least one ADA compliant restroom facility shall be made available at every bank of restrooms.

8. Police Command Post Vehicles. The Chamber shall provide sufficient space at mutually agreed locations to accommodate two Police Department Command Post vehicles.

9. City Sponsor. The Chamber shall include the name of the City as a sponsor in all media and promotional campaigns the same as any other sponsor. This may include, but is not limited to; pre-program publicity; on the Main Stage Banner, in theme oriented signage, festival t-shirts, information booth signage, festival programs; and other advertisements.

10. Tickets. The Chamber shall provide to the City fourteen V.I.P. armbands to be used at the Main Stage for premium seating at all performances during the festival. Armbands must be delivered to the City five (5) days prior to the start of the Festival.

11. Main Street 1849. The Chamber shall provide to the City, a designated number of booth spaces on South Main Street extending to Kansas as shown on the sketch attached hereto as **Exhibit I** to be referred to as Main Street 1849 and to accommodate the following as previously agreed:

a) Complimentary trade sponsorship for the National Frontier Trails Center on a stage or visitor area and marketing of the National Frontier Trails Center on brochures and other advertising media.

b) An area for the presentation of theme programs of the period and events important to the Independence heritage.

c) Distribution of visitors guides and historical site material at the Festival's information booth.

d) The placement of a Tourism brochure, provided by the City, to be made available at information booth(s).

e) Electric equipment will be placed by the Chamber's electrical contractor on Main Street 1849 and that work will be billed to the City who will also be responsible for purchase of electric usage by exhibits and boothholders.

f) City staff will collaborate on marketing of Main Street 1849 with the Chamber of Commerce and primary exposure will be focused on attendance to the Santa Cali Gon Days Festival.

12. Vendors and Exhibitors Rules and Regulations. All vendors and exhibitors will operate under the rules and regulations of the 2021 Santa Cali Gon Days Festival vendor contract including requirements for inspections by city departments, hours of operation, parking and vehicle restriction inside festival grounds as outlined. Vendors profiting by sales of items or services will be considered to be a regular vendor of the event and must register and pay the Chamber for booth space, electric, insurance and related costs per current SCG vendor contract.

13. Food Service Inspections. The Chamber will provide to the Health Department, at the Chamber building, one (1) golf cart at 12:00p.m. on Thursday, September 2, 2021 for use in inspecting the food service operations associated with the Carnival. The Health Department will return this golf cart to the Chamber building upon the completion of inspections or by 5:30 p.m. on Thursday. Beginning at 8:00 a.m. on Friday, September 3, 2021, the Chamber will provide to the Health Department, at the Chamber building, four (4) golf carts for use in the inspection of vendor booths providing food service to the public. The Health Department staff will return the golf carts to the Chamber building upon the completion of inspections or by 5:30 p.m. on Friday. The Chamber will provide to the Health Department, at the Chamber building, one (1) golf cart beginning at 8:00 a.m. of each subsequent day of the Festival for use in the continuing inspection of vendor booths providing food service to the public. The Health Department staff will return the golf cart to the Chamber building upon the completion of inspections or by 7:00 p.m. on each subsequent day.

14. Vendor Booth Inspections. The Chamber will provide to the Community Development and Fire departments, at the Chamber building, five (5) golf carts at 8:00 a.m. on Friday, September 3, 2021 for the purpose of conducting electrical, fire and other safety inspections of vendor booths. The Community Development and Fire departments will return these golf carts to the Chamber building upon the completion of the inspections or by 3 pm on Friday. No rider not approved or scheduled by supervisory City staff may accompany inspectors or ride in carts.

C. Compliance With Law:

1. Chamber, vendors, and exhibitors shall use and occupy the Festival grounds in a safe and careful manner and shall comply with all applicable municipal, state, and federal laws and rules and regulations pertaining to the carnival, food establishments, exhibits, and temporary structures as prescribed by the City, its employees and agents including those laws or ordinances regarding sale of alcoholic beverages and distribution of pornographic materials. It shall be the responsibility of the Chamber to inspect all temporary installations, tents, other enclosures and structures for suitability and safety. The Chamber shall require any vendor or exhibitor to remove or correct any unsightly or hazardous structure or condition which is so deemed by the City.

The City shall have the power to immediately close or prevent the opening to the public of any vendor or exhibitor which may be in violation of federal or state law or City ordinance. The Chamber and its contractors, vendors and exhibitors agree to abide by the decision of the City in this regard and shall not make any claim or bring any action against the City, or its agents or employees, in regard to any such action taken by the City.

2. The Chamber agrees that the City shall have the right to designate certain of its employees or agents as inspectors, and Chamber agrees that such inspectors shall have the right at any time, and as often as the City may consider necessary, to inspect any property, and services being rendered, any riding devices, shows, displays, food establishments, or any activities of Chamber or the vendors, or exhibitors located on the Festival grounds, and Chamber, vendors, or exhibitors located on the Festival grounds shall give said inspectors free access to any space used or occupied by them or under their control for the purpose of such inspection and shall, upon request of such inspector, operate or demonstrate any machinery, mechanical devices, or electrical appliances owned, maintained, or in the possession of Chamber, vendors, or exhibitors located on the Festival grounds, or demonstrate or operate any process or activities being carried on by Chamber, vendors, or exhibitors located on the Festival grounds.

The Chamber may request inspection services at hours other than the City's normal business hours. City shall be reimbursed for such inspection services for actual personnel costs, with a minimum service charge of (1) hour.

3. The Chamber shall require all contractors and subcontractors of the Chamber to obtain all necessary permits and licenses before providing contracted services at the Festival. The Chamber shall submit a list of all contractors and subcontractors to the Regulated Industries Division of the Community Development Department thirty (30) days before the Festival. The City reserves

the right to immediately cease the operations or prevent the operation of any contractor or subcontractor that has not obtained all necessary permits and licenses required by the City.

All permits shall be obtained and license fees shall be paid prior to use of any device, show or display or food establishment specifically related to the carnival which are required to be obtained or secured.

The granting of this license to the Chamber shall be in lieu of all other business licenses required by vendors under Chapter 5 of the City Code of the City. The Chamber shall provide to all food vendors instructions for obtaining a Temporary Health Permit along with guidelines for operating a food booth. Food service booths operating during the Festival will not be allowed to open until a Temporary Health Permit is obtained, the fee is paid, and a satisfactory inspection has been completed. (To assist with the orderly conduct of the Festival starting in May the Chamber will provide to the Community Development Department a list of all vendor applicants denoting which ones that will be sampling/serving food. Designated City staff will have online access to all vendors serving or sampling food or beverages and a map of booth locations. (with monthly updates through July and then during August notification of applicants when received.) The Chamber will provide to the Health Department ten (10) days prior to the Festival a location map of the vendor booths providing food service to the public. This location map will be updated by the Chamber as necessary.)

The Chamber shall limit the number of temporary vendors that sell alcoholic beverages to no more than two (2) at a maximum of four (4) locations. These vendors must obtain all state and local licenses and shall be restricted to the sale of non-intoxicating or intoxicating beer by the drink, or malt liquor and light wine by the drink as provided for in Chapter 2 of the Code of the City

4. The Chamber will submit to the City within ten (10) business days following the Festival a list of all vendors, including their contact information as on file with the Chamber.. Missouri Retail Sales Numbers are available to appropriate City staff at all times.

D. Liabilities:

1. The Chamber shall secure from each vendor or exhibitor on the Festival grounds, an agreement absolving the City of any liability for theft, loss or damage to property of vendor or exhibitor on the Festival grounds, irrespective of the cause thereof except for liability arising from any occurrence directly involving the gross negligence or intentional act of an employee or agent of the City. Each

such agreement to release and waive all rights and claims against the City, and its agents and employees with respect to such theft, loss or damage shall also include release as to any liability for loss to an exhibit or other installation that results from shutdown by the City. Said agreement shall be substantially in the form as attached hereto as **Exhibit L**.

2. If the Festival grounds, or any portion thereof, during the term of this license, shall be damaged by the act, default or negligence of the Chamber, its employees or agents, vendors, exhibitors, or any occupants and users of the Festival grounds. The Chamber shall pay to the City, upon demand, such sum as shall be necessary to restore the Festival grounds to its previous condition. The Chamber hereby assumes full responsibility for the character, acts and conduct of all its employees or any person acting for and on behalf of the Chamber.

3. The Chamber shall obtain "General Liability and Liquor Liability" insurance coverage for the period of Thursday prior to the Festival through the Wednesday following the Festival of at least \$1,000,000 aggregate limit for bodily injury and property damage under a Special Event policy issued to Chamber with an owner's protective liability provision to indemnify and save harmless the City, and its agents and employees, from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury, and/or damage to property arising from or out of any occurrence in, upon or at the Festival grounds (except for any occurrence directly involving the gross negligence or intentional act of an employee or agent of the City), or arising out of the occupancy or use of the Festival grounds or any part thereof by the Chamber, its employees or agents, vendors, exhibitors, or any other occupant or user thereof, or occasioned wholly or in part by any act or omission by the Chamber, its employees and agents, and any other occupant or user of all or any part of the Festival grounds, and their agents, servants, contractors and employees. The Chamber, vendors, exhibitors, and those occupants and users of the Festival grounds, upon receiving written notice thereof, agree to defend such action or proceeding at its own expense by counsel satisfactory to the City. For the purpose of this contract occupants and users shall be limited to those individuals or entities who participate in the Festival by virtue of a contract, license or agreement with the Chamber. Said definition shall not include members of the general public who attend the Festival or individuals who are otherwise on the Festival grounds not as a result of any contract, license or agreement with the Chamber.

4. The Chamber will name the City as an additional insured on all Chamber liability insurance policies. The Chamber will provide the City with a copy of the

Chamber's Additional Insured – Owners, Lessee or Contractors' Endorsement for the dates of the festival of September 2, 2021 through September 6, 2021.

E. Notices:

1. The Chamber shall notify all property owners and tenants within the Festival grounds of the dates of the Santa-Cali-Gon Festival.
2. The Chamber shall provide a listing including each vendor and their location on the festival map to the Police Chief, Fire Chief, Community Development Director, Health Department and Director of Municipal Services to assist with regulatory enforcement and public information. The listing should be sent at least two weeks prior to festival set-up.

SECTION II. For its part, the City agrees to contribute financial support and services as provided below.

A. City Contribution. The City shall contribute \$12,000 to the Chamber as its sponsorship of the Santa-Cali-Gon Festival. A portion of these funds will be used by the Chamber to defray the cost of securing the parking lot north of City Hall on the Friday of the Festival opening, as provided in Section I, paragraph A 3.

B. Police Protection. The City's Police Department shall provide the police protection necessary to handle and govern the conduct of those attending the Festival and to maintain public order during the following hours: Thursday 3:00 p.m. to Friday 1:00 a.m., Friday 8:00 a.m. to Saturday 1:00 a.m., Saturday 8:00 a.m. to Sunday 1:00 a.m., Sunday 8:00 a.m. to Monday 1:00 a.m., and Monday 8:00 a.m. to 12:00 midnight. In addition, the Police Department shall provide the enforcement and traffic control, including that required during the set-up and dismantling of the Festival.

The police protection to be provided shall be determined by the Chief of Police or his designee in consultation with the Chamber. If the Chief of Police or his designee in consultation with the Chamber deem it necessary to provide police protection during the 2021 Festival at the times set forth above and at a staffing level greater than the 2019 Festival, the Chamber agrees to hire additional security personnel or off-duty police officers to assist the City in providing a reasonably safe and secure Festival. The City shall provide barricades sufficient to insure public safety and not to control access to private lots. Those barricades will be ordered and placed by IPD. Barricades provided by the City shall not be used

to limit access to parking areas where a fee to park will be charged. The City reserves the right to remove such barricades immediately.

C. Parking for City Staff. The City shall provide four (4) reserved spaces generally in the southwest corner of the parking lot north of City Hall as shown on the sketch attached hereto as **Exhibit J** for the parking of vehicles of on-duty City staff (Fire and Health Department personnel) and the staging of taxi cabs.

D. Clean Up Carnival Site. The City shall provide the personnel, equipment and materials necessary to sweep the carnival site after the carnival operator has removed all installations and prepared the lot for the street sweeper. Final clean-up shall be complete by 8:00 a.m. the Wednesday following completion of the Festival

E. Fencing – Main Stage. The City shall provide fencing between City Hall and the west parking lot of City Hall for the safety and security of patrons attending events at the Main Stage located in this parking lot. Fencing shall be ordered by Chamber and billed to City Finance Director.

F. Water Supply. The City shall provide a water supply to the Festival grounds subject to the following terms and conditions:

a) The Chamber shall notify the City, in a timely fashion, of the number and location of temporary water supply stations and of the date needed.

b) The Chamber shall be responsible for the reasonable and ordinary costs of the installation of the supply spigots and the cost of water consumption in accordance to the Rate A Commodity Charge schedule.

c) The Chamber shall be responsible for any damage to the City's water supply equipment assigned to them.

G. Carnival Insurance. City shall acquire and share with the Chamber evidence that the carnival connected with the Festival has liability insurance in compliance with Chapter 5 of the City Code for the period of Monday prior to the Festival through Wednesday following the Festival.

SECTION III. The City and the Chamber further agree to the following:

A. Carnival Site. This contract constitutes the use of the municipal parking lot, and additional area, located between Osage and Liberty Avenues and between Kansas and Walnut Streets as shown on the sketch attached hereto as **Exhibit K** as a carnival site, and as a site for such other uses as the Chamber shall deem

appropriate from 6:00 p.m., on the Monday prior to the Festival, until 8:00 a.m., on the Wednesday following the Festival. Chamber shall provide that the carnival operator not locate or park any vehicles or equipment on or near this site prior to the specified date and time. Chamber shall have the Carnival operator notify the Community Development Director and Water Pollution Control Director prior to setting up the Carnival of any site(s) in the City used by the Carnival operator for locating mobile residential facilities and other storage.

B. Temporary Vendors. This contract also grants a right to the businesses located within the Festival grounds to lease private property to temporary vendors for operation during the dates authorized by this contract. It will be the responsibility of the City to inspect and license for the period of the Festival these temporary vendors. The Chamber shall not be billed for these inspections or time.

C. Examination of Records. The Chamber shall, upon request of the City or the City's authorized representative, permit inspection of all books, records or other information that the City deems necessary to determine the receipts and expenses and resulting profits or losses associated with Chamber's production of this and the previous five (5) Santa-Cali-Gon Festivals. The City agrees that any financial or other information obtained during this inspection that does not relate to the Santa-Cali-Gon Festival shall be kept confidential by the City.

SECTION IV. Contract Termination.

The City and Chamber hereby agree that if the City fails to appropriate the funds necessary to provide the services as identified in the Contract during the fiscal year of the Contract, City shall not be required to provide such services and this Contract shall be terminated effective July 1 after the failure to appropriate the funds for that fiscal year.

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

CITY OF INDEPENDENCE, MISSOURI

INDEPENDENCE CHAMBER OF
COMMERCE

By: _____
Zachary Walker, City Manager

By: _____
Tom Lesnak, President

ATTEST:

City Clerk

APPROVED AS TO FORM ONLY:

City Counselor

EXHIBIT A Revised

