

Type 3 Special Event License and City Services Agreement

THIS TYPE 3 EVENT LICENSE AND CITY SERVICES AGREEMENT is entered into as of March 29, 2017, between PARK CITY MUNICIPAL CORPORATION, a political subdivision of the state of Utah (“Park City” or “City”), and Park Silly Sunday Market, a Utah non-profit corporation (“PSSM”).

Recitals

WHEREAS, PSSM has staged the Park Silly Sunday Market (“Market”) in Park City under the regulation and authority of annual Special Event Licenses issued by Park City;

WHEREAS, Park City and PSSM wish to enter into a contract establishing Park City Main Street as the Market headquarters and to maximize planning efficiencies, pool resources and improve event management to ensure the continued success of the event with minimal impacts to the residents of the City;

WHEREAS, PSSM, a non-profit entity, desires to use certain facilities owned or controlled by Park City and to obtain certain municipal services, fee waivers, and other nonmonetary assistance from Park City and others as appropriate in connection with the Market, all under the terms hereinafter provided;

WHEREAS, Park City desires to contract with PSSM to implement additional closures of Main Street, perform marketing and event management services, and to make substantive changes to the transportation plan and parking management plan as specified pursuant to the terms herein;

WHEREAS, Park City is authorized by Section 10-7-85 of the Utah Code Annotated to provide for and appropriate funds and services for the support of the arts for the purpose of enriching the lives of its residents;

WHEREAS, pursuant to Sections 10-8-2(1) and 10-2-84 of the Utah Code Annotated, the City Council hereby finds that the provision of City funds, property and services is for a corporate purpose consistent with the Park City General Plan, particularly the Community Economic Element, and provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the city;

WHEREAS, Park City reviewed the direct economic benefits of the Market event to Park City, and the Summary of Revenue Impacts to Park City is incorporated herein by reference. The City Council also finds that, in addition to the services contracted for herein, the Market has numerous additional indirect and intangible benefits which create an additional overall positive economic, artistic, and quality of life impact on the City, its residents and its visitors, and nothing herein shall be determined to be a gift or charitable contribution by the City.

Agreement

In consideration of the recitals listed above, which are incorporated herein, and of the terms and mutual covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

A. PRINCIPLES AND RESPONSIBILITIES.

1. General Principles.

1.1 Mutual Cooperation and Flexibility. Park City and PSSM mutually acknowledge and agree to proceed through all stages of planning and operations for the Use Areas identified at Exhibits E-1 of this Agreement and each Market in the spirit of mutual cooperation and flexibility, recognizing that circumstances may change between the date of execution of this Agreement and the commencement of the Market Event. Park City and PSSM agree that the purpose for cooperation and flexibility is the successful operation of the Market. Both Parties understand that plans may change, and are subject to final approval by the City Council.

1.2 Supplemental Plans. This Agreement outlines the terms for the respective duties and obligations of Park City and PSSM with respect to the Use Areas and the other items covered by this Agreement. The Parties agree that implementation of the specific terms outlined in this Agreement will require the development of supplemental implementation and operational plans (referred to herein as the "Supplemental Plans") with respect to those functions of the Use Areas, that may change with the Market. The Supplemental Plans and any modifications are incorporated herein and a material part of this Agreement. Supplemental Plans for the 2016 Market are incorporated within this Agreement and changes that promote the efficient and successful operation of the Market may be considered. Failure to agree on changes to existing Supplemental Plans will result in use of the Existing Supplemental Plans. Any substantial changes in material terms, as determined by City staff, shall require an amendment to this Agreement and City Council approval. The City Council reserves full authority to approve or reject changes in accordance with Title 4, Chapter 8 (as amended) and any other applicable ordinances.

1.3 PSSM General Responsibilities. In addition to the responsibilities of PSSM set forth in the balance of this Agreement, PSSM is responsible for the timely submission to City of all annual plans related to the Market, and producing and providing all official information related to the Market to the City.

1.4 Park City General Responsibilities. In addition to the responsibilities of Park City set forth in the balance of this Agreement, Park City is responsible for producing and providing to PSSM or its designee all official Park City information relevant to the Market and the Use Areas, and promoting positive support for

Park City's involvement in the Market and the opportunities provided thereby. Park City shall cooperate with Park Silly Sunday Market by using its best efforts to notify PSSM of any pending City ordinance changes or city right of way projects which could have a negative impact on PSSM and its sponsorship relationships, including those relating to marketing and signage.

B. TERM AND LEASE OF USE AREAS DURING USE PERIODS.

2. Term. PSSM hereby agrees to hold the 2017 Market in Park City. Accordingly, this agreement shall be effective from March 15, 2017 to September 30, 2017

2.1 Dates of Market. The dates of the Market shall be held on 14 successive Sundays from June 4, 2017 through September 17, 2017 with the following exceptions:

1. No Market on August 6, 2017 for the Park City Kimball Arts Festival

The Supplemental Plan must be have Council approval by March 30th 2017 for the Market to begin on June 4, 2017. Any delay in Supplemental Plan approval will necessitate a commensurate delay in the start of the Market.

2.2 Hours. The event will last from 10:00 am to 5:00 pm. Street closures for load in, load out, set up and delivery would allow street closures from 6:00 am to 8:00 pm. Park City shall consider expanded hours and special holiday late closures (Opening, July 4th, Pioneer Day, Labor Day and Silly Fest) based on performance and feedback from Historic Park City Alliance (HPCA), City Council and the Public as part of the consideration of annual Supplemental Plans.

2.3 Location. The event will be held on Main Street between Heber Avenue and 9th Street and on 5th Street from Main to Swede Alley Park City shall consider expanded venue areas based on performance and feedback from the HPCA, City Council and the Public as part of the consideration of Supplemental Plan or Mid-Event Review.

2.4 Expanded Marketing. Expanded Marketing, Media, Cross Promotional and Public Relations activity is required and shall be further defined in Section D.9.

2.5 Additional Conditions of Approval. The following apply unless specifically modified by Supplemental Plans:

1. The applicant, at its cost, shall incorporate such measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided
2. Unless specifically approved by the Supplemental or Mid-Event Review, Expanded Market Activities or Expanded Location on Main Street south of Heber Avenue shall terminate by 6:30 pm on each Sunday. Main Street north of Heber

Avenue shall reopen by 8:00 pm. Should the applicant not be able to open the street by that time, the closing time of the Market shall be adjusted to meet stated time limits.

3. A Fire Lane approved by the Fire Marshall will be maintained to provide access across Heber Avenue and Main Street at all time of Market operation. Applicant shall provide signage to indicate closures and detour options.
4. Applicant must obtain Relief from Noise Restrictions (6-3-11), as amended, for any set- up activity occurring before 9:00 am on any given Sunday.
5. Applicant shall comply with all UDABC regulations and obtain applicable approvals for the beer garden area and all other areas of compliance.
6. Applicant has met with Park City Police and is aware that event has grown to a level where it warrants more than routine patrol and the cost of additional Police will be incurred by the applicant unless waived by City Council.
7. A base operational plan footprint and sign plan shall be submitted at the Supplemental Plan process outlining placement of no less than 80% of the Market. This will be used as the Approved Operational Market Footprint. All plans for tents, stages and other temporary structures and activities shall be submitted to the Building Department and the City Representative for review each week of the Market by Thursday at 5pm for the Market on the following Sunday. All changes from the Approved Operational Market Footprint must be approved prior to Friday at 5pm of that week
8. The costs to provide additional City staff, as estimated in the report herein, will be incurred by the applicant, unless otherwise waived by the City Council.
9. The applicant will orient all temporary stages so as to minimize sound impacts to the neighborhood. Monitoring of the amplified shall be consistent with 4-8A-7, as amended; regulations for Public Outdoor Music Plazas. The General Regulations of this section indicate the following:

4-8A-7. GENERAL REGULATIONS.

- (A) The program manager, or his/her designee, shall provide on-site management for each event.
- (B) A sound technician shall provide on-site monitoring for each event with music, amplified or otherwise, and any amplified event.
- (C) Except as otherwise provided at Subsection 6(A) herein, for amplified events or music, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage. The data currently available to the City indicates that a maximum decibel level of 90 satisfies the purpose of this ordinance. The City may amend this ordinance consistent with newly acquired data.
- (D) All events shall be open to the public and free of charge.
- (E) The Police Department or other proper City official shall have access at all times to all Public Outdoor Music Plazas under this Chapter, and may make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

(F) All events shall take place only on authorized Stages and shall have clean-up services directly following each event so as to leave the plazas in a clean and litter free manner.

10. If at any time, the vendor participation either north or south of Heber Avenue independently or for the entire Market drops to below 75% of its highest point from the 2010 - 2012 market seasons, the City Council shall conduct a review of the MFL at the first available Council meeting. Event staff and public safety shall provide an assessment of success of the event pursuant to the criteria listed in the Type 3 Special Event License, PCMC Title 4, Chapter 8 and whether the findings, conclusions and conditions are still correct and/or being implemented. Upon one or more findings that the Special Event License is no longer meeting the anticipated vendor/public participation levels justifying the street closure, the above Special Event criteria, or conditions approval, the City Council may amend or revoke this approval accordingly.
11. As part of the Special Event License, the applicant shall provide Utah State Tax Commission and the City Representative a weekly list of all participating vendors containing the following information: Name, address and contact information, Utah State Tax Identification number. PSSM shall also provide a list of all participating not-for-profit organizations. Consistent with section 4-8-7 of the Municipal Code, concessions directly related to the event do not require a regular business license. The Utah State Tax Commission does require a Temporary Special Events Sales Tax License. Utah State Tax Commission will provide each vendor a Utah State Tax ID Number. PSSM shall require all participating vendors to provide and display their Special Event Permit provided by the State of Utah Tax Commission.
12. Nothing herein shall limit use of Coalition Park by non-vendors in accordance with the Art in the Park Ordinance PCMC § 4-3A-7, as amended.
13. The applicant shall regularly review the vendor list to ensure the participants reflect the integrity of the Market's purpose and mission, and limit sales of mass produced goods.
14. Organizers shall return to Council no later than November 1, 2017 to conduct a debrief of the 2017 Market.

3. Grant of Lease. Park City hereby grants to PSSM and its designees and assigns, and PSSM hereby accepts, the right for the occupancy and use of the Use Areas for the purposes further described on Exhibit E-1 along with the use all available utilities, services and related incidental rights in such Use Areas, all upon the terms, and subject to the conditions set forth in this Agreement. The relationship between Park City and PSSM with respect to the Use Areas is that of landlord and tenant, and may be further be defined by Lease Agreement. However, the Lease Agreements shall not conflict with this Agreement or any Exhibit attached hereto. Park City makes no express or implied warranties regarding the Use Areas and PSSM hereby acknowledges it has inspected the Use Areas and accepts the Use Areas "as is."

4. Non-Exclusive Use; Right to License. The Use Areas are public rights of way and PSSM has Non-Exclusive Use as granted herein. During Market hours,

PSSM shall have the exclusive right to jury, select and authorize Market vendors pursuant to the criteria herein and PSSM's internal guidelines and contracts. Otherwise, no right to exclude is hereby granted except as may be required by applicable law (UDABC alcohol areas). Businesses adjacent to and within the Use Areas shall remain eligible for outdoor/sidewalk sales as otherwise provided for in the Municipal Code.

4.1 Access Prior to Use Periods. Unless otherwise set forth herein, Park City and PSSM shall cooperate to arrange times that PSSM and its designees may have non-exclusive access to the Use Areas prior to the Use Periods for the purpose of inspections, planning, preparations, testing and design work, surveys, examinations, and other activities that are necessary for Use Area planning and preparatory functions and advance preparations for and (if necessary) advance construction of certain Temporary Improvements such as installation of cables, conduits, curb cuts, signage and substructure; provided that such access shall not materially interfere with ordinary and customary Park City operations and that such advance construction shall be consistent with the requirements outlined herein.

4.2 Lawful Use. During the applicable Use Periods, PSSM will not use, operate or maintain the Use Areas improperly, carelessly, in violation of any applicable law or in any manner contrary to that contemplated by this Agreement.

4.3 Permitted Uses. PSSM is granted use of the Use Areas and may authorize or license others to use the Use Areas at any time during the applicable Use Periods, with City Approval, for the purposes indicated on Exhibit E-1; including for the moving in and out, and the construction, erection and staging of decorations, trash, recycling and other temporary facilities and installations and other Temporary Improvements, lighting, sound systems, booths, stages, tents, fencing and other equipment; for the sale of food, beverages, novelties, souvenirs and other merchandise to persons attending the Market; for advertising, marketing and promotion; and for any other purpose related to the Market.

4.4 Restoration. PSSM shall return the Use Areas to Park City at the conclusion of their respective Use Periods in clean, orderly condition and in good repair and working order, taking into consideration reasonable wear and tear. Prior to the end of the Use Periods, PSSM shall, at its sole cost and expense, remove all Temporary Improvements and modifications located in or on the Use Areas, unless otherwise agreed upon in writing by the Parties.

5. Permits and Licenses.

5.1 Permits and Licenses. PSSM shall be solely responsible for any building or other permits necessary for its temporary improvements or food operations.

5.2 Special Event License. The City hereby finds the Market to comply with the Municipal Code of Park City Section 4-8-5. Upon execution of this Agreement, Park City shall issue to PSSM a Special Event License that covers all activities of PSSM described in this Agreement that may require such a license. Annual Supplemental Plans

will be necessary to obtain building permits, temporary beer and liquor licenses, sign plan approval and all other required permits, approvals, variances, etc. that may be encompassed by the Special Event License for each Market.

5.3 Permits and Licenses Issued by Other Governmental Authorities. PSSM shall have sole responsibility for obtaining and paying for any and all certificates, permits, licenses and approvals that are required to be obtained from governmental authorities other than Park City for the operations of the Use Areas that are unique to PSSM's use of the Use Areas during the Use Periods. Park City shall support and cooperate with PSSM in obtaining any necessary permits for the activities associated with the operations of the Use Areas during the Use Periods, and shall authorize PSSM to apply in the name of Park City (or Park City will apply for such permits in its own name) with respect to any necessary permits from other governmental authorities that must be issued in the name of Park City.

5.4 Governmental Ordinances. The Special Events and Facilities Department shall support and cooperate with PSSM in obtaining permits as necessary concerning any local, city, county or state ordinances, rules, laws and regulations to assist PSSM in hosting and staging the operations of the Market and related activities in Park City.

C. PARK CITY FACILITIES AND SERVICES.

6. City Services.

6.1 Basic City Services. In addition to enhanced restroom and trash service provided to all events, at no additional cost to PSSM, Park City will provide the following City Services:

- (a) PSSM shall be entitled to a waiver of the following fees:
 - a. Parking fees for any approved Use Areas.
 - b. Building Permit fee and inspection fees for all tents and temporary structures.
 - c. Transit Department fees (labor and operational costs) for re-routing transit and moving 2 stops on Park Avenue.
 - d. Transit Department for re-routing Main Street Trolley.
 - e. Parks Department for street banner installation (does not include banner costs).
 - f. Application fees for the Special Event License.
 - g. Use of city-owned type 1 and bicycle barricades, if available.
- (b) PSSM shall be entitled to a credit of 480 hours (4 officers, 8 hours for 14 days) for enhanced Police patrols when determined necessary by the Park City Police Department.
- (c) PSSM shall be entitled to use of Park City Main Street and other use areas at no cost, as outlined within Exhibit E-1.

- (d) Use of any municipal owned electronic text signs, as otherwise agreed in accordance with mutually acceptable Supplemental Plans concerning Traffic Control.

PSSM may, in consultation with Park City, request adjustments in the priorities or timing or intensity of maintenance and other City Services to be provided by Park City to promote the efficiency and success of the Market. If such adjustments require Park City to provide services which exceed the level or type of City Services in the aggregate that Park City is committed to provide at Section 6.1 herein, then such services shall be considered Additional City Services to be paid for by PSSM under Section 6.2.

6.2 Additional City Services and Work Order Process.

PSSM may request services from Park City in addition to Basic City Services under this agreement, either due to quantity, frequency or type of service requested (collectively, “Additional City Services”). PSSM will be charged the actual cost of Additional City Services incurred by Park City.

7. City Representative.

7.1 Event Representative. Prior to and during the Use Periods, Park City shall designate at least one full-time employee to serve as its “City Representative” for the Market, who shall be the operational liaison between Park City and PSSM and who shall be authorized by Park City to (a) ensure that the Use Areas are operated and maintained as set forth in this Agreement, (b) ensure that, at PSSM’s request, access to and street closure(s) (if applicable) of the Use Areas is provided to PSSM upon commencement of the Use Periods, (c) serve as Park City’s representative for the services of any Park City personnel provided pursuant to this agreement, and (d) give or obtain any necessary consents, approvals or authorizations on behalf of Park City in relation to the Supplemental Plan. The City Representative shall generally be Special Events staff for the City, unless otherwise approved in advance by PSSM, which such approval shall not be unreasonably withheld or delayed.

7.2 Management Representative. Park City shall also designate at least one Departmental Manager who shall be authorized to speak on behalf of the City Manager and City Council, and to act for the City Representative if the City Representative is not available. The costs of providing the City Representative and the Management Representative to provide services under this agreement shall be borne solely by Park City. The Management Representative shall, if requested by PSSM, assist PSSM with the formation of a logistics coordination team.

7.3 Management Meetings. The Event Representatives and Manager shall meet to review Market operation, Supplemental Plan and terms of this Agreement. Any changes to this Agreement or Supplemental Plan shall be approved prior to the first operational date of the Market.

8. Parking and Transportation.

8.1 Transportation Plans. PSSM, with coordination from PCMC, shall develop and implement plans for traffic control around Main Street, as part of the Supplemental Plan to meet the transportation and parking needs of the public during the Use Periods, including provisions for parking, road closings and any enhanced transit service to off-site shuttle lots. Park City shall modify and as necessary expand the public City Transit service, at PSSM’s expense, to meet the increased public demand during the Market consistent with the purposes of the Agreement and the needs of the public, including patrons of the Market. The system will remain open to the public and will service the existing transit routes.

The transportation plans contemplated by the paragraph are intended as an enhancement to Park City’s public transportation to meet the needs of the public during the Use Periods and are not to be construed as the provision of “charter” services.

8.2 Cooperation in Main Street Closing. Consistent with the requirements to develop plans for traffic as part of the Supplemental Plans, Park City and PSSM both agree to support and cooperate with one another if both Parties agree to close all or a portion of Main Street for pedestrian use only or restrict traffic to one-way during some portion or all of the Use Periods.

8.3 Parking Areas. Park City shall make available to PSSM for non-exclusive use the upper and lower Sand Ridge parking lots and the top level of the China Bridge Parking Structure for PSSM Vendors and Staff in accordance with Exhibit E.1.

D. PSSM SERVICES.

9. PSSM Obligations. As consideration for the City support herein, PSSM agrees to the following:

1. Vendor mix – PSSM agrees to regulate their vendor mix to mitigate for potential of adverse impacts to brick and mortar Main Street businesses:
 - a. PSSM shall continue to develop the local growers’ area of the Market. PSSM shall develop a plan to define a specific vendor mix and category type for approval with the Supplemental Plan. In developing a vendor mix plan PSSM may consider any written recommendations from the Working Group regarding vendor mix. PSSM’s vendor mix plan shall specify a number of vendor types allowed or a percentage of vendor types allowed that may include, but is not limited to the categories listed in **Exhibit C** ;
2. On-Site Food (not to exceed 14 total) PSSM agrees to this number for On-Site Food Vendors.
 - a. No on-site food vendors south of Heber
 - b. PSSM agrees to offer first right of refusal to HPCA on 3 of each type of food vendor (Onsite Food, Gourmet Food and Snack Food). PSSM agrees to offer second right of refusal to the Park City Restaurant Association. As previously noted on-site food vendors shall not exceed a total of 14.
 - c. In an effort to minimize direct negative competition to HPCA merchants and unwanted mass-produced items; PSSM shall develop, implement and

manage criteria and in season follow-up for all vendor admissions to the Market. PSSM may consider any suggestions from the Working Group in developing criteria for vendor admissions to the Market. These criteria shall include specific definitions and review/checking procedures of vendor product verification.

3. HPCA access to vendor space – PSSM agrees to provide:
 - a. One 10'x10' vendor booth space with full set up for HPCA member use each week.
 - b. Space in the PSSM Information kiosk/table for HPCA outreach, coupons, information etc.
 - c. Deadline of April 1st, 2017 for all HPCA requests

4. Review(s) – PSSM agrees to:
 - a. Approval of supplemental plan & review of specific operational plan
 - b. Debrief of Market - is Market being operated consistently with service contract and Council goals
 - c. Mid-Event Review –A mid-event review, which will consist of a Managers Report to City Council or Work Session by August 4, 2017.
 - d. Financial information regarding contributions to PSSM pursuant to this Agreement made available to City

5. Demonstrated & Measurable success – The following performance measures will be reviewed annually as part of the annual Supplemental Plans:
 - a. 'Measures for Success' as defined in **Exhibit C**
 - b. Community benefits – PSSM shall conduct a limited survey of market attendees geared at measuring benefit to local community. Park City reserves the right to provide input to said survey and methodology, and changes shall be mutually agreed upon. This should be conducted with requirements for UTIC funding.

6. Limitation on use of funds - PSSM shall provide financial reports at the annual review that will outline the use of funds tied directly to contributions received by PSSM from Park City pursuant to this Agreement. These contributions will not to be allowed for executive or director salaries.

7. Working Group – PSSM agrees to create a Working Group that will include at least: (a) two (2) HPCA representative; (b) two (2) PSSM representative; and (c) two (2) members of the Park City Council. The Working Group shall seek to promote and foster cooperation and communication between PSSM and the HPCA regarding PSSM's selection, inclusion and oversight of specific vendors that participate or have applied to participate in the 2017 Market and any other issues relevant to the 2016 Market.

- 8.1 Park City, Main Street Venue.** Park City’s Main Street shall be recognized as the headquarters of the 2017 Market.
- 8.2 Marketing and Public Relations – Press Releases and Promotional Materials.** PSSM shall include a reference to “Park City, Utah” in all press releases made; and all promotional materials, and shall cooperate where possible in releasing joint public statements with the City and the HPCA promoting Park City, Utah generally. PSSM agrees to aggressively market residents and visitors to attend the Market on Main Street Park City, Utah using the following mechanisms:
- A. www.parksillysundaymarket.com;
 - B. On-site event promotions; and
 - C. Weekly radio and TV spots; and
 - D. Weekly email blast and social media updates
- 8.3 Cooperation with Chamber Bureau and Business Associations.** PSSM and Park City shall use best reasonable efforts to coordinate with the Park City Chamber Bureau and other business associations as the City staff may from time to time suggest, to solicit business support and minimize adverse impacts on the community.

**E.
FINANCIAL**

10. Service Contract. Subject to annual budget appropriation, Park City hereby agrees to make the following annual contributions to PSSM towards the cost of the Market for the term of this contract:

Contracted Year 2017

- (a) Cash payment for the contracted period November 1, 2016 through September 30, 2017 will be as follows:
 - (i.) Twenty Thousand dollars (\$20,000) will be for Operations, including zero waste program, and nonprofit table free of charge at each market.
- (b) Annual fee waivers, based on a combination of the following:
 - (i.) Fee waivers – 2017 fees estimated at seventy seven thousand dollars (\$77,000).

10.1 Park City agrees that this Agreement and all Park City’s obligations and contributions shall be included in the City Manager’s Recommended Budget delivered to the Park City Council on the first scheduled meeting in May and must be approved by the Park City Council no later than June 30 of each year. If such budget is not approved prior to June 30, PSSM and Park City shall meet and attempt to secure funds to make up for costs which were not approved in the budget. If such funds cannot be secured by July 15, PSSM may, at its option, terminate this Agreement upon ninety (90) days prior written notice, without recourse or further

claims by Park City. Payment shall be made within 15 business days of Supplemental Plan approval. No payments shall be made to PSSM prior to approval of the Supplemental Plan. Similarly, should PSSM dissolve or file bankruptcy, PSSM may terminate this Agreement upon ninety (30) days prior written notice prior to that year's Market, without recourse or further claims by Park City.

10.2 PSSM agrees to keep and maintain its financial books and records in accordance with generally accepted accounting principles. The City or its independent auditor reserves the right to conduct its own annual audit of the financial books and records at reasonable times and places during ordinary business hours provided that thirty (30) days written notice of the audit is provided to PSSM and such notice contains a reasonable explanation for the audit. Any audit performed by Park City pursuant to this Agreement shall be performed at Park City's sole expense. If the contributions have not been used as agreed herein, the City shall be entitled to a full or partial refund of the amount. PSSM agrees to turn in all IRS forms, updated business plans, and other similar financial information by November 1, of each contracted year.

F. INSURANCE AND RISK MANAGEMENT.

11. Indemnifications.

11.1 PSSM's Indemnity. PSSM shall indemnify and hold the City, and their agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution and/or performance of any terms of this Agreement. However, that if such claims are caused by or are the result of concurrent or contributory negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of PSSM. Nothing herein shall require PSSM to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence or intentional misconduct of the City, its agents, employees, and/or officers. PSSM expressly agrees that the indemnification provided herein constitutes the PSSM's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of PSSM claims or recovers compensation from the City for a loss or injury that PSSM would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement. Nothing herein shall waive any provision, defense or limitation of the Utah Government Immunity Act.

11.2 Waiver of Claims Against Park City. PSSM shall not make any claim against Park City or its officers, employees and agents with respect to any liability incurred by PSSM to any third person on account of bodily or personal injury or

damage to or loss of property arising out of this Agreement, use of the Use Areas, or the Market, except to the limited extent such liability results from the willful misconduct of Park City, its officers, employees, or agents.

12. Insurance.

12.1 Insurance. PSSM shall procure and maintain at its own expense throughout the Exclusive Use Periods the following insurance:

- (a) **\$500,000** Workers' compensation insurance for PSSM employees, including statutorily required limits and other requirements of law.
- (b) All employee benefit programs and overages required under ERISA, unemployment insurance and any other insurance required by state or federal laws.

12.2 PSSM Liability Insurance. Prior to commencement of any activity in Park City under this Agreement, PSSM shall procure and thereafter maintain during the entire period of such activity one or more policies of insurance providing all of the following coverage, whether by separate policies or by endorsement:

- (a) Commercial general liability policy, with combined single limits of
Two Million dollars (\$2,000,000.00) per occurrence and Four Million Dollars (\$4,000,000.00) in aggregate
- (b) Automobile general liability policy, with a limit of \$2,000,000.
- (b) Liquor Liability Coverage Part on the commercial general liability policy;
- (c) PSSM shall require any hired security company to provide a policy of liability insurance and name PSSM and Park City as name insured on the policy with limits set forth in 14.2(a).

12.3 Additional Requirements. The insurance provided by PSSM pursuant to Section 14.2 of this Agreement:

- (a) Shall be written on an occurrence basis, and with respect to any coverage provided on a claims-made basis, shall be supplemented by a two (2) year tail policy for the limits applicable to the policy periods covered by such tail policy, which are approved by Park City, such approval not to be unreasonably withheld or delayed;
- (b) Shall provide that Park City be named as additional insured with respect to liability arising out of or in connection with PSSM's activities under this Agreement, including those claims, set-offs, losses, damages, liabilities, fines and expenses that arise out of or in connection with the acts or omissions of Park City incident to PSSM's above-referenced activities, but not including the willful misconduct of Park City or its respective officers, employees or agents;

- (c) Shall provide if reasonably possible that with respect to any covered claim arising under this Agreement, such insurance shall be primary coverage without reduction or right of set-off or contribution on account of any insurance provided by Park City for itself or for its officers or employees; and
- (d) Shall provide if reasonably possible that such insurance shall not be altered or canceled without thirty (30) days' prior written notice to Park City.

12.4 Park City Liability. Nothing herein shall waive any provision, defense or limitation of the Utah Government Immunity Act.

G. MISCELLANEOUS.

13. License for Use of PSSM Marks. PSSM grants to Park City a license to use PSSM's emblem(s) and other trademarks for any non-commercial, governmental purpose, press release, and in internal Park City communications/reports. Such license shall be subject to restrictions prohibiting any commercial use of such marks.

14. License of Park City of Utah Logo, Name and Marks. Park City hereby grants PSSM a non-exclusive license to use for the effective term of this Agreement, any Park City-related symbols, emblems, marks, logos, trademarks, service marks, or pictures, paintings or likeness of the City, including without limitation the use of the (i) the name "Park City", and any variations thereof, (ii) the names of any officials of Park City, and (iii) the name and likeness of any buildings or grounds owned by Park City, in every case solely for the purposes of (a) broadcasting the Market, (b) providing map and way finding information, and (c) advertising or promoting the Market; but specifically excluding any license for the sale of any novelties or merchandise.

15. Photography and Broadcast Rights. PSSM shall have the non-exclusive right to arrange, conduct or permit commercial and noncommercial photography, filming, videotaping, television and radio transmission, and similar activities in and above the Use Areas during the Use Periods. PSSM shall have the non-exclusive right to record, to broadcast, and to permit media coverage of PSSM's activities in Park City with a Film Permit.

16. Sponsorships. PSSM shall have the exclusive right to sell sponsorships and supplierships of and other rights of affiliation with the Market and events staged or conducted by PSSM in the Use Areas.

17. Representations and Warranties.

17.1 Representations and Warranties of PSSM. PSSM hereby represents and warrants that (a) PSSM is a non-profit corporation duly organized, validly existing and in good standing under the laws of the State of Utah, (b) PSSM has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder, (c) the execution of this Agreement by PSSM and the performance

by PSSM of its obligations hereunder have been duly authorized by all necessary corporate action, and (d) this Agreement has been duly executed and delivered by PSSM and is a valid and binding obligation of PSSM.

17.2 Representations and Warranties of Park City. Park City hereby represents and warrants to PSSM that (a) Park City validly exists, and is in good standing under the laws of the State of Utah, (b) Park City has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder, and (c) the execution of this Agreement by Park City and the performance by Park City of its obligations hereunder have been duly authorized by all necessary action, including all reviews and approvals required by the City Council of Park City.

18. Unforeseen Circumstances. Either Party may terminate or suspend its obligations under this Agreement if such obligations are rendered impossible of performance by any of the following events to the extent such event is beyond the reasonable control of the party whose performance is prevented: Fire, flood, riot, earthquake, civil commotion, insurrection, Act of God, war or any law or supervening illegality. In any such event, such party shall not be liable to the other for delay or failure to perform its obligations.

19. Dispute Resolution. The Parties agree that any dispute arising in connection with the interpretation of this Agreement or the formulation or implementation of any of the Supplemental Plans or the performance of any party under this Agreement or otherwise relating to this Agreement shall be treated in accordance with the procedures set forth in this Section, prior to the resort by any party to arbitration or litigation in connection with such dispute. The dispute shall first be referred for resolution to Park City's City Representative and PSSM's Manager or other person designated by PSSM as exercising authority over the Use Areas. If such persons are unable to resolve the dispute, it shall then be referred for resolution to Park City's Manager Representative and PSSM's Managing Director. Either Party may invoke such procedures by presenting to the other party a "Notice of Request for Resolution of Dispute" (a "Dispute Resolution Notice") identifying the issues in dispute sought to be addressed hereunder. A telephone conference of such officers shall be held within three (3) days, or if an emergency meeting is requested, within eight (8) hours, after delivery of the Dispute Resolution Notice. In the event that such officers are unable to resolve the dispute, then upon delivery of a further Dispute Resolution Notice, either Party may require that the matter be referred for resolution to the City Manager of Park City and the Managing Director of the Market. A telephone conference of the City Manager of Park City and the Managing Director shall be held within (2) two days, or if an emergency meeting is requested, within eight (8) hours, after delivery of the further Dispute Resolution Notice. If the City Manager of Park City and the Managing Director are unable to resolve the dispute, then the Parties shall engage in nonbinding mediation with a mutually acceptable mediator to resolve the issue within three (3) days of the delivery of a further Dispute Resolution Notice. Both Parties shall share the costs of such mediation equally. In the event that the parties are unable to agree on a mediator, then each Party shall select one (1) mediator and the two mediators shall select a third mediator. Each Party shall bear the cost of the mediator chosen by that Party and the Parties shall share the

costs of the third mediator. If the dispute involves the formulation or implementation of any of the Supplemental Plans contemplated under this Agreement, the parties agree that the persons outlined above who are authorized to attempt to resolve disputes shall consider the minimum requirements for each of the Supplemental Plans outlined in this Agreement along with reasonable supplementation of such minimum requirements in order to meet the purposes outlined in this Agreement.

20. Other Miscellaneous Terms.

20.1 Governing Law. This Agreement shall be construed in accordance with, and governed by the substantive laws of, the State of Utah, without reference to principles governing choice or conflicts of laws.

20.2 Severability. If any provisions or portions thereof of this Agreement shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement or the application of such provisions or portions thereof shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by the law, so long as the intent of the parties can be maintained.

20.3 Assignment and Delegation. Neither party may assign nor in any manner transfer the benefits of this Agreement or delegate its obligations under this Agreement without the prior written consent of the other party. Subject to the foregoing limitation, this Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors, agents, heirs and assigns.

20.4 Waiver. No action taken by either party shall be deemed to constitute a waiver of compliance by such party with any representation, warranty or covenant contained in this Agreement. Any waiver by either party of a breach of any provision of this Agreement will not operate or be construed as a waiver by such party of any subsequent breach.

20.5 Headings. The article and section headings herein are for convenience and reference only, and in no way define or limit the scope and content of this Agreement or in any way affect its provisions.

20.6 Consent. Unless otherwise specifically noted herein, the consent of any party to any action may be made in such party's sole discretion. All consents or approvals hereunder shall be given without delay by either party.

20.7 Entire Agreement. This Agreement, together with any attached Exhibits, constitutes the entire agreement between the parties hereto with respect to the

subject matter contained herein, and there are no covenants, terms or conditions, express or implied, other than set forth or referred to herein. This Agreement supersedes all prior agreements between the parties relating to all or part of the subject matter herein.

20.8 No Third Party Beneficiaries. This Agreement is intended for the sole benefit of Park City and PSSM and there are no third party beneficiaries to this Agreement.

20.9 Notice. Unless otherwise specified herein, all Notices, requests, consents and demands required to be in writing, including any Dispute Resolution Notice (collectively referred to herein as a "Notice" or "Notices") shall be given to or made upon the parties at their respective addresses set forth below, or at such other address as a party may designate in writing delivered to the other parties. Unless otherwise agreed in this Agreement, all Notices, requests, consents and demands shall be given or made by personal delivery, by confirmed air courier, by facsimile transmission ("fax") (with a copy sent the same day by first-class mail), or by certified first-class mail, return receipt requested, postage prepaid, to the party or parties addressed as aforesaid. If sent by confirmed air courier, such Notice shall be deemed to be given upon the earlier to occur of the date upon which it is actually received by the addressee or the business day upon which delivery is made at such address as confirmed by the air courier (or if the date of such confirmed delivery is not a business day, the next succeeding business day). If mailed, such Notice shall be deemed to be given upon the earlier to occur of the date upon which it is actually received by the addressee or the second business day following the date upon which it is deposited in a first-class postage-prepaid envelope in the United States mail addressed as aforesaid. If given by fax, such Notice shall be deemed to be given upon the date it is actually received by the addressee.

If to

Park

City:

Economic Development
Manager Park City
Municipal Corporation
PO Box 1480
445 Marsac Avenue
Park City, UT 84060-1480
Tel 435-615-5000
Fax 435-615-4901

With copies to:

City Attorney
Park City Municipal Corporation
PO Box 1480
445 Marsac Avenue
Park City, UT 84060-1480

If to PSSM:

Kate Boyd – Executive Director
Park Silly Sunday Market
PO Box 684229
Park City, UT 84068

20.10 Reserved Police Power. The City expressly reserves, and PSSM expressly recognizes, the City's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

20.11 Nondiscrimination.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, PSSM will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. PSSM shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.
- C. PSSM will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

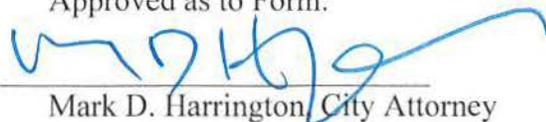
PARK CITY MUNICIPAL CORPORATION



Jack Thomas, Mayor

;

Approved as to Form:



Mark D. Harrington, City Attorney

Attest:

Mitchell Kellogg
City Recorder



PARK SILLY SUNDAY MARKET

Kate Boyd

Kate Boyd, Executive Director

ACKNOWLEDGEMENT

STATE OF Utah)

COUNTY OF Summit)

On this 29th day of March, 20 17, Kate Boyd (name of document signer) personally appeared before me, whose identity is personally known to me or proven on the basis of satisfactory evidence, and who by me duly sworn/affirmed, that he/she acknowledged to me that he/she executed the Park Silly Agreement (name of document being signed).

Katie Madsen
Notary Public

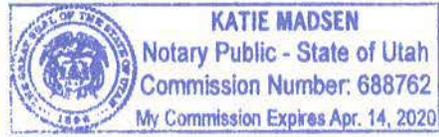
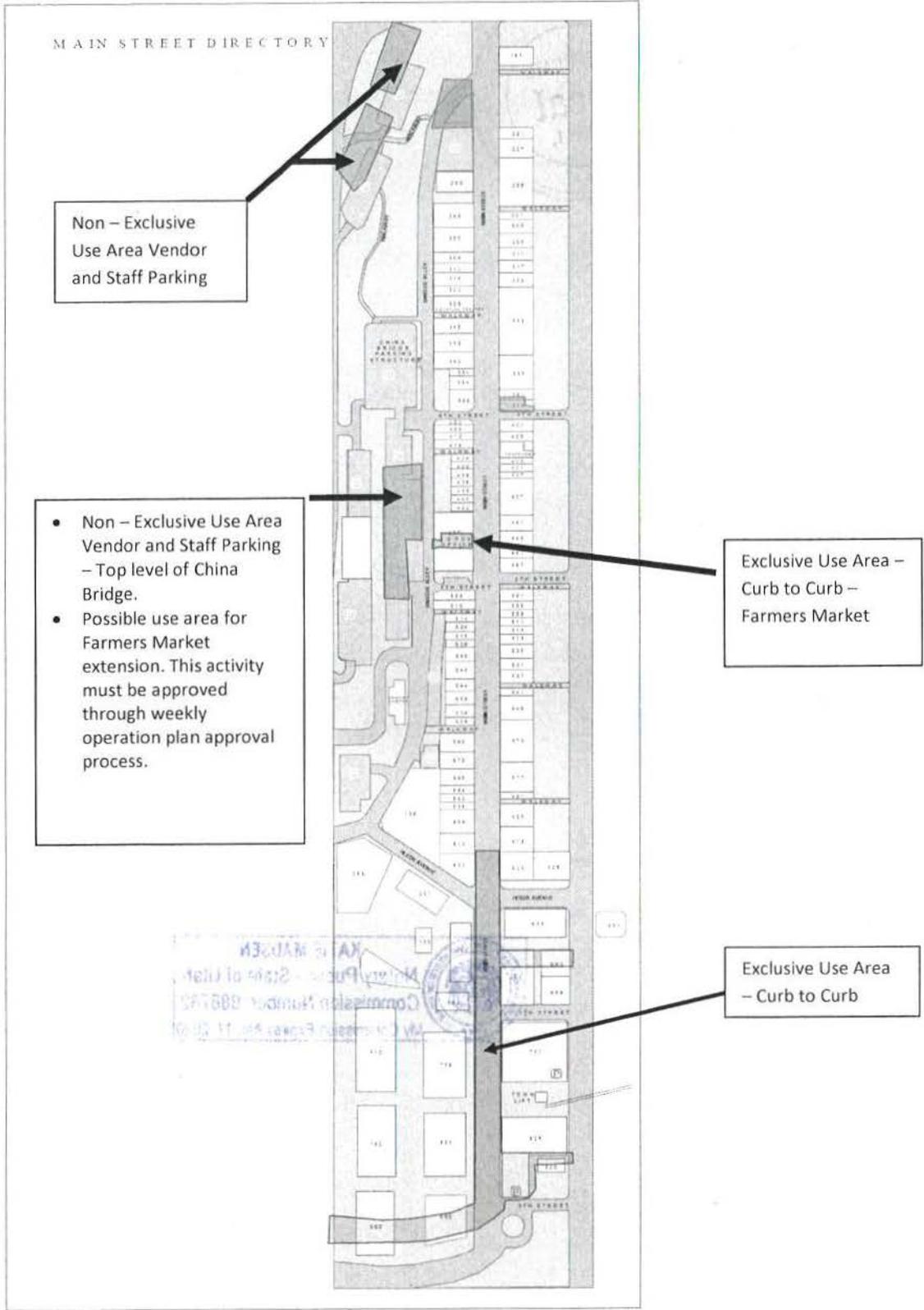


Exhibit E- 1 – PSSM 2017 Use Areas





PO Box 2227
Sandy, Utah 84091-2227
800.446.2667

July 06, 2017

PARK SILLY SUNDAY MARKET
PO BOX 684229
PARK CITY, UT 84068

RE: PARK SILLY SUNDAY MARKET
Policy Number: 3065169

Dear Policyholder,

Attached are the changes recently made to your policy. Please review the changes and if any corrections are needed please notify us immediately.

Premium before the changes: \$2,341.17

Premium after the changes: \$2,357.00

Please visit wcf.com to make a payment, fill out a payroll report, or manage your policy online. Contact your underwriter if you have any questions or corrections at 800.446.2667.

Thank you for your business.

WCF Insurance
Underwriting Department

POLICY INFORMATION PAGE ENDORSEMENT

The following Item(s)

- Insured's Name (WC 89 06 01)
- Policy Number (WC 89 06 02)
- Effective Date (WC 89 06 03)
- Expiration Date (WC 89 06 04)
- Insured's Mailing Address (WC 89 04 05)
- Experience Modification (WC 89 04 06)
- Producer's Name (WC 89 06 07)
- Change in Workplace of Insured (WC 89 06 08)
- Insured's Legal Status (WC 89 06 10)
- Item 3.A. States (WC 89 06 11)
- Item 3.B. Limits (WC 89 06 12)
- Item 3.C. States (WC 89 06 13)
- Item 3.D. Endorsement Numbers (WC 89 06 14)
- Item 4. *Class, Rate, Other (WC 89 04 15)
- Interim Adjustment of Premium (WC 89 04 16)
- Carrier Servicing Office (WC 89 06 17)
- Interstate/Intrastate Risk ID Number (WC 89 06 18)
- Carrier Number (WC 89 06 19)
- Issuing Agency/Producer Office Address (WC 89 06 25)

is changed to read:

The Employers Liability Limits have been changed to:

- \$500,000.00 Bodily Injury by Accident (each accident)
- \$500,000.00 Bodily Injury by Disease (policy limit)
- \$500,000.00 Bodily Injury by Disease (each employee)

Your payment schedule has been revised:

Due Date	Amount	Invoice Number
12/21/2017	\$710.26	
09/21/2017	\$710.27	

The estimated premium for your policy has been revised from:

\$2,341.17 to \$2,357.00

*Item 4. Change To:

Classifications	Code No.	Premium Basis Total Estimated Annual Remuneration	Rate Per \$100 of Remuneration	Estimated Annual Premium

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Endorsement Effective 07/06/2017 Policy No. 3065169 Endorsement No.
 Insured PARK SILLY SUNDAY MARKET Premium \$2,357.00
 PO BOX 684229
 PARK CITY, UT 84068

Insurance Company Workers Compensation Fund

Countersigned by _____

Total Estimated Annual Premium \$			
Minimum Premium \$		Deposit Premium \$	

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Endorsement Effective 07/06/2017 Policy No. 3065169 Endorsement No.
Insured PARK SILLY SUNDAY MARKET Premium \$2,357.00
Insurance Company Workers Compensation Fund Countersigned by _____



CERTIFICATE OF LIABILITY INSURANCE

PARKS-1 OP ID: TW

DATE (MM/DD/YYYY)

05/30/2017

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).

PRODUCER Robert Hess and Company, Inc. 1120 Mar West, Suite B Tiburon, CA 94920 Rob Hess	CONTACT NAME: Tricia Wallace PHONE (A/C, No, Ext): 415-435-6077 E-MAIL ADDRESS: twallace@robhessco.com	FAX (A/C, No): 415-435-9126
	INSURER(S) AFFORDING COVERAGE INSURER A: National Casualty Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
INSURED PARK SILLY SUNDAY MARKET 2052 Prospector Avenue Ste 200 Park City, UT 84060		

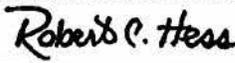
COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER: 2**

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Liquor Liability	X		KKO0000020962300	05/28/2017	05/28/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000 Liquor \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			KKO0000020962300	05/28/2017	05/28/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	X		XKO0000020962500	05/28/2017	05/28/2018	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			Y/N <input type="checkbox"/> N/A			PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

Certificate Holder is named as Additional Insured but only as respects operations of the Named Insured.

CERTIFICATE HOLDER PS-PCMC PARK CITY MUNICIPAL CORP P.O. Box 1480 Park City, UT 84060	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 
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