

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF AURORA AND THE FOX VALLEY MUSIC FOUNDATION

THIS MEMORANDUM OF UNDERSTANDING (this "MOU"), dated April 1, 2024, is between the **City of Aurora**, hereinafter "City," an Illinois Municipal Corporation located at 44 E. Downer Place, Aurora, Illinois, 60505 and the **Fox Valley Music Foundation**, hereinafter "Foundation," a not-for-profit organization located at 19-21 South Broadway, Aurora, Illinois, 60505. The Parties seek to enter into this Agreement regarding the Foundation's use of Mundy Park for special events for the mutual benefit of the Parties and the public.

I. PURPOSE AND SCOPE OF AGREEMENT

The purpose of this Agreement is to identify the roles and responsibilities of both Parties in their collaboration and planning of special events and the use of the City's Mundy Park, which is located at 23 South Broadway, adjacent to the home of the Fox Valley Music Foundation, at 19-21 South Broadway, also known as "The Venue."

II. ROLES AND RESPONSIBILITIES UNDER THIS AGREEMENT

A. The City will:

1. Allow the Foundation to submit a single special event permit application, per event series, for the calendar year.
2. Allow the Foundation to pay a single permit fee as established by resolution for the calendar year.
3. Work with the Foundation to coordinate the use of Mundy Park for the Venue's 2024 outdoor events.
4. Allow the Foundation to leave temporary stanchions and roping in place for consecutive daily events (Thursday evening through Sunday) **while maintaining thoroughway access to park during regular hours**. The Venue agrees to take down roping whenever possible to allow the Park to be accessible to the public during non-event times.

B. The Fox Valley Music Foundation will:

1. Submit one single special event permit application for the 2024 calendar year.
2. Pay a single permit fee as established by resolution for the calendar year.
3. Promptly notify the City of specific event dates if not specified on their permit application.
4. Comply with all the terms of Chapter 41.5, the City's Special Event's Ordinance.
5. Obtain any other required City permits or approvals for their events.
6. Obtain the necessary liquor permits, pursuant to Chapter 6 of the City's Liquor Ordinance.
7. Comply with all the requirements and terms of Chapter 6 of the City's Liquor Ordinance.

8. Utilize temporary barricades to enclose the perimeter of the park, allowing for only one entrance and one exit for events.
9. Limit events to six hours in length.
10. Clean up Mundy Park after events and return it to its previous tidy condition.
11. Notify the City as soon as practicable (the next business day) when it becomes aware of any damages or items in need repair within the Park. (i.e. missing, loose or uneven bricks/pavers, dead or broken tree limbs, and/or any other potential hazards).

C. The City and the Fox Valley Music Foundation will:

1. Work together to coordinate the Foundation's use of Mundy Park for their events.
2. Collaborate and make any adjustments as needed to assure the seamless coordination of adjoining or adjacent events at Mundy Park, Water Street Mall and Skinny Park to ensure the success of all events taking place on the same dates.
3. Meet after the conclusion of the 2024 special events season to discuss an agreement for 2025.

III. OTHER TERMS UNDER THIS AGREEMENT

- A. The City may suspend, revoke or withhold the Venue's special events permit if the Foundation is found to be in violation of their special events permit or any other violations of the City of Aurora, Code of Ordinances
- B. The Foundation does not have exclusive use of Mundy Park. This agreement does not guarantee use of the park; all dates and times of events must be approved through the special events permitting process. Use of the park for a specific date/time is not approved until the special events permit has been issued.
- C. Other groups or special events may have use of the adjoining parks while the Foundation has use of Mundy Park. The City expects all parties using City property to exercise courtesy and respect.

IV. INSURANCE AND INDEMNITY

The Foundation agrees to, at all times, at its sole cost be covered by a policy of general liability insurance. All insurance policies shall be written with insurance companies approved by the City and licensed to do business in the State of Illinois and having a rating of not less than A IX, according to the latest edition of the A.M. Best Company; and shall include a provision preventing cancellation of the insurance policy unless thirty (30) days prior written notice is given to the City.

This provision shall also be stated on each Certificate of Insurance as: "Should any of the above-described policies be canceled before the expiration date thereof, the issuing company will endeavor to mail ten (10) days written notice to the certificate holder named to the left."

The policies must be delivered to the City within two weeks of signing the agreement.

The limits of liability for the insurance required shall provide coverage for not less than the following amount, or greater where required by law:

- (1) Worker's Compensation Insurance - Statutory amount.
- (2) General Liability Insurance:
 - (a) \$1,000,000 per occurrence and \$2,000,000 general aggregate
 - (b) \$500,000 per occurrence for Property Damage
 - (c) \$1,000,000 per occurrence for Personal Injury

If serving alcohol in Mundy Park, additional coverage is needed for Mundy Park and proof of coverage shall be delivered to the City Clerk in accordance with the Foundation's liquor license.

The Foundation shall include the City as a primary, non-contributory additional named insured on the General Liability Insurance policy and indicate said status on any Certificates of Insurance provided to the City pursuant to this agreement. The Contractor shall pay all insurance premiums without cost to the City. Additionally, the Foundation agrees to indemnify and defend the City against all claims related to the Foundation's use or occupancy of Mundy Park and/or any City property or right of way.

VI. AMENDMENTS

This agreement may only be amended in writing as signed by both parties.

VII. TERM OF AGREEMENT

This Agreement shall be effective upon the date of execution by the last signatory below. This agreement shall be valid for the calendar year of 2024.

All parties shall have the right to terminate this Agreement 30 days after they tender written notice of a material breach. The other party shall have the opportunity to cure the breach within 30 days of receiving written notice.

VIII. VENUE AND GOVERNING LAW

This Agreement concerns property located within, and actions and activities to be performed within, the State of Illinois. Accordingly, this Agreement, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois. The Parties agree that for the purpose of any litigation relative to this Agreement and its enforcement, venue shall be in the Circuit Court of Kane County, Illinois, and the Parties consent to the *in personam* jurisdiction of said Court for any such action or proceeding.

IX. SEVERABILITY

If any terms or provisions of the Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provision shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular terms or provision held invalid.

X. AMENDMENTS/MODIFICATIONS

Any modifications or amendments to this Agreement may only be made through the written mutual consent of both Parties.

XI. NOTICE

All notices required hereunder shall be made in writing and shall be served personally, by registered mail, certified mail, traceable private courier service, electronic mail or facsimile transmission unless otherwise provided for in this Agreement.

All NOTICE to the parties under this agreement shall be made to:

The City of Aurora
Corporation Counsel
The City of Aurora Law Department
44 E. Downer Place
Aurora, Illinois 60507-2067

The Foundation
Karen Fouts
Executive Director
21 S. Broadway
Aurora, IL 60505

Executed By:

THE CITY OF AURORA:

By: _____
Mayor Richard C. Irvin

Attest: _____
City Clerk

THE FOX VALLEY MUSIC FOUNDATION:

By: _____
David S. Glynn/Chairman of the Board

Attest: _____
Karen Fouts /Exec. Dir. FVMF