

**FIRST AMENDMENT
to the
OPERATIONS AGREEMENT
FOR THE ROOTS N BLUES N BBQ FESTIVAL –STEPHENS LAKE PARK
SEPTEMBER 26-OCTOBER 2, 2017**

This Amendment No. 1 is made as of the date of the last signatory noted below, between the **CITY OF COLUMBIA, MISSOURI** (“CITY”), and Thumper Productions, L.L.C., (“Thumper Productions”).

RECITALS

- A. WHEREAS, on or about August 22, 2017, CITY and Thumper Productions entered into an Operations Agreement (“Operations Agreement”) for the 2017 Roots N Blues N BBQ Festival; and
- B. WHEREAS, Thumper Productions and Adventure Tree, LLC, a limited liability company organized in the State of Missouri, now desire to provide for a tree climbing activity at the 2017 Roots N Blues N BBQ Festival; and
- C. WHEREAS, the Parties hereto desire to formally amend the Operations Agreement with this first Amendment (hereinafter “First Amendment”) and desire to be bound by the terms contained in the Operations Agreement and those contained in this First Amendment.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual benefit to be derived by the parties, it is agreed to amend the Operations Agreement, as follows:

- 1. The following paragraph is added to the Operations Agreement:

“25. Adventure Tree Activity. Contingent upon Adventure Tree, LLC’s execution of an agreement with the City of Columbia for an activity entitled “Adventure Tree” (hereinafter “Tree Activity”) and the provision of insurance set forth in subparagraph (f) of this section, approval for the operation and execution of the Tree Activity is given to Thumper Productions and Adventure Tree, LLC.

- a. Thumper Productions and Adventure Tree LLC shall work with the Parks and Recreation Department to identify a tree for this activity and this tree shall be marked on the approved Technical Map.
- b. The perimeter of the Tree Activity shall be secured with high visibility cord with one (1) access point, allowing access to only persons wearing helmets.
- c. The Tree Activity will be free to the public.

- d. Each Tree Activity participant, must sign a valid waiver and release of liability before being allowed to participate in the Tree Activity. If participant is under the age of 18, a parent or guardian must sign release.
 - e. To the fullest extent not prohibited by law, Thumper Productions and Adventure Tree, LLC, shall indemnify and hold harmless the City of Columbia, its officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorneys' fees) arising by reason of any act or failure to act, negligent or otherwise, of Thumper Productions or Adventure Tree LLC, of anyone directly or indirectly employed by or otherwise working for Thumper Productions or Adventure Tree LLC, or of anyone for whose acts Thumper Productions or Adventure Tree LLC may be liable, in connection with the festival or the Tree Activity. This provision does not, however, require Adventure Tree LLC or Thumper Productions to indemnify, hold harmless, or defend the City of Columbia from the City's own negligence.
 - f. Adventure Tree LLC or Thumper Productions shall furnish City with a certificate of insurance that names the City of Columbia as an additional insured. The amount of insurance shall be not less than \$1,000,000 per occurrence/\$3,000,000 aggregate, covering both bodily injury and property damage, including accidental death. Coverage is to be provided by a carrier with A.M. Best minimum rating of A- VIII. The Parties hereto understand and agree that City is relying on, and does not waive or intend to waive by any provision of this agreement, any monetary limitations or any other rights, immunities, and protections provided by the State of Missouri, as from time to time amended, or otherwise available to City, or its elected officials or employees. The insurance required by the provisions of this section is required in the public interest and City does not assume any liability for acts of Thumper Productions or Adventure Tree LLC and/or their employees and/or their subcontractors.
 - g. Adventure Tree LLC and Thumper Productions shall comply with all federal, state, and local laws, codes, rules, and regulations in the operation of the Tree Activity.”
2. All other terms of the Operations Agreement shall remain unchanged and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed this First Amendment to the Operations Agreement, on the day and year last written below.

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

Date: _____

ATTEST:

By: _____
Sheela Amin, City Clerk

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Counselor

THUMPER PRODUCTIONS, L.L.C.

By: _____

Name and Title

Date: _____