

**Agreement
for the 2018 July 4th Celebration Event
Between the City of Columbia, Missouri
and
TKG St. Peters Shopping Center, L.L.C.**

THIS AGREEMENT is entered into on the date of the last signatory noted below (the "Effective Date"), between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") and TKG St. Peters Shopping Center, L.L.C., a limited liability company organized in the State of Missouri (hereinafter "TKG"), for the City of Columbia's 2018 July 4th Celebration Event. City and TKG are each individually referred to herein as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the City desires to host a community fireworks display and event on July 4, 2018 (hereinafter "Event");

WHEREAS, TKG owns or leases property within the fall zone of the fireworks display or within the footprint of the Event (hereinafter "Property"); and

WHEREAS, the City is contracting for the services of J & M Displays, Inc. (the Fireworks Vendor") to provide the fireworks display.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows:

1. **Purpose.** The purpose of this Agreement is to allow City to host the Event on the Property and further delineate the responsibilities of the Parties with regard to the Event. City shall use the Property for the purpose of hosting the Event including the firing of fireworks, a fireworks fall zone, and for no other business or purpose.
2. **Property.** TKG owns property located at: 201 South Providence Road, Columbia, Missouri. TKG agrees to make available facilities on the Property as specified above including, but not limited to, parking facilities, sidewalks, ramps, stairs, etc. for the Event. TKG agrees to make available the Property for the Event at no cost to the City.
3. **Event Maps.** The Event shall be organized and implemented substantially in accordance with the Event Maps attached hereto as Exhibit A.
4. **Relationship of the Parties.** The Parties hereby agree, stipulate and recognize that in the entering of this agreement, the Parties are not in any way partners, co-partners, or in any way jointly interested in any mutual enterprise, but are to each other licensor and licensee respectively, and occupy that status only.

5. Responsibilities of the Parties.

a. City's Rights and Responsibilities. City shall:

- i. Provide portable toilets, trash cans and trash removal at the locations set forth in the special event permit, as shown on the Event Maps.
- ii. Be permitted to set up the Event on the Property beginning on July 2, 2018, to allow City adequate times to place portable toilets, trash cans, barricades, temporary fencing, and or other supplies or equipment needed for the Event.
- iii. Complete City's clean-up of Property by the close of business on July 5, 2018, unless otherwise extended by agreement of the Parties.
- iv. Be permitted to include TKG's name and marks in the advertising of the Event, subject to TKG's approval.
- v. Obtain, at City's sole expense, all necessary permits for City's Event.

b. TKG's Rights and Responsibilities. TKG shall:

- i. Permit City to conduct its fireworks display at the locations set forth in Exhibit A.
- ii. Allow City to bring in a stage, inflatables, and food vendors in the parking lot designated in Exhibit A.
- iii. Allow City access to the Property beginning on July 2, 2018, to set up for the Event.
- iv. Grant City approval, subject to TKG's reasonable discretion, of Event advertising if the advertising and marketing involves the use of TKG's name, image, or marks.
- v. Should TKG choose to hold an event at the same time as the City's Event, TKG, at TKG's sole expense, shall be responsible for obtaining all necessary permits for TKG's event.

c. Event Permit Requirements. The Parties shall comply with all requirements set forth in the special event permit(s).

6. Term. This Agreement will commence on the Effective Date and shall conclude on July 30, 2018.

7. Termination.

a. Termination by Convenience. Prior to July 2, 2018, City may terminate this Agreement for its convenience.

b. Termination by Default. Should City be in default of any provision of this Agreement, TKG may immediately terminate this Agreement. If TKG shall elect to so terminate, this Agreement shall terminate immediately upon City's receipt of notice from TKG.

8. Access. The use and occupation by the City of the Property shall be in common with others entitled thereto. The Property shall at all times be subject to the exclusive control and management of TKG. The City shall not use the Property in any manner that would prevent or affect the ingress and egress of any tenant within the Property or their customers, employees and invitees or otherwise materially affect the visibility and/or access of other tenants, occupants or invitees of the Property or any part thereof except as set forth in the Event Maps.

9. **Clean up.** City shall not injure or mar, or in any manner damage or deface the Property or any part thereof. The City shall keep the Property orderly, neat, clean, and free from rubbish and trash at all times and permit no refuse to accumulate around the exterior of the Property. Trash shall be stored in a sanitary and inoffensive manner and the City shall cause the same to be removed at reasonable intervals. City covenants and agrees that it will, upon the termination of the terms hereof as herein provided, surrender the premises in as good order and condition as existed at the commencement of the term hereof, acts of God and ordinary wear and tear excepted.
10. **Safety.** At all times during the Event, City shall cause reasonably sufficient law enforcement and fire department personnel to be onsite to reasonably maintain a safe environment for all invitees of the Property, including without limitation the Event's invitees and the tenants and occupants of the Property.
11. **Insurance.** City shall carry during the performance of this Agreement and at City's own expense, commercial General Liability (comparable to Comprehensive General Liability Insurance) against all claims or suits with the following minimum limit of liability:

\$1,000,000.00 combined single limit for bodily injury and property damage, per occurrence and aggregate.

The insurance policy shall name TKG and TKG Management, Inc., as an "additional insured". In addition to the above coverage, City shall provide for Workers' Compensation coverage at statutory limits and Employers' liability coverage with a minimum limit of \$1,000,000.00 per occurrence and aggregate. The City's Certificate of Insurance in contained in Exhibit B.

City shall cause the Fireworks Vendor to carry during the Term of this Agreement, and at the Fireworks Vendor's sole cost and expense, a policy of commercial general liability insurance with respect to the Property and the activities of the Fireworks Vendor and its agents, employees and contractors in and upon the Property in which the limits of coverage shall not be less than \$5,000,000 per occurrence, \$10,000,000.00 aggregate, for bodily and/or personal injuries. City shall cause the Fireworks Vendor to name TKG and TKG Management, Inc. as an "additional insured" on this policy.

In the event that at any time during the Term or any extension or renewal thereof, beer, wines or other alcoholic liquors or beverages are sold or given away upon or from the Property by the City (it being understood and agreed, however that the foregoing provision shall not authorize the use of the Property for such purposes without express written consent of TKG being set forth otherwise in this Lease), City shall, at its sole cost and expense, obtain, maintain and keep in force, liquor liability insurance protecting both City and TKG in connection therewith within policy limits acceptable to TKG.

12. **Hold Harmless.** Without waiving sovereign immunity, City agrees to indemnify, protect, defend and hold harmless TKG and its officers and agents, and employees from any and

all liability including claims, demands, losses, costs, damages and expenses of every kind and description or damage to persons or property arising out of City's use of the Property for this Event. This provision does not, however, require City to indemnify, hold harmless, or defend TKG from TKG's own negligence.

City hereby releases TKG and its respective employees, agents and every person claiming by, through and under either of them from any and all liability or responsibility (to them or anyone claiming by, through or under them by way of subrogation or otherwise) for any loss or damage to any property (real or personal) caused by fire or any other insured peril covered by any insurance policies for the benefit of TKG, except to the extent such loss or damage shall have been caused by the fault or negligence of TKG, its employees or agents.

13. **No Assignment.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.
14. **Notices.** Any notice, demand, request, or communication required or authorized by this Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to City:

City of Columbia
Parks and Recreation Department
P.O. Box 6015
Columbia, MO 65205-6015
ATTN: Director

If to TKG:

TKG St. Peters Shopping Center, L.L.C.
c/oTKG Management, Inc.
211 N. Stadium Blvd, Suite 201
Columbia, MO 65203
Attn: Property Management

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

15. **No Third-Party Beneficiary.** No provision of this Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such Person a third-party beneficiary under this Agreement.
16. **Amendment.** No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any

provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.

17. **Governing Law and Venue.** This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this contract document, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.
18. **General Laws.** The Parties shall comply with all federal, state, and local laws, rules, regulations, and ordinances.
19. **Nature of City's Obligations.** All obligations of the City under this Agreement, which require the expenditure of funds, are conditional upon the availability of funds budgeted and appropriated for that purpose.
20. **No Waiver of Immunities.** In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.
21. **Contract Documents.** This Agreement includes the following exhibits, which are incorporated herein by reference:
- | Exhibit | Description |
|---------|--------------------------|
| A | Event Map |
| B | Certificate of Insurance |
- In the event of a conflict between the terms of an exhibit and the terms of this Agreement, the terms of this Agreement controls.
22. **Entire Agreement.** This Agreement represents the entire and integrated Agreement between TKG and City relative to the Event. All previous or contemporaneous agreements, representations, promises and conditions relating to the Event described herein are superseded.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year of the last signatory noted below.

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

Date: _____

ATTEST:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor *NT*

TKG ST. PETERS SHOPPING CENTER, L.L.C.

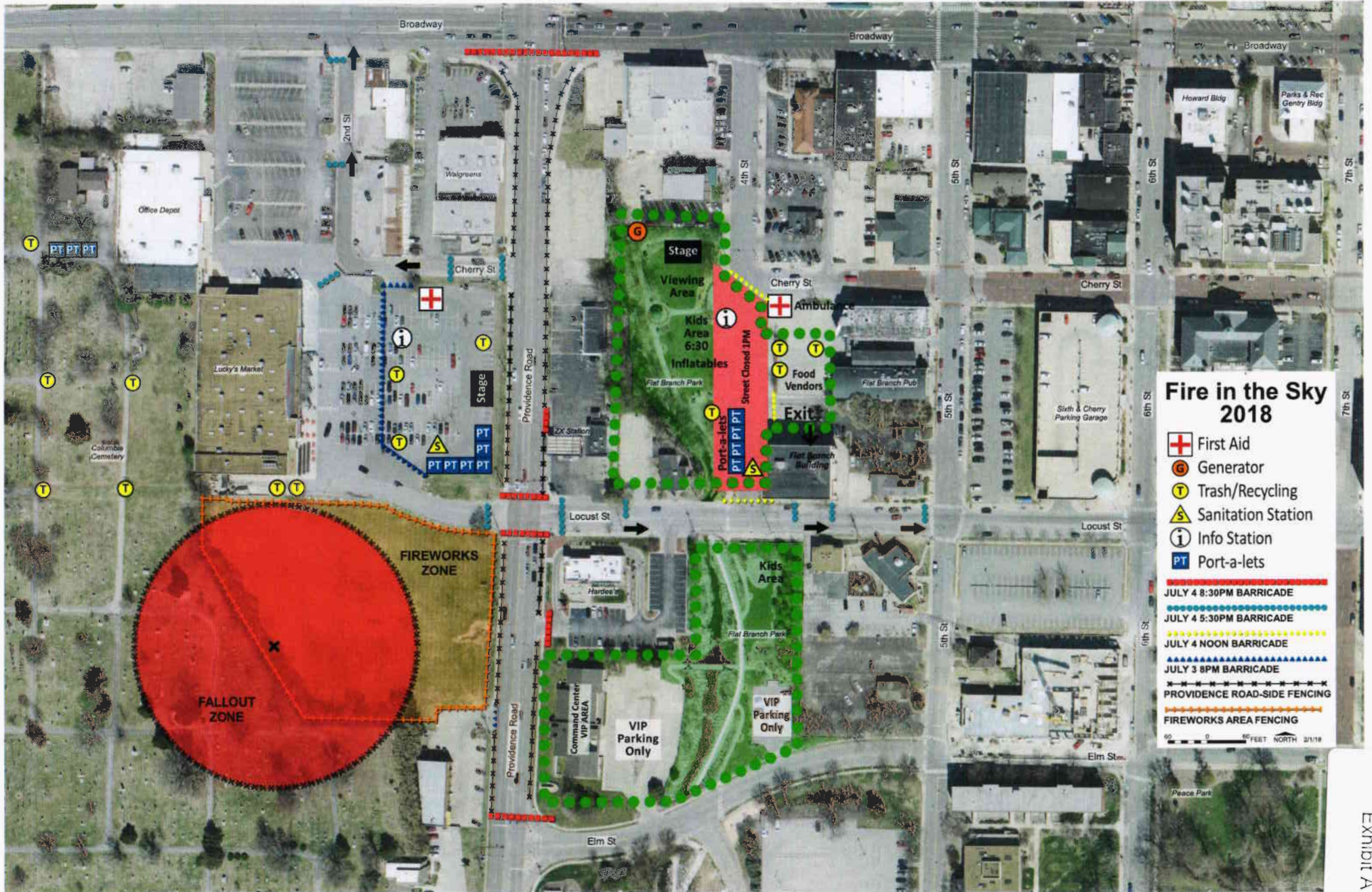
By:  _____

Name and Title: _____

Date: _____

ATTEST:

Name and Title: _____



Fire in the Sky 2018

- First Aid
- Generator
- Trash/Recycling
- Sanitation Station
- Info Station
- Port-a-lets

- JULY 4 8:30PM BARRICADE
- JULY 4 5:30PM BARRICADE
- JULY 4 NOON BARRICADE
- JULY 3 8PM BARRICADE
- PROVIDENCE ROAD-SIDE FENCING
- FIREWORKS AREA FENCING


0 60 FEET NORTH 2/1/18

222 South Ninth St Suite 2700

Minneapolis, MN 55402-3332

(612) 766-3000

CERTIFICATE OF INSURANCE

Insured: City of Columbia, MO PO Box 6015 Columbia MO 65205		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 policy(ies) below. This certificate of insurance does not constitute a contract between the issuing insurer, 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).					
Coverages: This is to certify that the policy(ies) 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 policy(ies) described herein is subject to all the terms, exclusions, and conditions of such policy(ies). Limits shown may have been reduced by paid claims.					
Type of Insurance:	Policy Number	Effective Date	Expiration Date	Limits Occurrence Aggregate	
Public Entity Excess Liability including Error or Omission Liability Coverage.	3000030-1	10/1/2017	10/1/2018	\$3,000,000	\$10,000,000
Retroactive Date:	Occurrence Form Policy				
Description of Operations/Locations/Vehicles/Special Terms: Certificate holder is an additional insured with regards to July 4th Celebration Event.					
Certificate Holder: TKG St. Peters Shopping Center, LLC		CANCELLATION: Should the above described policy be cancelled before the expiration date thereof, notice will be delivered according to policy provisions.			
Self-Insured Retention: \$500,000		Authorized Representative:  _____ Signature			
		_____ Date 3/19/2018			

STATES SELF-INSURERS RISK RETENTION GROUP, INC.

Exhibit B

222 South Ninth St Suite 2700

Minneapolis, MN 55402-3332

(612) 766-3000

CERTIFICATE OF INSURANCE

Insured: City of Columbia, MO PO Box 6015 Columbia MO 65205	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 policy(ies) below. This certificate of insurance does not constitute a contract between the issuing insurer, authorized representative or producer, and the certificate holder.
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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).

Coverages:

This is to certify that the policy(ies) 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 policy(ies) described herein is subject to all the terms, exclusions, and conditions of such policy(ies).
 Limits shown may have been reduced by paid claims.

Type of Insurance:	Policy Number	Effective Date	Expiration Date	Limits	
				Occurrence	Aggregate
Public Entity Excess Liability including Error or Omission Liability Coverage.	3000030-1	10/1/2017	10/1/2018	\$3,000,000	\$10,000,000
Retroactive Date:	Occurrence Form Policy				

Description of Operations/Locations/Vehicles/Special Terms:
 Certificate holder is an additional insured with regards to July 4th Celebration Event.

Certificate Holder: TKG Management, Inc.	CANCELLATION: Should the above described policy be cancelled before the expiration date thereof, notice will be delivered according to policy provisions.
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Self-Insured Retention: \$500,000	Authorized Representative: <div style="text-align: center;">  <hr style="width: 100%;"/> Signature </div> <div style="text-align: right; margin-top: 10px;"> 3/13/2018 <hr style="width: 100%;"/> Date </div>
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