

RESOLUTION NO. 2018-40

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AN INDEPENDENT CONTRACTOR AGREEMENT
WITH FABFUN FOR ENTERTAINMENT SERVICES
AT THE 2018 MAYWOOD FEST**

(SERVICE DATES: SEPTEMBER 15 AND 16, 2018 ONLY)

WHEREAS, the President and Board of Trustees of the Village of Maywood (the "Village") desire to retain FabFun ("FabFun") to provide entertainment services during a portion of the 2018 Maywood Fest (services provided only on Saturday and Sunday, September 15 and 16, 2018) in Veterans Park, Maywood, Illinois (the "2018 Maywood Fest"), in accordance with the FabFun Proposal and subject to the terms of an agreement entitled "INDEPENDENT CONTRACTOR AGREEMENT WITH FABFUN FOR ENTERTAINMENT SERVICES AT THE 2018 MAYWOOD FEST (SERVICE DATES: SEPTEMBER 15 AND 16, 2018 ONLY)" (the "Agreement"), copies of which are attached hereto as **Group Exhibit "A"** and made a part of hereof; and

WHEREAS, FabFun desires to provide youth-aged entertainment services consisting of video gaming, music, face painting, arts and crafts, karaoke and nail polishing (the "Entertainment Services") at the 2018 Maywood Fest in accordance with the FabFun Proposal and the Agreement attached as **Group Exhibit "A"** and made a part hereof, and has taken all necessary corporate action to approve the Agreement; and

WHEREAS, the President and Board of Trustees of the Village find that it is in the best interests of the Village, its residents and the public to enter into the attached Independent Contractor Agreement with FabFun for the sum of Five Thousand Three Hundred and No/100 Dollars (\$5,300.00) payable to FabFun to perform and deliver the Entertainment Services as set forth in the FabFun Proposal and the Agreement (attached as **Group Exhibit "A"**) to be delivered at the 2018 Maywood Fest.

BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, PURSUANT TO ITS HOME RULE POWERS AS PROVIDED BY ARTICLE VII, SECTION 6 OF THE ILLINOIS CONSTITUTION OF 1970:

SECTION 1: The Village President and Board of Trustees of the Village of Maywood authorize and approve the execution of a document entitled, "INDEPENDENT CONTRACTOR AGREEMENT WITH FABFUN FOR ENTERTAINMENT SERVICES AT THE 2018 MAYWOOD FEST (SERVICE DATES: SEPTEMBER 15 AND 16, 2018 ONLY)" (the "Agreement"), to be entered into by and between the Village of Maywood and FabFun ("FabFun"), a copy of which is attached hereto as **Group Exhibit "A"** and made a part hereof, and the Village President and Village Clerk of the Village of Maywood, or their designees, are authorized and directed to execute and deliver the attached Agreement and all other instruments, payments and documents that are necessary to fulfill the Village's obligations under the Agreement.

SECTION 2: The President and Board of Trustees of the Village of Maywood authorize the payment of Five Thousand Three Hundred and No/100 Dollars (\$5,300.00) to FabFun for the

performance and delivery of the Entertainment Services set forth in the FabFun Proposal and the Agreement (attached as Group Exhibit "A").

SECTION 3: This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

ADOPTED this 21st day of August, 2018, pursuant to a roll call vote as follows:

AYES: Mayor Perkins, Trustee(s) H. Yarbrough, I. Brandon, A. Sanchez, K. Wellington, M. Lightford and R. Rivers

NAYS: None

ABSENT: None

APPROVED by me, and attested by the Village Clerk, on this 22nd day of August, 2018.

Edwenna Perkins, Village President

ATTEST:

Viola Mims, Village Clerk

GROUP EXHIBIT "A"

FabFun Proposal

and

**INDEPENDENT CONTRACTOR AGREEMENT
WITH FABFUN FOR ENTERTAINMENT SERVICES
AT THE 2018 MAYWOOD FEST**

(SERVICE DATES: 2018 MAYWOOD FEST – SEPTEMBER 15 AND 16, 2018 ONLY)

(attached)

VILLAGE OF MAYWOOD

INDEPENDENT CONTRACTOR AGREEMENT
WITH FABFUN FOR ENTERTAINMENT SERVICES
AT THE 2018 MAYWOOD FEST

(SERVICE DATES: SEPTEMBER 15 AND 16, 2018 ONLY)

This INDEPENDENT CONTRACTOR AGREEMENT (the "Agreement") is made this ___ day of ___, 2018, by and between the Village of Maywood (the "Village" or "Maywood"), an Illinois municipal corporation, with its principal office at 125 South 5th Avenue, Maywood, Illinois, 60153, and FabFun (the "Vendor"), for purposes of the Vendor providing certain youth-aged entertainment services consisting of video gaming, music, face painting, arts and crafts, karaoke and nail polishing (the "Entertainment Services") during a portion of at the 2018 Maywood Fest (services provided only on September 15 and 16, 2018) in Veterans Park, Maywood, Illinois (the "2018 Maywood Fest"). The Village and the Vendor are at times referred to herein individually as a "Party" and collectively as the "Parties."

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged, and pursuant to the Village's statutory authority and powers, the Parties agree as follows:

SECTION 1. VENDOR.

A. Engagement of Vendor. The Village desires to engage the Vendor to perform the following professional services, as identified below (the "Services"):

Table with 2 columns: Vendor Name ("Vendor"), Address, City, State, Zip, Phone, Email, Services/Position Description, Fee Schedule for Services, Term and Service Completion Date. Values include FabFun, P.O. Box 2198, Matteson, Illinois 60443, 844-432-2386, myfabfun@yahoo.com, Provide Entertainment Services for the 2018 Maywood Fest, 9/15/2018 - 9/16/2018, See attached Exhibit "A", 9/15/2018 - 9/16/2018, subject to termination per Section 6.C. below; See attached Exhibit "A"

B. Representations of Vendor. The Vendor represents that he/she/it is financially solvent, has the necessary financial resources and adequate, competent support staff, and is sufficiently experienced and competent to perform and complete the Services that are set forth in the Scope of Services and Fee Schedule for Services attached hereto as Exhibit "A" ("Services") in a manner consistent with the standards of professional practice, care and diligence practiced by professionals who perform services of a similar nature.

C. Independent Contractor. The Vendor is retained by the Village only for the purposes and to the extent set forth in this Agreement, and the Vendor's relationship to the Village shall, during the term of this Agreement and period of its Services hereunder, be that of an independent contractor. The Vendor shall be free to dispose of such portion of the Vendor's entire time, energy and skill during regular business hours when the Vendor is not obligated to devote time to performing his/her/its Services hereunder to the Village, in such manner as the Vendor sees fit and to such persons, firms or corporations as the Vendor deems advisable. It is acknowledged that, at all

times, the Vendor is separate and independent from the Village and that the Vendor will utilize a high level of skill necessary to perform the Services assigned to him/her/it under this Agreement.

The Vendor shall not be considered as having an employee status, nor shall the Village make any deductions or withhold any sums for the payment of any and all applicable federal, state, local and other taxes, income taxes or FICA taxes. The Vendor shall not be entitled to receive or participate in any employee plans, benefit programs, retirement plans or related employee benefit arrangements or distributions by the Village pertaining to or in connection with any pension or retirement plans, or any other benefits for the regular employees of the Village. As an independent contractor, it is the responsibility of the Vendor to file all necessary tax returns (federal, state, county and local) and to make such required deductions and pay all income tax, social security, and any and all other taxes due as an independent contractor in his profession. As an independent contractor, the Vendor agrees that he/she/it is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the Village and agrees not to file any such claims in the event this Agreement is terminated or if he/she/it is injured performing any Services under this Agreement. The Vendor agrees to assume all risk of death, illness and injury relative to performing any Services under this Agreement. The Vendor is an independent contractor and not the Village's employee for all purposes, including, but not limited to, the application of the Fair Labors Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act and the Illinois Worker's Compensation Act (820 ILCS 305/1, *et seq.*).

D. Equipment. The Vendor shall provide all of his/her/its own equipment required for the performance of the Services under this Agreement.

SECTION 2. SCOPE OF SERVICES.

A. Services. The Village retains the Vendor to perform, and the Vendor agrees to perform, the Services as set forth in the **Scope of Services and Fee Schedule for Services** attached hereto as **Exhibit "A"**.

B. Commencement; Term; and Service Completion Date. The Vendor shall commence the Services immediately upon receipt of written notice from the Village that this Agreement has been fully executed by the Parties ("Commencement Date"). **The Vendor shall diligently and continuously perform the Services until the completion of the Services or upon the termination of this Agreement, or, if applicable, the Services shall be completed on or before the "Services Completion Date" set forth in Exhibit "A" ("Term").** The Parties may mutually agree, in writing, to modify the Term or the Service Completion Date. Delays caused by the Village shall extend the Term and the Service Completion Date in equal proportion to the delay caused by the Vendor; provided, however, that the Vendor shall be responsible for completion of all work within the Term and by the Service Completion Date, notwithstanding any strike or other work stoppage by employees of either the Vendor or the Village.

C. Reporting. Upon request, the Vendor shall report to the Village Manager, or his designee, regarding the progress of the Services during the term of this Agreement.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. Fee for Services. The total amount paid by the Village for the Services pursuant to this Agreement shall not exceed the amount identified in **Exhibit "A"**. No claim for additional compensation shall be valid unless made in accordance with Sections 3.D. or 3.E. of this Agreement. Only the Village Manager, in his sole discretion, has the authority to approve additional hours of work beyond the maximum hours of work per week (i.e., additional compensation) under the terms of this Agreement.

B. Invoices and Payment. The Parties agree that the Village shall pay the sum of Five Thousand Three Hundred and No/100 Dollars (\$5,300.00) to the Vendor for the services set forth in **Exhibit "A"**. Payment shall be made as follows:

- (1) Two Thousand Six Hundred Fifty and No/100s Dollars (\$2,650.00) (one-half (1/2) of total payment) upon signing of this Agreement or authorization from the Village Board of Trustees for Village execution

of this Agreement, whichever comes later. By signing this Agreement, the Vendor is committing to providing the services set forth in **Exhibit "A"**.

(2) Two Thousand Six Hundred Fifty and No/100s Dollars (\$2,650.00) (one-half (1/2) of total payment) within five (5) calendar days of completion of the Services.

C. Records. The Vendor shall maintain records showing actual time devoted, type of work performed per classification and actual out-of-pocket costs incurred, shall submit such records in support of its invoices, and shall permit the Village to inspect and audit all data and records of the Vendor for work done pursuant to this Agreement.

D. Claim for Additional Fees for Services.

1. The Vendor shall provide written notice to the Village Manager of any claim for additional compensation for Additional Services (defined below) that are outside of the agreed-upon Services listed in **Exhibit "A"** that are requested by the Village within five (5) calendar days after the request for Additional Services by the Village.

2. The Vendor acknowledges and agrees that: (a) the provision of written notice pursuant to Section 3.D.1. of this Agreement shall not be deemed or interpreted as entitling the Vendor to any additional compensation or as the authorization to perform the Additional Services; and (b) any changes in the Fee for Services shall be valid only upon written amendment pursuant to Section 6.J. of this Agreement.

3. Regardless of the decision of the Village Manager relative to a claim submitted by the Vendor, the Vendor shall proceed with all of the work required to complete the Services under this Agreement, as determined by the Village Manager, without interruption.

E. Additional Services. The Vendor acknowledges and agrees that the Village shall not be liable for any costs incurred by the Vendor in connection with any services provided by the Vendor that are outside the scope of this Agreement ("Additional Services"), regardless of whether such Additional Services are requested or directed by the Village, anyone associated with the Village, except upon the prior written consent of the Village Manager.

F. Taxes, Benefits and Royalties. Each payment by the Village to the Vendor includes all applicable federal, state and local taxes, fees, surcharges, license fees and tariffs of every kind and nature applicable to the Services, as well as all taxes, contributions, premiums, costs, royalties and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes or inventions. All claims or rights to claim additional compensation by reason of the payment of any such tax, contribution, premium, cost, royalty or fee are hereby waived and released by the Vendor.

SECTION 4. CONFIDENTIAL INFORMATION, NON-COMPETE AND NON-SOLICITATION.

A. Confidential Information. The term "Confidential Information" shall mean information in the possession or under the control of the Village relating to the technical, business or corporate affairs of the Village; the names, addresses or other personal information of persons who are minors and are also participants and registrants in programs offered by the Village; the Village property; user information, including, without limitation, any information pertaining to usage of the Village's computer system, including and without limitation any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. The Village's Confidential Information shall not include information that can be demonstrated: (1) to have been rightfully in the possession of the Vendor from a source other than the Village prior to the time of disclosure of such information to the Vendor pursuant to this Agreement ("Time of Disclosure"); (2) to have been in the public domain prior to the Time of Disclosure; (3) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Vendor or the Village; or (4) to have been supplied to the Vendor after the Time of Disclosure without restriction by a third party who is under no obligation to the Village to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Vendor. The Vendor acknowledges that it shall, in performing the Services for the Village under this Agreement, have access, or be directly or indirectly exposed, to Confidential Information. The Vendor shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without the express prior written consent of the Village Manager or his/her designee. The Vendor shall use reasonable measures at least as strict as those the Vendor uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Vendor to execute a non-disclosure agreement before obtaining access to Confidential Information. Notwithstanding any provision in this Agreement to the contrary, the Vendor's obligations in this Section 4.B. shall survive the termination of this Agreement.

C. Non-Compete. Reserved.

D. Non-Solicitation. Reserved.

SECTION 5. INSURANCE AND INDEMNIFICATION.

A. Insurance - Village. The Village will not provide any form of insurance coverage, including but not limited to health insurance, worker's compensation insurance, auto insurance, general liability insurance, errors and omissions insurance, or professional liability insurance or other employee benefits for or on behalf of the Vendor relative to his/her/its performance of the Services under this Agreement.

B. Insurance - Vendor. The Vendor, at his/her/its own cost, shall provide all of his/her/its own insurance coverages as applicable to the Services being performed, including but not limited to health insurance, worker's compensation insurance, auto insurance, general liability and property insurance, errors and omissions insurance, or professional liability insurance or other employee benefits for or on behalf of the Vendor relative to his/her/its performance of the Services under this Agreement. The Vendor's policy or policies of insurance shall specifically recognize and cover the indemnification obligations under this Agreement. Said insurance shall provide that the insurance provided by the Vendor shall be primary and that any provision of any contract of insurance or other risk protection benefit or self-insurance policy purchased or in effect or enacted by the Village and any other insurance or benefit of the Village shall be in excess of the Vendor's insurance. Notwithstanding any provision in this Agreement to the contrary, the Vendor's obligations in this Section 5.B. shall survive the termination of this Agreement. The Vendor shall provide the following types of insurance, written on the comprehensive form and as an "occurrence" policy, in not less than the following amounts:

- a. Comprehensive General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate in the aggregate covering liability for bodily injury, illness or death.
- b. Property Damage - \$500,000 per occurrence
- c. Workers' Compensation - Statutory
- d. Employer Liability Policy - \$1,000,000 per occurrence
- e. Umbrella or excess coverage - \$1,000,000 (covering claims under Comprehensive General Liability and Property Damage coverages)

C. Indemnification. To the fullest extent permitted by Illinois law, the Vendor shall indemnify, defend and hold harmless the Village and each of its officers and officials, agents, attorneys, employees, engineers, volunteers and representatives from all claims, demands, lawsuits, actions, costs (including litigation expenses and Village attorney fees) of any kind, caused by, resulting from, arising out of or occurring in connection with the Vendor's and its agents', employees', contractors', independent contractors' and volunteers' performance of the Services under this Agreement, but only to the extent caused by the negligent act, misconduct or omission of the Vendor or anyone or entity directly or indirectly employed by the Vendor for whose acts Vendor may be liable.

Notwithstanding any provision in this Agreement to the contrary, the Vendor's obligations in this Section 5.C. shall survive the termination of this Agreement.

D. Waiver and Assumption of Liability. The Vendor assumes all liability for personal injuries or illness of any kind or death that might occur to himself/herself/itself while acting under this Agreement and all of its agents,

employees, contractors, independent contractors and volunteers performing any of the Services. The Vendor assumes all liability and responsibility for his/its personal property while performing any work or Services under this Agreement. Notwithstanding any provision in this Agreement to the contrary, the Vendor's obligations in this Section 5.D. shall survive the termination of this Agreement.

E. No Personal Liability. No appointed official, agents, attorneys, employees, volunteers and representatives of the Village or any of its local government members shall be personally liable, in law or in contract, to the Vendor as the result of the execution of this Agreement. Notwithstanding any provision in this Agreement to the contrary, the operation of this Section 5.E. shall survive the termination of this Agreement.

SECTION 6. GENERAL PROVISIONS.

A. Termination. Either Party may terminate this Agreement at any time for any reason upon written notice to the non-terminating Party. In the event that this Agreement is so terminated, the Vendor shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to the date of the termination notice, provided that the Vendor is not in default under this Agreement.

B. Conflict of Interest. The Vendor represents and certifies that, to the best of his/her/its knowledge: (1) no elected or appointed Village official, employee or agent has a personal financial interest in the business of the Vendor or in this Agreement, or has personally received payment or other consideration for this Agreement; (2) as of the date of this Agreement, neither the Vendor nor any person employed or associated with the Vendor has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Vendor nor any person employed by or associated with the Vendor shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

C. No Collusion. The Vendor represents and certifies that the Vendor is not barred from contracting with a unit of state or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue, or any fee required by the Village of Maywood, unless the Vendor is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax or the fee, as set forth in Section 11-42.1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 et seq.; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq. The Vendor represents that the only persons, firms or corporations interested in this Agreement as principals are those disclosed to the Village prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm or corporation. If at any time it shall be found that the Vendor has, in procuring this Agreement, colluded with any other person, firm or corporation, then the Vendor shall be liable to the Village of Maywood for any loss or damage that the Village of Maywood may suffer, and this Agreement shall, at the Village's option, be null and void.

D. Compliance With Laws and Grants.

1. Compliance with Laws. The Vendor shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing and completing the Services, and with all applicable statutes, ordinances, rules and regulations, including, without limitation: any applicable prevailing wage laws; the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes requiring preference to laborers of specified classes; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101, *et seq.* The Vendor shall also comply with all conditions of any federal, state or local grant received by the Village or the Vendor with respect to this Agreement or the Services. Further, the Vendor shall have a written sexual harassment policy in compliance with Section 2-105 of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4)). The Vendor certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("IDHR") Equal Opportunity Employment clause as

required by the IDHR's Regulations (44 Ill. Adm. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. Each Party to this Agreement certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Adm. Code 750.160)

2. **Compliance With Grant Regulations.** All Services must be provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations, and with applicable statutes, ordinances, rules, and regulations. The Vendor also must comply with applicable conditions of any federal, state, or local grant received by the Village with respect to this Agreement. The Vendor will be solely responsible for any fines or penalties that may be imposed or incurred by a governmental agency with jurisdiction over the Services as a result of the Vendor's improper performance of, or failure to properly perform, any Services. The Village will inform the Vendor of any grant funding and regulations that apply to the Services to be performed under this Agreement.

3. **Liability for Noncompliance.** The Vendor shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with the Vendor's, or any of its subcontractors, performance of, or failure to perform, the Services or any part thereof.

4. **Required Provisions.** Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

E. Default. If it should appear at any time that the Vendor has failed or refused to perform, or has delayed in the performance of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused or delayed to perform or satisfy the Services or any other requirement of this Agreement ("Event of Default"), and fails to cure any such Event of Default within five (5) business days after the Vendor's receipt of written notice of such Event of Default from the Village Manager, or his/her designee, then the Village shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. **Cure by Vendor.** The Village may require the Vendor, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Vendor and the Services into compliance with this Agreement.

2. **Termination of Agreement by Village.** The Village may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement after the effective date of termination.

3. **Withholding of Payment by Village.** The Village may withhold from any payment, whether or not previously approved, or may recover from the Vendor, any and all costs, including attorneys' fees and administrative expenses, incurred by the Village as the result of any Event of Default by the Vendor or as a result of actions taken by the Village in response to any Event of Default by the Vendor.

F. No Third-Party Agreements Without Village Approval. The Village shall not be liable to any vendor or third party for any agreements of any kind made by the Vendor without the knowledge and approval of the Village Manager.

G. Mutual Cooperation. The Village agrees to cooperate with the Vendor in the performance of the Services, including meeting with the Vendor and providing the Vendor with direction and such non-confidential information that the Village may have that may be relevant and helpful to the Vendor's performance of the Services. The Vendor agrees to cooperate with the Village in the performance and completion of the Services and with any other Vendors engaged by the Village.

H. News Releases. The Vendor shall not issue any news releases, advertisements or other public

statements regarding the Services or this Agreement or use the Village's logos or trademarks or service marks without the prior written consent of the Village Manager.

I. Ownership. All documents of any kind, including any photos, reports, information, participant registration lists, team lists, participant consent forms, medical consent forms, and any other data or information, in any form, worked on in cooperation with anyone employed by, retained by or affiliated with the Village or its contractors or prepared, collected or received from the Village by the Vendor in connection with any or all of the Services performed under this Agreement ("Documents") shall be and remain the exclusive property of the Village. In consideration of payment of the Fee for Services, the Vendor releases all copyright, proprietary or intellectual property rights in such Documents that he/she/it produced or prepared and transfers all his/her/its ownership rights in such Documents to the Village. At the Village's request, or upon termination of this Agreement, the Vendor shall cause the Documents to be promptly delivered to the Village Manager.

J. Amendment. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by the Village and the Vendor in accordance with all applicable statutory procedures.

K. Assignment. This Agreement may not be assigned by the Village or by the Vendor without the prior written consent of the other Party.

L. Binding Effect. The terms of this Agreement shall bind and inure to the benefit of the Village, the Vendor, and their agents, successors and assigns.

M. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered to each other's current business addresses as follows: (1) personally, (2) by a reputable overnight courier, or (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of: (a) actual receipt; (b) one (1) business day after deposit with an overnight courier, as evidenced by a receipt of deposit; or (c) four (4) business days following deposit in the U.S. mail, via certified mail, return receipt requested, as evidenced by a return receipt. By notice complying with the requirements of this Section 6.M., each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other Party, but no notice of a change of addressee or address shall be effective until actually received. Additionally, notices sent by any other means (i.e., facsimile, email, etc.) may be acceptable subject to written confirmation of both the transmission and receipt of the notice.

Notices and communications to the Village shall be addressed to, and delivered at, the following address: Village Manager, Village of Maywood, 125 South 5th Avenue Maywood, Illinois, 60153.

Notices and communications to the Vendor shall be addressed to, and delivered at, the following address: **SEE CONTACT INFORMATION LISTED ON PAGE ONE ABOVE.**

N. Provisions Severable. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

O. Time. Time is of the essence in the performance of all terms and provisions of this Agreement.

P. Governing Laws. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Illinois. Venue for any litigation shall be in the Circuit Court of Cook County, Illinois.

Q. Authority to Execute. The Parties both represent that this Agreement has been approved by their respective corporate boards and the persons executing this Agreement have been properly authorized to do so by its corporate authorities.

R. Entire Agreement. This Agreement constitutes the entire agreement between the Parties to this Agreement and supersedes all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement.

S. Waiver. Neither the Village nor the Vendor shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall be determined to be in its best interests from time to time. The failure of the Village or the Vendor to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Vendor's right to enforce such rights or any other rights.

T. Counterpart Execution. This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

U. Freedom of Information Act. Section 7(2) of the Illinois Freedom of Information Act ("FOIA") (5 ILCS 120/7(2)) requires certain records that qualify as "public records," which have been prepared by and are in the possession of a party who has contracted with the Village, be turned over to the Village so that a FOIA requestor can inspect and photocopy the non-exempt portions of the public records pursuant to a FOIA request. Consequently, the Parties must maintain and make available to the other Party, upon request, their public records relating to the performance of this Agreement in compliance with the FOIA as well as the requirements of the Local Records Act (50 ILCS 205/1 *et seq.*). The Village has a very short period of time from receipt of a FOIA request to comply with the request, and it requires sufficient time to collect and review the records to decide what information is or is not exempt from disclosure. The Vendor acknowledges the requirements of FOIA and agrees to comply with all requests made by the Village for public records (as that term is defined by Section 2(c) of FOIA) in the undersigned's possession and to provide the requested public records to the Village within two (2) business days of the request being made by the Village. The Vendor agrees to indemnify and hold harmless the Village from all claims, costs, penalties, losses and injuries (including, but not limited to, attorneys' fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the Village under this Agreement. Notwithstanding any provision in this Agreement to the contrary, the Vendor's obligations in this Section 6.U. shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Village President and Village Clerk, pursuant to the authority given by the Board of Trustees of the Village of Maywood, and the Vendor have signed this Agreement, and the date of the last signatory will be the effective date of this Agreement and that date has been entered on the first page of this Agreement.

VILLAGE OF MAYWOOD,
an Illinois municipal corporation

VENDOR:
FabFun

BY: _____
Edwenna Perkins
Village President

BY: _____
Name: _____
Title: _____
President or Authorized Officer

Date: _____, 2018

Date: _____, 2018

ATTEST:

ATTEST:

By: _____
Viola Mims
Village Clerk

By: _____
Name: _____
Witness

Date: _____, 2018

Date: _____, 2018

Exhibit "A"

**SCOPE OF SERVICES
AND
FEE SCHEDULE FOR SERVICES**

FABFUN PROPOSAL

(attached)



www.myFabFun.com

Phone: 844-432-2386

Address: P.O. Box 2198

Matteson, IL 60443

Contract: City of Maywood/ MAYwood Fest.

Time & Date: 10:00 am to 6:00 pm 9/15/2018

Time & Date: 2:00 pm to 6:00 pm 9/16/2018

FabFun Trucks Cost: \$3600.00 for 9/15/2018

FabFun Trucks Cost: \$1700.00 For 9/16/2018

Deposit Needed: \$2650.00

**Balance of \$2650.00 is due on event day before start,
Cashiers Check or Cash.**

Your package includes, Video gaming & Music, Face painting, Arts & Crafts, karaoke, Girls get there nails polished. FabFun units are self-powered & climate controlled and insured. We will be at your event rain or snow!

Cancellations made 14 or more days prior to an event will not incur any cancellation charge.

Cancellations made 7-14 days prior to an event will incur a 50% non-refundable cancellation charge.

Cancellations made less than 7 days prior to an event will incur a non-refundable cancellation charge equal to the amount of full event.

Liability Release Parents/Client accept full responsibility for damages or accidents for all guest invited while using FabFun services

Parent/Client Name: Jermaine Johnson
Client: _____
Date: _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, do certify that the attached is a true and correct copy of that certain Resolution now on file in my Office, entitled:

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AN INDEPENDENT CONTRACTOR AGREEMENT
WITH FABFUN FOR ENTERTAINMENT SERVICES
AT THE 2018 MAYWOOD FEST**

(SERVICE DATES: 2018 MAYWOOD FEST – SEPTEMBER 15 AND 16, 2018 ONLY)

which Resolution was passed by the Board of Trustees of the Village of Maywood at a Village Board Meeting on the 21st day of August, 2018, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 21st day of August, 2018.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor Perkins, Trustee(s) H. Yarbrough, I. Brandon, A. Sanchez, K. Wellington, M. Lightford and R. Rivers

NAYS: None

ABSENT: None

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 22nd day of August, 2018.

Viola Mims, Village Clerk

[SEAL]