

**AGREEMENT BETWEEN THE VILLAGE OF ROMEOVILLE AND THE
NAPERVILLE EXCHANGE CLUB
FOR THE PLANNING, AND OPERATION OF NAPERVILLE EXCHANGE CLUB'S
RIBFEST**

This Agreement (the "Agreement"), is made and entered into this, 24th day of July 2019, A.D., by and among the **VILLAGE OF ROMEOVILLE**, a home rule Illinois Municipal Corporation (hereinafter sometimes referred to as "Village" or "Romeoville"), and the Exchange Club Charitable Organization of Naperville, Illinois, an Illinois not for profit corporation (hereinafter referred to as "Exchange Club"). The Village and Exchange Club may sometimes be referred to individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the Exchange Club is and has been the organizer, promoter and operator of an event commonly known as "Ribfest" ("Ribfest" or the "Event"), heretofore held outside of the Village; and

WHEREAS, Ribfest is a ticketed admission event featuring food and beverage vendors, various types of live entertainment, fireworks displays, and children's activities and entertainment; and

WHEREAS, the Exchange Club uses proceeds generated by Ribfest to support its charitable mission, including but not limited to making financial contributions to organizations dedicated to preventing child abuse and domestic abuse; and

WHEREAS, Exchange Club and Village have discussed the potential to conduct future Ribfest events on certain property and public facilities owned by the Village, such property and facilities ("Event Site") being more fully described and depicted in Exhibit A, a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, Exchange Club is willing to hold future Ribfest events at the Event Site, and the Village is willing to make the Event Site available to the Exchange Club for the hosting of future Ribfest events, all upon the terms and conditions more fully hereinafter set forth; and

WHEREAS, pursuant to Article VII, Section 10, of the Constitution of the State of Illinois, which permits units of local government to contract with individuals, associations or corporations in any manner not prohibited by law or by ordinance, the Village and Exchange Club desire to enter into this Agreement in order to memorialize the terms and conditions under which the Exchange Club may conduct future Ribfest events at the Event Site, and the respective rights and obligations of the Village and the Exchange Club relating thereto; and

NOW THEREFORE, in consideration of the foregoing premises and in further consideration of the mutual covenants, conditions and agreements herein contained, Exchange Club and Village hereby agree as follows:

SECTION ONE: **Incorporation of Preambles** - The recitals contained in the Preamble hereto are material and are hereby incorporated as a part of this Agreement. Exchange Club and the Village shall fully cooperate with each other in carrying out the terms of this Agreement. The Parties represent that they have full authority to enter into this Agreement pursuant to law.

SECTION TWO: **Ribfest Basic Administrative Matters**

A. **Name**. Unless otherwise agreed to by both parties, and through the calendar year 2020, the name of the event to be conducted at the event site shall be “Ribfest”. Under no circumstances, however, during the term of this Agreement or any renewal terms will the name of the event include the name of any other municipality.

B. **Date**. Ribfest shall take place on four consecutive days on or around the July 4th holiday. The initial Ribfest event hereunder shall be conducted during July of 2020, and the parties shall mutually designate in writing the specific dates for the July 2020 Ribfest, including dates for set-up and take-down schedules, described below, within thirty (30) days after the execution of this Agreement by the Parties. Thereafter, the Parties shall mutually designate in writing the specific dates for each subsequent Ribfest, including set-up and take-down, within thirty (30) days after the conclusion of the Ribfest held in any given year.

C. **Hours of Operation**. The Event Site shall be open to Ribfest attendees from noon to 10:00 p.m. on any day when Ribfest is being conducted.

D. Set up and Take down Schedule. The parties shall mutually designate in writing the hours and dates during which the Exchange Club and its contractors, vendors and volunteers shall have access to the Event Site for purposes of conducting all site preparation, logistics and equipment set up activities necessary to conduct a Ribfest, and shall likewise mutually designate in writing the hours and dates during which the Exchange Club and its contractors, vendors and volunteers shall have access to the Event Site for purposes of taking down and removing all equipment and personal property not belonging to the Village from the Event Site, and cleaning all garbage, refuse and debris from the Event Site.

E. Ribfest Location. Ribfest shall be conducted at the Event Site as depicted in Exhibit A. The parties acknowledge that the Event Site as described in Exhibit A includes certain temporary administrative space located within the Village Hall, located at 1050 W. Romeo Road, Romeoville, Illinois, and that the Village shall provide indoor administrative space as part of the Event Site for each Ribfest. The Village reserves, however, the right to relocate the same from year to year depending on its then-current building and facility usage needs, so long as it remains at the Village Hall, and so long as the location of the Event Site remains substantially unchanged from the depiction thereof in Exhibit A.

F. Intentionally Omitted.

G. Suitability of Event Site. The Village is providing use of the Event Site to the Exchange Club for the purposes contemplated hereunder on an “as-is”, “where-is” basis, and the Village shall have no obligation whatsoever to take any actions or incur any expenses to improve or otherwise prepare the Event Site for the Exchange Club’s use in connection with Ribfest. The Exchange Club shall be solely responsible for determining if the Event Site is suitable for the conduct of Ribfest during any given year of this Agreement, and its conduct of a Ribfest during a given year shall constitute a conclusive determination that the Event Site was suitable to the Exchange Club for the conduct of Ribfest during such year.

H. Publicity. All advertising and promotional media prepared or disseminated by the Exchange Club concerning Ribfest shall be in substantially the following form—namely, it shall identify Ribfest as “sponsored by the Exchange Club of Naperville in partnership with the Village of Romeoville”. The Village shall have the right to approve in writing all advertising and promotional material prepared by the Exchange Club containing any information about the

Village which exceeds the statement of partnership in the preceding sentence prior to its dissemination or publication by the Exchange Club, which approval shall not be unreasonably withheld. Subject to the preceding sentence, the Village grants to the Exchange Club a non-exclusive, non-transferable, royalty-free license to use the Village's name and logo in connection with conducting the Ribfest during the term of this Agreement. The Exchange Club shall likewise have the right to approve in writing any advertising or promotional material containing any information about the Exchange Club beyond the statement of sponsorship hereinabove contained prior to this dissemination or publication by the Village. Subject to the preceding sentence, the Exchange Club grants to the Village a non-exclusive, non-transferable, royalty-free license to use the Exchange Club's name and logo in connection with conducting the Ribfest during the term of this Agreement. Neither Party shall unreasonably withhold its written approval of the other Party's advertising or promotional material hereunder. Additionally, during each Ribfest hereunder, the Exchange Club shall provide the Village with a standard sized expo space for the Village to operate a marketing/information booth, all at no cost to the Village.

I. Village Resident Discount and Advance Purchase. The Exchange Club shall admit all Village residents to Ribfest without payment of any admission fee or charge on the Ribfest day during which a fireworks display is scheduled, upon appropriate proof of residency being presented, although such free tickets will not include admission to the Main Stage area. All Village residents upon presentation of appropriate proof of residency shall also have the opportunity to purchase Ribfest Main Stage entertainment tickets at least 72 hours prior to such tickets going on sale to the general public, at a discounted price mutually approved by the Exchange Club and the Village. The purchaser of advance tickets may purchase no more than 8 (eight) tickets in advance. The Village shall be responsible for promoting the provisions of this Section 2.I. to its residents.

J. Steering Committee. The Exchange Club shall establish and schedule an "All Stakeholders" meeting at the Village each month, starting no later than March of each year of this Agreement.

K. Annual Post-Ribfest Evaluation. Within thirty (30) days after the conclusion of each Ribfest, the Exchange Club shall schedule and coordinate a meeting to evaluate the conduct of the most recently concluded Ribfest, and both the Village and the Exchange Club shall be

represented at this meeting by appropriate personnel. The topics to be evaluated at this meeting shall include but not necessarily be limited to scheduling, site constraints, safety and security, event coordination, and contractual obligations.

SECTION THREE: Ribfest Operational Rights and Responsibilities

A. Approval of Ribfest. Subject to the Exchange Club's continuing compliance with the terms of this Agreement, the Village hereby authorizes the Exchange Club to conduct Ribfest at the Event Site during each July during the term of this Agreement.

B. Exchange Club Operational Responsibilities. Except as otherwise expressly provided for in this Agreement, the Exchange Club shall be solely responsible for taking all actions required to organize, produce, operate and conduct Ribfest, and to pay all costs and expenses of whatever nature or kind incurred in connection therewith. Without otherwise limiting the generality of the foregoing, the Exchange Club's operational responsibilities for the conduct of Ribfest and the payment of all costs and expenses incurred in connection therewith shall include but are expressly not limited to the responsibilities to provide and pay for the following services in connection with Ribfest:

1. Booking of and coordination with all artists and performers providing any form of entertainment at a Ribfest.
2. All advertising and promotion of Ribfest, including the preparation and development thereof, as well as the dissemination and publication thereof.
3. Conducting and managing all admission and entertainment ticket sales;
4. Producing all entertainment provided as part of a Ribfest, including all supporting services required for such entertainment, such as, but not limited to, sound, lighting, or stagehands.
5. Contracting and coordinating with all vendors, including but not limited to food and beverage vendors, and merchandise vendors.
6. Contracting and coordinating with all service providers and suppliers, including but not limited to portable toilet companies, utility

service providers, site clean-up providers, refuse removal providers, and tent companies.

7. Providing perimeter fencing and barricades within the Event Site as required by the Village, subject to the Village's obligations to provide street closure barricades as referenced in Section 3.G. hereof.

8. Providing portable bike racks for attendees bicycling to Ribfest.

9. Soliciting for and selling all sponsorship, signage, advertising, marketing or promotional rights in connection with Ribfest, subject to the provisions of Section 3.H. of this Agreement;

10. Managing, controlling, receiving, expending and accounting for all funds relating to the operation and conduct of Ribfest.

11. Site preparation and set up of all required Ribfest equipment and the take down and removal of the same upon the conclusion of Ribfest.

12. Daily Event Site clean-up and trash removal, beginning at the start of Ribfest set up and ending at the conclusion of Ribfest take down, including additional clean-up of debris resulting from the fireworks display conducted during Ribfest.

13. Providing all portable toilets, VIP restroom trailers and hand washing stations in sufficient numbers to accommodate all Ribfest attendees, workers, volunteers, vendors and others present at the Event Site during the conduct of a Ribfest, and ensuring that the same are clean and fully operational at all times during Ribfest.

14. Obtaining and providing such numbers of temporary dumpsters as are required to accommodate Ribfest garbage and refuse, and causing the removal of the garbage and refuse contained therein as part of the above-mentioned daily Event Site clean-up.

15. Obtaining and providing offsite parking as needed to accommodate Ribfest attendees, together with shuttle service to transport such attendees to and from the Event Site, subject to the provisions of Section 3.R. of this Agreement.

16. Restoring the Event Site to its pre-Ribfest condition after each Ribfest, subject to Section 3.F. of the Agreement.
17. Purchasing all materials, goods, services, and labor necessary to the performance of any of its obligations under this Agreement.
18. Obtaining and paying all fees and costs associated with any and all licenses, permits, and approvals required by any governmental body having jurisdiction, subject to Section 3.A. of this Agreement, including but not limited to Village and State licenses required for the sale of alcoholic beverages at Ribfest.
19. Providing all Event Site crowd control, guest services and security services required in connection with Ribfest, in a manner and to an extent consistent with and not less than the manner and extent to which such services are customarily provided at special events of a character and size comparable to Ribfest.
20. Providing all volunteers needed to provide services of whatever kind during the Ribfest, using Romeoville-based charitable and not-for-profit organization membership wherever reasonably possible. Both parties recognize that The Exchange Club may utilize volunteers from its sponsors and recipient agencies in addition to volunteers from Romeoville-based charitable and not for profit organizations. The Exchange Club shall provide a reasonable stipend to the charitable or not for profit organizations providing Ribfest volunteers based on the number of volunteers and service hours provided by volunteers associated with a given organization.

C. Contractors. The Exchange Club acknowledges that it intends to retain the services of various contractors in connection with performing its operational responsibilities under this Agreement, and that it shall not contract with any such contractor that, to Exchange Club's knowledge, (i) is delinquent in the payments of taxes or fees to the Village, County of Will or State of Illinois, (ii) has been convicted of any criminal offense or had a civil judgment rendered against it relating in any way to improperly or wrongfully obtaining or performing (or attempting to obtain or perform) any public transaction or contract, (iii) is under any legal disqualification from contracting with public entities or agencies in the State of Illinois, or (iv) is under investigation for any of the foregoing. The Exchange Club shall be deemed to have fulfilled this

obligation if it obtains a representation from the vendor as the preceding sentence in its most recent agreement with that vendor.

D. Village Tickets. The Exchange Club shall provide the Village with fifty (50) passes providing complimentary VIP access to Ribfest and a mutually agreed upon reasonable number of general admission tickets for each Ribfest.

E. Alcoholic Beverages Sales. The Exchange Club acknowledges that notwithstanding any contrary provision of the Village Code of Ordinances, the permitted hours for the sale of alcoholic beverages during any Ribfest day shall be from noon to 9:45 p.m.

F. Event Site Restoration. While the Exchange Club shall retain the ultimate financial responsibility under this Agreement for the cost of restoring the Event Site to its pre-Ribfest condition after the conclusion of each Ribfest, the Parties agree that immediately upon the Exchange Club's completion of all take down, equipment removal and garbage and refuse removal activities after the completion of a given Ribfest, they shall conduct a walkthrough and inspection of the Event Site to mutually determine a punchlist of items of repair or restoration work necessary to be completed to restore the Event Site to its pre-Ribfest condition. In the event that Parties disagree as to the inclusion of any items on such punchlist, the determination of the Village shall be final with respect thereto. Thereafter, the Exchange Club shall have a period of fifteen days from the date of the walkthrough and the inspection to take all actions necessary to complete the work identified on the punchlist as necessary to restore the Event Site to its pre-Ribfest condition. Upon the expiration of this fifteen day period, the Exchange Club and the Village shall conduct a second walkthrough and inspection of the Event Site to evaluate the progress and status of the efforts taken by the Exchange Club to complete the work identified on the punchlist as necessary to restore the Event Site to its pre-Ribfest condition, and to mutually generate a second punchlist of items remaining to be completed in order to restore the Event Site to its pre-Ribfest condition. In the event that Parties disagree as to the inclusion of any items on such second punchlist, the determination of the Village shall be final with respect thereto. Thereafter, the Village shall take all such further repair or remedial actions as its deems necessary to complete the items remaining from the second punchlist that are necessary to restore the Event Site to its pre-Ribfest condition, and upon such completion to the satisfaction of the Village, the Village shall transmit to the Exchange Club an invoice for all costs and expenses

incurred by the Village in connection with such repair or remedial actions, and the Exchange Club shall pay the amount of such invoice to the Village within thirty (30) days after the Village transmits the same to the Exchange Club.

G. Preparation of Site Plan; Village Approval of Site Plan. The Exchange Club shall prepare and submit to the Village for its review and approval a site plan showing the layout of its intended use of the Event Site for the conduct of Ribfest ("Site Plan"), which shall, among other things, depict and delineate the areas of the Event Center to be allocated the various functions and activities comprising Ribfest, such as but not necessarily limited to food/beverage vending, merchandise vending, entertainment, and supporting/logistics functions. The Site Plan for the initial 2020 Ribfest shall be submitted to the Village on or before January 1, 2020. Thereafter, the Site Plan for each subsequent Ribfest shall be submitted to the Village for its review and approval on or before January 1 of each year during this Agreement in which a Ribfest shall be conducted. The Village reserves all rights to review and approve the Site Plan in the exercise of its discretion, which approval may not be unreasonably withheld, and may condition its approval of a Site Plan on the Exchange Club's acceptance of reasonable modifications thereto. Without otherwise limiting the generality of the foregoing, the Village specifically reserves the right to condition the use of specified portions of the Event Area (such as, but not limited to, Dale Blum Field) upon the Exchange Club's implementation of protective measures (such as, but not limited to, covering the portions of the Event Area in question) acceptable to the Village to prevent or minimize damages to the specified portions of the Event Area, the right to review and approve any street closures proposed within any Site Plan, the right to review and approve (as part of the Site Plan) a plan for the provision of the security, crowd control and guest services required to be provided by the Exchange Club for the Event Site in connection with Ribfest, and the right to review and approve portions of the layout within the Site Plan intended to accommodate the fireworks display to be conducted during Ribfest. As noted above in Section 3.B., to the extent that an approved Site Plan contemplates any public street or road closures, the Village shall supply and place all barricades needed to effectuate such closures. The parties further acknowledge that the Site Plan to be submitted each January and to be approved by the Village thereafter is intended to establish general guidance for the planning and location of functions within each Ribfest, and that the parties anticipate that the Site Plan may need to be modified or varied from time to time to accommodate the needs of a Ribfest under the then-existing

circumstances. The Exchange Club and Village pledge to work together in good faith to mutually approve modifications or variations from an approved plan reasonably necessary to accommodate Ribfest during any given year, and may approve such modifications and variations in a mutually signed writing without having to amend the provisions of this Agreement.

H. Sponsorships. Subject to the fireworks sponsorships provisions of Section 3.Q. hereof, the Exchange Club shall have the right and responsibility to enter into agreements granting sponsorship, signage, advertising, marketing or promotional rights in connection with Ribfest, and to retain the proceeds therefrom, subject, however, to the obligation to distribute ten percent (10%) of the proceeds ("Sponsorship Share") received by the Exchange Club from any such agreement entered into on or after the date of this Agreement with any person or entity that had not previously been party to a comparable agreement with the Exchange Club prior to the date of this Agreement, where such person or entity had been referred to or directed to the Exchange Club for sponsorship purposes by the Village. The Exchange Club's obligation to distribute Sponsorship Share referenced above shall only apply to the duration of the initial sponsorship agreement. Any renewals of any such sponsorship agreements shall not require the Exchange Club to pay any Sponsorship Share to the Village. The Sponsorship Share shall only apply to the monetary portion of any sponsorships, and not to any in-kind donations by sponsors. Notwithstanding anything herein to the contrary, all authority of the Exchange Club hereunder shall be subject to all existing sponsorship, signage, advertising, marketing or promotional agreements that the Village is presently party to pertaining to the Event Site, and to all such agreements of general applicability to the Event Site (i.e., not specific to Ribfest) that the Village may enter into from time to time. Additionally, in the event that the Exchange Club shall receive an offer to enter into any such Ribfest sponsorship, signage, advertising, marketing or promotional agreement with a third party to this Agreement, the Exchange Club shall notify the Village in writing thereof, and such notice shall specify the material terms of such proposed agreement. Thereafter, the Exchange Club shall provide a thirty (30) day period during which any major facility or event sponsor of the Village (as designated from time to time in writing by the Village to the Exchange Club) shall have the exclusive right to enter into such a Ribfest sponsorship, signage, advertising, marketing or promotional agreement upon substantially the same as set forth in the notice of offer transmitted to the Village by the Exchange Club. Such major facility or event sponsors shall exercise such right by notifying the Village and the

Exchange Club of their intent to enter into such an agreement within the aforementioned thirty (30) day period, and in the absence of the issuance of such a notice, any such right of the major facility or event sponsor to so enter into such an agreement shall lapse and be of no further force or effect.

I. Legal Compliance. The Exchange Club shall be responsible for complying with all applicable Federal, State, County and Village laws, regulations or ordinances pertaining to the conduct of any activity required in connection with the conduct of Ribfest or in the performance of this Agreement, and shall use reasonable efforts to ensure that all of its contractors, vendors and Ribfest attendees likewise comply with all such applicable Federal, State, County and Village laws, regulations or ordinances. Without otherwise limiting the generality of the foregoing, the Exchange Club shall specifically comply with the following enumerated areas of applicable law:

1. Alcoholic Beverages. All alcoholic beverages sold at Ribfest shall be sold pursuant to State and Village licenses, and in compliance with the Illinois Liquor Control Act and Chapter 112 of the Village Code of Ordinances.
2. Food Service/Safety. The Exchange Club shall take reasonable actions to ensure that all food and beverage vendors at Ribfest comply with the applicable regulations and requirements of the Will County Health Department pertaining to food service and food safety.
3. Prevailing Wage. The Exchange Club shall comply with the Illinois Prevailing Wage Act to the extent that the same is applicable to the conduct of Ribfest or the Exchange Club's performance of its obligations hereunder.
4. Anti-Discrimination. The Exchange Club shall not discriminate on the basis of race, color, religion, sex, national origin, ancestry, marital status, disability status, unfavorable discharge from military service, parental status or sexual orientation with respect to its employment practices, providing access to or admittance to Ribfest, performance under this Agreement, or in contracting with respect to the provision of goods or services in connection with Ribfest.

5. Illinois Human Rights Act. The Exchange Club shall have a written policy as required by the Illinois Human Rights Act, a copy of which shall be furnished to the Village not later than contemporaneously with the Village's approval of the execution of this Agreement.
6. Americans with Disabilities Act. The Americans with Disabilities Act and the regulations thereunder prohibit discrimination against persons with disabilities, whether directly or through contractual arrangements, in the provision of any aid, benefit or service. As a condition of the Village's approval of this Agreement, the Exchange Club certifies that services, programs and activities provided under this contract are and will continue to be in compliance with the ADA.
7. Illinois Drug Free Workplace Act. The Exchange Club shall publish a statement to its employees that complies with the requirements of the Illinois Drug Free Workplace Act, establish a drug free workplace policy consistent with the requirements of the Act, and thereafter act in accordance with the policy and the Act with respect to any drug related issues occurring in the workplace during the performance of activities under this Agreement.
8. Workplace and Attendee Safety. The Exchange Club shall comply with all applicable laws, regulations or ordinances of any public body having jurisdiction over the activities contemplated hereunder for the safety of persons or property or to protect them from damage, injury or loss, including all Exchange Club employees, and all Ribfest contractors, vendors and attendees; and shall erect and maintain all necessary safeguards for such safety and protection.
9. Tax. During the term of this Agreement, the Exchange Club shall not become delinquent in the payment of any State of Illinois or Village tax such as would prohibit or debar the Exchange Club from entering into or performing this Agreement with the Village. The Exchange Club shall also collect all taxes applicable to Ribfest activities as required by applicable law. In the event that the Exchange Club is not exempt under applicable state law and is required to pay taxes, the Exchange Club will be responsible for collecting said taxes. The Exchange Club shall incorporate into all of its agreements and contracts with

vendors a provision which states that the vendor is required to pay all applicable taxes pertaining to Ribfest activities pursuant to local, state, and federal law

J. Village Maintenance Personnel. During the conduct of a Ribfest under this Agreement, the Village shall at its cost dedicate two maintenance employees to providing assistance and support to the Exchange Club and its volunteers, vendors and contractors in connection with Ribfest, subject to the provisions of Section 3.M. of this Agreement.

K. Village Emergency Medical Personnel. During all hours of operation of a Ribfest hereunder, the Village shall at its cost cause a sufficient number of emergency medical personnel to be present at the Event Site to render emergency medical assistance as and when the same may be required, subject to the provisions of Section 3.M. of this Agreement. The Village shall at its discretion determine the numbers of emergency medical personnel to be provided at a Ribfest from time to time, but shall consult with the Exchange Club in the exercise of that discretion.

L. Village Police Services. During all hours of operation of a Ribfest hereunder, the Village shall at its cost cause a sufficient number of uniformed sworn law enforcement officers to be on duty and present at the Event Site to provide police and law enforcement services as and when the same may be required, subject to the provisions of Section 3.M. of this Agreement. The Village shall at its discretion determine the numbers of uniformed sworn law enforcement officers to be provided at a Ribfest from time to time, but shall consult with the Exchange Club in the exercise of that discretion. The Village at its sole discretion shall direct and manage the deployment of all such uniformed sworn law enforcement officers. Due to the number of sworn law enforcement officers that may be required in connection with Ribfest, the Exchange Club acknowledges that the Village has the discretion as it deems appropriate to contract with other law enforcement agencies for the provision of additional sworn uniformed law enforcement officers to provide police and law enforcement services at Ribfest.

M. Exchange Club Reimbursement to Village for Personnel Costs. In recognition of the costs and expenses to be incurred by the Village pursuant to Sections 3.J., 3.K., and 3.L. of this Agreement, the Exchange Club shall annually contribute the sum of Fifty Thousand and No/100 Dollars (\$50,000.00) to the Village to assist the Village in defraying such costs and expenses.

Such contribution shall be made within thirty (30) days after the conclusion of a Ribfest during the term of this Agreement.

N. Village Street Closures. Subject to the Village's review and approval rights under Section 3.G. of this Agreement, the Village shall at its cost take all actions necessary to implement any street closure contained within an approved Site Plan.

O. Connections to Village Potable Water System. Subject to and in accordance with the applicable ordinances of the Village and the requirements of the Department of Public Works, the Village shall at its cost furnish potable water to the Exchange Club from existing Village-owned potable water fixtures. The Exchange Club shall be responsible for all equipment and labor necessary to connect to such Village-owned potable water fixtures and to transmit the same as and where needed during a Ribfest.

P. Temporary and Permanent Garbage Cans. The Village shall, at its cost and expense, cause a sufficient number of temporary garbage cans to be furnished to the Exchange Club for use during Ribfest, and shall permit the use of all existing permanent garbage cans located within the Event Site. The Exchange Club shall retain responsibility for emptying all temporary and permanent garbage cans and causing the removal of the contents thereof as provided above in Section 3.B., and for providing and emptying all temporary dumpsters as provided above in Section 3.B.

Q. Fireworks. The Exchange Club shall be responsible at its cost to contract for and obtain the services of a fireworks display provider to conduct one (1) fireworks display on July 4 during Ribfest or on such other date as mutually agreed to by the parties, provided, however, that the Village shall have no obligation hereunder with respect to such fireworks display other than to contribute the sum of \$25,000.00 per year to the Exchange Club toward the cost such fireworks display, with such contribution being due on or before thirty (30) days after the conclusion of a given Ribfest. The Exchange Club shall expend at least \$25,000.00 on the fireworks display during each Ribfest. The date and time of such fireworks display during Ribfest shall be determined by the Village, but the Village shall consult in good faith with the Exchange Club in making that determination. The display shall be similar in character to displays previously provided by the Village at or near July 4, and shall be conducted in accordance with all applicable laws, regulations and ordinances. The Village, together with the

contracted fireworks display provider, shall determine whether any cancellation of a scheduled display is necessary due to inclement weather or other emergency circumstances. The Village, the Exchange Club and the Village's fireworks display provider shall use their best efforts to coordinate and agree upon a predetermined date for the rescheduling of any display cancelled due to inclement weather or other emergency cause. In the event that the scheduled display is canceled or rescheduled, the Exchange Club and the Village shall share equally any cost or charge imposed by the fireworks display provider in connection therewith. The Exchange Club shall recognize the Village as the sponsor of the fireworks display, and shall not charge a fee to the Village for such recognition. The Exchange Club shall have the right hereunder to enter into agreements granting sponsorship, signage, advertising, marketing or promotional rights in connection with the Ribfest fireworks display, and to retain the proceeds therefrom. In the event that the Village obtains an additional sponsor for the fireworks display, the Exchange Club shall pay an enhanced sponsorship percentage of fifty percent (50%) to the Village ("Fireworks Share") rather than the Sponsorship Share referenced in Section 3.H for all years of the agreement, provided, however, that the maximum amount of the Fireworks Share in any given year shall not exceed the sum of \$25,000.00. Like the Sponsorship Share, however, the Fireworks Share shall apply only to any monetary sponsorships, and not to any in-kind donations.

R. Offsite Parking. The Village shall use its best efforts to assist the Exchange Club in obtaining adequate offsite parking from various property owners within the Village for use by attendees, volunteers, vendors, contractors, and entertainers. For such offsite parking by attendees, the Village may charge no more than \$10 per vehicle. The Village shall provide at its cost the staffing and security for such offsite parking location, along with all commercially reasonable insurance for the actions of such staffing and security. The Exchange Club shall be responsible for obtaining shuttle transportation service between all offsite parking areas and the Event Site, and to cause all contractors providing such shuttle transportation services to provide insurance with limits and coverages acceptable to the Village and its insurer, but in no event more than is commercially reasonable, which insurance shall further name both the Exchange Club and the Village as additional insured by written endorsement.

S. Village Disapproval Rights. Both parties recognize that Ribfest is a community-oriented event that will attract adults and families with children, and that all aspects of Ribfest

shall be organized with consideration of the people who are expected to attend the event. Without otherwise limiting, modifying or construing any other provision hereof, and in consideration of the importance of the Event Site to the Village and its residents, the Village shall have the right to approve of any of the following matters, which approval will not be unreasonably withheld, taking into consideration the nature of Ribfest as a community-oriented event as set forth in the previous sentence:

1. Type, size and location of advertising or promotional signage or other media.
2. The categories or types of sponsors or advertisers permitted to sponsor or advertise in connection with Ribfest.
3. The distribution of promotional products, samples or marketing materials at Ribfest.
4. The types of acts, activities and events to occur during Ribfest.

The Exchange Club shall provide reasonable prior notice to Village sufficient for the effective exercise of the disapproval rights herein contained. Village shall exercise its disapproval rights in the exercise of its reasonable judgment and only after consultation with the Exchange Club, and any such exercise of disapproval rights shall be in a writing transmitted to the Exchange club by the Village. Upon the Village's exercise of disapproval rights hereunder, the Exchange Club shall thereafter act consistently therewith.

SECTION FOUR: Indemnification and Insurance; Risk of Loss

A. **Indemnification.** Each party to this Agreement shall indemnify, defend and hold harmless the other party and its elected officials, officers, employees, agents and volunteers of and from any and all liabilities, costs, obligations, claims, damages, causes of action (including reasonable attorney's fees) for which such other party and its elected officials, officers, employees, agents and volunteers may become liable by reason of any violation of civil or constitutional rights, accident, bodily injury, death, loss of or damage to property or other cause, where the same arises directly or indirectly in connection with or as a result of this Agreement but only to the extent caused in whole or in part by the negligent or wrongful act or omission of the indemnifying party or its elected officials, officers, employees, agents and volunteers. The insurer of the indemnifying party shall be permitted to raise on behalf of such party all statutory

or common law defenses which the indemnifying party is or would be entitled to raise, including all defenses existing under the Illinois Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 et. seq. Without otherwise limiting or modifying the Exchange Club waives any limits to its obligations to indemnify the Village under the preceding sentences of this Section 4.A. otherwise existing under applicable law, including but not limited to any limits on indemnification of the Village imposed by Kotecki v. Cyclops Welding Corporation, 146 Ill. 2d 155 (1991) and its progeny.

B. Insurance. The Exchange Club represents that it has and will at all times during the term of this Agreement maintain in full force and effect at all times during the term of this Agreement policies of commercial general liability insurance, liquor liability/dram shop insurance, workers' compensation insurance, fireworks liability insurance and automobile liability insurance with at least the limits and coverages shown in Exhibit B-1, a copy of which is attached hereto and incorporated herein by reference. Village represents that it has and will at all times during the term of this Agreement maintain in full force and effect at all times during the term of this Agreement policies of commercial general liability insurance, workers' compensation insurance and automobile liability insurance with at least the limits and coverages shown in Exhibit B-2, a copy of which is attached hereto and incorporated herein by reference. Each party shall cause its commercial general liability and automobile liability insurance policies to name the other party and its elected officials, officers, employees, agents and volunteers as additional insureds by written endorsement. All such insurance policies shall be on an occurrence basis and shall not be on a claims-made basis.

C. Exchange Club Responsibility for Contractual Obligations. The Exchange Club acknowledges that it shall have the sole responsibility to financially and otherwise perform all contracts relating to Ribfest with third parties, and that the Village shall under no circumstances have any liability or responsibility, financially or otherwise, for the performance of any such obligations. The Exchange Club's indemnification obligations under Section 4.A. of this Agreement shall expressly apply to any claims brought against the Village by third parties for the performance of any Exchange Club Ribfest-related contractual obligations.

SECTION FIVE: Term and Termination; Renewal

A. Term. The term of this Agreement shall commence on the latter of the date on which both of the following happen: (i) this Agreement shall be approved by legislation adopted by the corporate authorities of the Village, and (ii) when it is executed by Exchange Club. This Agreement shall end on December 31, 2024, unless extended or sooner terminated in accordance with the Agreement or otherwise by agreement of the parties.

B. Termination on Default. A non-defaulting party may terminate this Agreement on the occurrence of a Default as hereinafter set forth by providing written notice thereof. Default shall mean and include any of the following acts of a party hereto:

1. The failure to timely make any payments due hereunder, which failure is not cured within five (5) days after notice thereof.
2. A material breach of this Agreement (other than non-payment of a payment due hereunder), provided, however, that if the material breach in question is capable of being cured, a default shall only occur if such material breach is not cured by the breaching party within thirty (30) days after notice from the non-breaching party.
3. Appointment of a receiver or a trustee for all or any part of a party's assets.
4. The making of an assignment for the benefit of creditors, or the filing of a petition to open a bankruptcy case.
5. The failure to vacate or discharge any bankruptcy proceeding filed against a party within forty five (45) days after the filing thereof.
6. A material violation of any applicable law relating to or in connection with Ribfest.

C. Mutual Termination. This Agreement may be terminated by the mutual consent of the parties as expressed in a written termination agreement.

D. Effect of Termination. The termination of this Agreement shall not relive either party hereunder from making any payment due prior to such termination, or from performing any obligation due prior to such termination. Furthermore, the provisions of Section 4.A., Section 4.C., Section 5.D. and Section 6 of this Agreement shall survive any termination or expiration of this Agreement.

E. Mutual Renewal. The parties shall have a mutual option to renew this Agreement for an additional term of five years, subject to such modifications and amended terms as the parties may mutually agree to include within the renewed Agreement. The exercise of such mutual option shall require the consent of both Parties to be effective; in the case of the Village, this consent shall be granted pursuant to legislation adopted by the corporate authorities of the Village, and in the case of the Exchange Club, this consent shall be granted pursuant to a resolution adopted by its board of directors.

SECTION SIX: General Provisions

A. No Waiver or Relinquishment of Right to Enforce Agreement. The failure of any party to this Agreement to insist upon strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's rights, to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect. No waiver by the Village shall be valid or binding on the Village unless it is in writing signed by the Village President after being approved by the Village Board and only to the extent therein set forth.

B. Cumulative Remedies. Unless expressly provided otherwise herein, the rights and remedies of the parties provided for herein shall be cumulative and concurrent and shall include all other rights and remedies available at law or in equity, may be pursued singly, successively or together, at the sole and absolute discretion of either Party and may be exercised as often as occasion therefore shall arise.

C. Other Ordinances, Codes, Rules, Regulations, Resolutions and Applicable Law. Except as expressly provided to the contrary, nothing herein contained is intended to relieve Exchange Club of its obligations under the ordinances, codes, rules, regulations, and/or resolutions of the Village of Romeoville, provided, however, that in the event of any conflict between the terms of this Agreement and the terms of any such ordinance, code, rule regulation or resolution, the terms of this Agreement shall prevail. In addition, wherever this Agreement provides that a particular ordinance, code, rule, regulation or resolution is

applicable, said provisions shall also automatically include any amendments thereto, except as expressly set forth in this Agreement.

D. Singular and Plural. Wherever appropriate in this Agreement, the singular shall include the plural, and the plural shall include the singular.

E. Section Headings and Subheadings. All section headings or other headings in this Agreement are for the general aid of the reader and shall not limit the plain meaning or applicability of any of the provisions thereunder whether covered by or relevant to such heading or not.

F. Law and Venue. This Agreement shall be governed by the laws of the State of Illinois, without reference to the conflicts or choice of laws provisions thereof. The sole and exclusive venue for any litigation arising from this Agreement shall be in the Circuit Court for the Twelfth Judicial Circuit, Will County, Illinois.

G. Actions by Parties. The parties may exercise the right of termination under Section 5.B. hereof without prejudice to any litigation commenced, maintained or prosecuted with respect to any default occurring prior to any such termination of this Agreement. Exchange Club shall not have a right to recover a judgment for monetary damages against any elected or appointed official of the Village for any breach of any of the terms of this Agreement.

H. No Personal Liability of Corporate Authorities. The Parties acknowledge and agree that the individuals who are members of the group constituting the corporate authorities of the Village and of Exchange Club are entering into this Agreement in their corporate capacities as members of such group and shall have no personal liability of any kind in their individual capacities.

I. Notices. Notices or other writings which any Party is required to or may wish to serve upon any other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Village:

Village of Romeoville
1050 W. Romeo Road
Romeoville, IL 60446
Attention: Village Clerk

with a copy to:

Rich Vogel
Tracy, Johnson & Wilson
2801 Black Road, 2d Floor
Joliet, IL 60435

If to the Exchange Club:

with a copy to:

Charles G. Wentworth
Lofgren & Wentworth, P.C.
536 Crescent Blvd. Suite 200
Glen Ellyn, IL 60137
cwentworth@elrlaw.com
630-469-7100

or to such other address as any Party may from time to time designate in a written notice to the other Party.

J. Amendments. This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between Exchange Club and the Village relative to the subject matter hereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

K. Invalidity of any Provision. If any provision, clause, word or designation of this Agreement is held to be invalid by any court of competent jurisdiction, such provision, clause, word or designation shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any other provision, clause, word or designation contained herein.

L. General Representations of the Parties. Each party to this Agreement represents and warrants to each other party as follows: (i) that such party has the requisite power and

authority to enter into and perform this Agreement, (ii) that such party is in good standing and is qualified to transact business in the State of Illinois; (iii) that this Agreement has been duly authorized by all necessary action on the part of such party; (iv) that the execution and delivery and performance by such party of this Agreement will not conflict with or result in a violation of such party's organizational documents or any judgment, order or decree of any court or arbiter to which such party is bound; (v) that there is no action, suit, proceeding, claim or arbitration pending against such party or its assets which if determined unfavorably would adversely affect its ability to perform or satisfy its obligations and duties hereunder; (vi) that such party has not failed to file any applicable income or other tax returns or failed to pay any taxes when due which failure would adversely affect its ability to perform or satisfy its obligations and duties hereunder; (vii) that this Agreement constitutes the valid and binding obligation of such party, and is enforceable against such party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, creditors' rights and other similar laws; (viii) that it has received good, valuable, legal and sufficient consideration; and (ix) prior to executing this Agreement, such party read this Agreement, understood the contents hereof, was advised by the party's respective attorney regarding the matters relative to this Agreement, including the respective rights and obligations of the parties under this Agreement.

M. Relationship of the Parties. Nothing herein shall create any partnership, joint venture or agency relationship between the parties, nor shall any party have the right to bind or contractually obligate the other party. No employee of a party shall be deemed to be an employee of the other party.

N. Drafting of Agreement. The parties acknowledge that they or their counsel have participated jointly in the drafting and review of this Agreement and that it has not been drafted or revised solely by counsel for either party. As such, the parties further acknowledge that any rule of law providing that ambiguities in the drafting of this Agreement are to be construed against the drafting party shall not be applied in the interpretation or construction of this Agreement.

O. Force Majeure; Strikes and Labor Matters. Except as otherwise provided herein, neither party shall be obligated to perform hereunder and neither party shall be deemed to be in default if performance is prevented by (a) fire, hurricane, flood, tornado, act of God, terrorist act,

major mechanical or structural failure, or civil commotion materially and adversely affecting the operation of the Ribfest, or (b) any law, rule, regulation or order of any public or military authority stemming from the existence of economic or emergency controls, hostilities, or war; provided, however, that any such occurrence or the adverse effects of such occurrence are not reasonably foreseeable and are beyond the reasonable control of the affected party; provided further that each party shall take reasonable actions to mitigate any unforeseen events. Likewise, and unless otherwise provided for herein, neither party shall be obligated to perform any of its obligations hereunder, nor shall either party be deemed to be in default, to the extent performance is prevented by strikes or labor disputes (provided that such party has not committed unfair labor practices and provided further, that such party shall take reasonable steps to mitigate such strike or labor dispute), nor shall employees of either party be required to cross picket lines.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their proper officers duly authorized to execute same, the day and year first above written.

Village:

VILLAGE OF ROMEOVILLE,
An Illinois Municipal Corporation

By: _____

Name: John D. Noak

Its: Village President

Attest:

By: _____

Name: Dr. Bernice Holloway

Its: Village Clerk

Exchange Club:

**Exchange Club Charitable Organization of
Naperville, Illinois, an Illinois not for
profit corporation**

By: Ronald M. Amato

Name: Ronald M. Amato

Its: President

Attest:

By: Robert G. Black

Name: ROBERT G. BLACK

Its: RIBFEST CHAIR, 2020

Exhibit List