



Hot Air Balloon Agreement

This Tethered Hot Air Balloon Services Agreement (the "Agreement") is entered into on this 4th day of February, between FRANKLIN PARKS AND RECREATION located at 396 Branigin Blvd Franklin, IN 46131 and May First, Inc., doing business as Midwest Balloon Rides ("Midwest"), a corporation formed under the laws of the State of Indiana, whose principal place of business is at 11807 Allisonville Road, Suite 209, Fishers, Indiana 46038. (Collectively FRANKLIN PARKS AND RECREATION and Midwest may for convenience be referred to as the "Parties" and, each individually, as a "Party.")

Date: Sunday 4/7/2024

Time: 6:30pm

Fee: \$2575 & \$10 per person

Fee includes added insurance policy

RECITALS

WHEREAS Midwest is engaged in the business of offering hot air balloon rides including, but not limited to, tethered hot air balloon (the "Services") for hire to individuals and/or private or governmental entities; and

WHEREAS *FRANKLIN PARKS AND RECREATION* desires to retain the Services of Midwest for a tethered balloon ride;

NOW, THEREFORE, in consideration of the mutual promises and undertakings hereinafter set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged by each of the Parties, it is hereby agreed as follows:

ARTICLE I – DEFINITIONS

A. BALLOON.

Balloon means a lighter-than-air aircraft that is not engine driven, and that sustains flight through the use of either gas buoyancy or an airborne heater.

B. TETHERED HOT AIR BALLOON RIDE.

A tethered balloon ride is when the balloon is tied to the ground or to a number of non-moving vehicles with three or four very strong ropes to keep the balloon from flying away. People board the balloon, which goes up to a limited height and remains on location. During the stationary flight, the balloon remains tied to the ropes.

C. ADA BASKET.

Unlike traditional balloon baskets that require passengers to climb in and out over the edge, the basket incorporates a door to allow less able-bodied individuals, including those with serious physical disabilities, to enter and exit the basket with ease.

ARTICLE II – TETHERED HOT AIR BALLOON RIDE

A. EVENT DETAILS.

The location of the event (hereinafter the “Event”), and contact information of the organizer for FRANKLIN PARKS AND RECREATION will be sent with this Agreement as APPENDIX I and incorporated herewith by reference.

B. EQUIPMENT PROVIDED.

Midwest will provide a hot air balloon of Midwest’s choice with an Easy Access Basket with various accessories and equipment needed to provide its services for .

C. RIDE DATE & TIMES

The hot air balloon is scheduled to tether on Sunday 4/7/24 or another good back up due to weather agreed on by both parties. Start time will be approximately 6:30pm or later.

D. AREA & VEHICLES PROVIDED

FRANKLIN PARKS AND RECREATION will provide an area sufficient in size to place a hot air balloon. FRANKLIN PARKS AND RECREATION understands that, in order to secure the hot air balloon, it is necessary to tie it to stationary provided vehicles, which will be driven and used in the area. FRANKLIN PARKS AND RECREATION will provide 4 vehicles to use as tie off points for balloon.

E. CONDITIONS FOR OPERATING THE BALLOON.

1. Midwest will not operate the hot air balloon in hazardous weather conditions including, but not limited to, surface winds in excess of ten (10) miles per hour (“MPH”) sustained, wind sheers or turbulence in the area, rain, or thunderstorms within a seventy-five (75)-mile radius of the event site, or any other condition deemed dangerous by the pilot in command (the “Pilot”) for the event. Ideal wind conditions for tethered rides are six (6) MPH continuous or below.

F. RESPONSIBILITY AND AUTHORITY OF THE PILOT IN COMMAND.

In accordance with 14 C.F.R. Part 91, Section 91.3(a), enforced by the Federal Aviation Administration, “the pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft.” As a result, Midwest’s Pilot(s) retain(s) sole and absolute discretion concerning whether or not it is safe to initiate the balloon ride and whether or not any passenger should be excluded for any reason from the balloon ride.

2. FRANKLIN PARKS AND RECREATION understands and acknowledges that Midwest’s Tethered hot air balloon rides depend entirely on the weather which ultimately determines the number of balloon rides, their duration, the height to which the balloon will rise, and whether or not the balloon ride will take place.

ARTICLE III – COMPENSATION

A. Fee

- FRANKLIN PARKS AND RECREATION will pay a setup fee of \$2575 & a per person rate of \$10
- \$1700 deposit to book date
- 2nd deposit of \$875 due 2 weeks prior to event
- Per person fee due at end of evening
- 4 vehicles to use as tie down
- Area of 175 feet x 175 feet free of obstacles, power lines and tree
- 2 Event Staff to handle ticket sales and waivers*

ARTICLE IV – CANCELTION POLICY

A. CANCELTION DUE TO WEATHER

1. In the event weather conditions are such that they prevent the hot air balloon from being inflated on the dates of the Event resulting in Midwest not being able to leave its Fishers office, all but \$1450 paid would be refunded (\$250 would be credited to a future event).
2. In the event weather conditions appear to be conducive to inflating the hot air balloon on the date of the Event, thereby prompting Midwest to travel to the Event location and, subsequently, weather conditions deteriorate to the extent that the hot air balloon cannot be inflated, the amount due shall be the deposit paid. Midwest would setup the basket and burners for pictures for up to 1 hour for attendees to get in at no additional fee

ARTICLE V – WARRANTIES AND REPRESENTATIONS

Midwest warrants, represents and affirms to FRANKLIN PARKS AND RECREATION the following, as of the date of execution of this Agreement.

A. AUTHORITY FOR TRANSACTION.

Midwest's representative whose signature appears below has full right, power, and authority to execute, deliver and perform this Agreement, and consummate the transactions contemplated herein.

B. ORGANIZATION.

Midwest is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana.

C. LICENSURE.

Midwest's Pilot is duly qualified and licensed under the Federal Aviation Administration ("FAA"), 14 C.F.R. Part 61, Section 121 ET SEQ., requirements to operate for hire and engage in commercial flights with respect to hot air balloons.

D. MAINTENANCE AND REPAIRS.

Midwest complies with all maintenance, preventive maintenance, rebuilding, and alteration regulations for hot air balloons under 14 C.F.R. Part 43, Section 1 ET SEQ.

E. AIR WORTHINESS CERTIFICATE.

Midwest maintains an Air Worthiness Certificate for manned free balloons as required by 14 C.F.R. Part 31,

Section 1 ET SEQ.

F. GENERAL OPERATING AND FLIGHT RULES.

Midwest complies with all general operating and flight rules under 14 C.F.R. Part 91, Section 1 ET SEQ.

G. AIRCRAFT REGISTRATION.

Midwest is currently registered with the FAA Civil Aviation Registry under 14 C.F.R. Part 47.1 ET SEQ.

H. LEGAL ACTIONS.

No legal action, suit, audit, investigation, unfair labor practice, charge, complaint, claim, grievance, or proceeding by or before any court, arbitration panel, governmental authority or third party is pending or threatened that involves or may involve Midwest or Midwest's now or previously owned or operated assets, operations, properties or businesses.

I. INDEMNIFICATION.

The services provided by Midwest shall be at the risk of Midwest exclusively. To the fullest extent permitted by law, Midwest shall indemnify, defend (at their sole expense) and hold harmless the City of Franklin and their employees ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs and consultants fees and costs) ("claims") which arise or are in any way connected with the services performed, materials furnished or services provided under this Agreement by Midwest or its agents. These indemnity and defense obligations shall apply to any acts or omissions, negligent or willful misconduct of Midwest, its employees or agents, whether active or passive. The indemnification and defense obligations hereunder shall extend to claims occurring after this Agreement is terminated or concluded as well as while it is in force and shall continue until it is finally adjudicated.

J. INSURANCE AND CERTIFICATION.

Midwest shall, as a prerequisite to this Agreement, purchase and thereafter maintain insurance as well protect it and the City in accordance with the City Insurance Requirements set forth on the attached Certification of Compliance with Applicable Law and Insurance Requirements and agrees to fully execute the Certification as a part of this Agreement.

ARTICLE VI – MISCELLANEOUS

A. HEADINGS.

The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

B. COUNTERPARTS.

This Agreement and any amendments, waivers, consents or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of which counterparts together shall constitute but one agreement.

C. SEVERABILITY.

If for any reason any provision of this Agreement should be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Agreement, which remaining portions shall continue in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated therefrom.

D. AMENDMENTS.

This Agreement may not be modified or amended except pursuant to an instrument in writing executed and delivered on behalf of each of the Parties hereto. Neither the waiver of any breach of this Agreement, the acceptance of any defective performance hereunder, nor the occurrence of any course of dealing inconsistent with the provisions of this Agreement shall be construed as an amendment or modification of any provision of this Agreement.

E. NOTICE.

Any notice required or permitted to be given hereunder shall be in writing and shall be delivered by hand, by facsimile transmission, by nationally recognized overnight private courier, or by United States registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed as follows:

1.

If to Midwest:

Midwest Balloon Rides
11807 Allisonville Road, Suite 209
Fishers, Indiana 46038

2.

If to

FRANKLIN PARKS AND RECREATION
396 Branigin Blvd
Franklin, IN 46131

~~JAMIE BECK~~

Chip Orner



ANTHONY SANDLIN

Anthony Sandlin

✓ Signed Feb 9th, 2024



Event Location

Franklin Amp @ Youngs Creek Park
237 W. Monroe Street
Franklin, IN 46131

Contact Person

Jamie Beck

Contact Person's cellular telephone No

(260) 336-0499

Contact Person's e-mail

jbeck@franklin.in.gov

Additional information (OPTIONAL)