

Dragon Lights Reno A G R E E M E N T

THIS AGREEMENT, made effective as of this _____ day of _____, 2019, by and between Tianyu Arts and Culture, hereinafter "Promoter", the May Arboretum Society, hereinafter "MAS" and the County of Washoe, hereinafter "County".

W I T N E S E T H

WHEREAS, Promoter desires to hold an event called "Dragon Lights Reno", hereinafter "Event", which will involve 5 consecutive weeks of a Chinese Lantern Festival to include stage performances and illuminated lanterns each evening throughout the Wilbur D. May Arboretum and Botanical Garden and a portion of Rancho San Rafael Park; and

WHEREAS, County owns and operates a public park facility known as Washoe County Rancho San Rafael Regional Park, hereinafter "Park," which is suitable for the needs of Promoter; and

WHEREAS, County is willing to allow Promoter to use a portion of the Park for the Event from June 27 – August 2, 2020;

WHEREAS, MAS is a 501(c)(3) corporation that contributes to improvement of the Arboretum and assisting in administering this Agreement;

NOW THEREFORE, the parties agree as follows:

1. **Right to Use Park.** Promoter shall have the exclusive right to use that portion of the Park designated on the map attached hereto as "Exhibit A", as "Reserved Area", for the purpose of holding the Event upon the conditions set forth herein.

It is acknowledged that other portions of the Park may be used simultaneously by other parties and the Promoter's use shall not interfere with such other use.

2. **Access and Parking.** Vehicles will be allowed on those areas not designated as parking areas only for the purpose of loading in lanterns and equipment to be used in the Event and to place and service them.

a. Promoter and its participants will be allowed access to the Park at times when the Park is otherwise closed in order to conduct the event beyond Park hours, provided that uniformed security is posted at the Park entrance after the regular closing hour. The Director may, at his discretion, require an identification card or other type of pass to be issued by Promoter to participants in this Event.

b. Parking by participants shall be limited to specific areas within the Park, to be determined by County. All additional parking will be off-site. A parking plan shall be submitted for review and approval by County 90 days in advance of Event.

3. **Responsibilities of Promoter.** Promoter shall provide the following:

a. Promoter shall obtain all necessary licenses and permits required by applicable agencies to conduct the Event and shall provide written proof of such licenses and permits to the County prior to commencement of the Event. Applicant shall meet with the Washoe County Department of Community Services, Planning Division, to determine the licenses and permits required by that agency. Promoter shall provide such restrooms

and sanitary facilities as are required by the Washoe District Health District.

- b. Promoter will be responsible to protect the Park and keep it clean and, at the conclusion of the Event each evening/morning, will return the property to its original condition, normal wear and tear excepted.
- c. Promoter shall be responsible to coordinate the field layout with the Park and arboretum staff, including the concession area. Promoter will provide County with a preliminary layout and obtain approval from County before layout is created.
- d. Promoter shall purchase all the material for the lanterns and prepare electric cables needed for power supply inside the lanterns.
- e. Promoter shall be responsible for shipping the materials from inland China or other locations in the United States to Reno, NV and the related insurance for the transportation. Promoter is responsible for appropriate documents to ensure the smooth custom clearance of the containers.
- f. Promoter shall undertake the visa application process and fees, domestic and international traveling costs and insurance fees of all the Chinese artists and is fully responsible for obtaining visas for the Chinese staff, workers, artisans, and performers.
- g. Promoter shall pay for the compensation of all Chinese artists, and for all other Chinese staff members' visa fees, salaries, domestic and international travel fees, and food costs.

- h. Promoter shall pay the visa fees, domestic and international travel fees, performance compensation, and food costs for all the performers and handicraftsmen, if performances are included in the festival.
- i. Promoter shall provide local accommodation and local work-related transportation for its artists and staff members.
- j. Promoter shall be responsible the customs clearance, freight & delivery and unloading device for transporting the containers to the venue.
- k. Promoter shall be responsible for any and all setup for Event functions to include design, manufacturing, installation, maintenance and dismantling work of the exhibition.
- l. Promoter shall provide for an adequate number of individuals over the age of eighteen (18) for the purpose of directing vehicle traffic, maintaining foot traffic control within the event, way finding, assistance with ADA access, trash removal, restroom checks and cleaning and litter patrol from 6:00pm. - 10:30pm Sunday through Thursday and from 6:00pm – 11:30 pm, Friday and Saturday. These attendants must be equipped with one flashlight and reflective vest per person, the cost of which to be borne by Promoter.

Promoter will manage gates on Saturdays and Sundays. Gates to be open by 8am each day and close at the conclusion of Event each evening as stated above.
- m. Tianyu and Washoe County will agree upon Event staff positions and staffing levels of each function. Should the number of individuals providing these services not be sufficient in the sole opinion of the County the

Promoter shall provide for additional individuals as directed by the County
Promoter shall consult with County no later than March 31, 2020,
regarding the recruitment of event staff and shall begin posting for positions
no later than six weeks before the event start date. Promoter shall be
responsible for paying all Event staff.

- n. Promoter shall furnish the following security:
 - i. One armed security guard at the ticket booth.
 - ii. One unarmed security guard at the entrance/exit gate of the Park
from Park closing hours until one half hour after festival closes.
- o. Promoter shall provide two people at Museum parking lot gates and at the
Washington Street/Rancho San Rafael Drive intersection during any
Museum event for traffic control and direction.
- p. Promoter shall provide a minimum of two (2) people to assist in the cleanup
of the reserved area and any parking lots within the park utilized for the
event each evening/morning after the event. Cleanup shall include litter
pickup, emptying garbage cans, and loading garbage and recyclables into
appropriate dumpsters.
- q. Promoter will have one Event staff person from Promoter's company for the
entire Event, including set-up, all consecutive days of Event, and break
down. This staff person must be bi-lingual to assist with artisan set-up and
take-down.
- r. Promoter shall be fully responsible for the security of their equipment,
structures, supplies and venues throughout the Event, including set up and

take down for the Event and during the Event itself, and will provide uniformed security to the extent necessary during the Event.

- s. All Promoter improvements required for the successful completion of the Event shall be Promoter's responsibility and must be authorized in writing by the County's designee.
- t. Promoter will be responsible for inspection of the area of the Park being used by it before it accepts said area from County. Promoter will either notify County of any such hazard(s), and/or take steps to eliminate such hazards which it is reasonably able to fix upon discovery of a hazard in said area during the inspection. If Promoter is able to, it will take steps to eliminate such hazards which are necessary to adequately protect Promoter's users of said portion of the Park, without affecting that portion of the Park's normal use. If hazard(s) are identified by Promoter during its initial inspection, it will take reasonable steps to protect its users of said portion of the Park from hazards by either the installation of barricades, coverings, or warning signs. Inspection of and acceptance of the area of the Park being used for the Event by Promoter, without first providing notice to County of said hazard, constitutes waiver of any subsequent claim(s) related to the condition of that area of the Park being used by Promoter, for which Promoter knew about without first notifying County, or which they could have reasonably discovered during the initial inspection of the Park prior to acceptance of the area of the Park.

- u. Promoter shall provide portable restrooms as deemed necessary by County and MAS. Promoter shall be responsible for providing all necessary supplies for personal sanitation, including hand washing stations. Promoter will work with County and MAS to determine an appropriate waste disposal schedule.
- v. Promoter shall provide dumpsters as deemed necessary by County.
Promoter shall be responsible for providing any additional trash receptacles and liners for receptacles.
- w. Promoter shall be responsible for arranging for recycling collection services for vendors and attendees. The following items will be collected:
 - Beverage containers – plastic bottles, aluminum cans;
 - Packaging material – cardboard boxes, boxboard, and clean paper.Promoter agrees to arrange for portable recycling containers next to trash cans, and service the containers as necessary. Appropriate signage for vendors and attendees should be set up to provide notice of where to place recyclables.
- x. Promoter shall provide ample lighting as deemed necessary and agreed upon by County for safe access by spectators to and from the event.
- y. Promoter shall be responsible for the energy costs on site that are used by the lantern festival during installation, exhibition, maintenance, and takedown periods. Promoter provides generators with cables for the lantern groups, if needed.

- z. Promoter provides performance stage, sound and lighting equipment, and exhibition rooms if there is any performance or exhibition as part of the festival.
- aa. Promoter shall provide heavy equipment such as forklift, manual lift, etc., that are allowed on site at the venue for the lantern installation and takedown when needed. The Promoter will provide tire protection with plywood when driving on turf areas during the installation with plywood protection placed around trees, shrubs and lawn.
- bb. Promoter will provide power supply reaching the power demands of Promoter to be extended to the distribution box of each lantern group, beyond any limited supply County may have on site. The County will assist with location of any mobile power source in the gardens.
- cc. Promoter shall follow the direction of the May Arboretum Horticulturalist with respect to use and protection of the May Arboretum and Botanical Garden.
- dd. As agreed by all Parties, ticketed Event times will be 6:00 p.m. to 10:00 p.m., Sunday through Thursday, and 6:00 p.m. to 11:00 p.m. Friday and Saturday during the entire duration of the Event. Ticketed Event times can change if agreed upon by all Parties in advance.
- ee. As agreed by all Parties, the Wilbur May Arboretum and Botanical Garden will remain open and free to the general public from approximately 8:00 a.m. to the ticketed Event start time, daily throughout the Event. County may close specific areas of the Wilbur May Arboretum and Botanical

Garden or Rancho San Rafael Park for set-up, tear-down, maintenance, or other activities as deemed necessary.

- ff. All Parties have the ability to create programming within Rancho San Rafael Park that complements Dragon Lights Reno, subject to approval by all Parties.
- gg. County shall provide services as outlined in Section 4 of the Agreement. If it becomes necessary for County to provide additional services not otherwise described herein, or if County provides any additional services requested by Promoter, Promoter agrees to pay County its customary charge for such services.
- hh. Promoter shall not commence any setup before 8am on Monday, June 8, 2020.
- ii. Promoter shall remove, or have removed, from the park all equipment, concessions, and/or other Event items prior to 7:00pm on Thursday, August 20, 2020. If Promoter does not have all equipment, concessions or other Event items removed by 7:00 p.m. on August 20, 2020 a fee of 10% of the contract amount will be charged as a late fee. An additional 10% of the contract amount will be charged per day for every day after until all Event structures have been removed and cleanup is complete.
- jj. Promoter undertakes the design, printing, and all ticket sales including online, box office as well as daily ticket reports. Promoter shall adequately staff ticket booths and ticket checking so that patrons do not experience a wait in excess of 25-minutes to enter the Event.

- kk. Ticket sales and ticket checking will be carried out by Promoter. All cash receipts shall be promptly secured and accounted for by Promoter according to procedures approved by all Parties and in accordance with County cash handling policies.
- ll. As agreed by all Parties, the entrance fee will be \$17 US dollars per adult and \$12 US dollars per child, plus applicable sales/admission taxes, online transaction fees. Ticket prices are subject to change as agreed upon in advance among all Parties. Discounts for seniors, military, and students will be available on weekdays. Each member of the May Arboretum Society shall receive a discount of \$5 per ticket for up to four tickets on weekdays. Washoe County will receive a total of 20 free tickets to distribute as needed throughout the length of the festival.
- mm. The County and MAS shall each be permitted to hold a special gathering at the festival the night before the Event begins. The number of people attending the County special gathering shall be limited to one thousand (1,000). The number of people attending the MAS special gathering shall be limited to its membership as of June 30, 2020 (up to 1,000).
- nn. All parties agree that daily ticket sales shall not exceed 4,500 attendees. Daily ticket sales will be monitored closely by Promoter and numbers will be provided to County and MAS upon request. If at any time daily ticket sales exceed the ability of Promoter to manage the crowds effectively, County, at its sole discretion, has the ability to limit ticket sales to an appropriate number to ensure public safety, a positive experience and to not exceed the

reasonable capacity of the venue. Ticket sales may be broken into time slots to solve capacity problem.

4. **Services by Parks.** County shall provide the following:

- a. County staff will open the Arboretum and Park gates by 8:00 am Monday through Friday during the Event.
- b. County will provide access to Park and work closely with Promoter and MAS to ensure the success of the Event.
- c. County will provide one point of contact for Promoter. MAS will provide one point of contact for Promoter.

5. **Advertising and Promotion.**

- a. Promoter will be solely responsible for advertising or promotion of the Event, provided that any advertising or promotion shall refer to the location as "Washoe County's Wilbur D. May Arboretum and Botanical Garden located within Rancho San Rafael Regional Park." Promoter agrees that any such advertising or promotion shall give Washoe County first placement of logo and name upon any and all print, digital, web-based, etc. material and MAS will have second placement of logo and name upon any and all print, digital, web-based, etc. material.
- b. Promoter will ensure all marketing and advertising is done in a professional manner and will coordinate all marketing and advertising for the Event with all Parties before and during the event. Promoter will be responsible for marketing promotion and related expenses for the Event. Promoter will

provide a detailed promotion plan to be approved by all Parties and identifying all three parties to this Agreement.

6. **Concession.**

- a. Promoter shall provide and have concession rights for food, non-alcoholic beverages and souvenir items sold in that portion of the Park used for the Event. County retains the rights to provide food and beverage at times and locations during the Event which do not to impede or interfere with those of the Event organizers. All parties will agree upon the split of food/beverage sales to be determined with each specific vendor. MAS retains the right to sell food and beverages and souvenir items during the event with the profit from those sales going exclusively to MAS.
- b. Promoter will sell cultural merchandise from China and cultural handicrafts made by its handicraftsmen at the festival. Promoter will keep all sales revenue from its own merchandise and handicrafts. All merchandise and handicrafts require prior review and approval by County and MAS.
- c. Promoter shall be responsible for assigning locations for concessions with approval from the County. Concession vendors providing such services must first be approved by the County and have all application permits and licenses.

7. **Cancellation.** If the Event is cancelled for any reason other than the failure of County to perform its obligation, Promoter shall reimburse County for its expenses and any loss of income it incurs due to the rental of pavilions and

buildings which could have been otherwise used had Promoter not reserved the Park.

8. **Indemnification and Insurance.** Washoe County has established specific indemnification and insurance requirements for organizations using County facilities or property. Indemnification and hold harmless clauses are intended to assure that the organization accepts and is able to pay for the loss or liability related to its activities. Insurance requirements are set forth below. It is highly recommended that Promoter confer with their respective insurance carriers or brokers to determine in advance of the availability of insurance coverage and notification requirements as provided for herein.

Indemnification Agreement: Promoter agrees to hold harmless, indemnify, and defend County and MAS, and their respective officers, officials, agents, employees, and volunteers from any loss or liability, financial or otherwise, resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death, personal injury, or property damage to property of others and to Promoter's property caused by any action, either direct or passive, the omission, failure to act, or negligence on the part of Promoter, its employees, volunteers, agents, representatives, contractors, or subcontractors arising out of the use of County premises or by others under the direction, supervision, or invitation of Promoter.

In the event of a lawsuit against the County and/or MAS, and their respective officers, officials, agents, employees, or volunteers not defended by Promoter or Promoter's insurance carrier, Promoter shall reimburse County and/or MAS at

the conclusion of the litigation for costs of County personnel in defending such actions, unless litigation determines that County or MAS was solely negligent. Reimbursement for the time spent by such personnel shall be at the rate which would be charged for such services by private counsel.

General Requirements: Promoter shall purchase Workers' Compensation Insurance and General Liability as described below. The cost of such insurance shall be borne by Promoter.

Workers' Compensation Insurance: It is understood and agreed that there shall be no Workers' Compensation Insurance coverage provided for Promoter by the County or MAS. Promoter must purchase Workers' Compensation for their employees. Promoter is to require all subcontractors to provide coverage and agrees to hold harmless, indemnify and defend County and/or MAS from and against any claim filed by Promoter or any of its employees or volunteers for claims covered by Workers' Compensation Insurance.

Promoter's Limits of Insurance:

- a. General Liability: \$2,000,000 combined single limit per occurrence.
\$2,000,000 annual aggregate for bodily injury, personal injury and property damage. The limit provided by this policy will be dedicated to this Event and any aggregate limit will not be eroded by any other extent, loss or party. All liability coverage shall be on an "occurrence" basis.
- b. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County Risk Management Division. The County reserves the right to request additional

documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying Agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy must be approved by the County Risk Manager prior to the change taking effect.

- c. The policies are to contain, or be endorsed to contain, the following provisions:
 - a. The County and MAS, and their respective officers, officials, employees and volunteers are to be covered as insureds as respects: liability, arising out of the activities performed by or on behalf of Promoter; products and completed operations of Promoter; premises owned, occupied or used by Promoter; or automobiles owned, leased, hired or borrowed by Promoter. The coverage shall contain no special limitations on the scope of protection afforded to the County or MAS, and their respective officers, officials, employees or volunteers.
 - b. Under the property damage coverage provided by the insurance contract, it is understood that with respect to damage to County or MAS property by Promoter or by others under the direction, supervision, auspices or invitation of Promoter will be covered by the policy without regard to the County or MAS being an insured and the operation, care, custody, and control exclusion.
 - c. The full limits of liability provided by this policy including any general aggregate limit will apply separately to this Event.

- d. Promoter's insurance coverage shall be primary insurance with respect to the County and MAS and their respective officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, MAS, and their respective officers, officials, employees, or volunteers shall be excess of Promoter's insurance and shall not contribute with it in any way.
- e. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or MAS, and their respective officers, officials, employees or volunteers.
- f. Promoter's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- g. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County and MAS.
- h. Verification of Coverage: Promoter shall furnish the County and MAS with original endorsements effecting coverage and with certificates for all insurance required by this Agreement. The endorsements and certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the County and MAS thirty (30) days prior to the

Event. The County and MAS reserve the right to require complete certified copies of all required insurance policies at any time.

9. **Termination.** County shall have the right to terminate this Agreement based on noncompliance with this Agreement or failure by the Promoter to comply with any applicable federal, state, county or city laws, ordinances or rules. The County shall have the right to terminate the Agreement pursuant to this section upon giving thirty (30) calendar days' notice to MAS and the Promoter and an opportunity for the Promoter to cure the noncompliance within the thirty (30) day notice period. If the Promoter needs more than thirty days to cure the noncompliance, the Promoter will notify the County and MAS within the thirty (30) day notice period and request a specific additional number of days the Promoter needs to come into compliance. Upon receiving such a request for additional time to cure the compliance, the County shall notify the Promoter within five (5) calendar days of receiving the request whether the additional time to cure the compliance will be granted. The County's decision as to whether to allow additional time to cure the noncompliance must be reasonable under the circumstances. If the noncompliance has not been cured by the Promoter within the thirty (30) day notice period plus any extension thereof described in this section, the County may require immediate vacation of the premises.

10. **Governing Law.** The Agreement shall be governed by the laws of the State of Nevada, both as to interpretation and performance. Any lawsuit arising out of this Agreement shall be brought in the Second Judicial District for the State of Nevada.

11. **Attorney Fees.** In the event any of the parties is required to bring legal action to enforce the provisions of this Agreement, the prevailing party shall also recover reasonable attorneys' fees and costs of suit. Any legal action will be brought in the Second Judicial District for the State of Nevada.

12. **Assignment.** This Agreement shall be binding upon the parties, their representatives, successors and assigns. No assignment or transfer of this Agreement or any part thereof shall occur unless mutually agreed upon in writing by all Parties.

13. **Modification.** This Agreement may be modified in writing and signed by all Parties.

14. **Severability.** Each paragraph and provision of the Agreement is severable, and if one or more paragraphs or provisions of the Agreement are declared invalid, the remaining paragraphs and provisions of this Agreement will, if possible, remain in full force and effect.

15. **Entire Agreement.** This Agreement and references exhibit incorporated herein constitutes the entire Agreement between the Parties with regard to the subject matter herein and supersedes all prior Agreements, both written and oral, and all other written and oral communications between the Parties.

16. **Renewal.** In the event Promoter successfully performs and complies with all the conditions of this Agreement, and the County and MAS determine that holding the event is in the best interest of the County and MAS, the Purchasing and Contracts Administrator shall have the right to renew this Agreement with possible revisions excluding income distribution and period of time (at least five

consecutive weeks of event days in the summer from June to August). Income distribution will remain the same for future years of 2021, 2022 and 2023.

Promoter and County/MAS have the right to not renew the agreement and discontinue the following year's festival based on the festival performance of the current year. The party that does not want to renew the agreement should notify the other parties in writing no later than three months after the festival ending in the current year.

17. **Exclusivity.** The Promoter hereby grants County and MAS the exclusive right for five years from the effective date of this Agreement to host all Chinese lantern festivals to be produced by Promoter in Northern Nevada. County and MAS hereby commit to work with Promoter exclusively on all Chinese Lantern festivals or similar events for a period of five years from the effective date of this Agreement. If the Promoter or the County and MAS decide to terminate the contract for all remaining future years within the five-year period of exclusivity, the other party has the right to continue the festival with another venue in Northern Nevada or with another lantern company. This agreement supersedes any prior agreements.

18. **Income Distribution.** Promoter agrees, to pay County 10% of gross ticket sales, after deductions of taxes (if applicable) and credit card fees, monies to be deposited to the May Arboretum and Botanical Garden Restricted Fund. Income for admission revenue up to \$1,000,000, 10% to the County; for revenue over \$1,000,000 (from \$1,000,001 and up), 15% to the County. Promoter will provide County and MAS with daily ticketing sales and attendance reports, and weekly

settlement reports. Promoter will give the final settlement check to County within thirty (30) business days after the last day of the event. All payments to County shall be made payable to Washoe County and noted: "Restricted-May Arboretum Fund to support operations, maintenance and improvements at the Arboretum." Promoter shall keep and maintain records of all gross ticket sales for a period of one (1) year after the conclusion of the Event. Upon reasonable notice, prior to payment and negotiation of its final settlement check, County may, at its sole expense, audit any and all records in Promoter's possession, custody or control regarding ticket sales for the Event. Promoter agrees to cooperate with such audit and provide reasonable assistance and access to information. Promoter agrees to pay within seven days of written notification any additional amounts owed to County. In the event that the audit reveals a payment discrepancy in excess of \$500, then Promoter shall pay all costs of the audit within seven days.

19. **Force Majeure.** Neither party shall be held responsible for failure or delay to perform all or any part of this contract due to flood, fire, earthquake, drought, war, visa delay or visa rejections due to current unpredictable U.S. immigration policies, or similar force majeure which could not be predicted, controlled, avoided or overcome by the respective Party. A Party affected by an event of force majeure shall inform the other Party of its occurrence in writing as soon as possible and thereafter and a certificate of the event issued by the relevant authorities or other reasonable confirmation to the other Party within 15 days after its occurrence.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

WASHOE COUNTY, NEVADA

Acting by and through its
Board of County Commissioners

By _____
Vaughn Hartung, Chairman

Date_____

Tianyu Arts and Culture, INC.

By _____
Director and Chairman

Date_____

May Arboretum Society

By _____
President

Date_____