

**AGREEMENT
BETWEEN
CITY OF SHEBOYGAN
AND
MAKING SPIRITS BRIGHT, INC.
FOR USE OF EVERGREEN PARK**

THIS AGREEMENT, hereinafter referred to as the “Agreement,” is entered into this ____ day of _____, 20__ by and between the City of Sheboygan, a municipal corporation existing under the laws of the State of Wisconsin (the “City”), and Making Spirits Bright, Inc., (“MSB”) a Wisconsin non-stock corporation with its principal office at 3034 N. 20th Street, Sheboygan, Wisconsin 53081.

RECITALS

- I. For over 100 years, Rotary Clubs have recognized the needs of families in Sheboygan County and have been contributors to, and supporters of, organizations who address those concerns. The motto of Service Above Self is exemplified annually by the projects that the Rotarians support and the grants provided to individuals and organizations as a result of successful fundraisers.
- II. The Sheboygan County Rotary Clubs have combined their efforts in developing and providing the Making Spirits Bright annual drive-through holiday lights display in Evergreen Park and the Quarryview Center during the holiday season.
- III. The Sheboygan County Rotary Clubs are partnering with the Sheboygan County Food Bank by asking all who attend this family fun event to bring food pantry items as their admission to the park.
- IV. The Sheboygan County Rotary Clubs have established MSB as a non-stock not for profit corporation for the purposes of developing, promoting, organizing, planning and staging the annual event.
- V. The Sheboygan County Rotary Clubs, through MSB, are again requesting permission to utilize Evergreen Park and the Quarryview Center for the holiday light display event and asking that the parks be closed to vehicular traffic (other than light display patrons) to ensure safety for the event.
- VI. The City is willing to grant such permission subject to certain terms and conditions.

NOW, THEREFORE, in consideration of the recitals and mutual agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Grant of Premises and Term. The City agrees to make Evergreen Park available to MSB for its drive-through holiday light display, including set-up and take-down, from October 5, 2026 through January 31, 2032. The City agrees to make the Quarryview Center available to MSB between November 1, 2026 and December 31, 2031. Such permission is subject to the terms and conditions set forth in this Agreement. MSB may not install event-related equipment or materials prior to October 5 of each year and shall cause all such equipment and materials to be removed by the last Sunday in January of each year. MSB and its volunteers, agents, and employees shall comply with all applicable laws, ordinances, and park rules at all times of use and occupation.
2. Term and Termination. This Agreement shall be effective upon the date of final party execution and shall expire January 11, 2032. This Agreement shall automatically renew for up to five, successive, one-year terms unless terminated pursuant to this Agreement or unless either Party notifies the other of their intent to not renew, which must be provided to the other party by March 1 of the year of nonrenewal.
 - a. Termination for Cause. This Agreement may be terminated for cause by either Party upon fifteen (15) days' written notice if the other party defaults in the performance of this Agreement and the default continues for a period of fifteen (15) days after written notice to the other party stating specifically the default.
 - b. Termination for Convenience. This Agreement may be terminated at any time for any reason by either party. The Party seeking termination shall provide notice to the other party by January 1 of the terminating year.
3. Fee. Prior to March 1 of each year subject to this Agreement, MSB shall remit \$1,500 to the City for the use of Evergreen Park and the Quarryview Center.
4. Required Documents and Information.
 - a. MSB shall complete all event and/or equipment forms reasonably requested by the City's Department of Public Works, as soon as possible but not later than sixty days prior to anticipated set-up/need.
 - b. MSB shall provide the City's Department of Public Works with update files, compatible with current GIS database, showing the geolocated or surveyed positions of all installed infrastructure servicing MSB's holiday lights display.
 - c. MSB shall not commence any improvements within Evergreen Park intended to impact the park beyond the holiday light display installation-to-removal period. Any improvements desired by MSB shall be submitted to the City for approval. Such submission shall include all design plans and specifications. To the extent

that any existing City infrastructure within Evergreen Park conflicts with desired MSB improvements, MSB shall bear the sole cost to relocate and reinstall such infrastructure. MSB shall supply to the City the locations of private utilities installed on MSB's behalf within Evergreen Park within 72 hours of the City's request for same.

- d. MSB shall provide the City with a certificate of insurance illustrating the existence of a commercial general liability insurance policy providing at least \$2,000,000 in coverage, and with an additional insured endorsement naming the City as an additional insured.
5. Damages. MSB agrees to reimburse the City for actual costs to remedy damage incurred to the park or the Quarryview Center caused by or arising out of the use of said parks and park facilities under this Agreement.
6. Recognition. In recognition of the City's support of MSB, MSB shall recognize the City of Sheboygan as an in-kind donor in any written materials distributed at Making Spirits Bright, including a City logo on the map of Evergreen Park included in the written materials and any other recognition provided to other in-kind donors to MSB.
7. Notice. Any notice, consent, approval, request or other communication required or permitted to be given pursuant to this Agreement (a "Notice") shall be in writing and shall be either personally delivered or sent by first class mail, postage prepaid, to the address each of the Parties keeps on record for the other party, or to such other address as either party may give notice of from time to time in accordance with this Agreement. Delivery shall be deemed effective upon personal delivery or deposit in the United States mail. Routine business correspondence may be conducted via email, telephone, or in-person.
8. General Provisions.
 - a. Independent Parties. Nothing in this Agreement shall be construed to constitute any party as a partner, agent or joint venturer of the other party. Neither party shall make any contract or representation, or incur any liability or obligation whatsoever, on behalf or in the name of the other party, except as set forth in this Agreement, or as may be stated otherwise in other agreements between the Parties. Except as otherwise provided herein, each party shall be responsible for its own operational expenses incurred in the performance of this Agreement.
 - b. No Assumption of Liabilities. Neither party shall, by entering into and performing this Agreement, assume or become liable for any of the existing or future obligations, liabilities, or debts of the other party.
 - c. Hold Harmless and Indemnification. MSB agrees that it shall hold harmless and defend and indemnify the City from and against any and all claims, liabilities,

losses, damages or expenses (including reasonable attorneys' fees and expenses), which may arise during the term of this Agreement as a result of the use and/or occupancy of the park by its officers, agents and employees, or others acting by, through or under the express or implied authority of MSB including, but not limited to, any such claims, liabilities, losses, damages or expenses which may arise as a result of any personal injury, death or property damage occurring on or about the Premises or through activities occurring at the park except to the extent caused by the negligence or willful misconduct of the City.

- d. Assignment. The benefits, rights, and obligations set forth herein are personal to the Parties, and, except as provided for herein, may not be assigned or transferred to a third party without the prior written consent of the other party. Any attempted assignment in violation of this section shall be void. Without in any way limiting the foregoing, this Agreement shall be binding upon, enforceable by, and inure to the benefit of the Parties, their permitted successors and assigns.
- e. Entire Agreement. This Agreement contains the entire understanding between the Parties on the subject matter hereof and no representations, inducements, promises, or agreements, oral or otherwise, not embodied herein shall be of any force or effect. This Agreement supersedes any other oral or written agreement entered into between the Parties on the subject matter hereof.
- f. Amendment. This Agreement may be amended only by a writing signed by both parties.
- g. Waiver. No failure or delay of any party in exercising any right or power given to it under this Agreement shall operate as a waiver thereof. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent, or subsequent breach. No waiver of any breach or modification of this Agreement shall be effective unless contained in writing executed by both parties.
- h. Severability. The invalidity or unenforceability of any particular provisions of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
- i. Force Majeure. Neither party shall be deemed to be in violation of this Agreement if such party is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control, including, without limitation, acts of God or of any public enemy, elements, flood, strikes, or statutory or other law, regulation or rule of the federal or any state or local government or any agency thereof.

- j. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.
- k. Counterparts. This Agreement may be executed in two or more counterparts, including by signature pages provided by facsimile or in PDF format. All such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

MAKING SPIRITS BRIGHT, INC.

CITY OF SHEBOYGAN

By: _____

By: _____

Ryan Sorenson
Mayor

Date: _____

Date: _____

ATTEST:

Meredith DeBruin
City Clerk

Date: _____