



CITY OF PORTSMOUTH

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John P. Bohenko
City Manager

May 3, 2017

Ben Anderson, Executive Director
Prescott Park Arts Festival
105 Marcy Street
Portsmouth, NH 03801

Dear Ben:

This letter will serve to memorialize the series of agreed upon terms of operation for the Prescott Park Arts Festival (PPAF) for the 2017 season. I appreciate the coordination and work of you and your staff as we have discussed the various topics and issues of concern.

As you know, there is currently an Operating Agreement from the year 2012 to which the City and the Arts Festival are parties. That agreement (Included as Appendix A to this letter) is still in effect and underlies this letter agreement. This letter, which I request you sign and return, will serve as a useful summary and reference for the various critical parameters for the Arts Festival operation this coming season. As you know, in keeping with the recently adopted Prescott Park Master Plan, I plan – in coordination with the Prescott Park Policy Advisory Committee – to enter into discussions with all of the non-profit operators in the Park with the goal of having a new License Agreement in place for the 2018 season. Those discussions will take place following this 2017 season.

Please indicate your agreement with this letter by signing and returning at your earliest convenience.

Below are the agreed upon terms for the Festival's operations in the Park:

1. Prescott Park Arts Festival Event & Performance Schedule for 2017

- A. The approved schedule of events for the 2017 season can be found in Appendix B. No deviations from this schedule will take place without the advance written approval from the City Manager. No increase in the total number of events will be permitted; no increase in concerts will be permitted.
- B. Parameters for the 2018 Event & Performance Schedule will be provided to the PPAF in September 2017 (generated in coordination with the Prescott Park Policy Advisory Committee); no commitments should be made to any act or organization for the

2018 season, which would prevent the organization from complying with the schedule parameters.

- C. At the conclusion of each month, and prior to the 5th day of the next month, the Arts Festival will submit a report to the City Manager about the events/performance in the previous month. This provision is intended to capture the actual total of events/performance held after accounting for events cancelled due to rain, agreed upon schedule changes (refer to A. above); and events not held as planned (for any reason). Other information to be contained in the report includes:
 - a. Attendance at each event, by event.
 - b. Actual start and end times of performances.

2. Start and End Times of Performances

- A. The start and end times of performances shall be as listed in chart form in Appendix C.
- B. Rain delays will only be one-half hour. For example, 7p.m. shows will start no later than 7:30 p.m. or will be cancelled; 8 p.m. shows will start no later than 8:30 p.m. or be cancelled. All other event cancellations (for shows starting prior to 7:00 p.m.) to be determined by the PPAF.

3. Intermission Time

- A. Intermission will be limited to 20 minutes; as has been done in recent years to manage performance length overall.

4. Backstage Areas, Stage and Truss System

- A. The season back stage set-up and temporary facilities shall be shown on a plan and, prior to installation/set-up, approved by the City Manager. The stage will remain at its current location for the 2017 season.
- B. The backstage fenced-in area for 2017 shall be limited to an area which is 72' by 94'. All applicable, building permits shall be applied for and received prior to installation. The location of the area will be staked and marked by the Department of Public Works.
- C. The PPAF will be granted exclusive use of the Shaw Warehouse Garage (addition closest to the Piscataqua River), on a temporary basis, subject to City inspection at any time. The temporary use of the garage addition (920 sq. feet) shall extend from May 2, 2017 to October 12, 2017. This use is granted on the following terms: the space shall be used solely for storage of materials and equipment directly related to the seasonal operation of the Festival events taking place in the Park; there shall be no modifications to Shaw building (interior or exterior); no storage of hazardous

materials, no smoking in the building. Cooking, eating and sleeping in the building is expressly excluded.

- D. The backstage area shall be kept clean and in good order at all times. Inspection of the premises may take place at any time by the City. A list of the contents in the space shall be provided to the City.
- E. The building will be kept secure and locked at all times. A key shall be provided to the City Manager or his designee prior to occupancy.
- F. The PPAF shall apply for all appropriate and applicable building permits prior to the erection of the stage set and truss system. This will include permits for the temporary facilities as appropriate, the stage set, the truss system for sound and lighting equipment and all other related structures.

5. Water Street Lot

- A. Vehicles (including tour busses and RVs) associated with PPAF performances, such as touring acts, shall be permitted on Water Street at location(s) determined by the City Manager. Vehicles will not be permitted to idle. The City will explore an electrical service to facilitate this use.
- B. The PPAF will not lease, license or otherwise charge for parking on Water Street or any surface parking in the lot.
- C. The PPAF understands the City has the ability to establish procedures and terms of use for the Water Street parking lot. Changes to the rules of the use of the lot may be implemented in 2017 at any time and notice will be provided to the PPAF.

6. Sound

- A. A sound management plan will be developed by the City and the PPAF will cooperate in its implementation.
- B. The Prescott Park Arts Festival will create a communication protocol to alert members of the public about when sound checks for concert nights will take place and end.

7. Site Signage

- A. An overall plan for signage in the Park shall be submitted for the City Manager's approval prior to installation of signage. The signage plan should be developed using the Design Tenets and governance recommendations of the 2017 Prescott Park Master Plan as a guide. No signage other than that on the approved plan will be erected, installed or projected.

8. Parking and Traffic Mitigation

- A. The PPAF will actively work to mitigate the parking and traffic impacts associated with the PPAF operations. At a minimum the following is agreed to:

- iii. Drop-offs of children for PPAF events shall be conducted in a safe manner and the PPAF has arranged for an off-site drop of enabling safe crossing into the Park at crosswalks with staff assistance.
- iv. Promote of the City's parking shuttle between Hanover Street and the "CCC" lot of Market Street Extension (Friday through Sunday).

9. Gates and Roping

- A. The PPAF is permitted to erect the entry "gate" system and flagging, in the same number and configuration as 2016. The City reserves the right to create a two week pilot at the end of the season for the creation of a throughway access, which is unimpeded by the PPAF gate system. The entrances on either end of throughway access will have no gates or roping across them. As part of the pilot, the City will determine the final location of the path and make necessary adjustments to the PPAF's "gate" and roping as necessary.
- B. The gates and flagging should not be placed earlier than 2.5 hours prior to the start of any event. In no case should the gates be erected when they are not staffed, (except for the initial half-hour of the 2.5 hour period, which will serve as a "grace" period during set up).

10. Alcohol

- A. A summary of PPAF efforts to ensure compliance with the City Ordinance and deed language regarding alcohol will be submitted to the City Manager for approval prior to the start of the season events/performances (June 3, 2017). Examples of plan elements include:
 - i. Stage speech indicating the no alcohol policy.
 - ii. Signage at entry gate points (same as end of last year)
 - iii. Visible notices on the PPAF website indicating alcohol is not permitted in Prescott Park.
 - iv. Police detail on-site for all concerts

11. Blanket Policy

- A. The PPAF is responsible for administering the policy on blankets as outlined below.
 - i. Neither unattended blankets nor lawn chairs shall be placed on the lawn earlier than 3 p.m., or four hours before any performance. No plastic or other tarps shall be permitted.
 - ii. A blanket area shall be designated. The area shall be approved by the City Manager.

- ii. A blanket area shall be designated. The area shall be approved by the City Manager.
- iii. Once again, PPAF blanket reservations will be limited to six per event; reserve blanket placements shall be subject to the same terms in this section (no placement prior to three hours before a performance).
- iv. This provision will not prevent blankets or lawn chairs from being placed in the lawn area in front of the stage earlier than three hours before a show, if they are attended to by park visitors.
- v. This information shall be posted clearly in the lawn area in front of the stage.
- vi. Primary responsibility for enforcing this provision lies with the PPAF.

12. Operating Agreement Payment

Section 19. of the 2012 Operating Agreement (page 4 in Appendix A) refers to payment to the City on an annual basis. The City and PPAF intend to negotiate this payment prior to June 30, 2017.

Sincerely,



John P. Bohenko
City Manager
City of Portsmouth



Ben Anderson
President
Prescott Park Arts Festival

APPENDIX A

2012 Operating Agreement

AGREEMENT BETWEEN THE TRUSTEES OF TRUST FUNDS OF THE CITY OF PORTSMOUTH AND THE PRESCOTT PARK ARTS FESTIVAL

This agreement is entered into between the Trustees of Trust Funds (hereinafter "Trustees") of the City of Portsmouth, with a principal place of business at Water Street, Portsmouth, New Hampshire and a mailing address at P.O. Box 1103, Portsmouth New Hampshire 03802-1103 and the Prescott Park Arts Festival (hereinafter "PPAF") with a principal place of business at Portsmouth, New Hampshire and a mailing address at P.O. Box 4370, Portsmouth New Hampshire 03802-4370.

WHEREAS, the Trustees, operating under the authority of the Portsmouth City Council, administer the operation of Prescott Park (hereinafter "the Park") located on Marcy Street in the City of Portsmouth; and

WHEREAS the Trustees desire to have PPAF direct artistic and cultural events in the Park on behalf of the Trustees and the City; and

WHEREAS, the Trustees desire to engage the services of PPAF for the purposes contained herein; and

WHEREAS, PPAF desires to perform the services described herein;

NOW THEN the Trustees and PPAF agree as follows:

PERFORMANCES

1. During the term of this agreement PPAF shall be the sole entity provided with authority from the Trustees to schedule performances or cultural events within the Park and on the stage located within the Park.
2. At least 14 (fourteen) days prior to the scheduling of any performance or cultural event in the Park or on the stage, PPAF shall provide the Trustees and the Park Supervisor with written notice of the event to be scheduled, and the Trustees and the Park Supervisor shall have the complete authority to determine whether or not such performance shall occur. PPAF shall provide one (1) notice of the combined series of events collectively called "The Prescott Park Arts Festival", which notice shall be provided to the Trustees and the Park

Supervisor at least ninety (90) days before the commencement of the first event. PPAF shall not advertise for any event until that event has been approved by the Trustees and the Park Supervisor .

3. It is anticipated by this agreement that PPAF shall schedule the following types of performances and cultural events:
 - a. Musical concerts
 - b. Theater performances
 - c. Dance performances
 - d. Theater classes
 - e. Up to three food festivals located within the Park as approved by the Trustees and the Park Supervisor
 - f. Movies
 - g. Such other performances or uses of the stage as may be authorized by the Trustees and the Park Supervisor.

THE STAGE

4. PPAF understands that the stage located in the Park is not a forum for public expression, but rather is strictly limited in use to artistic performances and cultural presentations as authorized by the Trustees and the Park Supervisor.
5. As such the stage may not be used by any party for any purpose other than as expressly authorized by the Trustees and the Park Supervisor.
6. No advertising or signage of any kind shall be placed on or near the stage, or the outside perimeter of the Park (lawns, fences et cetera) without specific authorization by the Trustees and the Park Supervisor.
7. All stage set construction shall be done in accordance with applicable municipal codes (e.g., electrical) and be subject to inspection by municipal inspectors.
8. At all times PPAF shall maintain the stage site in a clean and safe condition and subsequent to the end of "The Prescott Park Arts Festival", PPAF shall remove all site construction, remove all trailers, tents and leave the stage site in a clean and safe condition, and all the foregoing to be done all in a timely manner.
9. All vehicle loading and unloading, including materials, equipment, costumes, musicians instruments et cetera will be done to the rear of the stage from the parking lot, unless specific approval is given by the Park Superintendent.
10. PPAF shall maintain clear access in the vicinity of the stage during all performances sufficient for police vehicle or ambulance use.

THE PARK

11. PPAF recognizes the policy that the Park is to be maintained at all times as a place where members of the public may enjoy its use without charge. Except as expressly authorized by the Trustees and the Park Supervisor no money may be collected from anyone for any purpose within the Park.
12. Notwithstanding the foregoing, the Trustees authorize PPAF to solicit donations from the public. However, such donations must be collected in a manner, by signage or otherwise, which clearly informs the donors that their contribution is voluntary. Public access to and through the Park should not be hindered or restricted by gates, ropes or obstructions of any kind which prevent the public from utilizing the normal pathways through the Park or the fenced perimeter of the Park.
13. PPAF is not authorized to allow the placement of any signs or advertising anywhere within the Park without the prior express written approval of the Trustees and the Park Supervisor.
14. PPAF shall use best efforts to assist Park personnel in enforcing the rules of the Park, (e.g., no alcohol, no dogs, no outside vendors or soliciting, and no public expression outside of the public forum areas).

CONCESSION STAND

15. The Trustees authorize PPAF to operate the concession stand within the Park and to sell food and merchandise at that location. PPAF shall have the authority to determine what items are to be sold at that concession stand and what amount is to be charged for the sale of such items. All concession stand revenues shall remain with PPAF.
16. PPAF shall at all times during its events maintain the concession stand and the area surrounding it in a clean and safe condition and shall keep the bathrooms in a clean condition with bathroom items stocked. The concession stand and bathrooms shall be secured when not in use. The obligations under this provision shall apply whenever the concession stand is utilized by either PPAF or any entity operating under the authority of PPAF.
17. The concession stand shall be operated under such terms and conditions as may be established by the City Council, City Manager or the Trustees.

PROPERTY TO BE USED AND OCCUPIED BY PPAF

18. In the performance of its responsibilities under this agreement, PPAF shall have the right, in conjunction with the Trustees, to use and occupy the following properties;
- a. The Concession Stand
 - b. The Stage (as limited by this agreement)
 - c. The third floor of the Shaw Building, which may be used for the storage of items related to artistic performances.
 - d. The second floor offices located in the Shaw Building used by PPAF at the time that this agreement is entered.
 - e. Four trailers behind the main stage for storage purposes in support of artistic performances which might occur on the stage.
 - f. Temporary structures in the vicinity of the stage in order to accommodate dressing rooms, the storage of materials and storage of equipment related to performances which may occur on stage.
 - g. A trailer behind the concession stand for food storage purposes.
 - h. The first and second floor of the Sheafe Warehouse.
 - i. The sound building.
 - j. The newly constructed support building scheduled for occupancy in June 2012 (see building permit #: 2011-00820).
 - k. The 4' x 4' storage building.
 - l. The existing deck of approximately 20' x 100' located next to the merchandise which may be used by PPAF for paid reserved seating purposes.

All property used or occupied by PPAF shall be kept in a clean, neat and sanitary condition at all times.

19. Each year the Trustees and PPAF shall conduct good faith negotiations to address shared park operating costs. For purposes of this provision the term park operating costs shall mean:
- a. Direct occupancy costs paid by Trustees, such as utilities, repairs and maintenance attributable to PPAF.
 - b. Indirect costs paid by Trustees as a result of crowds brought to the park by PPAF, such as consumable supplies, repairs and maintenance to park property and utility consumption.
 - c. Park staff time required to support PPAF activities.

OTHER PPAF ACTIVITIES

20. Beyond artistic performance, PPAF is specifically authorized to perform the following functions at such dates, times and place as may be approved by the Trustees and the Park Supervisor:
- a. PPAF may conduct a juried art show on the ground floor of the Sheafe Warehouse in conjunction with the New Hampshire Art Association.
 - b. PPAF may conduct a one day art exhibit outdoors in the Park.
 - c. PPAF may conduct a Chili Festival, which may include a participation fee.
 - d. PPAF may conduct a Chowder Festival, which may include a participation fee.
 - e. In conjunction with the Friends of the South End (FOSE) PPAF may conduct the so-called "Fairy House Tours".

TERM

21. The term of this agreement shall commence upon its completed execution and be automatically renewed, on a year to year basis, unless amended by the parties. Either party may terminate this agreement without cause by providing sixty (60) days notice to the other party.

INSURANCE AND FINANCES

22. PPAF shall maintain at all times during the term of this agreement general liability insurance in a coverage amount of at least \$2,000,000.00 per occurrence naming the City of Portsmouth and the Trustees of Trust Funds as additional insureds, certificates indicating the existence of such insurance shall be kept on file at all times in the office of the City Attorney of the City of Portsmouth.
23. Financial Books and records of PPAF shall be open for review at all times by the Trustees upon reasonable notice to PPAF.
24. At any time during the term of this agreement on request of the Trustees PPAF shall provide the Trustees with a full accounting of all income and expense, including donations, sponsorships, and income of any form received by PPAF for the prior calendar year.
25. PPAF shall adopt a cash handling policy meeting the approval of the Trustees, which policy shall be in place prior to the commencement of the summer of 2009 performances, and which policy shall not be modified or amended without the written approval of the Trustees.

26. At the close of the performance season, PPAF shall provide the Trustees with complete annual financial statements reflecting all financial activities of PPAF.

MISCELLANEOUS

27. PPAF recognizes that the Trustees and Park management schedule use of the Park for weddings, dock reservations, public forum area events and Four Tree Island events and PPAF shall make whatever reasonable accommodations are necessary to allow those scheduled items to occur without interference.
28. Neither this agreement nor any of the authority granted under it shall be transferrable or assignable in any way by PPAF.
29. This agreement may be terminated by the Trustees at any time it is determined by the Trustees in the exercise of reasonable judgment that PPAF has operated in breach of its terms.
30. This agreement describes the entire relationship between the Trustees, the Park Supervisor and PPAF. PPAF shall have no authority to conduct any activity not specifically authorized herein.
31. In interpretation of this agreement the parties recognize that the Trustees and the Park Supervisor authorize PPAF to operate during the currently scheduled season in a manner generally consistent with the operation of PPAF in past seasons.
32. PPAF understands that the Park Supervisor represents the Trustees in all matters connected with the Park and with the administration of this agreement and that he/she speaks with the authority of the Trustees on these matters. To facilitate communication the Executive Director or his/her designee of PPAF and the Park Supervisor shall hold weekly meetings during the summer season of PPAF and other meetings to be scheduled on the call of the Park Supervisor for the purpose of addressing any issues of concern to either PPAF or the Park Supervisor.
33. Every year, prior to the commencement of summer activities by PPAF, there shall be a meeting held between the full Board of Directors of PPAF and the Trustees of Trust Funds for the purpose of considering all matters of mutual concern.

PRESCOTT PARK ARTS FESTIVAL

Dated: 07/23/12


Ben Anderson, Executive Director

Dated: 07/23/12


Sandi Hennequin, President

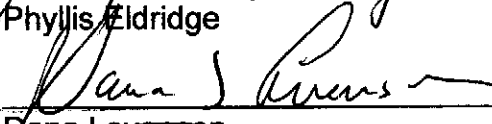
As authorized by the PPAF Board of Directors on
June 19, 2012.

Accepted by the Trustees of Trust Funds.

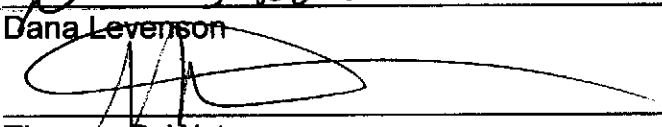
Dated: 8-7-12


Phyllis Eldridge

Dated: 8/8/12


Dana Levenson

Dated: 8/8/2012


Thomas R. Watson

Approved by vote of the City Council on
9/4/12, 2012.

APPENDIX B

Prescott Park Arts Festival Event & Performance Schedule for 2017

PPAF Event History					
	2017	2016	2015	2014	2013
Musicals	36	36	36	36	36
Concerts	25	24	27	22	19
Community Showcases	14	14	23	13	14
Meet and Greets	2	2	2	2	2
Camp Shows	4	4	4	2	1
Food Festivals	1	1	0	3	4
Fairy House Tours	2	2	2	2	2
Shakespeare	0	5	6	5	6
Movies	10	10	12	12	13
Road Race	1	1	1	1	1
Total Events	95	99	113	98	98

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	31	Jun 1	2	3
						11a - 4p Chowder
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
7p Concert			7p Concert		5:30p Community Showcase	
					8p Mary Poppins	8p Mary Poppins
25	26	27	28	29	30	
	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	
7p Mary Poppins		7p Concert	7p Concert	7p Mary Poppins	7p Concert	

Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	26	27	28	29	30	Jul 1
						1p Mary Poppins
						7p Concert
2	3	4	5	6	7	8
	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	11a Cast Meet & Greet
						1p Mary Poppins
7p Mary Poppins			7p Concert	7p Mary Poppins	7p Concert	5:30p Community Showcase
						8p Mary Poppins
9	10	11	12	13	14	15
1p Mary Poppins	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	10a Camp Show
						1p Mary Poppins
7p Concert	8:30p Movie		7p Concert	7p Mary Poppins	5:30p Community Showcase	5:30p Community Showcase
					8p Mary Poppins	8p Mary Poppins
16	17	18	19	20	21	22
10a Camp Show	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	
12p Jazz Fest						
7p Mary Poppins	8:30p Movie		7p Concert	7p Mary Poppins	5:30p Community Showcase	5:30p Community Showcase
					8p Mary Poppins	8p Mary Poppins
23	24	25	26	27	28	29
	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	9a Theatre Camp	10a Camp Show
1p Mary Poppins						1p Mary Poppins
7p Concert	8:30p Movie		7p Concert	7p Mary Poppins	7p Up, Down & Away	5:30p Community Showcase
						8p Mary Poppins
30	31	Aug 1	2	3	4	5
10a Camp Show						
7p Mary Poppins	8:30p Movie					

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		Aug 1	2	3	4	5
						11a Cast Meet & Greet
						1p Mary Poppins
			7p Concert	7p Concert	5:30p Community Showcase	5:30p Community Showcase
					8p Mary Poppins	8p Mary Poppins
6	7	8	9	10	11	12
						1p Country Fest
7p Mary Poppins	8p Movie		7p Concert	7p Mary Poppins	7p Concert	5:30p Community Showcase
						8p Mary Poppins
13	14	15	16	17	18	19
1p Mary Poppins						1p Mary Poppins
7p Mary Poppins	8p Movie		7p Concert	7p Mary Poppins	5:30p Community Showcase	5:30p Community Showcase
					8p Mary Poppins	8p Mary Poppins
20	21	22	23	24	25	26
5p 30 Pages / 30 Days						
7p Mary Poppins	8p Movie		7p Concert	8p Movie	8p Movie	7p Concert
27	28	29	30	31		
				8p Movie		

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					Sep 1	2
						7p Concert
3	4	5	6	7	8	9
7p Concert					7p Swan Lake	7p Swan Lake
10	11	12	13	14	15	16
17	18	19	20	21	22	23
						11a Fairy House Tour
24	25	26	27	28	29	30
11a Fairy House Tour						

Today

<>

October 2017

Day


Week

Month

4 Days

Agenda

More ▾

 ▾

Sun	Mon	Tue	Wed	Thu	Fri	Sat
Oct 1	2	3	4	5	6	7
8	9	10	11	12	13	14
8:30a Road Race						
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

APPENDIX C

Start and End Times of Performances

End Times

Event Type	Start Time	Internal Stop Goal	Hard Stop	Duration Goal
Musical Events				
Musical Matinee	1:00pm	3:40pm	4:00pm	2.5 hours
Thursday/Sunday Musical	7:00pm	9:40pm	11:00pm	2.5 hours
Friday/Saturday Musical	8:00pm	10:40pm	11:00pm	2.5 hours
Cast Meet and Greet	11:00am	1:00pm	1:00pm	2 hours
Community Events				
Swan Lake	7:00pm	9:15pm	10:00pm	2.25 hours
Community Showcase	5:30pm	6:30pm	6:45pm	1 hour
Ice Cream Social	5:00pm	8:00pm	11:00pm	3 hours
Music Events				
Concert	7:00pm	9:30pm	10:00pm	2.5 hours
Jazz Festival	12:00pm	5:00pm	5:15pm	5 hours
Country Festival	1:00pm	5:00pm	5:15pm	4 hours
Canada Festival	7:00pm	9:30pm	10:00pm	2.75 hours
Other				
Movie	Dusk, 7:45pm-8:45pm	10:15pm	11:00pm	1.5-2.5 hours
Food Festival	11:00am	4:00pm	4:00pm	5 hours
Camp Show	10:00am	11:30am	12:00pm	1.5 hours
30in30	5:00pm	6:00pm	6:30pm	1 hour
Fairy House Tours	11:00am	4:00pm	4:00pm	5 hours
Road Race	8:30am	10:45am	11:00am	2.25 hours
Rehearsals				
30in30 Rehearsals	3:00pm	5:00pm	5:00pm	2 hours
Swan Lake Rehearsal	5:00pm	11:00pm	11:00pm	6 hours
Musical Rehearsal	5:00pm	11:00pm	11:00pm	6 hours