



**COUNTY OF ORANGE**

**OC COMMUNITY RESOURCES—  
OC PARKS**

**CONTRACT No. MA-012-16011855  
FOR  
MANAGEMENT SERVICES  
FOR  
OCPARKS SUMMER CONCERT SERIES**

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## CONTRACT

This Agreement, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between the County of Orange, a political subdivision of the State of California; hereinafter referred to as "County," and The ACE Agency, Inc., with a place of business at 221 N. Sycamore Street, Santa Ana, CA 92701; hereinafter referred to as "Contractor," with County and Contractor sometimes referred to as "Party", or collectively as "Parties."

## RECITALS

**WHEREAS**, Contractor responded to a Request for Proposal ("RFP") for Management Services for the OC Parks Summer Concert Series; and

**WHEREAS**, the Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the RFP; and

**WHEREAS**, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for Management Services for the OC Parks Summer Concert Series with the Contractor;

**NOW, THEREFORE**, the Parties mutually agree as follows:

## ARTICLES

### I. Contract Specific Terms and Conditions

1. **Scope of Contract**: This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work and Specifications, which is attached hereto as Attachment A and incorporated by this reference.
2. **Term of Contract**: ~~This is a one (1) year Contract commencing on May 11, 2016, or upon execution of all necessary signatures or approval by the Orange County Board of Supervisors, whichever occurs later, and shall be renewable for four (4) additional, one (1) year term, unless otherwise terminated by either Party according to terms and conditions herein.~~  
~~The term of Contract is renewed for nineteen (19) months commencing on May 11, 2019 through December 31, 2020 in an amount not to exceed \$800,000.00, for a cumulative total of \$1,800,000.00, unless otherwise terminated by either Party according to terms and conditions herein.~~  
Contract shall be extended for one (1) additional year effective January 1, 2021 through and including December 31, 2021, in an amount not to exceed \$400,000.
3. **Precedence**: The documents consist of this Contract and its attachments and exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the attachments and exhibits.
4. **Conflict of Interest**:
  - A. **County Personnel**: The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
  - B. **Contractor's Personnel**: The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier

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Contractors; and third parties associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments,

loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

5. **Default (Contractor):** If Contractor is in default of any of its obligations hereunder and Contractor has not commenced cure with ten days and cured such default within 30 days after receipt of written notice of default from County, County shall immediately be entitled, or otherwise under law, to either commence resolution in accordance with this paragraph or to terminate this Contract by giving notice to take effect immediately and begin negotiation with a third-party Contractor to provide services.

The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

Nothing in this section shall affect in any way County's right to terminate the Contract pursuant to Section K herein.

6. **Contractor's Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract and to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager, which consent shall not be unreasonably withheld.

The Contractor's Project Manager and Key Personnel shall be assigned to this Contract for the duration of this Contract and shall diligently pursue all work and services to meet the project timelines. Contractor's Key Personnel are those individuals who report directly to the Contractor's Project Manager.

7. **County's Project Manager:** The County shall appoint a Project Manager to act as liaison between the County and the Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor. The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager and Key Personnel. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's Project Manager. The County is not required to provide any reason, rationale or additional factual information if it elects to request any specific Contractor Project Manager or Key Personnel be removed from performing services under this Contract. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager and Key Personnel. Said approval shall not be unreasonably withheld.

8. **Subcontracting:** No performance of this Contract or any portion thereof may be assigned or subcontracted by the Contractor without the express written consent of the County. Any attempt by the Contractor to assign or subcontract any performance of this Contract without the express written consent of the County shall be invalid and shall constitute a breach of this Contract.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall prevail and the terms of the subcontract shall incorporate by reference and not conflict with the terms of this Contract. In the manner in which the County expects to receive services, the County shall look to the Contractor for performance and not deal directly with any subcontractor. All matters related to this Contract shall be handled by the Contractor with the County; the County will have no direct contact with the subcontractor in matters related to the performance of this Contract. All work must meet the approval of the County of Orange.

9. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract

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- A. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
- B. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
- C. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
- D. County may terminate the Contract immediately without penalty.

**10. Conflict with Existing Law:** The Contractor and the County agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provisions shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the contract shall be terminated in a manner commensurate with interests of both parties to the maximum extent reasonable.

**11. Disputes:**

- A. The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Purchasing Agent by way of the following process:
  - 1. The Contractor shall submit to the Agency/Department assigned buyer a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this contract, unless the County, on its own initiative, has already rendered such a final decision.
  - 2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the contract adjustment for which the contractor believes the County is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this contract, the contractor agrees to diligently proceed with the performance of this contract, including the delivery of goods and/or provision of services. The contractor's failure to diligently proceed shall be considered a material breach of this contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the contractor's demand, it shall be deemed a final decision adverse to the contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of the County's final decision or one year following the accrual of the cause of action, whichever is later.

**12. Termination:**

- A. General. In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause, or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of contract, any

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misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligations.

- B. Convenience of the County. The provision of services under this Contract may be terminated by the County in whole, or the remaining part, whenever the County shall determine that such termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which provision of services under the Contract are terminated, and date upon which termination will become effective.

After receipt of the Notice of Termination except as otherwise directed by County, Contractor shall:

1) stop performing under the Contract on the date specified and to the extent specified in the Notice of Termination; 2) place no further orders or subcontracts for materials, services or facilities except as may necessary for the completion of such portion of the work under the Contract that is not terminated; 3) terminate all orders and subcontracts to extent that they relate to the work terminated; and 4) continue to provide services as directed by the County; and, 5) take such action as is necessary, or as the County may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the County has or may acquire interest.

Thereafter, but in no event later than sixty (60) days from the effective date of termination, unless one or more extensions are granted by the County upon the request of the Contractor made in writing within the 60-day period or extensions thereof authorized, Contractor shall submit a termination claim to the County, if applicable.

Upon termination County agrees to pay the contractor for products provided and services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract.

- C. Termination – Default. If Contractor is in default of any of its obligations under this contract and has not commenced cure within ten days after receipt of a written notice of default from County and cured such default within the time specified in the notice, the County shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this Contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this Contract. Upon termination of the Contract with Contractor, the County may begin negotiations with a third-party contractor to provide goods and/or services as specified in this contract.

The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

- D. Termination – Orderly. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each party will assist the other party in orderly termination of this Contract and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each party.

13. Equal Employment Opportunity: Equal Employment Opportunity - Contractor shall comply with U.S. Executive Order 11426 entitled “Equal Employment Opportunity” as amended by executive order 11375, and as supplemented in department of Labor regulations (41 CFR, part 60) and applicable State of California regulations as either or both may now exist or be hereinafter amended. Employer must not



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discriminate against employee or applicant for employment, on the basis of race, color, national origin, or ancestry, religion, sex, marital status, political affiliation, physical or mental condition.

Handicapped individuals – Contractor agrees to comply with the provisions of section 504 of the rehabilitation act of 1973, as amended pertaining to prohibition of discrimination against qualified handicapped persons in all programs, and/or activities as detailed in regulations signed by the Secretary of DHHS effective June 3, 1997 and found in the Federal Register, Volume #42 No. 68, dated May 4, 1997, as all may now exist or be in the future amended.

Americans with Disabilities (ADA) – Contractor agrees to comply with applicable provisions of Title 1 of Americans with Disabilities Act enacted in 1990.

14. **Americans with Disabilities (ADA):** Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.
  15. **Correspondence to Buyer:** Any correspondences related to the terms, prices and conditions of this Contract must be directed to the Agency/Department purchasing division to the attention of the assigned buyer. Correspondence not directed through the buyer for resolution will not be regarded as valid.
  16. **Reports/Meetings:** The County's Project Manager and the Contractor's Project Manager will meet on reasonable notice to discuss the Contractor's performance and progress under this Contract. If requested, the Contractor's Project Manager and other project personnel shall attend all meetings. The Contractor shall provide such information that is requested by the County for the purpose of monitoring progress under this Contract.
  17. **Copyright Access:** Notwithstanding anything to the contrary, the County shall have a royalty-free nonexclusive and irrevocable license to publish, translate, or use, now and hereafter, all material developed specifically for, or by, the County under this Contract.
  18. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this agreement without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
  19. **Ownership of Documents:** All reports, graphics, working papers and other incidental work or materials furnished hereunder shall become and remain the property of the County, and may be used by County as it may require without any additional cost to County. No reports shall be used by the Contractor without the express written consent of County.
  20. **Title to Data:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after termination of this Contract without the express written consent of the County.
- All parties to the Contract acknowledge that the County shall maintain ownership and control of all data files and the related indexes and pointers to those data files.
21. **Royalties:** The County will not pay royalties as a result of work performed under this contract. All written work resulting from this Contract shall be the property of the County of Orange, and any

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copyrights associated with that work shall belong to the County of Orange and shall be so designated on the written materials.

- 22. Changes/Amendments/Extra Work:** The Contractor shall make no changes to this Contract without the County's written consent. In the event that there are new or unforeseen requirements, the County Project Manager has the discretion with the Contractor's concurrence, to make changes at any time without changing the scope or price of the Contract.

If County-initiated changes or changes in laws or government regulations affect price, the Contractor's ability to deliver services, or the project schedule, the Contractor will give County written notice no later than ten (10) days from the date the law or regulation went into effect or the date the change was proposed and Contractor was notified of the change. Such changes shall be agreed to in writing and incorporated into a contract amendment. Said amendment shall be issued by the County-assigned buyer, shall require the mutual consent of all parties, and may be subject to approval by the County Board of Supervisors. Nothing herein shall prohibit the Contractor from proceeding with the work as set forth in this Contract.

All extra work/services are by mutual consent of all parties and may be subject to the approval of the County Board of Supervisors.

- 23. Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties' Project Managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the Parties hereto may designate by written notice from time to time in the manner aforesaid.

Contractor:	<del>The ACE Agency, Inc.</del> <del>221 N. Sycamore Street</del> <del>Santa Ana, CA 92701</del> <del>Website: <a href="http://TheACEAgency.com">http://TheACEAgency.com</a></del>	<u>The ACE Agency, Inc.</u> <u>Attn.: Ashley Patterson, CEO</u> <u>3420 Bristol Street, Suite 430</u> <u>Costa Mesa, CA 92626</u> <u>Phone: (949) 285-9239</u> <u>Email: <a href="mailto:Ashley@theaceagency.com">Ashley@theaceagency.com</a></u> <u>*Ashley Eckenweiler, CEO</u> <u>Phone: 949.285.9239   Mobile: 949.285.9239   Fax: 949.723.1922</u> <u>Email: <a href="mailto:ashley@theaceagency.com">ashley@theaceagency.com</a></u>  <u>*Kim Eckenweiler, CPA, Accounts Payable</u> <u>Phone: 949.723.1825   Fax: 949.723.1922</u> <u>Email: <a href="mailto:keckenweiler@gmail.com">keckenweiler@gmail.com</a></u>
County:	<del>County of Orange</del> <del>OC Community Resources   OC Parks</del> <del>Purchasing &amp; Contract Services</del> <del>1770 N. Broadway, 4<sup>th</sup> floor</del> <del>Santa Ana, CA 92706</del> <del>Attn: Diana Lin, Deputy Purchasing Agent</del> <del>Phone: 949.585.6464   Fax: 714.667.6522   Email: <a href="mailto:Diana.Lin@ocparks.com">Diana.Lin@ocparks.com</a></del>	<u>County of Orange</u> <u>OC Community Resources, OC Parks</u> <u>Attn.: Kristi Bergstrom, Special Event</u> <u>Manager</u> <u>13042 Old Myford Rd.</u> <u>Irvine, CA 92706</u> <u>Phone: (714) 949-585-6438</u> <u>Email: <a href="mailto:Kristi.Bergstrom@ocparks.com">Kristi.Bergstrom@ocparks.com</a></u>
Cc:	<del>County of Orange</del> <del>OC Community Resources   OC Parks</del> <del>13042 Old Myford Rd.</del> <del>Irvine, CA 92602</del>	

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Attn: ~~Tom Starnes, Communications Manager~~  
Phone: ~~949.585.6432~~ | Email: ~~Tom.Starnes@ocparks.com~~  
County of Orange  
OC Community Resources,  
Purchasing and Contract Services  
Attn.: Hong Lin  
601 North Ross St., 6th Floor  
Santa Ana, CA 92701  
Phone: (714) 973-6636  
Email: Hong.Lin@ocparks.com

Cc: County of Orange  
OC Community Resources | OC Parks  
13042 Old Myford Rd.  
Irvine, CA 92602  
Attn: ~~Kristi Bergstrom, Communications Specialist~~  
Phone: ~~949.585.6438~~ | Email: ~~Kristi.Bergstrom@ocparks.com~~

24. **Qualifications of (Bidders/Respondents):** The County may make such reasonable investigations as deemed proper and necessary to determine the ability of the (Bidder/Respondent) to perform the services/furnish the goods and the (Bidder/Respondent) shall furnish to the County all such information and data for this purpose as may be requested. The County reserves the right to inspect (Bidder's/Respondent's) physical facilities prior to award to satisfy questions regarding the (Bidder's/Respondent's) capabilities. The County further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (Bidder/Respondent) fails to satisfy the County that such (Bidder/Respondent) is properly qualified to carry out the obligations of the Contract and to provide the services and/or furnish the goods contemplated therein.
25. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
26. **Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being made by the County of Orange Board of Supervisors for each year during the term of this Contract. If such appropriations are not forthcoming, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
27. **Contractor's Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County. Storage of records in another County will require written approval from the County of Orange DPA.
28. **Expenditure Limit:** The Contractor shall notify the County's Division Manager or his/her designee in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.
29. **Applicable Terms and Conditions:** This Contract and any of its noted attachments contain the entire understanding between the Contractor and the County. All previous proposals, offers, discussions, preliminary understandings and other communications relative to this Contract, oral or written, are hereby superseded, except to the extent that they have been incorporated into this Contract. The only terms and conditions that will be applicable to the interpretation of this Contract are those issued by the OCCR/OC Parks Purchasing & Contract Services of the County of Orange. No future waiver of or exception to any of the terms, conditions and provisions of this Contract shall be considered valid, unless specifically agreed to in writing.

No addition to, or alteration of the scope of work and technical specifications, or terms and conditions of this Contract or any of its noted attachments, whether written or verbal, by the parties, their officers, employees or agents, shall be valid unless made in the form of a written Modification to this Contract, which shall be formally approved and executed by both parties.

30. **Change in Ownership:** The contractor agrees that if there is a change in ownership prior to completion of this contract, the new owner will be required, under terms of sale, to assume this contract and complete it to the satisfaction of the County.
31. **Contractor's Expense:** The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on County sites during the performance of work and services under this contract. The County will not provide free parking for any service in the County Civic Center.
32. **County of Orange Child Support Enforcement:** In order to comply with the child support enforcement requirements of the County of Orange, within ten (10) days of notification of selection of award of contract but prior to official award of contract, the selected contractor agrees to furnish to the contract administrator, the Purchasing Agent, or the agency/department deputy purchasing agent:
  - A. In the case of an individual contractor, his/her name, date of birth, Social Security number, and residence address;
  - B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity;
  - C. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
  - D. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the contractor to timely submit the data and/or certifications required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the contractor to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

33. **Validity:** The invalidity in whole or in part of any provision of this contract shall not void or affect the validity of any other provision of the contract.
34. **Hazardous Conditions:** Whenever the Contractor's operations create a condition hazardous to traffic or to the public, the Contractor shall provide flagmen and furnish, erect and maintain control devices as are necessary to prevent accidents or damage or injury to the public at Contractor's expense and without cost to the County. The Contractor shall comply with County directives regarding potential hazards.

Emergency lights and traffic cones must also be readily available at all times and must be used in any hazardous condition. Emergency traffic cones must be placed in front of and behind vehicles to warn oncoming traffic. Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in Chapter 5 of the current traffic manual, Traffic Control for Construction and Maintenance Work Zones, published by the State of California Department of Transportation.

35. **Contractor Work Hours and Safety Standards:** The Contractor shall ensure compliance with all safety and hourly requirements for employees in accordance with federal, state and County safety regulations and laws.
36. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
37. **Licenses:** Contractor and his subcontractors, if any, shall, at all time during the term of this Contract, maintain in full force and effect such licenses or permits as may be required by the State of California or any other government entity. Contractor and his subcontractors, if any, shall strictly adhere to, and obey, all governmental rules and regulations now in effect or as subsequently enacted or modified, as promulgated by any local, state, or federal governmental entity.
38. **Cooperative Agreement:** The provisions and pricing of this Contract will be extended to other County of Orange Agencies/Departments ("Cooperative Entities"). Cooperative entities wishing to use this Contract will be responsible for issuing their own purchase documents/agreements, providing for their own acceptance, and making any subsequent payments. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. County of Orange makes no guarantee of usage by other users of this Contract. County of Orange may authorize the loading of this agreement into an electronic commerce system.

## II. **General Terms and Conditions**

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- B. **Entire Contract:** This Contract, including Attachments and Exhibit, incorporated herein by this reference as if fully set forth, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County of Orange unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or

use tax.

- E. Delivery:** Time of delivery of goods is of the essence in this Contract. County reserves the right to refuse any goods and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Overshipments and undershipments shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until goods have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by the County, 1) acceptance shall not be deemed complete unless in writing and until all the goods have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "HH" below, and as more fully described in paragraph "HH", harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, property right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "HH" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
- Unless otherwise expressly provided in this contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract.
- I. Assignment or Sub-Contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-Contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-Contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any sub-Contractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.
- K. Termination:** Notwithstanding any other provision of this Contract, County may at any time and without cause terminate in whole or in part, upon not less than (30) thirty days written notice to Contractor. Such termination shall be effected by delivery to Contractor a Notice of Termination specifying effective date

of termination, whether Contract shall be terminated in whole or in part and if applicable the portion of work to be terminated.

Contractor shall immediately stop work in accordance with Notice of Termination and comply with any other direction as may be specified in Notice of Termination or provided subsequently by County. County shall pay Contractor for work completed and accepted by County prior to effective date of termination and such payment shall be Contractor's sole remedy.

In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of Contractor. Exercise by County of its right to terminate Contract shall relieve County of all further obligations.

Under no circumstances will Contractor be entitled to anticipatory or unearned profits, consequential damages or any other damages of any sort as a result of a termination in whole or in part under this provision. Contractor shall insert in all subcontracts that subcontractors shall stop work on the date of and if applicable the portion of work to be terminated in a Notice of Termination, and shall require subcontractors to insert the same condition in any lower tier subcontracts.

- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.
- N. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
- P. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance

subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), which shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor's current audited financial report.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:



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- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange its elected and appointed officials, officers, agents and employees as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CPO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

**Q. Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "HH" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

**R. Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval

**S. Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of the County.

County of Orange  
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County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- T. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.

- U. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- V. **Compliance with Laws:** Contractor represents and warrants that the services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "P" above and "HH" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- W. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- X. **Pricing:** The Contract bid price shall include full compensation for providing all required goods, in accordance with required specifications, or services, as specified herein or when applicable, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
- Y. *Intentionally left blank*
- Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- CC. **Calendar Days:** Any reference to the word "day" or "days" herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.
- EE. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

**FF. Authority:** The parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

**GG. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

**HH. Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

**II. Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection and agrees to comply with Contractor's policies with respect to the protection of sensitive or confidential information.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

County of Orange  
The ACE Agency, Inc.

Contract Number  
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**CONTRACT SIGNATURE PAGE**

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the date preceding the signature.

**THE ACE AGENCY, INC.:\***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\* Pursuant to California Corporations Code Section 313, If the Contracting party is a corporation, (2) two signatures are required: one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer of any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signatory to bind the corporation.

**COUNTY OF ORANGE**

a political subdivision of State of California

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Deputy Purchasing Agent  
Title

\_\_\_\_\_  
Procurement Manager  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPROVED AS TO FORM**

Office of the County Counsel  
County of Orange, California

\_\_\_\_\_  
Deputy County Counsel

\_\_\_\_\_  
Date

**ATTACHMENT A**  
**SCOPE OF WORK****I. Introduction**

Orange County Parks ("OC Parks"), a division of the County of Orange ("County") OC Community Resources ("OCCR"), is seeking qualified firms to provide Management Services for the OC Parks Summer Concert Series.

OC Parks' Mission Statement:

*"As a steward of significant natural and cultural resources, Orange County Parks manages and operates a system of regional parks, beaches, harbors, trails and historic sites that are places of recreation and enduring value."*

**II. Objectives**

Contractor shall work with County in support of the strategy, programming, production, publicity and management of OC Parks Summer Concert Series and additional events. This service is intended to provide top-quality OC Parks events.

Contractor shall work with County in support of the OC Parks Communications Unit and Park Rangers at each participating facility. Additionally, Contractor will work with County staff (such as County Purchasing Department, Health Care Agency, etc.) as directed by OC Parks. These efforts shall be executed in conjunction with OC Parks Communications Unit by strategizing and solidifying optimum details for the OC Parks Summer Concert Series events, confirming and contracting ideal artists, producing concert events and properly managing the logistics of the OC Parks Summer Concert Series events in their entirety.

**III. Task and Deliverables**

The tasks and deliverables shall be consistent with and based upon the objectives of the Scope of Work (SOW). The SOW shall include, but is not limited to the following deliverables as needed by County during each calendar year of the Contract.

**A. CONCERT SERIES:****1. Strategy**

Coordinate with OC Parks Communications Unit and Park Rangers at all participating park locations to strategize and solidify optimum details for the entire concert series.

- ☐ Ten shows.
- ☐ The proposed participating parks are as follows, but not limited to:

➤ Ted Craig Regional Park  
3300 State College Blvd.  
Fullerton, CA 92835

➤ Mile Square Regional Park  
16801 Euclid St.  
Fountain Valley, CA 92708

➤ William R. Mason Regional Park  
18712 University Drive  
Irvine, CA 92612

➤ Salt Creek Beach Park (Bluff Park)  
33333 S. Pacific Coast Hwy.  
Dana Point, CA 92629

➤ Irvine Regional Park  
1 Irvine Park Road  
Orange, CA 92869

- ☐ Determine locations within each park.
  - Provide event layout map, if requested.
  - Determine if electrical power at location is sufficient.
- ☐ Solidify dates and times of performances.
  - Concerts have taken place on Thursday nights from 6 p.m. to dusk, concluding with the finale at Salt Creek (Bluff Park) on the last Thursday in August.
    - Subject to change based on nearby concert events.
- ☐ Determine concert dates will not conflict with any existing nearby City events.
- ☐ Strategize musical genres and optimum performing artists.
- ☐ Define target dates to confirm artists and announce series.
- ☐ Develop marketing and PR plan.
  - Determine optimum brand ID, promotional items and collateral material.
    - Oversee production of collateral material.
      - *This includes banners, posters, fliers, advertisements, web artwork, mailers and any additional signage as needed.*
    - Concert promoter responsible for placing advertising in local media to ensure target attendance is reached.
  - County to approve marketing and PR plan and all collateral material before production.
- ☐ Develop sponsorship goals and outreach plan.
  - Provide County with a list of sponsorship opportunities.
  - Upon the approval with County, pursue sponsorship opportunities.
- ☐ Research and provide guidance on obtaining annual music licensing agreement(s) with ASCAP, BMI, etc. for all OC Parks events, including concerts as necessary, in the event that licensing is not otherwise included.

## 2. Programming

Liaise with OC Parks Communications Unit and Park Rangers at each participating park to identify and confirm optimum artists.

- ☐ Develop list of target artists to approach for performances per park.
  - Artist draw should reach desired attendance as determined by OC Parks.
  - Attendance (per concert) targets are as follows:
    - Craig –2,000 attendees
    - Mason –1,000 attendees
    - Mile Square –750 attendees
    - Irvine – 1,000 attendees
    - Salt Creek –2,500 attendees
    - *Exploring the possibility of partnering with cities as determined. If the partnership is established, targets will increase.*
  - Attendance levels will be re-evaluated on an annual basis.
- ☐ Draft formal offers of engagement for artist consideration.
  - List of formal offers must be approved by County.
- ☐ Direct outreach via phone/email to artists and/or artist representatives to explore performances.
- ☐ Manage negotiations with artists and/or artist representatives to confirm engagements.

- ☐ Draft and execute performance agreements and the terms within.
- ☐ Pay artist fees.
- ☐ Provide point of contact with all artists and artist representatives who approach County staff directly with solicitations for performances.
- ☐ Provide all necessary insurance.
  - ☐ Contractor's insurance must meet all County of Orange's requirements.
  - ☐ Contractor's insurance must cover all aspects of the concert, including the bands, production, sound, food and drink vendors on site.
  - ☐ Contractor's insurance requirements for sale of alcoholic beverages may be necessary.
  - ☐ Work with the Orange County Health Care Agency to ensure that health codes are not being violated.
    - ☐ OC Parks to provide contact information.

### 3. Production

Liaise with OC Parks Communications Unit and Park Rangers at each participating park to properly produce all concert events.

- ☐ Provide the following at a quality level approved by County:
  - ☐ Sound
  - ☐ Lighting
  - ☐ Stage
  - ☐ Security (if needed)
  - ☐ Content capture (photo/video)
  - ☐ Food and Drink
    - ☐ At least two (2) food trucks should be on site per concert.
      - ☐ Food truck attendance must be determined well in advance to meet Orange County Health Care Agency's requirements.
    - ☐ Food trucks should serve different types of food, for example, one should serve a dinner option and the other should serve a dessert option.
    - ☐ Proposal should include option to add beer sales and beer garden as determined by County.
- ☐ Develop production schedule per concert (set up, load in, sound check, doors, set time, curfew, wrap).

### 4. Management

Liaise with OC Parks Communications Unit and Park Rangers at each participating park to properly manage the logistics of the series in its entirety.

- ☐ Oversee schedule of each concert (set up, load in, sound check, doors, set time, curfew, wrap).
- ☐ Coordinate artist advance of each show with venue and production.
- ☐ Two (2) on-site event managers provided per concert.
- ☐ Management of all artist needs.
- ☐ Management of all media needs.
- ☐ Management of all sponsor activations as approved by County.
- ☐ Monitoring of attendance at each concert.



5. Advertising

Contractor shall:

- ☐ Create outreach plan for the OC Parks Summer Concert Series. The campaign should utilize various media including print, electronic, website, radio, social media, mobile apps and traditional fliers, public banners, and other promotional techniques, etc.
- ☐ Create all promotional and advertising materials using County and OC Parks brand guidelines. County will consider paying for printing upon request.
- ☐ Coordinate marketing efforts with cities, community groups and others as determined when appropriate. For example, if a partnership is established, cross promotion with cities may be required.
- ☐ Consider event enhancements/additions such as gateway experiences, pre and post show events.
- ☐ County staff will provide additional support in this area.

6. Accounting

Liaise with OC Parks Communications Unit to develop and manage the concert budget.

- ☐ Development of budget.

35%	Bands
35%	Stage/Lighting/Sound/Stage Management
1%	Photos
4%	Graphic Design
20%	Advertising
5%	Booking

- ☐ Management of budget.
- ☐ Detailed accounting of all concert expenses.
  - Provide budget update after each concert to County.
- ☐ Execution of billing and payment of all concert vendors and paid participants.

**B. ADDITIONAL EVENTS**1. Strategy

Coordinate with OC Parks Communications Unit and Park Rangers at all participating park locations to strategize and solidify optimum details for the additional events.

- ☐ Nineteen (19) additional events.
- Additional events may include – bike or running events, movie night in the park events, and chili cook-offs, etc.
- ☐ At least fourteen (14) of the additional events will be movie night in the park events.
- ☐ Determine locations within each park.

- Provide event layout map, if requested.
- Determine if power is sufficient.
- ☐ Solidify dates and times of events.
- ☐ Define target dates to confirm event details and announce the events.
- ☐ Develop marketing and PR plan.
  - Determine optimum brand ID, promotional items and collateral material.
    - Oversee production of collateral material.
      - *This includes banners, posters, fliers, advertisements, web artwork, mailers and any additional signage as needed.*
    - Promoter responsible for placing advertising in local media to ensure target attendance is reached.
  - County to approve marketing and PR plan and all collateral material before production.
- ☐ Develop sponsorship goals and outreach plan.
  - Provide County with a list of sponsorship opportunities.
  - Upon the approval with County, pursue sponsorship opportunities.

## 2. Programming

Liaise with OC Parks Communications Unit and Park Rangers at each participating park to identify and confirm event details.

- ☐ Develop target attendance for the event.
- ☐ Provide all necessary insurance.
  - Contractor's insurance must meet all County of Orange's requirements.
  - Contractor's insurance must cover all aspects of the event, including the bands (if utilized), production, sound, food and drink vendors on site.
  - Contractor's insurance requirements for sale of alcoholic beverages may be necessary.
  - Work with the Orange County Health Care Agency to ensure that health codes are not being violated.
    - County to provide contact information.

## 3. Production

Liaise with OC Parks Communications Unit and Park Rangers at each participating park to properly produce all events.

- ☐ Provide the following at a quality level approved by County:
  - Equipment Rentals
  - Sound
  - Lighting
  - Security (if needed)
  - Content capture (photo/video)
  - Stage
  - Food and Drink
    - Proposal should include option to add beer sales and beer garden as determined by County.
- ☐ Develop production schedule per event (set up, load in, event time, curfew, wrap).

#### 4. Management

Liaise with OC Parks Communications Unit and Park Rangers at each participating park to properly manage the logistics of the event in their entirety.

- ☐ Oversee schedule of each event (set up, load in, event time, curfew, wrap).
- ☐ Two (2) on-site event managers provided per event.
- ☐ Management of all vendor needs.
- ☐ Management of all media needs.
- ☐ Management of all sponsor activations as approved by County.
- ☐ Monitoring of attendance at each event.

#### 5. Advertising

Contractor shall:

- ☐ Create outreach plan for each event. The campaign should utilize various media including print, electronic, website, radio, social media, mobile apps and traditional fliers, public banners, mailers and other promotional techniques, etc.
- ☐ Create all promotional and advertising materials using OC Parks brand guidelines. County will consider paying for printing upon request.
- ☐ Coordinate marketing efforts with cities, community groups and others as determined when appropriate. For example, if a partnership is established, cross promotion with cities may be required.
- ☐ Consider event enhancements/additions such as gateway experiences, pre and post show events.
- ☐ County staff will provide additional support in this area.

#### 6. Accounting

Liaise with OC Parks Communications Unit to develop and manage the event budget.

- ☐ Development of budget.
- ☐ Management of budget.
- ☐ Detailed accounting of all event expenses.
  - o Provide budget update after each event associated with this agreement to County.
- ☐ Execution of billing and payment of all vendors and paid participants.

### IV. Acceptance

OC Parks Communications Manager or designee will have final approval on all work. The following tasks must be completed to the satisfaction of OC Parks Communications Manager or designee.

- Each performing artist shall be insured.
- Performances take place as scheduled.
- Quality of all aspects of the concert or event associated with this agreement meets expectations.

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- Attendance levels deemed satisfactory by County.
- Photo recap of each concert or event associated with this agreement provided to County.

**V. Data and Documentation**

The County shall have final ownership and rights to all data, documents, copy and images generated by this scope of work for unrestricted use by County.

**VI. Meetings**

Contractor shall attend or present at meetings as required by County.

**VII. Approval of Work**

All services shall be reviewed by County staff. OC Parks Communications Manager or designee will have final approval on all work.

Governmental enforcement with added restrictions to public gatherings and modifications to events may be necessary, due to natural disasters and/or other occurrences, i.e., pandemic (COVID-19). In such events, any changes to these events must have County prior approval.

**ATTACHMENT B**  
**COMPENSATION AND PAYMENT**

- I. Compensation:** This is an all-inclusive, firm fixed fee Contract between the County and Contractor as further set forth in the Scope of Work, attached hereto as Attachment A.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The County shall have no obligation to pay any sum in excess of total Contract amount specified unless authorized by an amendment in accordance with Articles "C" and "R" of the County's General Terms and Conditions.

- II. Payment Terms:** Invoices are to be submitted in arrears to the user Agency/Department to the ship-to address, unless otherwise directed in this Contract. Contractor must reference Contract number on all invoices. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the Agency/Department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

- III. Invoicing Instructions:** The Contractor will provide an invoice on the Contractor's letterhead. Each invoice will have a unique number and will include the following information:

- a. Contractor's name and address
- b. Contractor's remittance address, if different from (a), above
- c. Name of County Agency/Department
- d. Contract number: MA-012-16011855 (*must list on **ALL** invoices*)
- e. Deliverables / Service description
- f. Total
- g. Federal Taxpayer I.D. number

Invoices and support documentation are to be forwarded to:

OC Community Resources  
Attn: Accounts Payable  
1770 N. Broadway, 4<sup>th</sup> floor  
Santa Ana, CA 92706

The responsibility for providing all acceptable invoice(s) to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction. The County's Project Manager, or designee, is responsible for approval of invoices and subsequent submittal of invoices to the Auditor-Controller for processing of payment.

- IV. Payment (Electronic Funds Transfer (EFT)):** The County of Orange offers contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT

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Authorization Form. *To request a form, please contact the agency/department representative listed in the bid. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.*

V. **EFT Invoicing Instructions:** The Contractor will provide a two-part invoice on the Contractor's letterhead for goods delivered and/or services rendered. In the case of goods, the Contractor will leave an invoice with each delivery. Each invoice will have a number and will include the following information:

- a) Contractor's name and address
- b) Contractor's remittance address, if different from (a), above
- c) Contractor's Tax Identification Number (TIN) or Employer's Identification Number (EIN)
- d) Name of County agency/department
- e) Delivery/Service address
- f) Contract Number: MA-012-16011855
- g) Date of order
- h) Product/service description, quantity, and prices
- i) Sales tax, if applicable
- j) Freight/delivery charges, if applicable
- k) Total

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**ATTACHMENT C**  
**FEES**

<b><u>Concert Series</u></b>	<b><u>Annual Fee</u></b>
Cost per Concert Event ( <i>total of 10 up to \$18,000</i> )	\$180,000
Concert Event Management Fee ( <i>\$3,000 per event</i> )	\$30,000
<b><i>Annual Fee Total</i></b>	<b><i>\$210,000</i></b>

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<b><u>Additional OC Parks Events</u></b>	<b><u>Annual Fee</u></b>
Cost Additional Events	\$190,000
<b><i>Annual Fee Total</i></b>	<b><i>\$190,000</i></b>

**ATTACHMENT D**  
**STAFFING PLAN**

## 1. Primary Staff/Key Personnel to perform Contract duties

<u>Name</u>	<u>Classification</u>	<u>Description of Services</u>
Ashley Eckenweiler	President   Project Manager	<p>Ashley's role within the OC Parks project will be acting as Project Manager. She will liaise with the client and attend all client meetings, strategize and develop the programming and special concert and event plan throughout the scope of work. She will oversee the entire executing team that will include but not be limited to production, talent buying, event management, public relations and advertising to support the concert series and other events.</p> <ul style="list-style-type: none"> <li>- Develop concert series event strategy and marketing plan</li> <li>- Liaise with OC Parks, City partners, Park Rangers and other county officials to coordinate the details of each concert series event</li> <li>- Develop and manage concert series final budget</li> <li>- Execution of billing and payment of all subcontractors and vendors</li> <li>- Identify milestones and make future concert series and event recommendations</li> <li>- Present a post concert series wrap up report</li> <li>- Oversee and direct staff, subcontractors and vendors to implement identified strategy and tactics</li> <li>- Main day-to-day contact with client and works directly with senior client staff</li> </ul>
Tori Elder	Marketing Coordinator	<p>Tori will develop and manage the OC Parks Summer Concert Series public relations and marketing plan. She will oversee the development of collateral material development, secure and place advertisements in promotions of the programs and generally execute and oversee all public relations and promotions elements included in the scope of work.</p> <ul style="list-style-type: none"> <li>- Execute concert series marketing and public relations plan</li> <li>- Execute dissemination of press releases, media material and promotions</li> <li>- Solidify advertising campaign and execute all ad elements, manage proof of performance per source</li> <li>- Monitor press clippings, editorial inclusion and media mentions across broadcast, print and digital sources</li> </ul>
Bill Bennett	Talent Buyer	<p>Under the guidance of the Project Manager, Bill will handle the talent buying for the OC Parks Summer Concert Series. He will communicate with artist's agents and managers to explore performances, negotiate rates, performance details and riders and execute artist contracts. Bill will work closely with the Project Manager, Marketing Coordinator and Event Manager to ensure that all artist's requirements are met, marketing material is available in a timely manner and the performances run smoothly.</p> <ul style="list-style-type: none"> <li>- Strategize best talent to perform at concert series</li> <li>- Communication with artist's agents and managers to execute artist offers and contracts</li> <li>- Negotiate artist terms riders and hospitality requirements</li> <li>- Liaise with production and marketing to ensure all artist materials needed are delivered in a timely manner</li> </ul>



<u>Name</u>	<u>Classification</u>	<u>Description of Services</u>
Andrew Smits	Creative Direction	Andrew will lead the creative direction and design for all OC Parks Summer Concert Series collateral material that will not be limited to environmental and stage banners, posters, flyers, digital marketing material and advertisements. <ul style="list-style-type: none"> <li>- Develop Brand ID for 2016 Summer Concert Series</li> <li>- Design all marketing and collateral material to include but not be limited to environmental banners, flyers, posters and digital marketing assets</li> </ul>
Mike Diocson	Production Director	For the OC Parks Summer Concert Series and other related events, Mike will develop all of the stage, sound, lighting and power components needed to produce successful concerts and events. He will oversee the event manager to ensure that all on-site production elements are in place. <ul style="list-style-type: none"> <li>- Strategize and confirm all production elements needed per concert event</li> <li>- Manage Event Production Manager to ensure that all on-site needs are met and production runs smoothly</li> </ul>
Trayce Padilla	Event Manager	As Event Manager for the OC Parks Summer Concert Series, Trayce will be on-site at each event and manage the load in and out of all production equipment, manage the arrival, sound checks and performances of all artists, and oversee the Event Assistant Manager, Audio Engineer and stage hands on-site per event. <ul style="list-style-type: none"> <li>- Oversee all production on-site at concert events including load in and out of stage, sound, lights and all equipment necessary</li> <li>- Manage food truck arrival and departure</li> <li>- Manage artist's on-site experience through arrival, sound check, performance and load out</li> <li>- Manage one additional Event Assistant on-site and report to Production Director</li> </ul>
Lily Fassnacht	Photographer / Videographer	Lily will be on-site to document each concert event as requested with still photography and video content. <ul style="list-style-type: none"> <li>- Capture still photos and video content of client spaces and events</li> <li>- Edit photos and video to meet client requirements</li> <li>- Provide final product output to specifications</li> </ul>

2. Alternate Staff/Key Personnel (for use only if primary is not available)

<u>Classification</u>	<u>Description of Services</u>
Event Security	Security, in addition to OC Parks rangers, may be needed at concert events.
Printer	If, County is not available to handle the printing of collateral material, a printer will be subcontracted.
Catering Director	If, the sale or distribution of alcoholic beverages is to be explored for the concert events, a catering company will be subcontracted to hold the liquor license.