ANDREW DO
SUPERVISOR, FIRST DISTRICT

ORANGE COUNTY BOARD OF SUPERVISORS
333 W. SANTA ANA BLVD., P.O. BOX 687, SANTA ANA, CALIFORNIA 92702-0687
PHONE (714) 834-3110 FAX (714) 834-5754 andrew.do@ocgov.com

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2017 MAY -5 AM 11:51
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

May 5, 2017

TO: Robin Stieler, Clerk of the Board

FROM: Supervisor Andrew Do, Vice Chair

SUBJECT: Supplemental Agenda Item relating to 2017 Summer Freedom Festival

Please add a supplemental item of business to the May 9, 2017, Board meeting agenda. The title of the supplemental item should read:

> **Supervisor Do** – Approve, and authorize Chair to execute, Agreement with CEAVA Foundation, Inc. for assistance in executing the 1st Annual Summer Freedom Festival scheduled for August 11-13, 2017, at Mile Square Park; direct County Executive Officer to add the 2017 Summer Freedom Festival to the County Events Calendar for FY 2017-18; authorize the Director of OC Parks or designee to pursue marketing, sponsorships and fund raising partnerships with non-profit organizations and private sector organizations in support of the 2017 Summer Freedom Festival; and make related findings.

A copy of my office's Agenda Staff Report for this item, and the proposed Agreement with the CEAVA Foundation, Inc. are attached hereto.

Concur:

Supervisor Michelle Steel
Chairwoman, Orange County Board of Supervisors

Attachments [2]

Cc: Members of the Board of Supervisors
Frank Kim, CEO
Leon J. Page, County Counsel

**Meeting Date:** 05/09/17

**Legal Entity:** Board of Supervisors

**Board of Supervisors District (s):** First District

**Submitting Agency/ Department:** Supervisor Andrew Do, 1st District

**Department Contact Person:** Chris Wangsaporn (714) 834-3110

**Recommended Actions:**

1. Direct County Executive Officer to include the 2017 Summer Freedom Festival scheduled for August 11-13, 2017, at Mile Square Park to the County Events Calendar for FY 2017-18.

2. Find under Government Code section 26227 that the 2017 Summer Freedom Festival will serve a public purpose of the County of Orange and will meet the social needs of the population of the County; that County staff and resources may be used in furtherance of such events; that County staff may solicit donations of funds and services for such events; is a charitable fund drive conducted in cooperation with a nonprofit charitable organization; and the use of County resources is appropriate and authorized to carry out the event, including authorization for officers and employees to carry out the program, using county funds and property.

3. Authorize the Director of OC Parks or designee to pursue marketing, sponsorships and fund raising partnerships with non-profit organizations and private sector organizations in support of the 2017 Summer Freedom Festival and to execute agreements, as appropriate, with sponsors or support organizations or businesses, consistent with the 2017 OC Community Resources Marketing Plan.

4. Approve Agreement with CEAVA Foundation, Inc. pursuant to the 2017 OC Community Resources Marketing Plan, Government Code 26110(c) and Orange County Codified Ordinance section 2-5-121.

**Summary:**

Approval of this item will authorize a partnership with **CEAVA** to assist in executing the 1st Annual Summer Freedom Festival and approval will allow for this event to be added to the Orange County Events Calendar for FY 2017-2018. While the County will be responsible for permitting and staffing, CEAVA will provide all entertainment at no direct cost to the County and will recuperate its expenses through sponsorships by private vendors.

**Background Information:**

The 1st Annual Summer Freedom Festival will bring together students, community partners, nonprofits, cultural groups, and residents throughout the First District and Orange County. The event will be held on Friday August 11th, 2017 through Sunday August 13th, 2017 at Mile Square Park. One of the main goals of

the event is to expose Orange County Residents to the diversity and multicultural characteristics that are important to our identity as a county.

This event will include multicultural cultural and educational experiences for children and their families. Music bands consisting of students of all ages will be invited to compete. Performances will also include dancing, theatrical performances, and dragon dancing.

**Financial Impact:**

N/A

**Staffing Impact:**

N/A

AGREEMENT
WITH CEAVA FOUNDATION, INC.

THIS AGREEMENT ("AGREEMENT"), for purposes of identification hereby dated _____, is

BY AND BETWEEN

CEAVA FOUNDATION, INC. (hereinafter referred to as "NONPROFIT") AND the County of Orange, a political subdivision of the State of California (hereinafter referred to as "COUNTY").

RECITALS

WHEREAS, NONPROFIT is an organization committed to a mission of serving cultural and educational needs in Orange County; and

WHEREAS, NONPROFIT seeks to offer its services to provide planning and marketing support for the 2017 Summer Freedom Festival ("FESTIVAL") to be hosted by COUNTY at Mile Square Park ("MSP") from August 11, 2017, through August 13, 2017; and

WHEREAS, the mission of OC Parks, a department within the COUNTY, (hereinafter referred to as "OC PARKS") states: "As a steward of significant natural and cultural resources, OC PARKS manages and operates a system of regional parks, beaches, harbors, trails and historic sites that are places of recreation and enduring value"; and

WHEREAS, within OC PARKS's Strategic Plan approved by the Board of Supervisors, one of the adopted goals is to create strategic alliances by proactively engaging other organizations and the community at large; and

WHEREAS, the COUNTY and NONPROFIT share a mutual interest in a variety of programs and activities benefitting both parties;

NOW, THEREFORE, THE PARTIES DO MUTUALLY AGREE AS FOLLOWS:

The recitals set forth above are true and correct, are a material part of this AGREEMENT, and are incorporated by this reference.

A. DESIGNATED REPRESENTATIVES

1. NONPROFIT will designate the Chief Program Officer, or designee, (hereinafter referred to as "CPO") to be liaison for all matters in regard to this AGREEMENT.
2. COUNTY will designate the Director of OC Parks, or designee, (hereinafter referred to as "DIRECTOR") to be COUNTY's liaison for all matters in regard to this AGREEMENT.
3. The obligations of the CPO or the DIRECTOR pursuant to this AGREEMENT will not be assigned without prior written approval of the other party.

B. PURPOSE

The purpose of this AGREEMENT is to assist NONPROFIT with facilitating its program for the FESTIVAL. Such activities are deemed by the Board of Supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, welfare, and education.

C. TERM

The term of this AGREEMENT shall commence upon execution by the COUNTY'S Board of Supervisors and remain in effect through the end of the FESTIVAL on August 14, 2017, unless otherwise terminated as provided under Paragraph M ("Termination"). Any material changes may only be authorized by the COUNTY'S Board of Supervisors.

D. USE

As further detailed in this AGREEMENT, COUNTY will grant to NONPROFIT and their employee(s), volunteer(s) and agent(s) the non-exclusive right to enter and use MSP facilities only for NONPROFIT Programs, as defined in Section F.1. below.

E. STATUS OF NONPROFIT

NONPROFIT is, and shall at all times be deemed to operate as a non-profit organization for the term of this agreement and to act independently from the COUNTY and, shall be wholly responsible for the manner in which it performs the services and activities required or permitted by the terms of this AGREEMENT. Nothing contained herein shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and NONPROFIT or any of NONPROFIT's agents, volunteers, or employees. NONPROFIT assumes exclusive responsibility for the acts of its agents, volunteers, participants or employees as they relate to the services and activities to be provided during the course and scope of their engagement or employment. NONPROFIT and its agents, volunteers and employees shall not be entitled to any rights and/or privileges of COUNTY employees and shall not be considered in any manner to be COUNTY employees.

F. NONPROFIT RESPONSIBILITIES

NONPROFIT will:

1. Provide, and conduct, NONPROFIT Programs, which are defined herein as activities including, but not limited to, securing event sponsorships, carnival rides, talent/entertainment, stage equipment and infrastructure for two stage, sound equipment, vendors, programs, and educational and/or cultural enrichment opportunities for the FESTIVAL.
2. Meet with OC PARKS on an as-needed basis for planning sessions leading up to the event.
3. Provide OC PARKS with monthly reports tracking the status of program participants, vendors, performers and activities planned for the FESTIVAL.
4. Comply with and obtain all applicable permits with NONPROFIT named as permittee, and satisfy any procedures and/or requirements therefore, when or if deemed necessary by the COUNTY, City, State, or other permitting agency having jurisdiction over any activity related to the FESTIVAL event.

5. Require each vendor and/or contractor providing services at, or participating in, the FESTIVAL to execute the Vendor Agreement, attached hereto as Exhibit "A" and incorporated herein by reference, to indemnify the County of Orange against liability and to ensure that proof of insurance as required by COUNTY is obtained prior to the event.
6. Prior to August 11, 2017, provide OC Parks with a complete vendor/contractor list, a copy of proof of insurance for each vendor and/or contractor, and a fully executed copy of the Vendor Agreement attached hereto as Exhibit "A".
7. Notify any calendar changes to the DIRECTOR, including cancellation of any planning session with OC PARKS.
8. Promote the FESTIVAL as deemed appropriate by OC PARKS.
9. Not transfer its rights to provide NONPROFIT Programs or Services at the MSP facility according to the terms of this AGREEMENT to individual vendors or other third parties without written agreement between the NONPROFIT and DIRECTOR.
10. Inform all NONPROFIT employees and/or volunteers performing work under this AGREEMENT that they are not an employee of the COUNTY and are not covered by the COUNTY'S Workers' Compensation or COUNTY's Memorandum of Understanding and that nothing contained herein shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and NONPROFIT or any of their agents, volunteers, employees, contractors, or vendors.
11. Inform NONPROFIT employees and/or volunteers performing work under this AGREEMENT that the COUNTY and its officers, employees and agents shall not be held liable for any death, injury or property damage claims arising from their work unless due to the negligence or willful misconduct of the COUNTY, its officers, employees or agents.
12. Provide OC PARKS with a proposed number of parking passes needed for its volunteers, employees, vendors and/or contractors at the FESTIVAL. NONPROFIT has the obligation to notify OC PARKS in advance of the need to make adjustments to the number of passes needed. All benefits of this AGREEMENT, including but not limited to OC PARKS parking passes, shall be used for FESTIVAL-related activities.

G. COUNTY RESPONSIBILITIES:

COUNTY will:

1. Participate with NONPROFIT in as-needed planning sessions.
2. Provide NONPROFIT with a list of programs for consideration of participation.
3. As deemed appropriate by COUNTY, waive fees related to parking, shelter, reservations, permits, programs, and staff overtime for NONPROFIT-related activities at the MSP facility to support the FESTIVAL activities as approved by OC PARKS. OC PARKS maintains sole discretion to approve or deny fee waivers for a NONPROFIT-related vendors on a case-by-case basis.
4. Pay the cost associated with all FESTIVAL-related permits or fees required of NONPROFIT as permittee, and/or its vendors or contractors, by any authority having permitting jurisdiction.
5. Work collaboratively with NONPROFIT on approved programs, entertainment, vendors, events and educational enrichment opportunities to ensure a successful partnership.

6. Review and approve as appropriate in its discretion any promotional materials such as brochures and/or other media or materials which promote COUNTY and/or OC PARKS and its programs prior to distribution by NONPROFIT.
7. Inform NONPROFIT's CPO by telephone or email of any site closures or logistical changes related to the FESTIVAL.

H. MISCELLANEOUS TERMS. Both parties agree that:

Any public information, notices and news releases from NONPROFIT related to the activities associated with this AGREEMENT shall be shared with, and approved by, OC PARKS prior to release.

I. NONDISCRIMINATION

NONPROFIT shall not employ any discriminatory practices in the performance of this AGREEMENT on the basis of race, sex, religion, ethnicity, nationality, disability, gender, marital status or age.

J. CHANGES AND MODIFICATIONS

DIRECTOR shall have the authority to make minor adjustments to this AGREEMENT with written concurrence of the NONPROFIT CPO, as deemed necessary in order to advance the purposes of this AGREEMENT.

K. DELEGATION AND ASSIGNMENT

NONPROFIT may not delegate the obligations or assign the rights hereunder, either in whole or in part.

L. NOTICES

COUNTY:

County of Orange
Director, OC Parks
OC Community Resources
13042 Old Myford Road
Irvine, California 92602-2304
Phone: _____
Fax: (714) 667-6512
Email: _____

NONPROFIT:

CEAVA FOUNDATION, INC.
NGHIA NGUYEN
14536 Brookhurst Street #101
Westminster, CA92683
Phone: (714) 586-9718
Fax: (714)-775-6595
Email:ceavafoundation@gmail.com

Notices or other communications which may be required or provided under the terms of this AGREEMENT shall be deemed effective when in writing and delivered in person, deposited in the COUNTY inter-office mail, or deposited in the United States mail, first class, postage

prepaid. Any notices, correspondence, reports and/or statements authorized or required by this AGREEMENT, addressed in any other fashion, shall be deemed not given. The parties may change the addresses to which notices are to be sent by giving written notice of such change to the other party.

M. TERMINATION

Either party may terminate this AGREEMENT with ten (10) days written notice to the other party. Notice of termination shall state the date upon which such termination is effective. Notice shall be served as provided in Paragraph L ("Notices") above. Upon termination of this AGREEMENT, NONPROFIT shall be responsible for notifying its volunteers, employees, agents, contractors, and/or vendors of the termination of the AGREEMENT and FESTIVAL.

N. EFFECT OF AGREEMENT

This AGREEMENT fully expresses all understandings of the parties and is the total agreement between the parties as to the subject matter of this AGREEMENT. No addition to or alteration of the terms of this AGREEMENT, whether written or verbal, by the parties, their officers, agents or employees, shall be valid, except as provided in Paragraph J ("Changes and Modifications") above, unless in the form of a written amendment to this AGREEMENT, which is formally approved and executed by all parties.

Further, the Parties understand and agree that this AGREEMENT shall be construed to be legally binding on any of the Parties hereto.

O. HOLD HARMLESS

NONPROFIT hereby waives all claims and recourse against County for loss or damage to NONPROFIT's persons or property due to NONPROFIT's, or its Vendor's or Contractor's, operations on the Property except claims arising from the sole negligence of the County, its officers, agents, and employees. NONPROFIT further acknowledges that any damaged done by the NONPROFIT during the Event shall be remedied by the NONPROFIT solely at its expense.

NONPROFIT hereby agrees to indemnify, defend with counsel approved by County, and hold harmless County, its officers, elected and appointed officials, agents, and employees against any and all claims, loss, demands, damages, cost, expenses or liability costs arising out of the NONPROFIT's, its Vendor's and/or Contractor's participation in the FESTIVAL except for liability arising out of the sole negligence of County, its officers, elected and appointed officials, agents, or employees, including the cost of defense of any lawsuit arising therefrom. In the event County is named as co-defendant, NONPROFIT shall notify County of such fact and shall represent County, with counsel approved by County, in such legal action unless County undertakes to represent itself as co-defendant in such legal action, in which event NONPROFIT shall pay to County its litigation costs, expenses and attorney's fees within ninety (90) days of final settlement or court order.

P. DAMAGE/COMPLIANCE WITH LAW

Should any damage or injury to County works occur during initial use and/or as a result of NONPROFIT's participation in the FESTIVAL, either through the acts of agents, servants, or employees of NONPROFIT or by any independent contractor or Vendor of NONPROFIT in the exercise of the rights herein granted, NONPROFIT shall immediately, upon the written demand

of County, restore such works to the condition of same on the date of the occurrence of said damage or injury at NONPROFIT's cost or expense. The question as to whether or not any such damage or injury has been caused to the works shall be determined by DIRECTOR and his/her determination shall be final. In the event repair by County is necessary, NONPROFIT shall pay County the cost of such repairs. By acceptance of the terms herein, NONPROFIT acknowledges and assumes all responsibility for compliance with requirements of other regulatory governing agencies including, but not limited to, zoning regulations, applicable ordinances and laws, etc., of the County of Orange, the State of California, or others having regulatory control over the use granted herein.

Q. 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) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

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:

| Coverage | Minimum Limits |
|---|---|
| Commercial General Liability | $5,000,000 per occurrence<br>$5,000,000 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 |
| Professional Liability | $1,000,000 per claims-made<br>$1,000,000 aggregate |
| Liquor Liability | $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:

1) An Additional Insured endorsement using ISO form CG 20 26 04 13or a form at least as broad naming the ***County of Orange its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***.

2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad 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*** or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor's Professional Liability is a "Claims-Made" policy, Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract

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 CEO/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.

*[Remainder of page intentionally left blank; signature page to follow.]*

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the dates opposite their respective signatures:

CEAVA FOUNDATION, INC. (NONPROFIT)

Date:_____ By:

_____
Chief Program Officer (CPO)

COUNTY OF ORANGE

Date:_____ By:

_____
Chair of the Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD PER G.C. SEC. 25103, RESOLUTION 79-1535

Date:_____ By:

_____
Clerk of the Board of Supervisors

APPROVED AS TO FORM
COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: _____

**Exhibit "A"**

## VENDOR AGREEMENT

THIS VENDOR AGREEMENT ("**Agreement**") is made _____, 20___, by and between CEAVA Foundation, Inc. ("**Nonprofit**") and _____ ("**Vendor**"). The Nonprofit and Vendor may individually be referred to herein as a "**Party**," or collectively as the "**Parties**."

## RECITALS

A. The County of Orange (**"County"**) is hosting a public event on _____. 20__, ("**Event**") on certain County owned property as set forth on Exhibit A, attached hereto and incorporated herein ("**Property**"), at which Nonprofit and Vendor desire to provide certain goods or services to the attendees of the Event.

B. Pursuant to an Agreement with Nonprofit, County agrees to grant the right to access the Property for the purposes of participating in the Event, subject to receipt of Vendor's indemnification of County and proof of insurance, as more fully set forth herein.

NOW THEREFORE, the Parties hereto agree as follows:

1. COUNTY AS A THIRD PARTY BENEFICIARY OF AGREEMENT

The Parties hereby agree that County is a Third Party Beneficiary of this Agreement, which shall survive the termination of this Agreement and be a continuing status for events occurring during the Term of this Agreement.

2. PREMISES AND USE

Upon County's approval of Vendor as proposed by Nonprofit, and receipt of a fully executed copy of this Agreement and proof of insurance as set forth below, County grants to Vendor permission to enter the Property, together with the right to pass and repass over and along Property by Vendor, its officers, agents, and employees, for the purposes of providing goods and services to the attendees of the Event.

Vendor and Nonprofit acknowledge that this Agreement does not include and in no way affects County's right to maintain the Property and organize and manage the Event.

3. TERM

The permission herein granted begins at _____ AM/PM on _____, 20__ and remains in effect until _____ AM/PM on _____, 20__, unless terminated as provided in Section 4 below.

4. TERMINATION

This Agreement shall be revocable by County at any time with notice to Nonprofit and/or Vendor.

5. HOLD HARMLESS

Vendor hereby waives all claims and recourse against County for loss or damage to Vendor's persons or property due to Vendor's operations on the Property except claims arising from the sole negligence of the County, its officers, agents, and employees. Vendor further acknowledges that any damaged done by the Vendor during the Event shall be remedied by the Vendor solely at its expense.

Vendor hereby agrees to indemnify, defend with counsel approved by County, and hold harmless County, its officers, elected and appointed officials, agents, and employees against any and all claims, loss, demands, damages, cost, expenses or liability costs arising out of the Vendor's participation in the Event except for liability arising out of the sole negligence of County, its officers, elected and appointed officials, agents, or employees, including the cost of defense of any lawsuit arising therefrom. In the event County is named as co-defendant, Vendor shall notify County of such fact and shall represent County, with counsel approved by County, in such legal action unless County undertakes to represent itself as co-defendant in such legal action, in which event Vendor shall pay to County its litigation costs, expenses and attorney's fees within ninety (90) days of final settlement or court order.

Vendor's indemnification of County shall survive the termination of this Agreement and be a continuing obligation for events occurring during the Term of this Agreement.

6. DAMAGE/COMPLIANCE WITH LAW

Should any damage or injury to County works occur during initial use and/or as a result of Vendor's participation in the Event, either through the acts of agents, servants, or employees of Vendor or by any independent contractor of Vendor in the exercise of the rights herein granted, Vendor shall immediately, upon the written demand of County, restore such works to the condition of same on the date of the occurrence of said damage or injury at Vendor's cost or expense. The question as to whether or not any such damage or injury has been caused to the works shall be determined by the Director of OC Parks and his/her determination shall be final. In the event repair by County is necessary, Vendor shall pay County the cost of such repairs. By acceptance of the terms herein, Vendor acknowledges and assumes all responsibility for compliance with requirements of other regulatory governing agencies including, but not limited to, zoning regulations, applicable ordinances and laws, etc., of the County of Orange, the State of California, or others having regulatory control over the use granted herein.

7. INSURANCE

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) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

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:

| Coverage | Minimum Limits |
| --- | --- |
| Commercial General Liability | $1,000,000 per occurrence<br>$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 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

**Required Endorsements**

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

1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees and agents*** as Additional Insureds, or provide blanket coverage, which will state ***As Required By Written Contract.***

2) A primary non-contributing endorsement using ISO Form CG 20 01 04 13, or a form at least as broad 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, employees and agents***, or provide blanket coverage, which will state ***As Required By Written Contract.***

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which the County may suspend or terminate this contract.

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 001 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 CEO/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.

Please submit proof of insurance to:

County of Orange
13042 Old Myford Road
Irvine, CA 92602

Should Vendor require any further clarification or desire additional information, Vendor may contact County of Orange at (714) 973-6855.

8. NOTICES

All notices pursuant to this Agreement shall be addressed as set on the following page or as either Party may hereafter designate by written notice and shall be sent through the United States mail in the State of California, duly registered or certified, return receipt requested, with postage prepaid. If any notice is sent by registered or certified mail, as aforesaid, the same shall be deemed to have been served or delivered 24 hours after mailing as provided for above. Notwithstanding the above, Vendor may also provide notices to County by personal delivery or by regular mail and any such notice so given shall be deemed to have been given upon receipt.

TO: CEAVA FOUNDATION, Inc.

NGHIA NGUYEN
14536 Brookhurst Street #101
Westminster, CA 92683

Telephone: (714) 586-9718

TO: VENDOR

_____

_____

_____

Telephone:

9. ATTACHMENTS

This Agreement includes the following, which are attached hereto and made a part hereof:

Exhibit A – Property/Event Map

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

VENDOR

_____

Date: _____ By _____

Date: _____ By _____

CEAVA FOUNDATION, INC.

COUNTY OF ORANGE,

By _____

EXHIBIT A
PROPERTY DESCRIPTION

[attached]