

CONTRACT NO. CT-012-15010188
BETWEEN
COUNTY OF ORANGE
AND
OC MUSIC AWARDS LLC.

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 – OC Community Resources/OC Parks, a political subdivision of the State of California; hereinafter referred to as (“County”), and OC Music Awards LLC., with a place of business at 221 N. Sycamore St., Santa Ana, CA 92701; hereinafter referred to as (“Contractor”), which are sometimes individually referred to as (“Party”, or collectively as (“Parties”)).

RECITALS

WHEREAS, Contractor responded to an Invitation For Bids (IFB) for Promotion and Marketing Services for the OC Parks Fall Concert 2014 for the County of Orange; and

WHEREAS, the Contractor responded and represented that its proposed products shall meet or exceed the requirements and specifications of the Scope of Work, attached hereto as Attachment A and incorporated herein; and

WHEREAS, County agrees to pay Contractor the fees as further set forth in Price Sheet, attached hereto as Attachment C and incorporated herein; and

NOW, THEREFORE, the parties mutually agree as follows:

ARTICLES

- I. Contract Specific Terms and Conditions:** To the extent these terms and conditions are inconsistent with the General Terms and Conditions contained below paragraph A – II, these Terms and Conditions shall govern.
- Scope of Contract:** This Contract specifies the contractual terms and conditions by which County will procure and receive goods or services from Contractor, including but not limited to, as detailed in the Scope of Work, incorporated herein as Attachment A.
 - Contract Term:** The Contract term shall be effective from September 17, 2014 through and including December 31, 2014, upon execution of all necessary signatures and is non-renewable.
 - Precedence:** The Contract documents consist of this agreement and its exhibits and attachments. 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 agreement, i.e., those provisions set forth in the recitals and articles of this agreement, and then the exhibits and attachments.
 - 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 County’s Program Manager and Contractor 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: OC Music Awards LLC.
Attn: Ashley Eckenweiler, CEO
221 N. Sycamore St.
Santa Ana, CA 92701
Phone: 949.285.9239 | Fax: 714.866.4184
Email: info@ocmusicawards.com

County: County of Orange
OC Community Resources
Purchasing & Contract Services
Attn: Diana Lin, Procurement Contract Specialist
13042 Old Myford Road
Irvine, CA 92602
Phone: 949.585.6464 | Fax: 714.667.6522
E-mail: Diana.Lin@ocparks.com

Cc: County of Orange
OC Community Resources | OC Parks
Communications Unit
13042 Old Myford Road
Irvine, CA 92602

- Attn: Tom Starnes, Communications Manager
Phone: 949.585.6432 | Email: Tom.Starnes@ocparks.com
- Attn: Kristi Bergstrom, Communications Specialist
Phone: 949.585.6438 | Email: Kristi.Bergstrom@ocparks.com

5. **Contingency of Funds:** 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.
6. **Equal Employment Opportunity:** The 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 may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 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 the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

7. **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.
8. **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 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.*
9. **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.

10. **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.
11. **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.
12. **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.
13. **Conflict of Interest:** 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 Consultants; 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.

14. News/Information Release: The Contractor agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. Contractors must first obtain review and approval of said media contact from the County through the County's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County. Contractors are not authorized to serve as a media spokespersons for County projects without first obtaining permission from the County.

15. Breach of Contract: The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract, shall constitute 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:

- a. Afford the Contractor written notice of the breach and ten (10) 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 offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
- c. Terminate the Contract immediately without penalty.

16. Contract Disputes:

- a. In the event of a dispute between the Parties as to performance of the Work, the interpretation of this Contract, or payment or nonpayment for Work performed, the Parties shall attempt to resolve the dispute. Pending resolution of the dispute, the Contractor shall continue the Work diligently to completion as directed by the County. If the dispute is not resolved, the Contractor agrees he will neither rescind this Contract nor stop the progress of the Work. All construction claims of Three Hundred Seventy Five Thousand Dollars (\$375,000) or less between the Contractor and the County shall be resolved in accordance with the provisions of Division 2, Part 3, Chapter 1, Article 1.5 of the Public Contract Code of the State of California. Contractor's sole remedy for construction claims of more than Three Hundred Seventy Five Thousand Dollars (\$375,000) will be to submit such controversy to determination by a court of the State of California in Orange County, California, having competent jurisdiction of the dispute, after the project has been completed and not before.
- b. Notwithstanding the foregoing, with respect to any dispute involving a claim by the Contractor for additional compensation, Contractor shall submit such claim in writing to the County promptly as the alleged facts giving rise to, or the alleged bases for, the claim become known to the Contractor; any such claim not promptly so submitted to the County shall be deemed waived; and in no event shall a claim for additional compensation be asserted or be assertable after completion or cessation of the Work.

17. Orderly Termination: After receipt of a termination notice from the County of Orange, the Contractor shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the contractor. Upon termination County agrees to pay the Contractor for all 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. 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 aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each party.

18. **Child Support Requirements:** Failure of the Contractor to timely submit the data and/or certifications required may result in the bid/proposal being deemed non-responsive, and the bidder/proposer may be disqualified from being considered for Contract award. 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.
19. **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 time lines. Contractor's Key Personnel are those individuals who report directly to the Contractor's Project Manager.

20. **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.
21. **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.

- 22. Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this contract by the contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the contractor without the express written consent of the County.

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, 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 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, hereinafter "Purchasing Agent."
- 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 or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods 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 of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services 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/services 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 indemnities 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/services 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 Indemnities 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, attorneys fees, costs and expenses.
- 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 subcontracted 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 subcontractors 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:** 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 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 obligation.
- 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/services 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 and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with and to keep such insurance coverage and the certificates therefore 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.

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 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), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

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

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the state of California, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

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

<u>Coverage</u>	<u>Minimum Limits</u>
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:

- 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, employees, agents 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.

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

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

All insurance policies required by this Contract shall give the County of Orange 30 days notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

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 days of notification by County Procurement Office (CPO) 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 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 “P” above, 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:** Contractor agrees that if there is a change or transfer in ownership of Contractor’s business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor’s duties and obligations contained in this Contract and complete them to the satisfaction of County.
- 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 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, 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, in the scope of services attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
- Y. Waiver of Jury Trial:** Each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.

- 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. Audit/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.

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 agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

(Signature Page to Follow)


County of Orange
OC Music Awards LLC.

Contract No. CT-012-15010188

CONTRACT SIGNATURE PAGE

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

OC Music Awards LLC.*:



Signature

Ashley Eckenweiler

Print Name

CEO

Title

9/4/2014

Date

DocuSigned by:


Signature

Devon McLaren

Print Name

Social Media & PR Manager

Title

9/4/2014

Date

*Pursuant to California Corporations Code Section 313, the signatures of two corporate officials are required to bind the corporation, one from each of the following two groups: 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 or 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 signator to bind the corporation.*

COUNTY OF ORANGE
a political subdivision of the State of California

Signature

Print Name

Title

Date

APPROVED AS TO FORM
Office of the County Counsel
County of Orange, California



Deputy County Counsel

9-4-14

Date

ATTACHMENT A
SCOPE OF WORK

1. Scope of Services:

Contractor shall work with County in support of the strategy, programming, production, publicity and management of the OC Parks Fall 2014 Mile Square Regional Park Concert event.

The Contractor shall work with the County in support of the Communications Group and Park Rangers at Mile Square Regional Park, 16801 Euclid St., Fountain Valley, CA 92708. These efforts shall be executed in conjunction with OC Parks Communications Unit by strategizing and solidifying optimum details for the Fall 2014 Mile Square Regional Park Concert event, confirming and contracting ideal artists, produce concert event and properly manage the logistics of the Fall 2014 Mile Square Regional Park Concert event in its entirety.

Note: The concert event is expected to be held on Sunday afternoon, September 28th. Possible backup date is in October.

2. Contractor's Responsibilities:

The tasks and deliverables shall be consistent with and based upon the objectives of this Scope of Work (SOW).

A. Strategy

Contractor shall coordinate with the OC Parks Communications Unit and Park Rangers to strategize and solidify optimum details for the Fall Mile Square Regional Park Concert event.

- Assist Park Rangers to determine event/site locations within Mile Square Regional Park.
- Provide site map at the request of the County.
 - Determine if electrical power at location site is sufficient.
 - If power at determined event site is insufficient, contractor must provide generators.
- Work directly with the County to determine performing artists and/or artist representative to contact. The County shall approve performing artists prior to Contractor hiring.
- Hire performing artists.
- Define target dates to confirm artists and announce concert event.

B. Public Relations

Contractor shall develop marketing and public relations (PR) plan to include but not limited to the following:

- Determine optimum brand identification (ID), promotional items and collateral material.
 - Work with a graphic designer and oversee production of collateral material, including banners, fliers, additional signage for day of event and other marketing materials to advertise event.
 - The County shall approve all collateral material before production.
 - Final artwork shall be sent to OC Parks Communications Unit.
 - The County shall pay for all printing costs for banners, fliers, additional signage for day of event and other marketing materials to advertise event.
- Manage outreach through local/targeted print, social and other media outlets.
 - The County to assist with determining where to run advertisements for event.
- Hire and work with artist's promoters as needed.

C. Programming

Contractor shall coordinate with OC Parks Communications Unit and Park Rangers to confirm optimum artists.

- Work directly with the County to develop list of target artists to approach for performances.
- Draft formal offers of engagement for artist consideration.
- 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 and conditions within.
- Pay artist fees.
 - Minimum of \$10,000 must be spent on performing artists.
 - Artists shall be paid at completion of performance.
 - Research and confirm the performing artists' shall only perform material covered under American Society of Composers, Authors and Publishers (ASCAP). OC Parks has a licensing agreement with ASCAP.
- Provide all necessary insurance.
 - Contractor's insurance must meet all County's requirements and shall cover all aspects of the concert, including the artists, production, sound and food vendors on County property.

D. Production

Contractor shall coordinate with OC Parks Communications Group and Park Rangers to properly produce concert event and outsource optimum production vendors for concert series:

- Sound
 - Must include, but not limited to:
 - Audio system with microphones and microphone stands
 - Stage monitor system
 - Cable ramps
 - Audio cables
 - Two (2) on-site sound engineers for the duration of the event, including set up, sound check, and teardown.
- Stage
 - Stage must be a minimum of 20' x 16' and no higher than 30" off of the ground.
 - Two stair sets for the stage must be provided.
 - Must provide truss arch for banner.
- Lighting (if needed)
- Security (if needed)
- Content capture (photo/video)
- Develop production schedule for concert (set up, load in, sound check, doors, set time, curfew, wrap).
- Hire food vendors to serve food on site.
 - Work with food vendors as determined by the County.
 - All potential food vendors must contact OC Parks two weeks prior to event.
 - Food vendors will be required to work directly with OC Parks and County of Orange, Health Care Agency (HCA) to ensure they are in compliance and insured for event.
 - The County will pay for any additional costs associated with site preparations, including, but not limited to renting a foot-activated pump station with hot water.
 - The contractor may suggest additional items, but the County will determine all necessary expenditures related to site preparations.

E. Management

Contractor shall coordinate with OC Parks Communications Unit and Park Rangers to properly manage the logistics of the concert in its entirety.

- Oversee schedule (set up, load in, sound check, doors, set time, curfew, wrap).
- Coordinate artist advance of show with venue and production.
- Two (2) on-site event managers provided for concert.
- Management of all artist needs.
- Management of all media needs.
- Management of all sponsor activations as approved by OC Parks.
- Monitoring of attendance at concert.
- Coordinate content capture (photo/video).
 - Photo recap by professional photographer of concert provided to OC Parks.

F. Accounting

Contractor shall coordinate with OC Parks Communications Unit to develop and manage the concert budget.

- Development of budget.
- Management of budget.
- Accounting of all concert expenses.
- Execution of billing and payment of all concert vendors and paid participants.

3. Meetings:

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

4. Approval of Work:

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

ATTACHMENT B
COMPENSATION & PAYMENT

1. **Compensation:** This is an all-inclusive, firm fixed price Contract between County and Contractor for provided in Attachment “A”, Scope of Work.

Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, tax, shipping, freight, insurance requirements, 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 Contractor of all its duties and obligations hereunder. Contractor shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. County shall have no obligation to pay any sum in excess of total contract amount specified herein unless authorized by amendment in accordance with Paragraphs “C” and “R” of Contract Terms and Conditions.

2. **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. Vendor 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.

3. **Invoicing Instructions:** The Contractor shall provide an invoice on the Contractor’s letterhead. Each invoice shall have a unique number and shall 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) Delivery/Service address
- e) Contract Number: CT-012-15010188
- f) Service Date
- g) Description of Services/Items
- h) Total
- i) Taxpayer ID number

Invoices and supporting documentation are to be forwarded to:

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

The responsibility for providing an acceptable invoice to the County of payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

4. **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 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.*
5. **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: CT-012-15010188
 - g) Date of order
 - h) Product/service description, quantity, and prices
 - i) Sales tax, if applicable
 - j) Freight/delivery charges, if applicable
 - k) Total

ATTACHMENT C
PRICE SHEET

1.	Stage	\$ 2,000
2.	Sound	\$ 4,000
3.	Performing Artists (Band #1, Band #2)	\$ 11,000
4.	Disc Jockey (DJ)	\$ 500
5.	Advertising Campaign	\$ 5,000
6.	Management Consulting Fee – Includes Necessary Insurance	\$ 2,500
<i>Not to Exceed Total Amount:</i>		\$ 25,000