

**NON-EXCLUSIVE SERVICES AGREEMENT BETWEEN
TEMECULA COMMUNITY SERVICES DISTRICT AND JEFFREY L. WADDLETON**

DJ AND ANNOUNCING SERVICES

THIS AGREEMENT is made and effective as of **May 14, 2024**, between the **Temecula Community Services District**, a community services district (hereinafter referred to as "City"), and **Jeffrey L. Waddleton**, an **Individual Person** (hereinafter referred to as "Vendor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on **July 1, 2024**, and shall remain and continue in effect until tasks described herein are completed, but in no event later than **July 31, 2029**, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Vendor shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Vendor shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

Vendor shall faithfully and competently exercise the ordinary skill and competence of members of their profession. Vendor shall employ all generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Vendor hereunder in meeting its obligations under this Agreement.

4. LOCATION AND REALIABILITY OF PERFORMANCE

The date, time, and location of Vendors performance shall be determined at the time of City's request for "Event Price Quote/Agreement". All entertainment shall be provided within City limits. Time and reliability are of the essence in this Agreement.

5. PAYMENT

a. The City agrees to pay Vendor, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. This amount shall not exceed **One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00)** for the total term of this agreement unless additional payment is approved as provided in this Agreement.

b. Vendor will submit invoices for actual services performed. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Vendor's fees, it shall give written notice to Vendor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Vendor shall provide receipts on all reimbursable expenses in excess of fifty dollars (\$50) in such form as approved by the Director of Finance.

6. NON-EXCLUSIVE AGREEMENT

Vendor understands this is a non-exclusive Agreement between the City and Vendor and no guarantee of work or cost as outlined in Sections 2 and 5 is given or implied.

7. EQUIPMENT/MATERIALS

Vendor(s) shall provide their own sound equipment and any other special equipment and materials that are required for the performance, unless other arrangements are made in writing and approved with the City prior to the performance. Sound equipment shall be adequate for the size of the anticipated audience and location of the performance. The City reserves the right to inspect all equipment and/or materials being used for any performance.

8. USE OF COPYRIGHTED MATERIAL

The Vendor shall be fully responsible for paying any legally required royalties of fees for the use by the Vendor of copyrighted material and shall comply at all times with all applicable copyright laws.

9. ASSIGNMENT

The Vendor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Vendors sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City and Vendor.

10. SUSPENSION, TERMINATION, OR CANCELLATION OF PERFORMANCE AND AGREEMENT WITHOUT CAUSE

a. A performance may be cancelled, terminated, or suspended at any time, with or without cause, at the sole discretion of the Director of Community Services or his delegate without default or breach of this Agreement by the City. The City may also at any time, for any reason, with or without cause suspend or terminate this Agreement, or any portion hereof, by serving upon the Vendor at least ten (10) days prior written notice. Upon receipt of said notice, the Vendor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates this Agreement, or a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Vendor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Vendor will submit an invoice to the City, pursuant to Section entitled "PAYMENT" herein.

11. DEFAULT OF VENDOR

a. The Vendor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Vendor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Vendor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Vendor. If such failure by the Vendor to make progress in the performance of work hereunder arises out of causes beyond the Vendor's control, and without fault or negligence of the Vendor, it shall not be considered a default.

b. If the Director of Community Services or his delegate determines that the Vendor is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Vendor with written notice of the default. The Vendor shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Vendor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

12. INDEMNIFICATION

The Vendor agrees to defend, indemnify, protect and hold harmless the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, agents, employees or volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Vendor's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency.

13. INSURANCE REQUIREMENTS

Vendor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Vendor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Vendor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Vendor shall execute a declaration that it has no employees.

b. Minimum Limits of Insurance. Vendor shall maintain limits no less than:

1) General Liability: One million (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: One million (\$1,000,000) per accident for bodily injury and property damage.

3) Worker's Compensation insurance is required only if Vendor employs any employees. Vendor warrants and represents to the City of Temecula, Temecula

Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency that it has no employees and that it will obtain the required Worker's Compensation Insurance upon the hiring of any employees.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000).

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The Vendor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2) Each insurance policy required by this agreement shall be endorsed to state: should the policy be canceled before the expiration date the issuing insurer will endeavor to mail thirty (30) days' prior written notice to the City.

3) If insurance coverage is canceled or, reduced in coverage or in limits the Vendor shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-:VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Vendor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Vendor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

14. INDEPENDENT CONTRACTOR

a. Vendor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Vendor shall at all times be under Vendor's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Vendor or any of Vendor's officers, employees, or agents except as set forth in this Agreement. Vendor shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Vendor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to Vendor in connection with the performance of this Agreement. Except for the fees paid to Vendor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Vendor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Vendor for injury or sickness arising out of performing services hereunder.

15. LEGAL RESPONSIBILITIES

The Vendor shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Vendor shall at all times observe and comply with

all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Vendor to comply with this section.

16. RELEASE OF INFORMATION

a. All information gained by Vendor in performance of this Agreement shall be considered confidential and shall not be released by Vendor without City's prior written authorization. Vendor, its officers, employees, agents or subcontractors, shall not without written authorization from the Director of Community Services or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Vendor gives City notice of such court order or subpoena.

b. Vendor shall promptly notify City should Vendor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Vendor and/or be present at any deposition, hearing or similar proceeding. Vendor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Vendor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

17. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

Mailing Address: City of Temecula
Attn: General Manager
41000 Main Street
Temecula, CA 92590

To Consultant: **Jeffrey L. Waddleton**
PO Box 1752
Temecula, CA 92593

18. LICENSES

At all times during the term of this Agreement, Vendor shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. GOVERNING LAW

The City and Vendor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern

the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

20. PROHIBITED INTEREST

No officer, or employee of the City of Temecula that has participated in the development of this agreement or its approval shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Vendor, or Vendor's sub-contractors for this project, during his/her tenure or for one year thereafter. The Vendor hereby warrants and represents to the City that no officer or employee of the City of Temecula that has participated in the development of this agreement or its approval has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds thereof, or in the business of the Vendor or Vendor's sub-contractors on this project. Vendor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

21. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

22. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Vendor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Vendor and has the authority to bind Vendor to the performance of its obligations hereunder. The Director of Community Services is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

TEMECULA COMMUNITY SERVICES DISTRICT

JEFFREY L. WADDLETON
(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

By: _____
Zak Schwank, TCSD President

By: 
Jeffrey L. Waddleton, Owner

ATTEST:

By: _____
Randi Johl, Secretary

APPROVED AS TO FORM:

By: _____
Peter M. Thorson, General Counsel

VENDOR
Jeffrey L. Waddleton

PO Box 1752

Temecula, CA 92593

jeff@waddleton.com

**City Purchasing Mgr.
Initials and Date:**

EXHIBIT A

TASKS TO BE PERFORMED

Vendor recognizes and agrees that this Agreement is for the purpose of establishing a contractual relationship between the City and the Vendor for future DJ and announcing services at City events and recreational activities. The procedure for assigning work is set forth as follows:

1. The Director of Community Services or their designee's shall submit to the Vendor a written or verbal request for performance. The type of event, location, date, and time shall be described or conveyed to the Vendor.
2. Within five (5) business days of the date of the written or verbal request for performance, the Vendor shall respond in writing with an event price quote/Agreement.
3. Upon acceptance of the Vendors response by the Director of Community Services or their designee's, the Vendor shall proceed to "book" the event. The Vendors performance or the performance of any sub-contractors of any event shall be pursuant to the terms of this Agreement.

Services include but may not be limited to:

1. DJ Services
2. Event Announcing Services

EXHIBIT B

PAYMENT RATES AND SCHEDULE

Exhibit B shall be the Event quote/Agreement as provided by the Vendor for each individual performance as requested by the City. In any event, the cost of such services, while not guaranteed as per Section 5 of this Agreement, shall not exceed a total of \$150,000.00 for the total term of this Agreement.