

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 22, 2015

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Parks and Recreation

Submitted By: Parks and Recreation Department

Submitted For: Parks and Recreation Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: the following original executed Entertainment Contractor Agreements for two community events:

- A) Blackwood Productions LLC, Eighth Annual Fourth of July Celebration, Sunset Cove Amphitheater, on July 4th, 2015; and
- B) Chase Stites, GL Commercial Presents: The Chase Stites Band concert, Canyon Town Center Amphitheater, on May 16, 2015; and
- C) Innovative Leisure, Inc., Eighth Annual Fourth of July Celebration, Sunset Cove Amphitheater, on July 4th, 2015; and
- D) Zambelli Fireworks Manufacturing Co., Eighth Annual Fourth of July Celebration, Sunset Cove Amphitheater, on July 4th, 2015.

Summary: The Parks and Recreation Department produces cultural activities to promote the quality of life in the communities it serves. The Parks and Recreation Department produced two popular cultural events at the Canyon Town Center and Sunset Cove Amphitheaters. These events were attended by an estimated 7,700 people and generated positive support and goodwill for the County. A sponsorship from GL Homes offset the expenses of the concert at the Canyon Town Center Amphitheater. A sponsorship from the West Boca Community Council offset the expense of the July 4th fireworks. In accordance with County PPM CW-O-051, all delegated contracts/agreements/grants must be submitted by the initiating Department as a Receive and File agenda item. The Entertainment Contractor Agreements have been fully executed on behalf of the Board of County Commissioners (Board) by the County Administrator/Director/Assistant Director of the Parks and Recreation Department in accordance with Resolution 2008-1109, amended by Resolutions 2010-0644 and 2014-0168, and are now being submitted to the Board to receive and file. District 5 (AH)

Background and Justification: The Entertainment Contractor Agreement, Resolution 2008-1109, amended by Resolutions 2010-0644 and R2014-0168, was adopted by the Board to streamline the process of hiring entertainment for County sponsored events. The Board granted the Director/Assistant Director of Parks and Recreation authority to execute Entertainment Contractor Agreements for entertainment up to \$10,000, with contracts between \$10,000 and \$50,000 requiring the County Administrator's approval and contracts over \$50,000 requiring Board approval.

The Contractors have affirmed their non-discrimination policy will be in conformance with the County's policy.

Attachments: Entertainment Contractor Agreements (4)

Recommended by: _____


Department Director

8/21/2015
Date

Approved by: _____


Assistant County Administrator

7-2-15
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>17,599</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>(16,300)</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>1,299</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

ADDITIONAL FTE

POSITIONS (Cumulative) 0

Is Item Included in Current Budget? Yes X No

Budget Account No.: Fund 0001 Department 580 Unit 5206/5207
Revenue Source 4729/6600 /Object 3401 Program

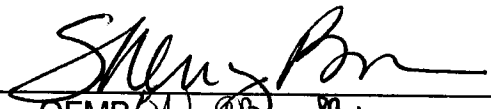
B. Recommended Sources of Funds/Summary of Fiscal Impact:

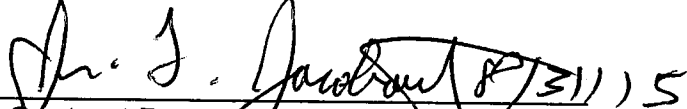
	Entertainment Contractor	Revenue	Expense
A	Blackwood Productions LLC,	\$0	\$1,000
B	Chase Stites	\$1,300	\$600
C	Innovative Leisure, Inc.	\$0	\$999
D	Zambelli Fireworks Manufacturing Co.	\$15,000	\$15,000
	Totals	\$16,300	\$17,599

C. Departmental Fiscal Review: 

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


OFMB 8/25 8/25 8/25


Contract Development and Control
8.31.15 8.31.15

B. Legal Sufficiency:

Anne Helgand 9/2/15
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment

ENTERTAINMENT CONTRACTOR AGREEMENT FOR PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT

THIS ENTERTAINMENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on JUNE 24 2015 by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "COUNTY," and Blackwood Productions LLC, a Florida Limited Liability Company, authorized to conduct business in the State of Florida, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," seeks to organize and make available quality entertainment productions at the COUNTY owned and operated Amphitheaters; and

WHEREAS, COUNTY provides CONTRACTOR the opportunity to produce, stage, and perform such productions pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, COUNTY and CONTRACTOR hereby agree to the following terms and conditions:

1. **Term:** This Agreement is effective Saturday, July 4, 2015, at 4:00 PM, the date and time CONTRACTOR is scheduled to arrive at the event venue, and will terminate Saturday, July 4, 2015, at 11:00 PM, the date and time CONTRACTOR is scheduled to depart the event venue.
2. **Amphitheater:** The event venue is Sunset Cove Amphitheater, hereinafter referred to as "Amphitheater", together with such amenities, equipment, and appurtenances as may be made available by COUNTY, in its sole discretion, all as more particularly described on the Amphitheater Designation Form, attached hereto as **Exhibit "A"**.
3. **Event:** The entertainment production to be presented at the Amphitheater is an event promoted as: The Eighth Annual July 4th Celebration, hereinafter referred to as "Event", for which COUNTY hires CONTRACTOR to produce, stage, and perform, and when applicable including securing the Event's entertainment talent: Ocean Boulevard, hereinafter referred to as "Entertainment".

If applicable, the sound check and/or warm-up for all Event Entertainment will begin at 4:00 PM and will conclude no later than 5:30 PM, which is no less than Sixty (60) minutes prior to time the Event is scheduled to begin.

The Event's Entertainment will begin performing at 6:45 PM and will conclude at 8:45 PM.

The performance will consist of Two (2) set(s) of Fifty Five (55) minutes per set.

If usual and customary for the type of entertainment production and/or the length of time Entertainment is scheduled to perform, the production may include One (1) intermission(s), of Ten (10) minutes each.

Unless otherwise specifically agreed to by COUNTY prior to the signing of this Agreement, no portion of the Event's Entertainment production is to include prerecorded audio or video.

Unless otherwise specifically agreed to by COUNTY prior to the signing of this Agreement, no portion of the Event's Entertainment production is to include prerecorded audio or video.

In addition to the above, the scope and detail of the Event is more particularly described on the Event Scope and Detail, attached hereto as **Exhibit "B"**.

4. **Payment:** The total amount payable by COUNTY to CONTRACTOR for the Event Entertainment is One Thousand dollars (\$ 1,000.00) to be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Notwithstanding the foregoing, at COUNTY's sole discretion, a percentage of the total amount payable may be paid to CONTRACTOR prior to the Event.

In such event, COUNTY will remit to CONTRACTOR Fifty percent (50%) of said total amount payable within Fourteen (14) days following the signing of this Agreement by COUNTY. The remaining balance of the total amount payable will be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Satisfactory completion of CONTRACTOR's entertainment production obligations include, but are not limited to, the requirement that the Event's Entertainment perform onstage a minimum of ninety percent (90%) of the agreed upon performance time. Failure to meet this requirement will result in a reduction in payment to CONTRACTOR. The amount of such reduction will be determined by COUNTY in its sole discretion.

5. **Termination by COUNTY:** In addition to the termination rights provided in Article 10 below, COUNTY reserves the right to terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to CONTRACTOR at least seven (7) days prior to the effective date hereof. In such event, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any damages resulting from such termination.
6. **Termination by CONTRACTOR:** CONTRACTOR may terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to COUNTY at least thirty (30) days prior to the effective date hereof. In such event, this Agreement will terminate without further action provided CONTRACTOR returns to COUNTY with said notice of termination any percentage payment that may have been made to CONTRACTOR.

7. **Performance:**

a. CONTRACTOR agrees to:

1. **use** the Amphitheater solely for the purpose for which this Agreement is entered into;
2. **accept** the Amphitheater and all equipment and improvements related to the Event in the condition existing as of the effective date of this Agreement;
3. **accept** the amount of payment defined above as full and final payment without further expectation for reimbursement of any expenses related to this Agreement;

4. **waive** any and all claims for compensation for any and all losses or damages sustained due to failure or malfunction of the Amphitheater's water or electrical power supplies;
5. **adhere** to the directives of the Department's representatives including, but not limited to, proper use and handling of COUNTY owned equipment, assignment of designated parking areas, locations for offloading and staging production equipment, and acceptable noise levels;
6. **prohibit** any activity or material related to the Event that may be considered contrary to community standards of appropriateness, including the use of profanity, obscene language, or lewd gestures, which will result in COUNTY's withholding of payment and denial of future entertainment contracting opportunities;
7. **assure** that all persons under CONTRACTOR's control conduct themselves in a socially acceptable manner including prohibiting the consumption of alcohol or illegal drugs on Amphitheater premises;
8. **obtain** the Department's written approval prior to the use of any type of pyrotechnics;
9. **obtain** the Department's written approval prior to operating any engine, motor or machinery or using any flammable agents, including but not limited to oils, camphene, kerosene, naphtha, or gasoline; with the exception of generators that have been approved by the Department's representative.
10. **assume** full responsibility for obtaining all licenses and permits required by Copyright Regulations of Title 17 of the United States Code, and agree to indemnify COUNTY and its agents for any expenses incurred as a result of CONTRACTOR's failure to obtain such licenses or permits, including, but not limited to, fines or damages collected against COUNTY or COUNTY's agents, any attorney's fees and court costs, and for any expenses incurred as a result of CONTRACTOR's failure to otherwise satisfy such regulations;
11. **identify**, as part of Event Scope and Detail, attached hereto as **Exhibit "B"**, any and all required specialty certifications, licenses and / or memberships applicable to the event;
12. **deliver** to the Department, no later than forty-eight (48) hours prior to the Event, a copy of those certain specialty certifications, licenses and / or memberships referenced above, all of which will be retained by the Department;
13. **acknowledge** that failure to deliver the required documentation referenced above may result in immediate termination of this Agreement and the return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR and forfeiture of the payment balance;
14. **remove** all equipment and materials owned by CONTRACTOR and Entertainment no later than the termination date and time specified in Article 1 above;
15. **return** the Amphitheater and all equipment and improvements related to the Event to the condition existing as of the effective date and time specified in Article 1 above;

16. **hold** COUNTY harmless for the sale or disposal of any equipment and materials considered to be abandoned due to CONTRACTOR's or Entertainment's failure to remove same from the Amphitheater premises by the specified termination date and time and pay the cost of such removal and disposal upon receipt of COUNTY's invoice; and
17. **comply** with all Amphitheater rules and regulations and adhere to all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation, and Department standard operating procedures as all such laws, regulations, ordinances, and procedures apply to CONTRACTOR's and Entertainment's use of the Amphitheater.

b. COUNTY agrees to:

1. **promote** the Event;
 2. **deliver** the Amphitheater and associated premises in a safe, clean, and orderly condition;
 3. **assign** sufficient staff to provide logistical support and oversee all aspects of the Event including authority to make final decisions and issue directives on behalf of COUNTY;
 4. **provide** support services including law enforcement, technical staff and skilled maintenance as may be determined necessary by the Department;
 5. **retain** control of the Amphitheater and all operations conducted on the Amphitheater premises including enforcement of all laws, rules, regulations pertaining to the safety and wellbeing of the public; and
 6. **collect** and dispose of any and all items either discarded or lost by patrons or others at the Event, without interference by CONTRACTOR or Entertainment or any person working for or on their behalf.
8. **Postponement or Cancellation of Event:** In the event emergency conditions arise which may affect public safety, the Event may be postponed or cancelled. Such emergency conditions include, but are not limited to, acts of God or issuance of an executive order indicating a state of general emergency. COUNTY, in its sole discretion, will determine the necessity to postpone or cancel the Event and will endeavor to provide CONTRACTOR at least four (4) hours notice of such postponement or cancellation prior to the Event start time specified in Article 3 above. Provided, however, COUNTY's notice of such postponement or cancellation may be given at anytime including during the Event performance.

In the event COUNTY cancels the Event due to any public safety concern or CONTRACTOR elects to cancel the Event's Entertainment rather than accept a delayed start time, the Term of this Agreement will be extended upon the same terms and conditions provided that within five (5) days following such occurrence, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

9. **Cancellation, Rescheduling and Substitution of Entertainment:** In the event CONTRACTOR fails to perform or otherwise cancels the Event's Entertainment for any reason, including illness, at any time, the Term of this Agreement may be extended upon the same terms and conditions provided that within five (5) days following such cancellation, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

Notwithstanding the foregoing, in the event CONTRACTOR cancels the Event's Entertainment due to illness, CONTRACTOR may be permitted, with COUNTY's prior approval, to secure substitute entertainment. Provided, however, such substitute entertainment must perform a similar type and style of entertainment as that for which this Agreement is entered into. In such event, COUNTY reserves the right to require CONTRACTOR to return, within four (4) days following the Event date, any percentage payment that may have been made and/or reduce or deny payment of the remaining amount payable.

10. **Termination for Cause:** The occurrence of any one or more of the following acts constitutes a material default and breach of this Agreement by CONTRACTOR and will result in the immediate termination of this Agreement:

- CONTRACTOR misrepresents the type or style of entertainment to be performed;
- CONTRACTOR provided materially false information relating to this Agreement;
- Any person under the control of CONTRACTOR, including subcontractors, is responsible for purposely damaging the Amphitheater or any COUNTY owned equipment;
- Any person under the control of CONTRACTOR, including subcontractors, is guilty of gross misconduct or unlawful behavior while on the Amphitheater premises; or
- Entertainment's performance fails to meet the professional performance standards and expectations assumed at the time this Agreement is entered into and COUNTY, following consultation with CONTRACTOR, elects to stop the performance prior to its scheduled conclusion time.

In the event of any such material default or breach, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

11. **Photography / Recording:** Except for Entertainment performances and materials covered by copyright laws, licensing fees or other legal regulations, COUNTY may photograph and/or record audio and video during the Event. Such photos and recordings may be used by COUNTY for promotional and informational purposes

only. CONTRACTOR agrees to provide assistance as needed to accommodate such photography and recording. CONTRACTOR is responsible for being aware of and advising COUNTY of any copyright infringements or other legal limitations that may apply to photographing and/or recording during the Event.

12. **Relationship of the Parties:** The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

This Agreement does not constitute an endorsement or sponsorship by COUNTY of CONTRACTOR or Entertainment. Though COUNTY may issue press releases and publish advertising regarding the Event, including postings on COUNTY websites and social media sites, such advertisements are intended solely for the purpose of raising public awareness of the Event and are not to be misrepresented as a form of endorsement or sponsorship by COUNTY.

CONTRACTOR may not use the name or logo of the COUNTY, the Department or Amphitheater in a manner that suggests a relationship other than that for which this Agreement is entered into. Any use of the COUNTY, Department or Amphitheater logos is subject to approval by the COUNTY.

13. **Taxes:** CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as may be applicable to the payment made by COUNTY to CONTRACTOR. Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's tax exempt status.

14. **No Assignment:** CONTRACTOR may not assign any rights, responsibilities, or obligations required under this Agreement. Any such attempted assignment is a material breach of this Agreement and cause for immediate termination.

15. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Donald Perez Phone Number: 561-966-7030.

16. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverages specified on Insurance Requirements, attached hereto as **Exhibit "C"**.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement or no later than ten (10) days prior to the effective date hereof, at the COUNTY's discretion.

17. **Indemnification:** CONTRACTOR agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees and costs at trial and appellate levels, and causes of action of every kind and character arising out of this Agreement or CONTRACTOR's

use and occupancy of the Amphitheater. Such causes of action include, without limitation, those arising by reason of; (i) any damage to property or the environment, (ii) bodily injury, including death, incurred or sustained by any party hereto, any agent or employee of any party hereto, and any third or other party whosoever, (iii) the condition of the Amphitheater existing at the effective date of this Agreement, (iv) CONTRACTOR's acts, omissions or operations hereunder, (v) the performance, non-performance or purported performance of CONTRACTOR, or (vi) any breach of the terms of this Agreement. The obligations arising under this provision will survive the expiration or termination of this Agreement.

18. **Damage or Destruction of Amphitheater:** In the event the Amphitheater or any part thereof is damaged by the act, default, or negligence of CONTRACTOR or Entertainment, the cost to repair such damage will be the responsibility of CONTRACTOR. In the event of such damage, COUNTY's payment to CONTRACTOR may be reduced or forfeited to cover repair costs and/or the cost of such repairs may be invoiced by COUNTY to CONTRACTOR, the amount of which is payable upon CONTRACTOR's receipt of invoice.

Additionally, CONTRACTOR is prohibited from defacing the Amphitheater in any way including using nails, hooks, tacks, screws or any other fastening device. No signs, advertisements, show-bills, lithographs, posters, placards or any other such items are to be posted or otherwise displayed anywhere on the Amphitheater premises without the express consent of the Department's authorized representative. Any such unapproved items will be immediately removed at the sole cost and expense of CONTRACTOR.

19. **Termination Upon Destruction or other Casualty:** In the event the Amphitheater or any part thereof is destroyed or damaged in whole or part, or if any other casualty or unforeseen occurrence renders the fulfillment of this Agreement impossible, as determined by COUNTY in its sole discretion, this Agreement will terminate effective upon COUNTY's delivery to CONTRACTOR of a written notice of termination. In the event of any such termination, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

20. **COUNTY Not Liable:** All personal property placed on or moved onto the Amphitheater premises will be done so at the sole risk of CONTRACTOR or owner thereof and CONTRACTOR expressly acknowledges and agrees that COUNTY will not be liable for any damage to or loss of such personal property.

21. **Notices:** All notices required by this Agreement are to be hand delivered or sent by certified mail, return receipt requested to:

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department
Attn: Director of Special Facilities
2700 6th Avenue South
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Blackwood Productions, LLC
Attn: Peter Nobel
3646 23rd Ave South
Lake Worth, FL 33461-3288

22. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
23. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
24. **Annual Appropriations:** The fulfillment of this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon annual budgetary appropriations by the Board of County Commissioners.
25. **Arrears:** CONTRACTOR is not to pledge or attempt to pledge COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
26. **Authorization:** This Agreement is executed by an individual legally authorized to fully bind CONTRACTOR to all terms and conditions of this Agreement.
27. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
28. **Severability:** In the event any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected, and every other term and provision of this Agreement will be deemed valid and enforceable to the extent permitted by law.
29. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

30. **Waiver:** The failure of COUNTY to insist upon strict performance of any of the agreements, terms, covenants or conditions of this Agreement, does not constitute a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance, and COUNTY's right to insist on strict performance of this Agreement will not be affected by any previous waiver of course or dealing.

31. **Nondiscrimination:** CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

CONTRACTOR has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the CONTRACTOR does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to COUNTY that CONTRACTOR will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

32. **Regulation; Licensing Requirements:** CONTRACTOR agrees to comply with all laws, ordinances and regulations applicable to its use of the Amphitheater premises. CONTRACTOR is presumed to be familiar with all applicable federal, state, and local laws, ordinances, codes and regulations.

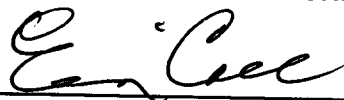
33. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

34. **Entirety of Agreement:** COUNTY and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:**

By: 
Director / Assistant Director
Palm Beach County Parks and Recreation Department

**If Agreement Value
Exceeds \$10,000.00, But Not More Than \$50,000.00:**

County Administrator

By: _____

**If Agreement Value
Exceeds \$50,000.00:**


**COUNTY:
Board of County Commissioners**

**ATTEST:
Clerk & Comptroller**

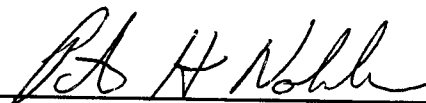
Deputy Clerk

By: _____
Mayor

WITNESS


Signature
Joe Wilhelme
Print

CONTRACTOR – Blackwood Productions, LLC

By: 
Signature
PETER H NOBLE
Print
OWNER
Title

**APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

County Attorney

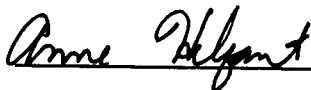


EXHIBIT "A"

ENTERTAINMENT CONTRACTOR AGREEMENT

Amphitheater Designation Form

- ☒ **SUNSET COVE AMPHITHEATER:** Located in South County Regional Park
12551 Glades Road
Boca Raton



Viewing capacity for 6,000 – covered stage with rigging points – four dressing rooms – private restrooms – air conditioned back stage – covered vendor area with hook-up – public restrooms attached

- ☐ **SEABREEZE AMPHITHEATER:** Located in Carlin Park
750 South State Road A1A
Jupiter



Viewing capacity for 2,500 – covered stage with light rigging – sound control room – three dressing rooms – green room – two private restrooms – prop room – costume room – air conditioned back stage – public restrooms detached

- ☐ **CANYON TOWN CENTER AMPHITHEATER:** Located in Canyon Community Park
8802 Boynton Beach Boulevard
Boynton Beach



Viewing capacity for 500 – covered stage with light rigging – covered backstage – loading ramps – public restrooms attached

NOTE: The above described Amphitheater amenities, equipment, and appurtenances are identified for informational purposes only and may not be available for use by Contractor nor Entertainment.

EXHIBIT "B"
(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Event Scope & Detail

Event Date: Saturday, July 4th, 2015

Event Name: The Eighth Annual July 4th Celebration

Event Scope & Detail: The annual July 4th concert featuring "Ocean Boulevard." Ocean Boulevard consists of Peter Noble and five (5) additional band members. Entertainment will be available for a required scheduled rain date of Sunday July 5, 2015 in the event the Saturday, July 4, 2015 event is cancelled due to intermittent weather.

Specialty Certificates, Licenses, and Memberships:

Identify certificates, licenses, and memberships required pursuant to provision 7.a.11. of the Entertainment Contractor Agreement. Submit such documents with this *Event Scope & Detail* or indicate the date such documents will be delivered to the Department:

Not Required

EXHIBIT "B"

(2 of 2)

Amenities, Services & Equipment:

Provided By:

	N/A	COUNTY	CONTRACTOR
Detailed list of equipment provided by COUNTY and/or CONTRACTOR is attached to this Exhibit: <u>See Page 16</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sound System: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sound Equipment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Light System: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lighting Equipment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Light Trees: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Microphones: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cables: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Backline: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Heavy Duty/Outdoor Extension Cords: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sound Technician: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Light Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dressing Room: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Drum Riser: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Generators: <i>Department Approval Signature:</i> _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireworks / Pyrotechnics: [†] _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[†] Requests to include fireworks or any other form of pyrotechnics display will be considered on a case-by-case basis. Any such displays require the approval of the Department Director, and must be conducted in accordance with the permit issued by the Fire Rescue Department having municipal jurisdiction of the Amphitheater. Also, the presence of the Fire Rescue Department is required. Additional insurance coverages as well as charges for the presence of Fire Rescue equipment and personnel will apply

EXHIBIT "C"

(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach County Parks & Recreation Department Representative to Initial as applicable:



No Insurance Required: Based on scope of services, CONTRACTOR shall not be required to provide insurance.

☐

Commercial General Liability: CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☐

Auto Liability: CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

☐

Workers' Compensation Insurance & Employer's Liability: CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.

☐

Professional Liability: CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims – made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

Exhibit "C"

(2 of 2)



Additional Insured Clause: Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."



Waiver of Subrogation: CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.



Certificates of Insurance: Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:

Palm Beach County Board of County Commissioners
C/O Parks and Recreation Department

Attn: _____

2700 Sixth Avenue South
Lake Worth, Florida 33461



Umbrella or Excess Liability: If necessary, CONTRACTOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.



Right to Revise or Reject: COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.



Lighting and Sound System

Stage Lighting

Console

Strand Palette 48/96

Lighting

Altman Outdoor PAR 64-1000watt Fixture (44 on front overhang rail, 11 on first inside rail)

Altman R-40 Striplight-250watt Fixtures (4 per row on second, third and fourth inside rail)

Sound System

Mixing Console

Soundcraft GB8 40 channel

Microphones

Shure ULX Wireless with SM58 Capsules (2)

Mics, stands, and cables are provided

Signal Processing

DBX 223 1 Graphic EQs (3)

Yamaha SPX 2000

Lexicon MX 400

Symetrix SYM-NET 8x8 Processors

EV DC One

Playback

Denon DN-635 CD Player

Denon DN-T625 Cassette/ CD Player

Speaker System

EV Xlci Line Array

Xlc 118 (3 per side)

Xlci 127 (6 per side)

Monitors

Sidefills

Power Amplification

Crown Macro Tech 5002vz (2 for Suds)

Crown Macro tech 3600vz (3 for Lows)

Crown Macro Tech 2402 (3 for passively crossed over Mids and Highs)

Snake

Custom unit permanently installed with 48 inputs. 4 tie lines.

All returns hardwired to House system.

Donald Perez

From: Peter Noble [pete@blackwoodsv.com]
Sent: Tuesday, March 24, 2015 1:43 PM
To: Donald Perez
Subject: Worker's comp issue

Blackwood Productions, LLC has no employees. Should that status change, I will notify you.

Pete Noble
General Manager
Blackwood Productions, LLC.
O: 561-366-7312
C: 561-252-6443
Pete@BlackwoodSV.com
www.blackwoodsv.com
www.facebook.com/blackwoodsv

**ENTERTAINMENT CONTRACTOR AGREEMENT FOR
PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT**

THIS ENTERTAINMENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on MAY 4, 2015 by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "COUNTY," and Chase Stites, a individual, authorized to conduct business in the State of Florida, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," seeks to organize and make available quality entertainment productions at the COUNTY owned and operated Amphitheaters; and

WHEREAS, COUNTY provides CONTRACTOR the opportunity to produce, stage, and perform such productions pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, COUNTY and CONTRACTOR hereby agree to the following terms and conditions:

1. **Term:** This Agreement is effective Saturday, May 16, 2015, at 4:00 PM, the date and time CONTRACTOR is scheduled to arrive at the event venue, and will terminate Saturday, May 16, 2015, at 11:00 PM, the date and time CONTRACTOR is scheduled to depart the event venue.
2. **Amphitheater:** The event venue is Canyon Amphitheater, hereinafter referred to as "Amphitheater", together with such amenities, equipment, and appurtenances as may be made available by COUNTY, in its sole discretion, all as more particularly described on the Amphitheater Designation Form, attached hereto as **Exhibit "A"**.
3. **Event:** The entertainment production to be presented at the Amphitheater is an event promoted as: GL Commercial Presents: The Chase Stites Band hereinafter referred to as "Event", for which COUNTY hires CONTRACTOR to produce, stage, and perform, and when applicable including securing the Event's entertainment talent: The Chase Stites Band, hereinafter referred to as "Entertainment".

If applicable, the sound check and/or warm-up for all Event Entertainment will begin at 5:00 PM and will conclude no later than 6:30 PM, which is no less than Thirty (30) minutes prior to time the Event is scheduled to begin.

The Event's Entertainment will begin performing at 7:00 PM and will conclude at 9:00 PM.

The performance will consist of Two (2) set(s) of Fifty Five (55) minutes per set.

If usual and customary for the type of entertainment production and/or the length of time Entertainment is scheduled to perform, the production may include One (1) intermission(s), of Ten (10) minutes each.

Unless otherwise specifically agreed to by COUNTY prior to the signing of this Agreement, no portion of the Event's Entertainment production is to include prerecorded audio or video.

In addition to the above, the scope and detail of the Event is more particularly described on the Event Scope and Detail, attached hereto as **Exhibit "B"**.

4. **Payment:** The total amount payable by COUNTY to CONTRACTOR for the Event Entertainment is Six Hundred Dollars (\$600.00) to be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Notwithstanding the foregoing, at COUNTY's sole discretion, a percentage of the total amount payable may be paid to CONTRACTOR prior to the Event.

In such event, COUNTY will remit to CONTRACTOR Fifty percent (50%) of said total amount payable within Fourteen (14) days following the signing of this Agreement by COUNTY. The remaining balance of the total amount payable will be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Satisfactory completion of CONTRACTOR's entertainment production obligations include, but are not limited to, the requirement that the Event's Entertainment perform onstage a minimum of ninety percent (90%) of the agreed upon performance time. Failure to meet this requirement will result in a reduction in payment to CONTRACTOR. The amount of such reduction will be determined by COUNTY in its sole discretion.

5. **Termination by COUNTY:** In addition to the termination rights provided in Article 10 below, COUNTY reserves the right to terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to CONTRACTOR at least seven (7) days prior to the effective date hereof. In such event, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any damages resulting from such termination.
6. **Termination by CONTRACTOR:** CONTRACTOR may terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to COUNTY at least thirty (30) days prior to the effective date hereof. In such event, this Agreement will terminate without further action provided CONTRACTOR returns to COUNTY with said notice of termination any percentage payment that may have been made to CONTRACTOR.

7. **Performance:**

a. CONTRACTOR agrees to:

1. **use** the Amphitheater solely for the purpose for which this Agreement is entered into;
2. **accept** the Amphitheater and all equipment and improvements related to the Event in the condition existing as of the effective date of this Agreement;
3. **accept** the amount of payment defined above as full and final payment without further expectation for reimbursement of any expenses related to this Agreement;

4. **waive** any and all claims for compensation for any and all losses or damages sustained due to failure or malfunction of the Amphitheater's water or electrical power supplies;
5. **adhere** to the directives of the Department's representatives including, but not limited to, proper use and handling of COUNTY owned equipment, assignment of designated parking areas, locations for offloading and staging production equipment, and acceptable noise levels;
6. **prohibit** any activity or material related to the Event that may be considered contrary to community standards of appropriateness, including the use of profanity, obscene language, or lewd gestures, which will result in COUNTY's withholding of payment and denial of future entertainment contracting opportunities;
7. **assure** that all persons under CONTRACTOR's control conduct themselves in a socially acceptable manner including prohibiting the consumption of alcohol or illegal drugs on Amphitheater premises;
8. **obtain** the Department's written approval prior to the use of any type of pyrotechnics;
9. **obtain** the Department's written approval prior to operating any engine, motor or machinery or using any flammable agents, including but not limited to oils, camphene, kerosene, naphtha, or gasoline; with the exception of generators that have been approved by the Department's representative.
10. **assume** full responsibility for obtaining all licenses and permits required by Copyright Regulations of Title 17 of the United States Code, and agree to indemnify COUNTY and its agents for any expenses incurred as a result of CONTRACTOR's failure to obtain such licenses or permits, including, but not limited to, fines or damages collected against COUNTY or COUNTY's agents, any attorney's fees and court costs, and for any expenses incurred as a result of CONTRACTOR's failure to otherwise satisfy such regulations;
11. **identify**, as part of Event Scope and Detail, attached hereto as **Exhibit "B"**, any and all required specialty certifications, licenses and / or memberships applicable to the event;
12. **deliver** to the Department, no later than forty-eight (48) hours prior to the Event, a copy of those certain specialty certifications, licenses and / or memberships referenced above, all of which will be retained by the Department;
13. **acknowledge** that failure to deliver the required documentation referenced above may result in immediate termination of this Agreement and the return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR and forfeiture of the payment balance;
14. **remove** all equipment and materials owned by CONTRACTOR and Entertainment no later than the termination date and time specified in Article 1 above;
15. **return** the Amphitheater and all equipment and improvements related to the Event to the condition existing as of the effective date and time specified in Article 1 above;
16. **hold** COUNTY harmless for the sale or disposal of any equipment and materials considered to be abandoned due to CONTRACTOR's or Entertainment's failure to remove same from the

Amphitheater premises by the specified termination date and time and pay the cost of such removal and disposal upon receipt of COUNTY's invoice; and

17. **comply** with all Amphitheater rules and regulations and adhere to all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation, and Department standard operating procedures as all such laws, regulations, ordinances, and procedures apply to CONTRACTOR's and Entertainment's use of the Amphitheater.

b. COUNTY agrees to:

1. **promote** the Event;
 2. **deliver** the Amphitheater and associated premises in a safe, clean, and orderly condition;
 3. **assign** sufficient staff to provide logistical support and oversee all aspects of the Event including authority to make final decisions and issue directives on behalf of COUNTY;
 4. **provide** support services including law enforcement, technical staff and skilled maintenance as may be determined necessary by the Department;
 5. **retain** control of the Amphitheater and all operations conducted on the Amphitheater premises including enforcement of all laws, rules, regulations pertaining to the safety and wellbeing of the public; and
 6. **collect** and dispose of any and all items either discarded or lost by patrons or others at the Event, without interference by CONTRACTOR or Entertainment or any person working for or on their behalf.
8. **Postponement or Cancellation of Event:** In the event emergency conditions arise which may affect public safety, the Event may be postponed or cancelled. Such emergency conditions include, but are not limited to, acts of God or issuance of an executive order indicating a state of general emergency. COUNTY, in its sole discretion, will determine the necessity to postpone or cancel the Event and will endeavor to provide CONTRACTOR at least four (4) hours notice of such postponement or cancellation prior to the Event start time specified in Article 3 above. Provided, however, COUNTY's notice of such postponement or cancellation may be given at anytime including during the Event performance.

In the event COUNTY cancels the Event due to any public safety concern or CONTRACTOR elects to cancel the Event's Entertainment rather than accept a delayed start time, the Term of this Agreement will be extended upon the same terms and conditions provided that within five (5) days following such occurrence, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

9. **Cancellation, Rescheduling and Substitution of Entertainment:** In the event CONTRACTOR fails to perform or otherwise cancels the Event's Entertainment for any reason, including illness, at any time, the Term of this Agreement may be extended upon the same terms and conditions provided that within five (5) days following such cancellation, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

Notwithstanding the foregoing, in the event CONTRACTOR cancels the Event's Entertainment due to illness, CONTRACTOR may be permitted, with COUNTY's prior approval, to secure substitute entertainment. Provided, however, such substitute entertainment must perform a similar type and style of entertainment as that for which this Agreement is entered into. In such event, COUNTY reserves the right to require CONTRACTOR to return, within four (4) days following the Event date, any percentage payment that may have been made and/or reduce or deny payment of the remaining amount payable.

10. **Termination for Cause:** The occurrence of any one or more of the following acts constitutes a material default and breach of this Agreement by CONTRACTOR and will result in the immediate termination of this Agreement:

- CONTRACTOR misrepresents the type or style of entertainment to be performed;
- CONTRACTOR provided materially false information relating to this Agreement;
- Any person under the control of CONTRACTOR, including subcontractors, is responsible for purposely damaging the Amphitheater or any COUNTY owned equipment;
- Any person under the control of CONTRACTOR, including subcontractors, is guilty of gross misconduct or unlawful behavior while on the Amphitheater premises; or
- Entertainment's performance fails to meet the professional performance standards and expectations assumed at the time this Agreement is entered into and COUNTY, following consultation with CONTRACTOR, elects to stop the performance prior to its scheduled conclusion time.

In the event of any such material default or breach, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

11. **Photography / Recording:** Except for Entertainment performances and materials covered by copyright laws, licensing fees or other legal regulations, COUNTY may photograph and/or record audio and video during the Event. Such photos and recordings may be used by COUNTY for promotional and informational purposes only. CONTRACTOR agrees to provide assistance as needed to accommodate such photography and

recording. CONTRACTOR is responsible for being aware of and advising COUNTY of any copyright infringements or other legal limitations that may apply to photographing and/or recording during the Event.

12. **Relationship of the Parties:** The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

This Agreement does not constitute an endorsement or sponsorship by COUNTY of CONTRACTOR or Entertainment. Though COUNTY may issue press releases and publish advertising regarding the Event, including postings on COUNTY websites and social media sites, such advertisements are intended solely for the purpose of raising public awareness of the Event and are not to be misrepresented as a form of endorsement or sponsorship by COUNTY.

CONTRACTOR may not use the name or logo of the COUNTY, the Department or Amphitheater in a manner that suggests a relationship other than that for which this Agreement is entered into. Any use of the COUNTY, Department or Amphitheater logos is subject to approval by the COUNTY.

13. **Taxes:** CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as may be applicable to the payment made by COUNTY to CONTRACTOR. Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's tax exempt status.

14. **No Assignment:** CONTRACTOR may not assign any rights, responsibilities, or obligations required under this Agreement. Any such attempted assignment is a material breach of this Agreement and cause for immediate termination.

15. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Donald Perez Phone Number: 561-966-7030

16. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverages specified on Insurance Requirements, attached hereto as **Exhibit "C"**.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement or no later than ten (10) days prior to the effective date hereof, at the COUNTY's discretion.

17. **Indemnification:** CONTRACTOR agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees and costs at trial and appellate levels, and causes of action of every kind and character arising out of this Agreement or CONTRACTOR's use and occupancy of the Amphitheater. Such causes of action include, without limitation, those arising by reason of; (i) any damage to property or the environment, (ii) bodily injury, including death, incurred or sustained by any party hereto, any agent or employee of any party hereto, and any third or other party

whosoever, (iii) the condition of the Amphitheater existing at the effective date of this Agreement, (iv) CONTRACTOR's acts, omissions or operations hereunder, (v) the performance, non-performance or purported performance of CONTRACTOR, or (vi) any breach of the terms of this Agreement. The obligations arising under this provision will survive the expiration or termination of this Agreement.

18. **Damage or Destruction of Amphitheater:** In the event the Amphitheater or any part thereof is damaged by the act, default, or negligence of CONTRACTOR or Entertainment, the cost to repair such damage will be the responsibility of CONTRACTOR. In the event of such damage, COUNTY's payment to CONTRACTOR may be reduced or forfeited to cover repair costs and/or the cost of such repairs may be invoiced by COUNTY to CONTRACTOR, the amount of which is payable upon CONTRACTOR's receipt of invoice.

Additionally, CONTRACTOR is prohibited from defacing the Amphitheater in any way including using nails, hooks, tacks, screws or any other fastening device. No signs, advertisements, show-bills, lithographs, posters, placards or any other such items are to be posted or otherwise displayed anywhere on the Amphitheater premises without the express consent of the Department's authorized representative. Any such unapproved items will be immediately removed at the sole cost and expense of CONTRACTOR.

19. **Termination Upon Destruction or other Casualty:** In the event the Amphitheater or any part thereof is destroyed or damaged in whole or part, or if any other casualty or unforeseen occurrence renders the fulfillment of this Agreement impossible, as determined by COUNTY in its sole discretion, this Agreement will terminate effective upon COUNTY's delivery to CONTRACTOR of a written notice of termination. In the event of any such termination, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

20. **COUNTY Not Liable:** All personal property placed on or moved onto the Amphitheater premises will be done so at the sole risk of CONTRACTOR or owner thereof and CONTRACTOR expressly acknowledges and agrees that COUNTY will not be liable for any damage to or loss of such personal property.

21. **Notices:** All notices required by this Agreement are to be hand delivered or sent by certified mail, return receipt requested to:

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department
Attn: Director of Special Facilities
2700 6th Avenue South
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Chase Stites Band
Attn: Chase Stites
1409 Lake Ave Apt 8
Lake Worth, FL 33460-3690

22. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
23. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
24. **Annual Appropriations:** The fulfillment of this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon annual budgetary appropriations by the Board of County Commissioners.
25. **Arrears:** CONTRACTOR is not to pledge or attempt to pledge COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
26. **Authorization:** This Agreement is executed by an individual legally authorized to fully bind CONTRACTOR to all terms and conditions of this Agreement.
27. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
28. **Severability:** In the event any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected, and every other term and provision of this Agreement will be deemed valid and enforceable to the extent permitted by law.
29. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

30. **Waiver:** The failure of COUNTY to insist upon strict performance of any of the agreements, terms, covenants or conditions of this Agreement, does not constitute a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance, and COUNTY's right to insist on strict performance of this Agreement will not be affected by any previous waiver of course or dealing.

31. **Nondiscrimination:** CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

CONTRACTOR has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the CONTRACTOR does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to COUNTY that CONTRACTOR will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

32. **Regulation; Licensing Requirements:** CONTRACTOR agrees to comply with all laws, ordinances and regulations applicable to its use of the Amphitheater premises. CONTRACTOR is presumed to be familiar with all applicable federal, state, and local laws, ordinances, codes and regulations.

33. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

34. **Entirety of Agreement:** COUNTY and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:**

By: 
Director / Assistant Director
Palm Beach County Parks and Recreation Department

If Agreement Value
Exceeds \$10,000.00, But Not More Than \$50,000.00:

County Administrator

By: _____

If Agreement Value
Exceeds \$50,000.00:

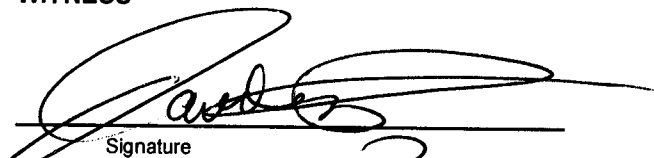
COUNTY:
Board of County Commissioners

ATTEST:
Clerk & Comptroller

Deputy Clerk

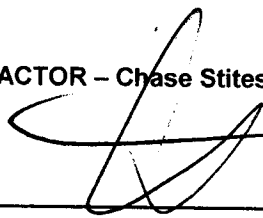
By: _____
Mayor

WITNESS


Signature

Print
Donald de Pree

CONTRACTOR – Chase Stites

By: 
Signature

Print
CHASE STITES

Title
BAND OWNER

**APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

County Attorney



Anne Helgant

EXHIBIT "A"

ENTERTAINMENT CONTRACTOR AGREEMENT

Amphitheater Designation Form

☐

SUNSET COVE AMPHITHEATER: Located in South County Regional Park
12551 Glades Road
Boca Raton



Viewing capacity for 6,000 – covered stage with rigging points – four dressing rooms – private restrooms – air conditioned back stage – covered vendor area with hook-up – public restrooms attached

☐

SEABREEZE AMPHITHEATER: Located in Carlin Park
750 South State Road A1A
Jupiter



Viewing capacity for 2,500 – covered stage with light rigging – sound control room – three dressing rooms – green room – two private restrooms – prop room – costume room – air conditioned back stage – public restrooms detached



CANYON TOWN CENTER AMPHITHEATER: Located in Canyon Community Park
8802 Boynton Beach Boulevard
Boynton Beach



Viewing capacity for 500 – covered stage with light rigging – covered backstage – loading ramps – public restrooms attached

NOTE: The above described Amphitheater amenities, equipment, and appurtenances are identified for informational purposes only and may not be available for use by Contractor nor Entertainment.

EXHIBIT "B"

(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Event Scope & Detail

Event Date: Saturday, May 16, 2015

Event Name: GL Commercial Presents: The Chase Stites Band.

Event Scope & Detail: A free concert featuring "Chase Stites Band" pop and top 40's hits.

Chase Stites Band consists of Chase Stites and three (3) additional band members.

Specialty Certificates, Licenses, and Memberships:

Identify certificates, licenses, and memberships required pursuant to provision 7.a.11. of the Entertainment Contractor Agreement. Submit such documents with this *Event Scope & Detail* or indicate the date such documents will be delivered to the Department:

Not required.

EXHIBIT "B"

(2 of 2)

Amenities, Services & Equipment:

Provided By:

	N/A	COUNTY	CONTRACTOR
Detailed list of equipment provided by COUNTY and/or CONTRACTOR is attached to this Exhibit: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sound System: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sound Equipment: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Light System: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lighting Equipment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Light Trees: <u>Two light trees w/four – PAR64 cans per tree.</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Microphones: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cables: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Backline: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Heavy Duty/Outdoor Extension Cords: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sound Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Light Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dressing Room: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Drum Riser: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Generators: <i>Department Approval Signature:</i> _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireworks / Pyrotechnics: [†] _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[†] Requests to include fireworks or any other form of pyrotechnics display will be considered on a case-by-case basis. Any such displays require the approval of the Department Director, and must be conducted in accordance with the permit issued by the Fire Rescue Department having municipal jurisdiction of the Amphitheater. Also, the presence of the Fire Rescue Department is required. Additional insurance coverages as well as charges for the presence of Fire Rescue equipment and personnel will apply

EXHIBIT "C"

(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach County Parks & Recreation Department Representative to Initial as applicable:



No Insurance Required: Based on scope of services, CONTRACTOR shall not be required to provide insurance.

☐

Commercial General Liability: CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☐

Auto Liability: CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

☐

Workers' Compensation Insurance & Employer's Liability: CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.

☐

Professional Liability: CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

EXHIBIT "C"

(2 of 2)



Additional Insured Clause: Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."



Waiver of Subrogation: CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.



Certificates of Insurance: Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:
Palm Beach County Board of County Commissioners
C/O Parks and Recreation Department
Attn: _____
2700 Sixth Avenue South
Lake Worth, Florida 33461



Umbrella or Excess Liability: If necessary, CONTRACTOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.



Right to Revise or Reject: COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

**ENTERTAINMENT CONTRACTOR AGREEMENT FOR
PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT**

THIS ENTERTAINMENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on JUNE 24, 2015 by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "COUNTY," and Innovative Leisure, Inc., a Florida Profit Corporation, authorized to conduct business in the State of Florida, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," seeks to organize and make available quality entertainment productions at the COUNTY owned and operated Amphitheaters; and

WHEREAS, COUNTY provides CONTRACTOR the opportunity to produce, stage, and perform such productions pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, COUNTY and CONTRACTOR hereby agree to the following terms and conditions:

1. **Term:** This Agreement is effective Saturday, July 4, 2015, at 3:00 PM, the date and time CONTRACTOR is scheduled to arrive at the event venue, and will terminate Saturday, July 4, 2015, at 9:00 PM, the date and time CONTRACTOR is scheduled to depart the event venue.
2. **Amphitheater:** The event venue is Sunset Cove Amphitheater, hereinafter referred to as "Amphitheater", together with such amenities, equipment, and appurtenances as may be made available by COUNTY, in its sole discretion, all as more particularly described on the Amphitheater Designation Form, attached hereto as **Exhibit "A"**.
3. **Event:** The entertainment production to be presented at the Amphitheater is an event promoted as: The Eighth Annual July 4th Celebration, hereinafter referred to as "Event", for which COUNTY hires CONTRACTOR to produce, stage, and perform, and when applicable including securing the Event's entertainment talent: Kids Fun Zone, hereinafter referred to as "Entertainment".

If applicable, the sound check and/or warm-up for all Event Entertainment will begin at N/A PM and will conclude no later than N/A PM, which is no less than N/A minutes prior to time the Event is scheduled to begin.

The Event's Entertainment will begin performing at 6:00 PM and will conclude at 8:30 PM.

The performance will consist of One (1) set of One Hundred and Fifty (150) minutes per set.

If usual and customary for the type of entertainment production and/or the length of time Entertainment is scheduled to perform, the production may include Zero (0) intermission(s), of Zero (0) minutes each.

Unless otherwise specifically agreed to by COUNTY prior to the signing of this Agreement, no portion of the Event's Entertainment production is to include prerecorded audio or video.

In addition to the above, the scope and detail of the Event is more particularly described on the Event Scope and Detail, attached hereto as **Exhibit "B"**.

4. **Payment:** The total amount payable by COUNTY to CONTRACTOR for the Event Entertainment is Nine Hundred and Ninety Nine Dollars (\$999.00) to be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Notwithstanding the foregoing, at COUNTY's sole discretion, a percentage of the total amount payable may be paid to CONTRACTOR prior to the Event.

In such event, COUNTY will remit to CONTRACTOR Fifty percent (50%) of said total amount payable within Fourteen (14) days following the signing of this Agreement by COUNTY. The remaining balance of the total amount payable will be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Satisfactory completion of CONTRACTOR's entertainment production obligations include, but are not limited to, the requirement that the Event's Entertainment perform onstage a minimum of ninety percent (90%) of the agreed upon performance time. Failure to meet this requirement will result in a reduction in payment to CONTRACTOR. The amount of such reduction will be determined by COUNTY in its sole discretion.

5. **Termination by COUNTY:** In addition to the termination rights provided in Article 10 below, COUNTY reserves the right to terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to CONTRACTOR at least seven (7) days prior to the effective date hereof. In such event, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any damages resulting from such termination.
6. **Termination by CONTRACTOR:** CONTRACTOR may terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to COUNTY at least thirty (30) days prior to the effective date hereof. In such event, this Agreement will terminate without further action provided CONTRACTOR returns to COUNTY with said notice of termination any percentage payment that may have been made to CONTRACTOR.

7. **Performance:**

a. CONTRACTOR agrees to:

1. **use** the Amphitheater solely for the purpose for which this Agreement is entered into;
2. **accept** the Amphitheater and all equipment and improvements related to the Event in the condition existing as of the effective date of this Agreement;

3. **accept** the amount of payment defined above as full and final payment without further expectation for reimbursement of any expenses related to this Agreement;
4. **waive** any and all claims for compensation for any and all losses or damages sustained due to failure or malfunction of the Amphitheater's water or electrical power supplies;
5. **adhere** to the directives of the Department's representatives including, but not limited to, proper use and handling of COUNTY owned equipment, assignment of designated parking areas, locations for offloading and staging production equipment, and acceptable noise levels;
6. **prohibit** any activity or material related to the Event that may be considered contrary to community standards of appropriateness, including the use of profanity, obscene language, or lewd gestures, which will result in COUNTY's withholding of payment and denial of future entertainment contracting opportunities;
7. **assure** that all persons under CONTRACTOR's control conduct themselves in a socially acceptable manner including prohibiting the consumption of alcohol or illegal drugs on Amphitheater premises;
8. **obtain** the Department's written approval prior to the use of any type of pyrotechnics;
9. **obtain** the Department's written approval prior to operating any engine, motor or machinery or using any flammable agents, including but not limited to oils, camphene, kerosene, naphtha, or gasoline; with the exception of generators that have been approved by the Department's representative.
10. **assume** full responsibility for obtaining all licenses and permits required by Copyright Regulations of Title 17 of the United States Code, and agree to indemnify COUNTY and its agents for any expenses incurred as a result of CONTRACTOR's failure to obtain such licenses or permits, including, but not limited to, fines or damages collected against COUNTY or COUNTY's agents, any attorney's fees and court costs, and for any expenses incurred as a result of CONTRACTOR's failure to otherwise satisfy such regulations;
11. **identify**, as part of Event Scope and Detail, attached hereto as **Exhibit "B"**, any and all required specialty certifications, licenses and / or memberships applicable to the event;
12. **deliver** to the Department, no later than forty-eight (48) hours prior to the Event, a copy of those certain specialty certifications, licenses and / or memberships referenced above, all of which will be retained by the Department;
13. **acknowledge** that failure to deliver the required documentation referenced above may result in immediate termination of this Agreement and the return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR and forfeiture of the payment balance;
14. **remove** all equipment and materials owned by CONTRACTOR and Entertainment no later than the termination date and time specified in Article 1 above;

15. **return** the Amphitheater and all equipment and improvements related to the Event to the condition existing as of the effective date and time specified in Article 1 above;
16. **hold** COUNTY harmless for the sale or disposal of any equipment and materials considered to be abandoned due to CONTRACTOR's or Entertainment's failure to remove same from the Amphitheater premises by the specified termination date and time and pay the cost of such removal and disposal upon receipt of COUNTY's invoice; and
17. **comply** with all Amphitheater rules and regulations and adhere to all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation, and Department standard operating procedures as all such laws, regulations, ordinances, and procedures apply to CONTRACTOR's and Entertainment's use of the Amphitheater.

b. COUNTY agrees to:

1. **promote** the Event;
2. **deliver** the Amphitheater and associated premises in a safe, clean, and orderly condition;
3. **assign** sufficient staff to provide logistical support and oversee all aspects of the Event including authority to make final decisions and issue directives on behalf of COUNTY;
4. **provide** support services including law enforcement, technical staff and skilled maintenance as may be determined necessary by the Department;
5. **retain** control of the Amphitheater and all operations conducted on the Amphitheater premises including enforcement of all laws, rules, regulations pertaining to the safety and wellbeing of the public; and
6. **collect** and dispose of any and all items either discarded or lost by patrons or others at the Event, without interference by CONTRACTOR or Entertainment or any person working for or on their behalf.

8. **Postponement or Cancellation of Event:** In the event emergency conditions arise which may affect public safety, the Event may be postponed or cancelled. Such emergency conditions include, but are not limited to, acts of God or issuance of an executive order indicating a state of general emergency. COUNTY, in its sole discretion, will determine the necessity to postpone or cancel the Event and will endeavor to provide CONTRACTOR at least four (4) hours notice of such postponement or cancellation prior to the Event start time specified in Article 3 above. Provided, however, COUNTY's notice of such postponement or cancellation may be given at anytime including during the Event performance.

In the event COUNTY cancels the Event due to any public safety concern or CONTRACTOR elects to cancel the Event's Entertainment rather than accept a delayed start time, the Term of this Agreement will be extended upon the same terms and conditions provided that within five (5) days following such occurrence, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

9. **Cancellation, Rescheduling and Substitution of Entertainment:** In the event CONTRACTOR fails to perform or otherwise cancels the Event's Entertainment for any reason, including illness, at any time, the Term of this Agreement may be extended upon the same terms and conditions provided that within five (5) days following such cancellation, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

Notwithstanding the foregoing, in the event CONTRACTOR cancels the Event's Entertainment due to illness, CONTRACTOR may be permitted, with COUNTY's prior approval, to secure substitute entertainment. Provided, however, such substitute entertainment must perform a similar type and style of entertainment as that for which this Agreement is entered into. In such event, COUNTY reserves the right to require CONTRACTOR to return, within four (4) days following the Event date, any percentage payment that may have been made and/or reduce or deny payment of the remaining amount payable.

10. **Termination for Cause:** The occurrence of any one or more of the following acts constitutes a material default and breach of this Agreement by CONTRACTOR and will result in the immediate termination of this Agreement:

- CONTRACTOR misrepresents the type or style of entertainment to be performed;
- CONTRACTOR provided materially false information relating to this Agreement;
- Any person under the control of CONTRACTOR, including subcontractors, is responsible for purposely damaging the Amphitheater or any COUNTY owned equipment;
- Any person under the control of CONTRACTOR, including subcontractors, is guilty of gross misconduct or unlawful behavior while on the Amphitheater premises; or
- Entertainment's performance fails to meet the professional performance standards and expectations assumed at the time this Agreement is entered into and COUNTY, following consultation with CONTRACTOR, elects to stop the performance prior to its scheduled conclusion time.

In the event of any such material default or breach, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

11. **Photography / Recording:** Except for Entertainment performances and materials covered by copyright laws, licensing fees or other legal regulations, COUNTY may photograph and/or record audio and video during the Event. Such photos and recordings may be used by COUNTY for promotional and informational purposes only. CONTRACTOR agrees to provide assistance as needed to accommodate such photography and recording. CONTRACTOR is responsible for being aware of and advising COUNTY of any copyright infringements or other legal limitations that may apply to photographing and/or recording during the Event.

12. **Relationship of the Parties:** The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

This Agreement does not constitute an endorsement or sponsorship by COUNTY of CONTRACTOR or Entertainment. Though COUNTY may issue press releases and publish advertising regarding the Event, including postings on COUNTY websites and social media sites, such advertisements are intended solely for the purpose of raising public awareness of the Event and are not to be misrepresented as a form of endorsement or sponsorship by COUNTY.

CONTRACTOR may not use the name or logo of the COUNTY, the Department or Amphitheater in a manner that suggests a relationship other than that for which this Agreement is entered into. Any use of the COUNTY, Department or Amphitheater logos is subject to approval by the COUNTY.

13. **Taxes:** CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as may be applicable to the payment made by COUNTY to CONTRACTOR. Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's tax exempt status.

14. **No Assignment:** CONTRACTOR may not assign any rights, responsibilities, or obligations required under this Agreement. Any such attempted assignment is a material breach of this Agreement and cause for immediate termination.

15. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Donald Perez Phone Number: 561-966-7030.

16. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverages specified on Insurance Requirements, attached hereto as **Exhibit "C"**.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement or no later than ten (10) days prior to the effective date hereof, at the COUNTY's discretion.

17. **Indemnification:** CONTRACTOR agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees and costs at trial and appellate levels, and causes of action of every kind and character arising out of this Agreement or CONTRACTOR's use and occupancy of the Amphitheater. Such causes of action include, without limitation, those arising by reason of; (i) any damage to property or the environment, (ii) bodily injury, including death, incurred or sustained by any party hereto, any agent or employee of any party hereto, and any third or other party whosoever, (iii) the condition of the Amphitheater existing at the effective date of this Agreement, (iv) CONTRACTOR's acts, omissions or operations hereunder, (v) the performance, non-performance or purported performance of CONTRACTOR, or (vi) any breach of the terms of this Agreement. The obligations arising under this provision will survive the expiration or termination of this Agreement.

18. **Damage or Destruction of Amphitheater:** In the event the Amphitheater or any part thereof is damaged by the act, default, or negligence of CONTRACTOR or Entertainment, the cost to repair such damage will be the responsibility of CONTRACTOR. In the event of such damage, COUNTY's payment to CONTRACTOR may be reduced or forfeited to cover repair costs and/or the cost of such repairs may be invoiced by COUNTY to CONTRACTOR, the amount of which is payable upon CONTRACTOR's receipt of invoice.

Additionally, CONTRACTOR is prohibited from defacing the Amphitheater in any way including using nails, hooks, tacks, screws or any other faceting device. No signs, advertisements, show-bills, lithographs, posters, placards or any other such items are to be posted or otherwise displayed anywhere on the Amphitheater premises without the express consent of the Department's authorized representative. Any such unapproved items will be immediately removed at the sole cost and expense of CONTRACTOR.

19. **Termination Upon Destruction or other Casualty:** In the event the Amphitheater or any part thereof is destroyed or damaged in whole or part, or if any other casualty or unforeseen occurrence renders the fulfillment of this Agreement impossible, as determined by COUNTY in its sole discretion, this Agreement will terminate effective upon COUNTY's delivery to CONTRACTOR of a written notice of termination. In the event of any such termination, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

20. **COUNTY Not Liable:** All personal property placed on or moved onto the Amphitheater premises will be done so at the sole risk of CONTRACTOR or owner thereof and CONTRACTOR expressly acknowledges and agrees that COUNTY will not be liable for any damage to or loss of such personal property.

21. **Notices:** All notices required by this Agreement are to be hand delivered or sent by certified mail, return receipt requested to:

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department
Attn: Director of Special Facilities
2700 6th Avenue South
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Innovative Leisure, Inc.
Attn: Susan Foley
3182 Custer Ave.
Lake Worth, FL 33467

22. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
23. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
24. **Annual Appropriations:** The fulfillment of this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon annual budgetary appropriations by the Board of County Commissioners.
25. **Arrears:** CONTRACTOR is not to pledge or attempt to pledge COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
26. **Authorization:** This Agreement is executed by an individual legally authorized to fully bind CONTRACTOR to all terms and conditions of this Agreement.
27. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
28. **Severability:** In the event any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected, and every other term and provision of this Agreement will be deemed valid and enforceable to the extent permitted by law.
29. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

30. **Waiver:** The failure of COUNTY to insist upon strict performance of any of the agreements, terms, covenants or conditions of this Agreement, does not constitute a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance, and COUNTY's right to insist on strict performance of this Agreement will not be affected by any previous waiver of course or dealing.

31. **Nondiscrimination:** CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

CONTRACTOR has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the CONTRACTOR does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to COUNTY that CONTRACTOR will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

32. **Regulation; Licensing Requirements:** CONTRACTOR agrees to comply with all laws, ordinances and regulations applicable to its use of the Amphitheater premises. CONTRACTOR is presumed to be familiar with all applicable federal, state, and local laws, ordinances, codes and regulations.

33. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

34. **Entirety of Agreement:** COUNTY and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:**

By: 
Director / Assistant Director
Palm Beach County Parks and Recreation Department

**If Agreement Value
Exceeds \$10,000.00, But Not More Than \$50,000.00:**

County Administrator

By: _____

**If Agreement Value
Exceeds \$50,000.00:**

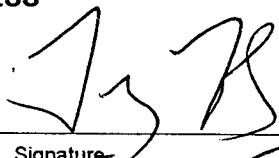
**COUNTY:
Board of County Commissioners**

**ATTEST:
Clerk & Comptroller**

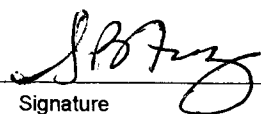
Deputy Clerk

By: _____
Mayor

WITNESS


Signature
Terry Foley
Print

CONTRACTOR – INNOVATIVE LEISURE, INC.

By: 
Signature
Susan B Foley
Print
President
Title

**APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

County Attorney

Anne Telford

EXHIBIT "A"

ENTERTAINMENT CONTRACTOR AGREEMENT

Amphitheater Designation Form

- ✓ **SUNSET COVE AMPHITHEATER:** Located in South County Regional Park
12551 Glades Road
Boca Raton



Viewing capacity for 6,000 – covered stage with rigging points – four dressing rooms – private restrooms – air conditioned back stage – covered vendor area with hook-up – public restrooms attached

- ☐ **SEABREEZE AMPHITHEATER:** Located in Carlin Park
750 South State Road A1A
Jupiter



Viewing capacity for 2,500 – covered stage with light rigging – sound control room – three dressing rooms – green room – two private restrooms – prop room – costume room – air conditioned back stage – public restrooms detached

- ☐ **CANYON TOWN CENTER AMPHITHEATER:** Located in Canyon Community Park
8802 Boynton Beach Boulevard
Boynton Beach



Viewing capacity for 500 – covered stage with light rigging – covered backstage – loading ramps – public restrooms attached

NOTE: The above described Amphitheater amenities, equipment, and appurtenances are identified for informational purposes only and may not be available for use by Contractor nor Entertainment.

EXHIBIT "B"

(1 of 3)

ENTERTAINMENT CONTRACTOR AGREEMENT

Event Scope & Detail

Event Date: Saturday, July 4, 2015

Event Name: The Eighth Annual July 4th Celebration

Event Scope & Detail: Innovative Leisure, Inc. will provide supplies and staffing for engaging activities for the Palm Beach County Parks and Recreation 8th Annual 4th of July Celebration "Kids Fun Zone" including various games and activities.

A – USA Play Zone

Hula Hoopla, Juggling Jam, Jump Roping, Chalk Walk, Dual Games, Giant Jenga, Colossal Connect 4

B – American Activities

Tailgate Toss, Kan Jam, Corn Hole, Washers, Four Square in the Air

C - USA Creation Station

Gliders, Frames , Red/White/Blue Beads, Soft Blocks & Bean Bags, Bubbles

Specialty Certificates, Licenses, and Memberships:

Identify certificates, licenses, and memberships required pursuant to provision 7.a.11. of the Entertainment Contractor Agreement. Submit such documents with this *Event Scope & Detail* or indicate the date such documents will be delivered to the Department:

Certificate of Insurance Attached

EXHIBIT "B"
(2 of 3)

Amenities, Services & Equipment:

Provided By:

	N/A	COUNTY	CONTRACTOR
Detailed list of equipment provided by COUNTY and/or CONTRACTOR is attached to this Exhibit: <u>See Page 14</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sound System: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sound Equipment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Light System: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lighting Equipment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Light Trees: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Microphones: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cables: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Backline: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heavy Duty/Outdoor Extension Cords: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sound Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Light Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dressing Room: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Drum Riser: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Generators: <i>Department Approval Signature:</i> _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireworks / Pyrotechnics: [†] _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[†] Requests to include fireworks or any other form of pyrotechnics display will be considered on a case-by-case basis. Any such displays require the approval of the Department Director, and must be conducted in accordance with the permit issued by the Fire Rescue Department having municipal jurisdiction of the Amphitheater. Also, the presence of the Fire Rescue Department is required. Additional insurance coverages as well as charges for the presence of Fire Rescue equipment and personnel will apply

EXHIBIT “B”
(3 of 3)

Saturday July 4, 2015: The Eighth Annual July 4th Celebration

The County will provide the following:

1	Sunset Pavilion and Picnic Tables
2	Volunteers
1	Kid Zone Banner
3	VIP Parking Passes
6	French Barricades

The Contractor will provide the following:

All supplies and staffing to facilitate the activities referenced in Exhibit “B” Event Scope & Detail, Set/Strike equipment and supplies

EXHIBIT "C"

(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach County Parks & Recreation Department Representative to Initial as applicable:

☐

No Insurance Required: Based on scope of services, CONTRACTOR shall not be required to provide insurance.



Commercial General Liability: CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☐

Auto Liability: CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.




Workers' Compensation Insurance & Employer's Liability: CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.


☐


Professional Liability: CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

EXHIBIT "C"


(2 of 2)

 ✓ **Additional Insured Clause:** Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."

 ✓ **Waiver of Subrogation:** CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.

 ✓ **Certificates of Insurance:** Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:
Palm Beach County Board of County Commissioners
C/O Parks and Recreation Department
Attn: Special Events
2700 Sixth Avenue South
Lake Worth, Florida 33461

☐ **Umbrella or Excess Liability:** If necessary, CONTRACTOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

 ✓ **Right to Revise or Reject:** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/14/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Shelley Insurance Group 420 S. State Rd 7 Ste 100 W. Palm Beach FL 33414	CONTACT NAME: Linda Goldstein PHONE (A/C, No, Ext): (561) 969-7100 FAX (A/C, No): (888) 239-1790 E-MAIL ADDRESS: linda@shelleyinsurance.com																					
INSURED Innovative Leisure, Inc. 3182 Custer Avenue Lake Worth FL 33467	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A :BUW - Colony Insurance Company</td><td></td><td>39993</td></tr><tr><td>INSURER B :</td><td></td><td></td></tr><tr><td>INSURER C :</td><td></td><td></td></tr><tr><td>INSURER D :</td><td></td><td></td></tr><tr><td>INSURER E :</td><td></td><td></td></tr><tr><td>INSURER F :</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :BUW - Colony Insurance Company		39993	INSURER B :			INSURER C :			INSURER D :			INSURER E :			INSURER F :		
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INSURER B :																						
INSURER C :																						
INSURER D :																						
INSURER E :																						
INSURER F :																						

COVERAGES

CERTIFICATE NUMBER:CL1551401180

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		GL4009351	05/01/2015	05/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ EXCLUDED GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ INCLUDED \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A					PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The certificate holder is also listed as an additional insured in respects to the General Liability policy when required by signed valid written contract with insured.

CERTIFICATE HOLDER

(561) 242-6964 DMPerez@pbcgov.org

Palm Beach County
Board of County Commissioners
Attn: Special Events
2700 6th Ave South
Lake Worth, FL 33461

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Genna Lucena/GL

ACORD 25 (2014/01)
INS025 (201401)

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*Innovative***LEISURE**, INC.

Play with the Pros for 30 years!

May 14, 2015

To Whom it may concern:

I, Susan B Foley, President, hereby confirm that Innovative Leisure, Inc. has no more than three full time employees.

Should the status of this company change, I will notify you prior to any event.

Thank you,

Susan B Foley, President

ENTERTAINMENT CONTRACTOR AGREEMENT FOR PALM BEACH COUNTY PARKS & RECREATION DEPARTMENT

THIS ENTERTAINMENT CONTRACTOR AGREEMENT, hereinafter referred to as the "Agreement," is made and entered into on JUNE 24, 2015 by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "COUNTY," and Zambelli Fireworks Manufacturing Co., a Foreign Profit Corporation, authorized to conduct business in the State of Florida, hereinafter referred to as "CONTRACTOR".

WITNESSETH:

WHEREAS, COUNTY, by and through its Parks and Recreation Department, hereinafter referred to as the "Department," seeks to organize and make available quality entertainment productions at the COUNTY owned and operated Amphitheaters; and

WHEREAS, COUNTY provides CONTRACTOR the opportunity to produce, stage, and perform such productions pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, COUNTY and CONTRACTOR hereby agree to the following terms and conditions:

1. **Term:** This Agreement is effective Saturday, July 4, 2015, at 7:00 AM the date and time CONTRACTOR is scheduled to arrive at the event venue, and will terminate Saturday, July 4, 2015, at 11:30 PM, the date and time CONTRACTOR is scheduled to depart the event venue.
2. **Amphitheater:** The event venue is Sunset Cove Amphitheater, hereinafter referred to as "Amphitheater", together with such amenities, equipment, and appurtenances as may be made available by COUNTY, in its sole discretion, all as more particularly described on the Amphitheater Designation Form, attached hereto as **Exhibit "A"**.
3. **Event:** The entertainment production to be presented at the Amphitheater is an event promoted as: The Eighth Annual 4th of July Celebration, hereinafter referred to as "Event", for which COUNTY hires CONTRACTOR to produce, stage, and perform, and when applicable including securing the Event's entertainment talent: Zambelli Fireworks Manufacturing Co., hereinafter referred to as "Entertainment".

If applicable, the sound check and/or warm-up for all Event Entertainment will begin at 7:00 AM and will conclude no later than 3:00 PM, which is no less than Three Hundred and Sixty (360) minutes prior to time the Event is scheduled to begin.

The Event's Entertainment will begin performing at 9:00 PM and will conclude at 9:15 PM.

The performance will consist of One (1) set(s) of 15 (15) minutes per set.

If usual and customary for the type of entertainment production and/or the length of time Entertainment is scheduled to perform, the production may include Zero (0) intermission(s), of Zero (0) minutes each.

Unless otherwise specifically agreed to by COUNTY prior to the signing of this Agreement, no portion of the Event's Entertainment production is to include prerecorded audio or video.

Unless otherwise specifically agreed to by COUNTY prior to the signing of this Agreement, no portion of the Event's Entertainment production is to include prerecorded audio or video.

In addition to the above, the scope and detail of the Event is more particularly described on the Event Scope and Detail, attached hereto as **Exhibit "B"**.

4. **Payment:** The total amount payable by COUNTY to CONTRACTOR for the Event Entertainment is Fifteen Thousand dollars (\$ 15,000.00) to be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Notwithstanding the foregoing, at COUNTY's sole discretion, a percentage of the total amount payable may be paid to CONTRACTOR prior to the Event.

In such event, COUNTY will remit to CONTRACTOR Zero percent (0%) of said total amount payable within Zero (0) days following the signing of this Agreement by COUNTY. The remaining balance of the total amount payable will be paid upon conclusion of the Event and verification that CONTRACTOR's entertainment production obligations have been completed as required herein.

Satisfactory completion of CONTRACTOR's entertainment production obligations include, but are not limited to, the requirement that the Event's Entertainment perform onstage a minimum of ninety percent (90%) of the agreed upon performance time. Failure to meet this requirement will result in a reduction in payment to CONTRACTOR. The amount of such reduction will be determined by COUNTY in its sole discretion.

5. **Termination by COUNTY:** In addition to the termination rights provided in Article 10 below, COUNTY reserves the right to terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to CONTRACTOR at least seven (7) days prior to the effective date hereof. In such event, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any damages resulting from such termination.
6. **Termination by CONTRACTOR:** CONTRACTOR may terminate this Agreement without cause, following its signing by COUNTY, effective upon delivery of written notice of termination to COUNTY at least thirty (30) days prior to the effective date hereof. In such event, this Agreement will terminate without further action provided CONTRACTOR returns to COUNTY with said notice of termination any percentage payment that may have been made to CONTRACTOR.

7. **Performance:**

a. CONTRACTOR agrees to:

1. **use** the Amphitheater solely for the purpose for which this Agreement is entered into;
2. **accept** the Amphitheater and all equipment and improvements related to the Event in the condition existing as of the effective date of this Agreement;
3. **accept** the amount of payment defined above as full and final payment without further expectation for reimbursement of any expenses related to this Agreement;

4. **waive** any and all claims for compensation for any and all losses or damages sustained due to failure or malfunction of the Amphitheater's water or electrical power supplies;
5. **adhere** to the directives of the Department's representatives including, but not limited to, proper use and handling of COUNTY owned equipment, assignment of designated parking areas, locations for offloading and staging production equipment, and acceptable noise levels;
6. **prohibit** any activity or material related to the Event that may be considered contrary to community standards of appropriateness, including the use of profanity, obscene language, or lewd gestures, which will result in COUNTY's withholding of payment and denial of future entertainment contracting opportunities;
7. **assure** that all persons under CONTRACTOR's control conduct themselves in a socially acceptable manner including prohibiting the consumption of alcohol or illegal drugs on Amphitheater premises;
8. **obtain** the Department's written approval prior to the use of any type of pyrotechnics;
9. **obtain** the Department's written approval prior to operating any engine, motor or machinery or using any flammable agents, including but not limited to oils, camphene, kerosene, naphtha, or gasoline; with the exception of generators that have been approved by the Department's representative.
10. **assume** full responsibility for obtaining all licenses and permits required by Copyright Regulations of Title 17 of the United States Code, and agree to indemnify COUNTY and its agents for any expenses incurred as a result of CONTRACTOR's failure to obtain such licenses or permits, including, but not limited to, fines or damages collected against COUNTY or COUNTY's agents, any attorney's fees and court costs, and for any expenses incurred as a result of CONTRACTOR's failure to otherwise satisfy such regulations;
11. **identify**, as part of Event Scope and Detail, attached hereto as **Exhibit "B"**, any and all required specialty certifications, licenses and / or memberships applicable to the event;
12. **deliver** to the Department, no later than forty-eight (48) hours prior to the Event, a copy of those certain specialty certifications, licenses and / or memberships referenced above, all of which will be retained by the Department;
13. **acknowledge** that failure to deliver the required documentation referenced above may result in immediate termination of this Agreement and the return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR and forfeiture of the payment balance;
14. **remove** all equipment and materials owned by CONTRACTOR and Entertainment no later than the termination date and time specified in Article 1 above;
15. **return** the Amphitheater and all equipment and improvements related to the Event to the condition existing as of the effective date and time specified in Article 1 above;

16. **hold** COUNTY harmless for the sale or disposal of any equipment and materials considered to be abandoned due to CONTRACTOR's or Entertainment's failure to remove same from the Amphitheater premises by the specified termination date and time and pay the cost of such removal and disposal upon receipt of COUNTY's invoice; and
17. **comply** with all Amphitheater rules and regulations and adhere to all federal, state and local laws and regulations, including Palm Beach County Code, Chapter 21, as may be amended, pertaining to Parks and Recreation, and Department standard operating procedures as all such laws, regulations, ordinances, and procedures apply to CONTRACTOR's and Entertainment's use of the Amphitheater.

b. COUNTY agrees to:

1. **promote** the Event;
 2. **deliver** the Amphitheater and associated premises in a safe, clean, and orderly condition;
 3. **assign** sufficient staff to provide logistical support and oversee all aspects of the Event including authority to make final decisions and issue directives on behalf of COUNTY;
 4. **provide** support services including law enforcement, technical staff and skilled maintenance as may be determined necessary by the Department;
 5. **retain** control of the Amphitheater and all operations conducted on the Amphitheater premises including enforcement of all laws, rules, regulations pertaining to the safety and wellbeing of the public; and
 6. **collect** and dispose of any and all items either discarded or lost by patrons or others at the Event, without interference by CONTRACTOR or Entertainment or any person working for or on their behalf.
8. **Postponement or Cancellation of Event:** In the event emergency conditions arise which may affect public safety, the Event may be postponed or cancelled. Such emergency conditions include, but are not limited to, acts of God or issuance of an executive order indicating a state of general emergency. COUNTY, in its sole discretion, will determine the necessity to postpone or cancel the Event and will endeavor to provide CONTRACTOR at least four (4) hours notice of such postponement or cancellation prior to the Event start time specified in Article 3 above. Provided, however, COUNTY's notice of such postponement or cancellation may be given at anytime including during the Event performance.

In the event COUNTY cancels the Event due to any public safety concern or CONTRACTOR elects to cancel the Event's Entertainment rather than accept a delayed start time, the Term of this Agreement will be extended upon the same terms and conditions provided that within five (5) days following such occurrence, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

9. **Cancellation, Rescheduling and Substitution of Entertainment:** In the event CONTRACTOR fails to perform or otherwise cancels the Event's Entertainment for any reason, including illness, at any time, the Term of this Agreement may be extended upon the same terms and conditions provided that within five (5) days following such cancellation, COUNTY and CONTRACTOR agree upon a rescheduled Event date and time. Such Term extension will be effective upon COUNTY's delivery to CONTRACTOR of a written notice specifying the agreed upon rescheduled Event date and time and detailing the circumstances leading to the Term extension.

In the event COUNTY and CONTRACTOR are unable to agree upon a rescheduled Event date and time as specified above, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR.

Notwithstanding the foregoing, in the event CONTRACTOR cancels the Event's Entertainment due to illness, CONTRACTOR may be permitted, with COUNTY's prior approval, to secure substitute entertainment. Provided, however, such substitute entertainment must perform a similar type and style of entertainment as that for which this Agreement is entered into. In such event, COUNTY reserves the right to require CONTRACTOR to return, within four (4) days following the Event date, any percentage payment that may have been made and/or reduce or deny payment of the remaining amount payable.

10. **Termination for Cause:** The occurrence of any one or more of the following acts constitutes a material default and breach of this Agreement by CONTRACTOR and will result in the immediate termination of this Agreement:

- CONTRACTOR misrepresents the type or style of entertainment to be performed;
- CONTRACTOR provided materially false information relating to this Agreement;
- Any person under the control of CONTRACTOR, including subcontractors, is responsible for purposely damaging the Amphitheater or any COUNTY owned equipment;
- Any person under the control of CONTRACTOR, including subcontractors, is guilty of gross misconduct or unlawful behavior while on the Amphitheater premises; or
- Entertainment's performance fails to meet the professional performance standards and expectations assumed at the time this Agreement is entered into and COUNTY, following consultation with CONTRACTOR, elects to stop the performance prior to its scheduled conclusion time.

In the event of any such material default or breach, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

11. **Photography / Recording:** Except for Entertainment performances and materials covered by copyright laws, licensing fees or other legal regulations, COUNTY may photograph and/or record audio and video during the Event. Such photos and recordings may be used by COUNTY for promotional and informational purposes

only. CONTRACTOR agrees to provide assistance as needed to accommodate such photography and recording. CONTRACTOR is responsible for being aware of and advising COUNTY of any copyright infringements or other legal limitations that may apply to photographing and/or recording during the Event.

12. **Relationship of the Parties:** The CONTRACTOR is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR'S sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

This Agreement does not constitute an endorsement or sponsorship by COUNTY of CONTRACTOR or Entertainment. Though COUNTY may issue press releases and publish advertising regarding the Event, including postings on COUNTY websites and social media sites, such advertisements are intended solely for the purpose of raising public awareness of the Event and are not to be misrepresented as a form of endorsement or sponsorship by COUNTY.

CONTRACTOR may not use the name or logo of the COUNTY, the Department or Amphitheater in a manner that suggests a relationship other than that for which this Agreement is entered into. Any use of the COUNTY, Department or Amphitheater logos is subject to approval by the COUNTY.

13. **Taxes:** CONTRACTOR assumes sole responsibility for the payment of any and all federal, state, and local taxes as may be applicable to the payment made by COUNTY to CONTRACTOR. Additionally, CONTRACTOR is not eligible to benefit from the COUNTY's tax exempt status.

14. **No Assignment:** CONTRACTOR may not assign any rights, responsibilities, or obligations required under this Agreement. Any such attempted assignment is a material breach of this Agreement and cause for immediate termination.

15. **Department Representative:** The Department's authorized representative for this Agreement is:

Name: Donald Perez Phone Number: 561-966-7030.

16. **Insurance Requirements:** It is the responsibility of CONTRACTOR to provide proof of the required insurance coverages specified on Insurance Requirements, attached hereto as **Exhibit "C"**.

Such proof of insurance must be provided to the Department's authorized representative prior to the execution of this Agreement or no later than ten (10) days prior to the effective date hereof, at the COUNTY's discretion.

17. **Indemnification:** CONTRACTOR agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees and costs at trial and appellate levels, and causes of action of every kind and character arising out of this Agreement or CONTRACTOR's use and occupancy of the Amphitheater. Such causes of action include, without limitation, those arising by reason of; (i) any damage to property or the environment, (ii) bodily injury, including death, incurred or

sustained by any party hereto, any agent or employee of any party hereto, and any third or other party whosoever, (iii) the condition of the Amphitheater existing at the effective date of this Agreement, (iv) CONTRACTOR's acts, omissions or operations hereunder, (v) the performance, non-performance or purported performance of CONTRACTOR, or (vi) any breach of the terms of this Agreement. The obligations arising under this provision will survive the expiration or termination of this Agreement.

18. **Damage or Destruction of Amphitheater:** In the event the Amphitheater or any part thereof is damaged by the act, default, or negligence of CONTRACTOR or Entertainment, the cost to repair such damage will be the responsibility of CONTRACTOR. In the event of such damage, COUNTY's payment to CONTRACTOR may be reduced or forfeited to cover repair costs and/or the cost of such repairs may be invoiced by COUNTY to CONTRACTOR, the amount of which is payable upon CONTRACTOR's receipt of invoice.

Additionally, CONTRACTOR is prohibited from defacing the Amphitheater in any way including using nails, hooks, tacks, screws or any other faceting device. No signs, advertisements, show-bills, lithographs, posters, placards or any other such items are to be posted or otherwise displayed anywhere on the Amphitheater premises without the express consent of the Department's authorized representative. Any such unapproved items will be immediately removed at the sole cost and expense of CONTRACTOR.

19. **Termination Upon Destruction or other Casualty:** In the event the Amphitheater or any part thereof is destroyed or damaged in whole or part, or if any other casualty or unforeseen occurrence renders the fulfillment of this Agreement impossible, as determined by COUNTY in its sole discretion, this Agreement will terminate effective upon COUNTY's delivery to CONTRACTOR of a written notice of termination. In the event of any such termination, this Agreement will terminate without further action or payment and CONTRACTOR will return to COUNTY, within four (4) days following such termination, any percentage payment that may have been made to CONTRACTOR. COUNTY will not be held liable for any lost profits or damages resulting from any such termination.

20. **COUNTY Not Liable:** All personal property placed on or moved onto the Amphitheater premises will be done so at the sole risk of CONTRACTOR or owner thereof and CONTRACTOR expressly acknowledges and agrees that COUNTY will not be liable for any damage to or loss of such personal property.

21. **Notices:** All notices required by this Agreement are to be hand delivered or sent by certified mail, return receipt requested to:

If sent to COUNTY, such notices are to be addressed:

Palm Beach County Parks and Recreation Department
Attn: Director of Special Facilities
2700 6th Avenue South
Lake Worth, Florida 33461

If sent to CONTRACTOR, such notices are to be addressed:

Zambelli Fireworks Manufacturing Co.
Attn: Edward J. Meyer
20 S. Mercer Street, New Castle, PA 16103
1 (800) 245-0397

22. **Remedies:** This Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
23. **No Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or CONTRACTOR.
24. **Annual Appropriations:** The fulfillment of this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon annual budgetary appropriations by the Board of County Commissioners.
25. **Arrears:** CONTRACTOR is not to pledge or attempt to pledge COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
26. **Authorization:** This Agreement is executed by an individual legally authorized to fully bind CONTRACTOR to all terms and conditions of this Agreement.
27. **Public Entity Crimes:** As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).
28. **Severability:** In the event any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected, and every other term and provision of this Agreement will be deemed valid and enforceable to the extent permitted by law.
29. **Access and Audits:** If applicable, should any portion of the payments made to CONTRACTOR include CONTRACTOR's charges, expenses, and costs incurred in estimating and performing the services to be performed hereunder, CONTRACTOR will maintain adequate records to justify all such charges, expenses, and costs for at least three (3) years after the expiration or termination of this Agreement. The COUNTY shall have access to all such books, records, and documents for the purpose of inspection or audit during normal business hours at CONTRACTOR'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of CONTRACTOR, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

30. **Waiver:** The failure of COUNTY to insist upon strict performance of any of the agreements, terms, covenants or conditions of this Agreement, does not constitute a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance, and COUNTY's right to insist on strict performance of this Agreement will not be affected by any previous waiver of course or dealing.

31. **Nondiscrimination:** CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information.

CONTRACTOR has submitted to County a copy of its non-discrimination policy which is consistent with the above paragraph, as contained in Resolution R-2014-1421, as amended, or in the alternative, if the CONTRACTOR does not have a written non-discrimination policy or one that conforms to the County's policy, it has acknowledged through a signed statement provided to COUNTY that CONTRACTOR will conform to the County's non-discrimination policy as provided in R-2014-1421, as amended.

32. **Regulation; Licensing Requirements:** CONTRACTOR agrees to comply with all laws, ordinances and regulations applicable to its use of the Amphitheater premises. CONTRACTOR is presumed to be familiar with all applicable federal, state, and local laws, ordinances, codes and regulations.

33. **Criminal History Records Check:** If CONTRACTOR's employees or subcontractors are required under this contract to enter a "critical facility," as identified in Resolution R-2003-1274, the CONTRACTOR shall comply with the provisions of Chapter 2, Article IX of the Palm Beach County Code ("Criminal History Records Check" section). The CONTRACTOR acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although COUNTY agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the CONTRACTOR shall be solely responsible for the financial, schedule, and staffing implications associated in complying with this section of the Palm Beach County Code.

34. **Entirety of Agreement:** COUNTY and CONTRACTOR agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

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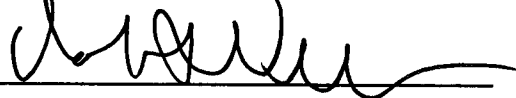
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:**

By: 
Director / Assistant Director
Palm Beach County Parks and Recreation Department

If Agreement Value
Exceeds \$10,000.00, But Not More Than \$50,000.00:

County Administrator

By: 

If Agreement Value
Exceeds \$50,000.00:


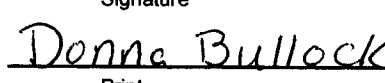
**ATTEST:
Clerk & Comptroller**

**COUNTY:
Board of County Commissioners**


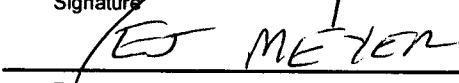
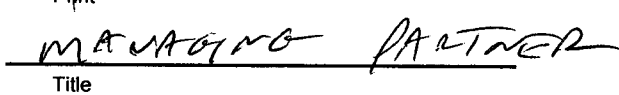
Deputy Clerk

By: _____
Mayor

WITNESS


Signature

Print

CONTRACTOR – Zambelli Fireworks Manufacturing Co.

By: 
Signature

Print

Title

**APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:**

County Attorney



EXHIBIT "A"

ENTERTAINMENT CONTRACTOR AGREEMENT

Amphitheater Designation Form

- ☒ **SUNSET COVE AMPHITHEATER:** Located in South County Regional Park
12551 Glades Road
Boca Raton



Viewing capacity for 6,000 – covered stage with rigging points – four dressing rooms – private restrooms – air conditioned back stage – covered vendor area with hook-up – public restrooms attached

- ☐ **SEABREEZE AMPHITHEATER:** Located in Carlin Park
750 South State Road A1A
Jupiter



Viewing capacity for 2,500 – covered stage with light rigging – sound control room – three dressing rooms – green room – two private restrooms – prop room – costume room – air conditioned back stage – public restrooms detached

- ☐ **CANYON TOWN CENTER AMPHITHEATER:** Located in Canyon Community Park
8802 Boynton Beach Boulevard
Boynton Beach



Viewing capacity for 500 – covered stage with light rigging – covered backstage – loading ramps – public restrooms attached

NOTE: The above described Amphitheater amenities, equipment, and appurtenances are identified for informational purposes only and may not be available for use by Contractor nor Entertainment.

EXHIBIT "B"

(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Event Scope & Detail

Event Date: Saturday, July 4, 2015

Event Name: The Eighth Annual 4th of July Celebration

Event Scope & Detail: A free concert featuring a 4th of July fireworks display.

Entertainment will be available for a required scheduled rain date of Sunday July 5, 2015 in the event the Saturday July 4, 2015 event is cancelled due to intermittent weather.

Prerecorded Music CD to be reviewed and approved by Amphitheater staff in advance of event date.

Specialty Certificates, Licenses, and Memberships:

Identify certificates, licenses, and memberships required pursuant to provision 6.a.11. of the Entertainment Contractor Agreement. Submit such documents with this *Event Scope & Detail* or indicate the date such documents will be delivered to the Department:

ATF License is required for this performance. Palm Beach County Fire Rescue

Fireworks Permit is required for this performance.

EXHIBIT "B"
(2 of 2)

Amenities, Services & Equipment:

Provided By:

	<u>N/A</u>	<u>COUNTY</u>	<u>CONTRACTOR</u>
Detailed list of equipment provided by COUNTY and/or CONTRACTOR is attached to this Exhibit: <u>See page 16</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sound System: <u>Including a CD Player</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sound Equipment: <u>Prerecorded Music CD</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Light System: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lighting Equipment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Light Trees: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Microphones: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cables: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Backline: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heavy Duty/Outdoor Extension Cords: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sound Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Light Technician: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dressing Room: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Drum Riser: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Generators: <i>Department Approval Signature:</i> _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireworks / Pyrotechnics: [†] _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

[†] Requests to include fireworks or any other form of pyrotechnics display will be considered on a case-by-case basis. Any such displays require the approval of the Department Director, and must be conducted in accordance with the permit issued by the Fire Rescue Department having municipal jurisdiction of the Amphitheater. Also, the presence of the Fire Rescue Department is required. Additional insurance coverages as well as charges for the presence of Fire Rescue equipment and personnel will apply

EXHIBIT "C"

(1 of 2)

ENTERTAINMENT CONTRACTOR AGREEMENT

Insurance Requirements

CONTRACTOR will maintain in full force and effect, on a primary basis and at its sole expense, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of this Agreement. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Agreement. CONTRACTOR agrees to provide the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages.

Palm Beach County Parks & Recreation Department Representative to Initial as applicable:

☐

No Insurance Required: Based on scope of services, CONTRACTOR shall not be required to provide insurance.



Commercial General Liability: CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than **\$100,000** Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

☐


Auto Liability: CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than **\$500,000** Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.





Workers' Compensation Insurance & Employer's Liability: CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.




Professional Liability: CONTRACTOR shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONTRACTOR's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONTRACTOR shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, not renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, CONTRACTOR shall purchase a SERP with a minimum reporting period not less than three (3) years.

 **Additional Insured Clause:** Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by this Agreement has been endorsed to include COUNTY as Additional Insured. As such, said Certificate(s) shall specifically include: "Palm Beach County, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents."

 **Waiver of Subrogation:** CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.

 **Certificates of Insurance:** Prior to execution of the Agreement, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Agreement have been obtained and are in full force and effect. In addition, the CONTRACTOR shall provide this evidence to the COUNTY prior to the expiration date of any such insurance required herein. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation of coverage. Certificates of Insurance are to be sent to:
Palm Beach County Board of County Commissioners
C/O Parks and Recreation Department
Attn: _____
2700 Sixth Avenue South
Lake Worth, Florida 33461

☐ **Umbrella or Excess Liability:** If necessary, CONTRACTOR may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

 **Right to Revise or Reject:** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

Scope of Work

Saturday, July 4, 2015 Zambelli Fireworks Manufacturing Co.

The Contractor will supply the following firework shells plus one (1) music CD

<u>Shells</u>	<u>Quantity</u>
Opening Barrage: Three Inch Red, White and Blue Shells and Salutes	20
Four Inch Assorted Effects and Colors	12
Two Multi-Shot Finale Devices 100 Shots	200
 Main Body:	
Three Inch Color, Pattern and Designer Shells	200
Four Inch Color, Pattern and Designer Shells	120
Five Inch Color, Pattern and Designer Shells	120
Six Inch Color, Pattern and Designer Shells	60
 Grand Finale:	
Three Inch Rapid Fire Shells and Salutes	400
Four Inch Rapid Fire, Color and Pattern Shells	24
Five Inch Rapid Fire, Color and Pattern Shells	10
Six Inch Rapid Fire, Color and Pattern Shells	4
 <u>TOTAL</u>	
970 Aerial Display Shells	
1,400 Multi-Shot Box Shots 1" to 2"	

GRAND TOTAL 2,370 TOTAL SHELLS/EFFECT

Contractor will supply two (2) pyrotechnicians, transportation, permit fees, fuses, cribbing, lumber, protective tarps and tents as required.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/22/15

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Allied Specialty Insurance, Inc 10451 Gulf Boulevard Treasure Island, FL 33706-4814 1-800-237-3355	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: T.H.E. Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC # 12866
INSURED Zambelli Fireworks Mfg Co., dba: Zambelli Fireworks Internationale, etal 20 South Mercer Street New Castle, PA 16101		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			CPP0103167-02	02/01/2015	02/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			CPP0103167-02	02/01/2015	02/01/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE			ELP0011081-02	02/01/2015	02/01/2016	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	WCP0005125-003	02/01/2015	02/01/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	Workers Compensation Coverage is afforded in the State(s) of: AZ, CO, CT, DE, FL, GA, IL, IN, KY, LA, MD, MI, MN, MO, NC, NE, NJ, NM, NV, NY, OR, PA, SC, SD, TN, TX, UT, VA & WI.						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Display Date: July 3 & 4, 2015 Rain Date: July 5, 2015 Location: Sunset Cove Amphitheater, Boca Raton, FL

RE: General Liability, the following are named as additional insured in respects to the operations of the named insured only

Sunset Cove Amphitheater, Palm Beach County, a Political Subdivision of the State of Florida, it's Officers, Employees and Agents, Palm Beach County Board of County Commissioners - ATIMA

THIS POLICY DOES NOT PROVIDE DISABILITY IN NEW YORK.

CERTIFICATE HOLDER 510871 Palm Beach County Board of County Commissioners c/o Parks and Recreation Department 2700 Sixth Avenue South Lake Worth, FL 33461 CERT# 15099	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.43.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF ATF - Chief, FELC
Correspondence To 244 Needy Road
 Martinsburg, WV 25405-9431

Chief, Federal Explosives Licensing Center (FELC)

Name

ZAMBELLI FIREWORKS INTERNATIONALE

Premises Address (Changes? Notify the FELC at least 10 days before the move)
20 SOUTH MERCER STREET
NEW CASTLE, PA 16101

Type of License or Permit

23-IMPORTER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist in the transfer of explosives to verify the identity and the license or permit of the licensee or permittee as provided by 27 CFR Part 555. The signature of the licensee or permittee is required. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the licensee or permittee named above. A true copy of a license or permit issued to the licensee or permittee named above is a true business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

ZAMBELLI FIREWORKS MANUFACTURING CO
ZAMBELLI FIREWORKS INTERNATIONALE
PO BOX 3385
NEWCASTLE, PA 16103-

Licensee Permittee Responsible Person Signature

W. D. Taylor
Printed Name

President

9/25/2012
Date

Previous Edition is Obsolete ZAMBELLI FIREWORKS MANUFACTURING CO 20 SOUTH MERCER STREET NEW CASTLE, PA 16101-0001 2012-23-IMPORTER OF EXPLOSIVES

ATF Form 5400.14-5400.13 Part 1
Revised October 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address (27 CFR 555.34(a)(1)). Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. (The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)

Right of Succession (27 CFR 555.39). (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

Cut Here X

(Continued on reverse side)

Federal Explosives License/Permit (FEL) Information Card	
License Permit Name: ZAMBELLI FIREWORKS MANUFACTURING CO	
Business Name: ZAMBELLI FIREWORKS INTERNATIONALE	
License Permit Number: 8-PA-073-23-5B-02044	
License Permit Type: 23-IMPORTER OF EXPLOSIVES	
Expiration: February 1, 2015	
Please Note: Not Valid for the Sale or Other Disposition of Explosives.	



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25403

January 28, 2015

Zambelli Fireworks Manufacturing, Co.
Zambelli Fireworks Internationale
20 South Mercer Street
New Castle, PA 16101

901090: CRR/CDM
5400
File Number: 8-PA-02044

Premises Address: 20 South Mercer Street, New Castle, PA 16101

Dear Sir/Madam:

This letter acknowledges receipt of your timely application to renew your Federal explosives license/permit.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is not able to process your application prior to the expiration date of your license/permit. However, Federal law allows you to continue operations under your current license/permit until such time as ATF completes processing your application. See 5 U.S.C. § 558. This letter, or as explained below, a follow-up letter, will serve as your license/permit until we complete action on your renewal. It is referred to as a Letter of Authorization (LOA).

Since we have not completed processing your application, you may supply a copy of this letter to other licensees/permittees, e.g., your distributors, for the next six months (or until we complete action on your renewal, if that occurs in less than six months) as evidence of your licensed/permitted status. If we have not completed processing your application for renewal within six months of the date of this letter, we will send you another letter, which will also be valid for six months (or until we complete action on your renewal, if that occurs in less than six months). This is of course contingent upon your remaining entitled to continue operations under your current license/permit.

Please direct questions or concerns regarding this letter to Cindy McKinney at (304) 616-4408 or Cynthia.mckinney@atf.gov.

Sincerely,

Christopher R. Reeves
Chief, Federal Explosives Licensing Center

ATF web address: www.atf.gov



PERMIT FOR PUBLIC DISPLAY OF FIREWORKS /OUTDOOR

Palm Beach County Fire Rescue
405 Pike Road, West Palm Beach, Florida 33411
(561) 616-7030



Permit issued to: Insured: Palm Beach County
Pyrotechnician: Arden Kauffman

Location of Display: Sunset Cove Amphitheater
12551 Glades Road
Boca Raton, FL 33498

Date & Time of
Display: July 4, 2015 @ 9:00 p.m.

Maximum Shells
Size: 6"

Permits for public displays shall be governed by the conditions of National Fire Protection Association Pamphlet No. 1123 or No. 1126 as adopted in Section 1 of this Code and the following:

1. Any fair, association, amusement park, other organization, individual or group of individuals shall apply to the Fire Marshal of the County Fire-Rescue Department for a permit for the display of firework at least fifteen (15) days in advance of the date of the display. The application shall contain the following information:
 - A. The exact location of the display; and
 - B. The number, type and size of the fireworks to be displayed; and
 - C. The name(s) and qualifications of the individual(s) performing the display; and
 - D. Liability insurance policy in an amount specified by the fire marshal in a minimum amount of \$1,000,000.00 (one million dollars) in which Palm Beach County is named as a co-insured; and
 - E. A non-refundable fee of \$500.00 (Five Hundred Dollars); and
 - F. Any firework/pyrotechnic/flame effect that exceeds one (1) display and lasts longer than (60) sixty minutes shall be billed at a rate of \$400.00 (Four Hundred Dollars) per hour for each additional hour thereafter; and
 - G. If the location of this display of fireworks is in a Public Park owned and maintained by Palm Beach County, a copy of the resolution or other authorization of the Board of County Commissioners of Palm Beach County authorizing said display.
 - H. Current ATF License/Permit

This permit applies to Palm Beach County Fire Rescues approval only.

2. The Fire Marshal of the County Fire-Rescue Department or his designee may issue a permit to the applicant upon satisfaction of the conditions stated in sub-section A. Any permit issued by the authority having jurisdiction shall be subjected to suspension, revocation or denial by the AHJ's determination that conditions exist which make the permitted activity imminently hazardous to life or property such as drought, wind conditions, or any other conditions deemed hazardous. Pursuant to Palm Beach County Fire Code section 1-12.7.4, 2014 edition. A copy of the written permit shall be mailed to the Sheriff of the County.

Issued: Fire Marshal of Palm Beach County - 405 Pike Road - West Palm Beach, FL 33411

By: Arden Kauffman

Date: 7-4-15