

City of Moreno Valley

**AGREEMENT FOR ON-SITE AND/OR PROFESSIONAL SERVICES**

This Agreement is made by and between the **Moreno Valley Community Services District**, California, a municipal corporation, with its principal place of business at 14177 Frederick Street, Moreno Valley, CA 92552, hereinafter referred to as the “City”, and **Big Ear Audio, LLC dba Morningstar Productions**, a **LIMITED LIABILITY COMPANY**, with its principal place of business at **41213 Sandalwood Circle, Murrieta, CA 92562**, hereinafter referred to as the “Vendor,” based upon City policies and the following legal citations:

**RECITALS**

- A. Government Code Section 53060 authorizes the engagement of persons to perform special services as independent Vendors;
- B. Vendor desires to perform and assume responsibility for the provision of professional **Audio/Visual** contracting services required by the City on the terms and conditions set forth in this Agreement. Vendor represents that it is experienced in providing **Audio/Visual** contracting services and is licensed in the State of California, if applicable;
- C. City desires to engage Vendor to render such services for the **Audio/Visual** as set forth in this Agreement;
- D. The public interest, convenience, necessity, and general welfare will be served by this Agreement; and
- E. This Agreement is made and entered into effective the date the City signs this Agreement.

**TERMS**

1. **VENDOR INFORMATION:**

Vendor’s Name: Big Ear Audio LLC dba Morningstar Productions

Address: 41213 Sandalwood Circle

City: Murrieta State: CA Zip: 92562

Business Phone: 951-677-4443

Business License Number: 43868

Federal Tax I.D. Number: 20-2782387

2. **VENDOR SERVICES, FEES, AND RELEVANT DATES:**

- A. The Vendor's scope of service is described in Exhibit "A" attached hereto and incorporated herein by this reference.
- B. The City's responsibilities, other than payment, are described in Exhibit "B" attached hereto and incorporated herein by this reference.
- C. Payment terms are provided in Exhibit "C" attached hereto and incorporated herein by this reference.
- D. The Term of this Agreement shall be from **July 1, 2025 to June 30, 2030 with an option to execute two (2) 5-year extensions** unless terminated earlier as provided herein. The City acknowledges that it will not unreasonably withhold approval of the Vendor's requests for extensions of time in which to complete the work required. The Vendor shall not be responsible for performance delays caused by others or delays beyond the Vendor's reasonable control (excluding delays caused by non-performance or unjustified delay by Vendor, his/her/its employees, or subcontractors), and such delays shall extend the time for performance of the work by the Vendor.

3. **STANDARD TERMS AND CONDITIONS:**

- A. Control of Work. Vendor is solely responsible for the content and sequence of the work and will not be subject to control and direction as to the details and means for accomplishing the anticipated results of services. The City will not provide any training to Vendor or his/her/its employees.
- B. Intent of Parties. Vendor is, and at all times shall be, an independent Vendor and nothing contained herein shall be construed as making the Vendor or any individual whose compensation for services is paid by the Vendor, an agent or employee of the City, or authorizing the Vendor to create or assume any obligation or liability for or on behalf of the City, or entitling the Vendor to any right, benefit, or privilege applicable to any officer or employee of the City.
- C. Subcontracting. Vendor may retain or subcontract for the services of other necessary Vendors with the prior written approval of the City. Payment for such services shall be the responsibility of the Vendor. Any and all subcontractors shall be subject to the terms and conditions of this Agreement, with the exception that the City shall have no obligation to pay for any subcontractor services rendered. Vendor shall be responsible for paying prevailing wages where required by law [See California Labor Code Sections 1770 through 1777.7].
- D. Conformance to Applicable Requirements. All work prepared by Vendor shall be subject to the approval of City.

- E. Substitution of Key Personnel. Vendor has represented to City that certain key personnel will perform and coordinate the services under this Agreement. Should one or more of such personnel become unavailable, Vendor may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Vendor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the project or a threat to the safety of persons or property, shall be promptly removed from the project by the Vendor at the request of the City. The key personnel for performance of this Agreement are as follows: **Mitchell Hoskins and/or Laurence Sheldon**.
- F. City's Representative. The City hereby designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). Vendor shall not accept direction or orders from any person other than the City's Representative or his or her designee.
- G. Vendor's Representative. Vendor hereby designates **Mitchell Hoskins and/or Laurence Sheldon**, or his or her designee, to act as its representative for the performance of this Agreement ("Vendor's Representative"). Vendor's Representative shall have full authority to represent and act on behalf of the Vendor for all purposes under this Agreement. The Vendor's Representative shall supervise and direct the services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the services under this Agreement.
- H. Legal Considerations. The Vendor shall comply with applicable federal, state, and local laws in the performance of this Agreement. Vendor shall be liable for all violations of such laws and regulations in connection with services. If the Vendor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Vendor shall be solely responsible for all costs arising therefrom. Vendor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.
- I. Standard of Care; Performance of Employees. Vendor shall perform all services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Vendor represents and maintains that it is skilled in the profession necessary to perform the services. Vendor warrants that all employees and subcontractor shall have sufficient skill and experience to

perform the services assigned to them. Finally, Vendor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any employee of the Vendor or its subcontractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the services in a manner acceptable to the City, shall be promptly removed from the project by the Vendor and shall not be re-employed to perform any of the services or to work on the project.

- J. Vendor Indemnification. Vendor shall indemnify, defend and hold the City, the Moreno Valley Housing Authority, and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all claims, damages, losses, causes of action and demands, including, without limitation, the payment of all consequential damages, expert witness fees, reasonable attorney's fees and other related costs and expenses, incurred in connection with or in any manner arising out of Vendor's performance of the work contemplated by this Agreement and this Agreement. Acceptance of this Agreement signifies that the Vendor is not covered under the City's general liability insurance, employee benefits, or worker's compensation. It further establishes that the Vendor shall be fully responsible for such coverage. Vendor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees.
- K. Additional Indemnity Obligations. Vendor shall defend, with counsel of City's choosing and at Vendor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section "J" that may be brought or instituted against City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees. Vendor shall pay and satisfy any judgment, award or decree that may be rendered against City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees as part of any such claim, suit, action or other proceeding. Vendor shall also reimburse City for the cost of any settlement paid by City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Vendor shall reimburse City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

- L. CalPERS Retiree Disclosure. Vendor hereby expressly agrees to clearly and conspicuously disclose to City in writing any and all persons working for Vendor who are retirees under the California Public Employees' Retirement System (CalPERS) whom receives a monthly CalPERS retirement allowance, and whom are, subject to City approval, assigned by Vendor to provide services to City under the Agreement, prior to such person performing any services hereunder. Nothing herein shall be deemed or interpreted to limit a CalPERS retiree's obligations under applicable law, rules or regulations.
- M. CalPERS Indemnity. To the fullest extent permitted by law, in addition to obligations set forth in this section, in the event that any person providing services under this Agreement is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, to the fullest extent of the law, Vendor shall indemnify, defend, and hold harmless City for any costs and expenses incurred by City, including without limitation, payment that City is required as a result to make to CalPERS, whether in the form of employee and/or employer contributions, taxes, or any similar obligations, as well as for the payment of any penalties and interest.
- N. CalPERS Participation. As set forth in this Agreement and in the Request for Qualifications, City has an obligation to treat all persons working for or under the direction of Vendor as an independent Vendor of City and agents and employees of Vendor, and not as agents or employees of City. Vendor and City acknowledge and agree that City participates in a defined benefit plan ("CalPERS"), and that it is possible that CalPERS may find that persons providing services pursuant to this Agreement are employees of City and should be registered with the CalPERS as employees of City.
- O. Civil Code Section 1542 Waiver. Vendor expressly waives any and all rights and benefits conferred upon it by the provisions of Section 1542 of the California Civil Code which reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

This waiver shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind that are known or unknown, or suspected or unsuspected, including, without limitation, claims of entitlements under CalPERS that are only afforded to employees and not independent contractors. Vendor further represents and warrants that it understands this waiver and that if it does not understand this waiver, it shall seek the advice of a qualified attorney before executing this Agreement.

- P. Joint Cooperation. In the event that CalPERS initiates an inquiry that includes examination of whether individuals providing services under this Agreement to City are City's employees, Vendor shall reply within five days and share all communications and documents from CalPERS that it may legally share. In the event that either Vendor or City files an appeal or court challenge, Vendor and City each agree to cooperate with each other in responding to the inquiry and any subsequent administrative appeal or court challenge of an adverse determination.
- Q. Insurance Requirements. Throughout the life of this Agreement, Vendors shall pay for and maintain in full force and effect all insurance as required.

If at any time during the life of this Agreement or any extension, Vendor or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Vendor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve Vendor of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

The fact that insurance is obtained by Vendor shall not be deemed to release or diminish the liability of Vendor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Vendor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Vendor, its principals, officers, agents, employees, persons under the supervision of Vendor, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

Upon request of City, Vendor shall immediately furnish City with a complete copy of any insurance policy and associated documentation required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

Where determined applicable by the City, Vendor will comply with the following insurance requirements at its sole expense. Insurance companies shall be rated (A

Minus: VII-Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct business in the State of California.

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

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 covering on an "occurrence" basis, which shall include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability.
2. The most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, which shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California, California Labor Code and Employer's Liability Insurance, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to Vendor's profession.

**Minimum Limits of Insurance:**

- a. General Liability Insurance. Without limiting the generality of the forgoing, to protect against loss from liability imposed by law for damages on account of bodily injury, including death, and/or property damage suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Vendor, sub-contractor, or any person acting for the Vendor or under its control or direction. Such insurance shall be maintained in full force and effect throughout the terms of this Agreement and any extension thereof in the minimum amounts provided below:
  - \$1,000,000 per occurrence for bodily injury and property damage
  - \$1,000,000 per occurrence for personal and advertising injury
  - \$2,000,000 aggregate for products and completed operations
  - \$2,000,000 general aggregate
- b. Automobile Liability
  - \$1,000,000 per accident for bodily injury and property damage
- c. Employer's Liability (Worker's Compensation)
  - \$1,000,000 each accident for bodily injury

- \$1,000,000 disease each employee
  - \$1,000,000 disease policy limit
- d. Workers' Compensation insurance policy: In such amounts as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Vendor and the City, HA, and CSD against any loss, claim or damage arising from any injuries or occupational diseases happening to any worker employed by the Vendor in the course of carrying out this Agreement. Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: Vendor and its insurer shall waive any right of subrogation against City of Moreno Valley, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers.
- e. Professional Liability (Errors and Omissions): Limits of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
- f. Endorsements. Unless otherwise specified hereunder, each insurance policy required herein shall be with insurers possessing a Best's rating of no less than A,VII and shall be endorsed with the following specific language:
- The insurer waives all rights of subrogation against the City, its appointed officials, officers, employees or agents.

**Other Insurance Provisions:** The General Liability, Automobile Liability and Workers Compensation insurance policies are to contain, or be endorsed to contain, the following provisions:

- a. City of Moreno Valley, the City of Moreno Valley Community Services District, the Moreno Valley Housing Authority and each of their officers, officials, employees, agents and volunteers are to be covered as additional insureds.
- b. The coverage shall contain no special limitations on the scope of protection afforded to City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Vendor shall furnish the City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for the City, Vendor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.



**Acceptability of Insurers:** All policies of insurance required hereunder shall be placed with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide; or authorized by the City Manager or designee.

**Verification of Coverage:** Vendor shall furnish City with all certificates(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the City Manager or designee prior to City's execution of this Agreement and before work commences. The following applicable endorsements will be required:

1. Additional Insured endorsement for ongoing operations, completed operations and primary & non-contributory endorsement for general liability coverage
  2. Additional Insured endorsement for auto liability coverage
  3. Waiver of Subrogation for workers compensation coverage
- R. Intellectual Property. Any system or documents developed, produced or provided under this Agreement, including any intellectual property discovered or developed by Vendor in the course of performing or otherwise as a result of its work, shall become the sole property of the City unless explicitly stated otherwise in this Agreement. The Vendor may retain copies of any and all material, including drawings, documents, and specifications, produced by the Vendor in performance of this Agreement. The City and the Vendor agree that to the extent permitted by law, until final approval by the City, all data shall be treated as confidential and will not be released to third parties without the prior written consent of both parties.
- S. Entire Agreement. This Agreement constitutes the entire agreement between the parties. There are no understandings, Agreements, or representations of warranties, expressed or implied, not specified in this Agreement. This Agreement applies only to the current proposal as attached. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties. Assignment of this Agreement is prohibited without prior written consent.
- T. Termination. The following clauses apply:
1. The City may terminate the whole or any part of this Agreement at any time without cause by giving at least ten (10) days written notice to the Vendor. The written notice shall specify the date of termination. Upon receipt of such notice, the Vendor may continue work through the date of termination, provided that no work or service(s) shall be commenced or continued after receipt of the notice which is not intended to protect the interest of the City. The City shall pay the Vendor within thirty (30) days

after receiving any invoice after the date of termination for all non-objected to services performed by the Vendor in accordance herewith through the date of termination.

2. Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Vendor shall perform no further work or service(s) under the Agreement unless the notice of termination authorizes such further work.
  3. If this Agreement is terminated as provided herein, City may require Vendor to provide all finished or unfinished documents and data and other information of any kind prepared by Vendor in connection with the performance of services under this Agreement. Vendor shall be required to provide such documents and other information within fifteen (15) days of the request.
  4. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, similar to those terminated.
- U. Payment. Payments to the Vendor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. The City will not withhold any sums from compensation payable to Vendor. Vendor is independently responsible for the payment of all applicable taxes. Where the payment terms provide for compensation on a time and materials basis, the Vendor shall maintain adequate records to permit inspection and audit of the Vendor's time and materials charges under the Agreement. Such records shall be retained by the Vendor for three (3) years following completion of the services under the Agreement.
- V. Restrictions on City Employees. The Vendor shall not employ any City employee or official in the work performed pursuant to this Agreement. No officer or employee of the City shall have any financial interest in this Agreement in violation of federal, state, or local law.
- W. Choice of Law and Venue. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall govern the interpretation of this Agreement. Any legal proceeding arising from this Agreement shall be brought in the appropriate court located in Riverside County, State of California.
- X. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**Vendor:**

Big Ear Audio Productions LLC dba Morningstar Productions  
41213 Sandalwood Circle  
Murrieta, CA 92565  
Attn: **Mitchell Hoskins and/or Laurence Sheldon**

**City:**

City of Moreno Valley  
14177 Frederick Street  
P.O. Box 88005  
Moreno Valley, CA 92552  
Attn: **Jeremy Bubnick**  
**Parks & Community Services Director**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

- Y. Time of Essence. Time is of the essence for each and every provision of this Agreement.
- Z. City's Right to Employ Other Vendors. City reserves right to employ other Vendors in connection with this project.
- AA. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.
- BB. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, such attempted assignment, hypothecation, or transfer.
- CC. Supplementary General Conditions (for projects that are funded by Federal programs). If federal funds are used in whole or in part for this Agreement, the provisions of 2 C.F.R. Part 200, Appendix II, and any applicable federal regulations shall apply. These provisions supersede any conflicting provisions in this Agreement. The following requirements apply and must be included in all subcontracts entered into by the Vendor for work performed under this Agreement:
  - 1. Equal Employment Opportunity. Vendor shall comply with Executive Order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Chapter 60. This requirement applies to all construction contracts over \$10,000 awarded by the City and all subcontracts over \$10,000 entered into by the Vendor.

2. Copeland Anti-Kickback Act. Vendor shall comply with 18 U.S.C. 874, as supplemented in Department of Labor regulations 29 CFR Part 3. This requirement applies to all federally funded contracts and subcontracts for construction or repair under this Agreement.
3. Davis-Bacon Act. Vendor shall comply with 40 U.S.C. 3141-3148, as supplemented by Department of Labor regulations 29 CFR Part 5. This requirement applies to all federally funded construction contracts over \$2,000 pursuant to this Agreement.
4. Contract Work Hours and Safety Standards Act. Vendor shall comply with 40 U.S.C. 3701-3708, as supplemented by Department of Labor regulations at 29 CFR Part 5. This requirement applies to all federally funded contracts over \$100,000 for construction and non-construction services under this Agreement.
5. Patent Rights. The City retains all patent rights for any discovery or invention developed in the course of or under this Agreement. The City and Vendor shall comply with 37 CFR Part 401, including applicable requirements for reporting, disclosure, and federal use rights.
6. Copyrights and Data Rights. The City retains all copyrights and rights in data developed under this Agreement. FEMA and CalOES retain a royalty-free, nonexclusive, irrevocable license to reproduce, publish, or otherwise use or authorize others to use for federal purposes, any copyright work developed under this Agreement or any subcontract issued for work under this Agreement.
7. Access to Records. Vendor shall provide access to the City, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Vendor which are directly pertinent to that specific contract for the purpose of audit, examination, excerpts, and transcriptions.
8. Record Retention. Vendor shall retain all required records for three years after City makes final payments under this Agreement and all pending matters related to the Agreement are resolved.
9. Environmental Compliance. Vendor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 7401-7671q), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations at 40 CFR part 15. This requirement applies to all contracts

exceeding \$150,000, including subcontracts issued pursuant to such contracts.

10. Energy Conservation. Vendor shall comply with mandatory standards and policies contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163, 89 Stat. 871).

DD. Authority To Execute. The representative executing this Agreement on behalf of each party hereby represents and warrants that he or she has full power and authority to execute this Agreement on behalf of such party and that all approvals and other actions necessary in connection with the effective execution by him or her have been obtained and are in full force and effect as of his or her execution hereof.

**SIGNATURE PAGE TO FOLLOW**

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

Big Ear Audio Productions LLC dba

Morningstar Productions

BY: \_\_\_\_\_

City Manager/Executive Director

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

\_\_\_\_\_

Date

**INTERNAL USE ONLY**

**APPROVED AS TO LEGAL FORM:**

Steven B. Quintanilla

City Attorney

05/20/2025

Date

**RECOMMENDED FOR APPROVAL:**

\_\_\_\_\_

Department Head

\_\_\_\_\_

Date

## EXHIBIT A

### VENDOR SCOPE OF SERVICES

1. Vendor agree to provide sound, lighting, engineer and technician services with City-owned equipment for all rentals/use of the Civic Center Amphitheater for the term of this agreement for an estimated 100 events per year.
  - a. Personnel Services
    - i. Dedicate 4-5 technicians who shall be trained on the use of all City supplied A/V equipment, video wall and be available to operate A/V equipment seven (7) days per week, between the hours of 7 a.m. - midnight (depending on event), with a minimum of two-week's notice from the City. Technicians should have extensive experience with audio and video equipment to project and amplify speakers, music, or video presentations, along with theater-style stage lighting.
    - ii. Communicate with internal and external clients on a/v needs and determine adequate number of technicians to schedule.
    - iii. Provide adequate number of technicians per each event/rental dependent upon A/V needs and complexity.
    - iv. Technicians to operate and set up/take down all City-owned equipment for TBD dates.
  - b. Audio Services
    - i. Extensive experience with City-owned equipment types.
  - c. Visual Services
    - i. Video wall
    - ii. Live streaming services
    - iii. Video switcher for multiple, seamless sources
    - iv. Stage lighting (multi-color)
  - d. Recording Services
    - i. Video and audio recording capability
    - ii. High resolution capturing and file transfer to the City
  - e. Vendor agrees to pay for any damages or loss due to vendor's improper use of equipment.

## **EXHIBIT B**

### **CITY RESPONSIBILITIES**

1. Provide access to Civic Center Amphitheater, located at 14075 Frederick St. Moreno Valley, CA 92553, and all other event locations where services will be needed.
2. Provide access to and use of City-owned audio/visual equipment.
3. Provide at least two weeks' notice of need for a/v personnel for internal or external rentals.
4. Provide internal or external client information so vendor may contact them and determine a/v needs and number of technicians to schedule.

DRAFT



## EXHIBIT C

### TERMS OF PAYMENT

1. The Vendor's compensation shall not exceed **\$632,530.95**.
2. The Vendor will obtain, and keep current during the term of this Agreement, the required City of Moreno Valley business license. Proof of a current City of Moreno Valley business license will be required prior to any payments by the City. Any invoice not paid because the proof of a current City of Moreno Valley business license has not been provided will not incur any fees, late charges, or other penalties. Complete instructions for obtaining a City of Moreno Valley business license are located at: <https://moval.gov/departments/financial-mgmt-svcs/svc-biz-license.html>
3. The Vendor will electronically submit an invoice to the City on a monthly basis for progress payments along with documentation evidencing services completed to date. The progress payment is based on actual time and materials expended in furnishing authorized professional services since the last invoice. At no time will the City pay for more services than have been satisfactorily completed and the City's determination of the amount due for any progress payment shall be final. The Vendor will submit all original invoices to Accounts Payable staff at [AccountsPayable@moval.org](mailto:AccountsPayable@moval.org)
  - a. Accounts Payable questions can be directed to (951) 413-3073.
  - b. Copies of invoices may be submitted to the **Parks & Community Services Department** at [PCSDAdmin@moval.org](mailto:PCSDAdmin@moval.org) or calls directed to (951) 413-3280.
4. The Vendor agrees that City payments will be received via Automated Clearing House (ACH) Direct Deposit and that the required ACH Authorization form will be completed prior to any payments by the City. Any invoice not paid because the completed ACH Authorization Form has not been provided will not incur any fees, late charges, or other penalties. The ACH Authorization Form is located at: [http://www.moval.org/city\\_hall/forms.shtml#bf](http://www.moval.org/city_hall/forms.shtml#bf)
5. The minimum information required on all invoices is:
  - a. Vendor Name, Mailing Address, and Phone Number
  - b. Invoice Date
  - c. Vendor Invoice Number
  - d. City-provided Reference Number (e.g. Project, Activity)
  - e. Detailed work hours by class title (e.g. Manager, Technician, or Specialist), services performed and rates, explicit portion of a contract amount, or detailed billing information that is sufficient to justify the invoice amount; single, lump amounts without detail are not acceptable.

6. The City shall pay the Vendor for all invoiced, authorized professional services within thirty (30) days of receipt of the invoice for same.
7. Reimbursement for Expenses. Vendor shall not be reimbursed for any expenses unless authorized in writing by City.
8. Maintenance and Inspection. Vendor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Vendor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Vendor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.
9. Liquidated Damages for Non-Performance. The Vendor shall complete all work within the required timeframes, schedules, and performance intervals as set forth in this Agreement, the Scope of Work, or as directed by the City. If the Vendor fails to meet these performance obligations, the City may assess liquidated damages in the amount of **1% of the total contract price per working day for each working day the deficiencies remain uncorrected.**

The Vendor acknowledges that actual damages resulting from such delays would be difficult to ascertain and agrees that this amount represents a reasonable pre-estimate of the City's costs and impacts due to non-performance. Such liquidated damages shall be deducted from progress payments. If the remaining unpaid contract price is insufficient to cover the full amount, the Vendor shall be responsible to pay the difference.

The City retains the right to issue a Change Order reducing the contract price, require acceleration of performance at the Vendor's expense, or pursue any other legal remedy, including collection from the Vendor, its insurance, or surety. The City shall provide written notice to the Vendor before assessing liquidated damages. Liquidated damages shall not be assessed for delays caused by the City or circumstances beyond the Vendor's reasonable control.

Neither the City's failure nor delay in deducting liquidated damages from payments due to the Vendor, nor City's failure or delay in notifying Vendor of the accrued liquidated damages, shall be deemed a waiver of City's right to enforce this section. The imposition of liquidated damages shall not limit City's ability to seek additional remedies for Vendor default, including termination of this Agreement if non-performance persists.

10. Vendor Compensation and Rate Adjustment. Vendor's compensation, including all contracted hourly rates, is fixed for the Term of this Agreement, and no automatic or scheduled increases shall apply except those expressly incorporated herein. If the Vendor makes its performance contingent upon a rate increase, the Vendor commits a material breach, which may result in contract enforcement actions. Pricing for extended terms is

subject to negotiation. No rate increase shall take effect unless it is expressly provided herein or approved in writing by the City and executed through a contract amendment.

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