

THE ATTACHED AGREEMENT HAS BEEN REVIEWED  
AND APPROVED AS TO FORM BY THE CITY  
ATTORNEY'S OFFICE AND WILL BE  
FORMALLY SIGNED UPON APPROVAL BY  
THE CITY COUNCIL



Glèn R. Gogins  
City Attorney

Dated: 5/22/14

AGREEMENT  
BETWEEN  
MCFARLANE PROMOTIONS, INC. AND  
THE CITY OF CHULA VISTA

## PRODUCTION AGREEMENT

This Agreement is effective this 24 day of May, 2014, between McFarlane Promotions, Inc. ("Production Company"), a California corporation with a principal place of business at 656 5th Avenue, Suite B, San Diego, CA 92101, and City of Chula Vista ("Client" or "City"), a municipal chartered corporation of the State of California with a principal place of business at 276 Fourth Avenue, Chula Vista, CA 91910.

### ARTICLE 1. TERM OF CONTRACT

Section 1.01. This Agreement shall take effect upon full execution, as of the effective date stated above and shall continue in effect through December 31, 2014, unless terminated earlier as provided in this Agreement.

### ARTICLE 2. SERVICES TO BE PERFORMED BY PRODUCTION COMPANY

#### Specific Services

Section 2.01. Conditional upon receipt of an executed Agreement and receipt of the deposit as specified herein, Production Company agrees to assist in coordinating an event for HarborFest in Chula Vista, CA on Saturday, August 16, 2014 including:

#### Production and Technical Services

##### Scheduling & Optimization

- Work with Client to establish an event budget
- Create a timeline for the event
- Coordinate with Client to decide on format of the evening
- Attend four pre-event meetings
- Produce a production schedule of items, with all appropriate parties, outlining all steps in pre-production, load in of the event, the event, and load out of the event
- Oversee the event before, during and after the event
- Write and disseminate appropriate thank you cards

##### Management

- Work with event managers to insure that production expenses do not exceed budgeted costs
- Order and coordinate the power
- Order and coordinate the audio for the event
- Order and coordinate staging
- Order and coordinate lighting for stage and venue (if needed)
- Order and coordinate clean up and dumpsters
- Order and coordinate porta potties/restrooms
- Order and coordinate the EMT
- Secure event radios for entire production staff
- Coordinate Beer Garden
- Order all rentals for the entire event (i.e. belly bars, bars, tables, chairs, tent, etc.)



- Be the onsite rental coordinator for the venue
- Make sure the rentals are going up on schedule
- Make sure every booth and area has the necessary rentals
- CAD drawing and Mapping Services
- Coordinate backstage green rooms, vendor booths, Front of House, stage rentals, VIP, event belly bars, etc.
- Secure and coordinate the street closure plan
- Order all street closure signs, barricades, delineators, no park signs, etc.
- Act as onsite street closure coordinator
- Secure all event signage as necessary for the venue
- Coordinate staff to assist with signage plans
- Create waste disposal design, scheduling, coordination, recycling and storm water plan
- Create pre, during and post-event cleaning plan
- Budget, coordinate & schedule security
- Create all security post positions and instructions
- Work with security on creating dot map
- Create credential board for the security posts
- Create all event credentials and credential definitions
- Assist with all sponsor production requests

### **Fee Collection, Ticket Sales, Process and Pay Invoices**

Production Company agrees to collect and process all HarborFest revenues and security deposits for vendors, commercial and non-profit booth rentals, and ticket sales for Seafood Fest, Beer Fest, and Wine Fest. These payments may be in the form of a check, credit card, or cash. Production Company will enter into contracts directly with vendors and use funds collected to pay for expenses pre-approved by Client, including but not limited to advertising, printing, signage, audio visual, staging, rental items (tables, chairs, tents, etc.), porta potties, or other items agreed to by the parties, but only to the extent of available funds.

Client will receive and process all sponsor and donation funds and pay for larger expenses such as staging, power, and rentals (to the extent of available funds).

Within 90 days of event, Production Company will provide a full accounting of all payments received and expenses paid. This accounting will include a detailed accounting of all vendor, commercial and non-profit booth rentals and a summary accounting of ticket sales for Seafood Fest, Beer Fest and Wine Fest. In addition, Production Company will provide an itemized accounting of all expenses paid, including copies of invoices and cancelled checks. Any funds remaining on account with Production Company after payment of all event expenses will be remitted to Client.

### **Meetings and Permitting**

- Attend all community meetings
- Attend all necessary internal, merchant and city meetings
- Secure all special event permits the City of Chula Vista
- Secure Health Department license for the event with the City of San Diego
- Interact with Chula Vista city officials to include;
  - ABC



- Traffic
- Police
- Fire
- Risk management
- Special Events Office
- Health Department – City of San Diego
- Electrical
- Recycle
- EMS
- Park and Rec
- Port of San Diego
- MTS
- Etc.
- Secure all necessary insurance from all production vendors naming the City of Chula Vista and client as additionally insured

### **Retail & Food Vendor Coordination**

- Create vendor participation form
- Mail & email out vendor form and follow up with phone calls
- Secure all venue retail, food, food trucks and non-food vendors
- Secure all vendor insurance and health permits necessary for the event
- Secure all vendor payments
- Coordinate all necessary rental and power needs for each vendor
- Make sure all vendors follow recycling and storm water regulations
- Communicate with all participating vendors prior to event to make sure they are aware of all regulations, guidelines, etc.
- Create temporary load-in parking passes for vendors and long-term passes (if applicable)
- Handle all vendor calls/emails before, during and after event
- Assist non-profits with all of their needs for the event if they receive booths
- Fulfill all sponsorship booths and day of needs
- Map out placement of all vendors
- Assist with load-in of all vendors to ensure they know their booth placement, stay within their allotted space and all of their needs are met
- Act as liaison to all vendors during event
- Coordinate the load out of all vendors to make sure residential and merchant guidelines are followed
- Send thank you letters to participating vendors and follow up to make sure the event was successful from their perspective

### **Kid's Zone**

- Create participation form for arts & crafts and interactive booths
- Secure all participants utilizing current database and use of research to find fresh and exciting ideas
- Coordinate outdoor games and contests with prizes
- Secure entertainment for stage
- Communicate with participants before, during and after event
- Assist with any additional logistics, permits, etc. (if needed)
- Coordinate layout and design
- Secure all rental and power requirements for area
- Create signage for each participant that corresponds with the ticket value
- Organize any vendors or sponsor needs



- Inform all participants of day-of information to include load in and out logistics, regulations, etc.
- Coordinate load in and out of venue on event day
- Work with participants to make sure they are in correct booth space and all needs are taken care of
- Communicate with all participants about ticketing procedures
- Send out thank you letters to all participants
- Create schedule of children's activities, contests, etc.
- Assign coordinator to oversee the schedule of the children's area

### **Car & Boat Show**

- Create car and boat registration forms
- Mail, collect and manage entries for both car and boat show
- Work with local Car Clubs & Boat Clubs to solicit their participation
- Create a database of entries for both car and boat show
- Send out acceptance letter for both car and boat show
- Liaison for car and boat entrants prior and during the event
- Coordinate load in and parking of cars and boats
- Work with Fire Marshall to make sure all cars and boats are following rules and city regulations
- Coordinate load out of vehicles and boats

### **Seafood Fest & Wine/Craft Beer Garden**

- Create restaurant and wine/craft beer registration forms
- Solicit participation for Seafood Fest and Wine/Craft Beer Garden
- Mail, collect and manage participants for both areas
- Create a database for participants for the Seafood Fest and Wine/Craft Beer Garden
- Liaison for restaurants, wineries and breweries prior and during the event
- Coordinate load in and load out for both areas
- Work with health department to make sure all restaurants and beverage vendors are following the rules and regulations

### **Entertainment Management**

- Research entertainment for the event
- Secure and contract entertainment for all stages
- Communicate all entertainment needs with appropriate vendors; i.e. sound, lighting, etc.
- Review and follow through with all entertainment riders for event
- Secure entertainment stage plots and input lists
- Coordinate meals
- Coordinate parking
- Coordinate green room requirements
- Finalize all equipment needs
- Act as entertainment liaison for the show

### **Sponsorship Information**

- Secure sponsor contracts once sponsors are confirmed
- Invoice sponsors in timely matter to receive payment
- Obtain logos, company information, advertisements, special deals and website link from sponsors to use on collateral materials and website
- Maintain open relationship with sponsors to ensure agreement and needs are met
- Send thank you cards to sponsors after event and follow up to make sure they were pleased with participation



## **Media/Press Plan**

### **Television**

- Pitch live spots for pre-event & day of coverage to the following TV Stations and act as media liaison, generate and distribute press release, PSA's media alerts, etc.:
- KUSI – TV
- KFMB –TV
- KNSD – TV
- KGTV – TV
- SD6 – TV
- FOX 5 – TV
- MYTV13 – TV
- U~T TV

### **Radio**

- Contact local radio stations to receive proposals for event promotion
- Review Radio Contracts
- Distribute event graphics, public service announcements, etc. to radio stations for promotions
- Secure and distribute promotional materials (i.e. gift certificates, product, discounts, etc.) for Radio promotions
- Make sure all event information is up on radio websites
- Obtain sound clips from promotional spots for records

### **Graphic Design**

- Create list of graphic design needs and send out for bids
- Obtain bids from graphic designers and select graphics designer
- Work with graphic artist to create and secure all collateral materials including but not limited to:
  - Advertising
  - Posters
  - Flyers
  - Beer Garden Tickets, etc. for the event
  - Programs
  - Merchandise

### **Additional PR/Promotion Plan**

- Initial Calendar Item release to all media
- Initial Press Release
- Media Alert
- Work with graphic designer on all collateral material
- Create and secure all collateral materials including but not limited to; advertising, posters, flyers & tickets
- Placement of promotional material (flyer, poster, etc.) in area restaurants, retail, bars, etc.

### **Web Promotions**

- Upload event information to over 100 event web listings



## **Twitter**

- Create or work with existing Twitter account and build a strong follower list
- Utilize Twitter to send updates to the public, publications and other followers with event updates including Kid's Zone, Car Show and Entertainment, as well as sponsorship fulfillment and more

## **Facebook**

- Create or work with existing Facebook account and build a strong friend list
- Utilize Facebook to send status updates to friends with event updates including Kid's Zone, Car Show and Entertainment, as well as sponsorship fulfillment and more

## **Post Event Press Plan**

- Organize, write and distribute media recap to include all articles, calendar notices, press, and television coverage

## **Method of Performing Services**

Section 2.02. Production Company will determine the method, details, and means of performing the above-described services. Production Company shall expend its best efforts to meet the objectives of Client and, in doing so, strive to preserve the integrity of Client in its relationships. Production Company agrees to abide by any policies and procedures established by Client during the term of this Agreement. The Contact for this agreement is Anne Steinberger, Marketing and Communications Manager.

## **ARTICLE 3. COMPENSATION**

### **Rate**

Section 3.01. Client agrees to pay Production Company the amount of \$30,000 coordination fee plus any and all pre-approved expenses. The payment schedule is dependent on when sponsorship/fees are raised and received. All coordination fee payments to be made based on the schedule below and full payment of the contract is due no later than August 1, 2014. Reimbursement expenses are to be billed at the end of each month and final reimbursements to be submitted no later than September 30, 2014.

- \$7,500 – due upon signing of agreement (deposit)
- \$7,500 – due by June 30, 2014 (to the extent funds are available)
- \$7,500 – due by July 15, 2014 (to the extent funds are available)
- \$7,500 – due by August 1, 2014 (to the extent funds are available)

If the City has not received sufficient sponsorship funds and the funds are not available to make any of the above payments on the specified date, the funds will be paid upon receipt by the City.

In addition to the above described compensation, Client agrees to pay Production Company \$1,000 monthly fee (effective June 15, 2014 – August 15, 2014) for collecting and processing HarborFest revenues and expenditures. Client further agrees to reimburse Production Company for all credit card processing fees incurred collecting event revenues.



Production Company will invoice Client monthly for these services, including an accounting of credit card processing fees due.

### **Change in Rate**

Section 3.02. Compensation shall be adjusted dependent upon room size, room availability, power and access charges, access to rigging and lifts, applicable fire codes, policing costs, change in design specifications, change in equipment requests, change in scheduling, union considerations or labor stoppage or acts of God. Rate does not include venue power, rigging, fire watch, security, or on-site modifications. Any changes in design, location or scheduling to the contracted services will result in additional charges to the Client for shipping, labor, construction and other related costs. Any conditions beyond the control of Production Company, including but not limited to weather conditions, venue changes and time chances, causing delays to setup or tear down may result in reasonable additional labor, transportation and other related costs. Production Company reserves the right to substitute proposed items with items of equal or greater value due to unexpected circumstances. Any change in rate pursuant to this section shall be subject to approval of the Client. Such approval shall not be unreasonably withheld. Notwithstanding any other provision in this Agreement to the contrary, total compensation and expense reimbursement that may be due and payable to Production Company under this Agreement shall be limited to those charges reimbursable through funds provided to the City by event sponsors or event revenues reasonably projected based on an approved budget subject to Client's prior reasonable approval.

### **Event Cancellation or Termination of Agreement by Client**

Section 3.03. The deposit paid upon execution of this Agreement is not refundable should the event be canceled or if this Agreement is terminated by Client. In addition, Client shall pay Production Company upon such cancellation or termination a termination fee equal to 50% of any unpaid compensation where such cancellation or termination occurs on or before July 7, 2014, 75% where such cancellation or termination occurs on or before July 28, 2014 and 100% for any cancellation or termination occurring thereafter, plus any actual direct costs expended or incurred by Production Company as a result of such cancellation or termination.

### **Property Rights**

Section 3.04. All production and services shall remain the property of Production Company. Any lost or damaged items will be an additional charge to Client.

## **ARTICLE 4. OBLIGATIONS OF PRODUCTION COMPANY**

### **Non-Exclusive Relationship**

Section 4.01. Production Company may represent, perform services for, and contract with as many additional clients, persons, or companies as Production Company, in its sole discretion, sees fit.





## **Workers' Compensation**

Section 4.02. Production Company agrees to provide Certificate evidencing CA workers' compensation insurance for its employees and agents and Waiver of Subrogation Endorsement.

## **Liability Insurance**

Section 4.03. Production Company agrees to provide broad form commercial general liability insurance, including contractual liability, product liability and completed operations in an amount of not less than \$1,000,000.00/\$2,000,000.00, City to be endorsed as Liability Additional Insured on a 1) "Primary" basis; 2) Additional Insured Endorsement must not exclude, "Products / Completed Operations hazard; and business automobile liability of not less than \$2,000,000.00/\$4,000,000.00. Waiver of Subrogation Endorsement to be provided. If Production Company maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

## **Limited Liability**

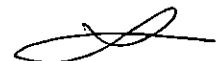
Section 4.04. [Intentionally Deleted.]

## **Production Company's Qualifications**

Section 4.05. Production Company represents that it has the qualifications and skills necessary to perform the services under this Agreement in a competent, professional manner. This means Production Company is able to fulfill the requirements of this Agreement. Failure to perform all the services required under this Agreement constitutes a material breach of the Agreement.

## **Indemnity**

Section 4.06. Production Company agrees to indemnify, defend, and hold Client free and harmless from all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs, that Client may incur as a result of a breach by Production Company of any representation or agreement contained in this Agreement. In addition, Production Company shall defend, indemnify, protect and hold harmless the Client, its elected and appointed officers, agents and employees, from and against any and all claims, demands, causes of action, costs (including, without limitation attorneys' fees), expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Production Company, its officials, officers, employees, agents and contractors, arising out of or in connection with the performance of the Specific Services or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys' fees) arising from the sole active negligence or willful misconduct of the Client, its officers, employees. Production Company's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Client, its



directors, official, officers, employees, agents, and/or volunteers. Production Company's obligations under Article 4. shall survive the termination of this Agreement.

### **Assignment**

Section 4.07. Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Production Company without the prior written consent of Client.

## **ARTICLE 5. OBLIGATIONS OF CLIENT**

### **Cooperation of Client**

Section 5.01. Client agrees to comply with all reasonable requests of Production Company and provide access to all documents reasonably necessary to the performance of Production Company's duties under this Agreement.

### **Assignment**

Section 5.02. Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Client without the prior written consent of Production Company.

## **ARTICLE 6. GENERAL PROVISIONS**

### **Notices**

Section 6.01. Any notices required to be given under this Agreement by either party to the other may be effected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices must be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by giving written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first.

### **Entire Agreement of the Parties**

Section 6.02. This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Production Company for Client and contains all of the representations, covenants, and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement, or promise not contained in this Agreement will be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.



### **Partial Invalidity**

Section 6.03. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

### **Arbitration**

Section 6.04. Any controversy or claim arising out of or relating to this Agreement or the breach of the Agreement will be settled by arbitration in accordance with the rules of the American Arbitration Association. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction over the award.

### **Attorneys' Fees**

Section 6.05. If any legal action or arbitration, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney's fees, which may be set by the court or arbitrator in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

### **Governing Law**

Section 6.06. This Agreement will be governed by and construed in accordance with the laws of the State of California.

### **Administrative Claims Requirements and Procedures**

Section 6.07. No suit or arbitration shall be brought arising out of this Agreement, against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by City in the implementation of same. Upon request by City, Consultant shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

### **Capacity of Parties.**

Section 6.08 Each signatory and party to this Agreement warrants and represents to the other party that it has legal authority and capacity and direction from its principal to enter into this Agreement, and that all necessary resolutions or other actions have been taken so as to enable it to enter into this Agreement.

Executed at San Diego, California, on the date and year first above written.

McFarlane Promotions, Inc.

By:

Laurel McFarlane, CEO

5/20/2014



City of Chula Vista

By: \_\_\_\_\_  
Cheryl Cox, Mayor

Attest:

\_\_\_\_\_  
Donna Norris, City Clerk

Approved as to form:

\_\_\_\_\_  
Glen R. Googins, City Attorney

