City of Las Cruces

SERVICE AGREEMENT

THIS AGREEMENT made and entered into on March 14, 2016 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Melrose & Associates, 4518 Fourth Street NW, Albuquerque, NM 87107 hereinafter called "CONTRACTOR".

1. PROJECT DESCRIPTION
Production of the Music in the Park series for the City of Las Cruces.

2. SCOPE OF SERVICES
In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP #15-16-125 incorporated herein by reference and made a part of this Agreement.

The CONTRACTOR is authorized to extend the same terms and conditions of this Agreement to other governmental entities conditioned upon the procurement laws and regulations of those entities. The CITY shall not be a party nor have any liability relating to such extensions.

3. APPROPRIATIONS
The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S, decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

4. COMPENSATION
The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount not to exceed $44,000 plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a Purchase Order from the CITY. The CITY cannot authorize costs to be incurred prior to such Purchase Order.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME
CONTRACTOR will devote the necessary hours each week to the performance of the project as required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE
This Agreement shall become effective on July 1, 2016 for a term of one year and pending mutual written agreement, may be extended annually thereafter for up to three (3) more years.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the CITY, CONTRACTOR shall so notify the CITY, of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY, with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY, for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S, right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY, will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S, prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY, and shall be delivered to the CITY, when requested and at the end of the Agreement.

14. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY, CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY, by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR's employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the

CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY, shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

CONTRACTOR shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

1. $1,000,000 (One Million Dollars) General Liability Insurance with the City named as an additional named insured with the same coverage as the CONTRACTOR.
2. $100,000 (One Hundred Thousand Dollars) Property Damage Insurance.
3. In the case of any approved subcontract, the CONTRACTOR shall require the subcontractor to provide statutory Workers' Compensation and Employers' Liability Insurance, with the same limits as those required by the CONTACTOR.
4. Worker's Compensation
   $1,000,000 - Bodily Injury: By Accident - Each Accident
   $1,000,000 - By Disease: Policy Limit
   $1,000,000 - By Disease: Each Employee
5. The CONTRACTOR must immediately notify the CITY if insurance is canceled or not renewed.

The City must be named as additional insured - This coverage must be as broad as the coverage provided to the insured; coverage must be primary and non-contributory before any other insurance or self-insurance. A copy of endorsement for this coverage must be provided as a condition of this Agreement.

Waiver of Subrogation will apply and shall be noted on the certificate.

CONTRACTOR shall furnish the CITY, with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION
CONTRACTOR shall indemnify, defend, and hold harmless the CITY, from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW
This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

20. BREACH
In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY, shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

21. DISPUTE RESOLUTION
In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY, deliver to the CITY, the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

22. NOTIFICATION
All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces,
PO Box 20000
Las Cruces, NM 88004
ATTENTION: Robert Caldwell, Project Manager

With Copies to: Purchasing Manager

TO CONTRACTOR: Melrose & Associates
4518 Fourth Street NW
Albuquerque, NM 87107
ATTENTION: Robert Blea

23. SCOPE OF AGREEMENT
This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

MELROSE & ASSOCIATES

BY: Robert M Blea-Sole Proprietor
Name
Title

March 15, 2016
Date

CITY OF LAS CRUCES

BY: Deb Smith
Deb Smith
Purchasing Manager

3-25-16
Date

APPROVED AS TO FORM

City Attorney

EXHIBIT A

MELROSE & ASSOCIATES PROPOSAL

Request For Proposal

Music In The Park Series

Technical Proposal

RFP No. 15-16-125

Melrose & Associates

Robert M. Blea

Sole Proprietor

Index

Cover Page ..... page 1

Index 2

Evaluation Criteria No. 1 ..... 3 -4

Evaluation Criteria No. 2 5

Evaluation Criteria No. 3 ..... 6 - 7

Evaluation Criteria No. 4 8

Evaluation Criteria No. 5 9

Evaluation Criteria No. 6 10

RFP Compliance Declaration 11

Evaluation Criteria No. 1

Principal Administrative Officer in Direct Charge of Contract:

Robert M. Blea

4518 Fourth Street NW
Albuquerque, New Mexico 87107

Phone (505) 345-8649
Fax (505) 344-8992
Cell (505) 681-4611

Email: melroblea@aol.com

As direct Administrator and coordinator of this project it is my mission to provide a variety of entertainment with at least 80% of the artists being local to Las Cruces and the immediate area. We strive to serve the people of Las Cruces, NM, as we have for more than a decade with the most diverse acts that the area has to offer. Our goal has been and will continue to be to provide top-notch entertainment without repeating acts year after year.

For the past 12 years, as administrator and coordinator for the City of Las Cruces Music in the Parks Series, we have consistently provided the program with quality local, regional and national acts while staying within budget. As far as a project time schedule is concerned, both the calendar and fiscal years are taken into consideration when planning for these acts to be considered first so that the same acts performing aren't being duplicated in one season and secondly to fit satisfactorily into the budget each fiscal year. January 15th each year is our target date to begin the process for booking acts for that respective calendar year and being completed prior to February 1st. The three specific criteria involved in placing groups aptly are: 1.) types of act(s)/artist(s), 2.) cost of act(s)/artist(s), 3.) availability of act(s)/artist(s). When considering individuals/groups the above three conditions are set up on a type of point system to determine the most suitable acts or artists for a particular date and/or venue.

Prior to contracting acts and finalizing the schedule, the City of Las Cruces representative provides us with venue locations for each date with corresponding times. After arranging a preliminary schedule, that schedule is then sent back to the city representative for final review and approval. We then issue contracts to each individual act to sign and return along with an IRS Form W-9. At this point we have then secured our act(s) and can continue forward with providing our personnel with details for sound, lights, emcee, stage manager, productions and operations for the season. Coordination of security and stage delivery and pick-up(at venues that don't have a stage) is done for each event of the project.

Every contract is negotiated directly between the act and Melrose & Associates as a representative of the City of Las Cruces. Details negotiated for local acts are: artist fees and production requirements only. For the national and regional acts, additional negotiations are: travel, lodging and meals. Artists and subcontractors are paid by check after the completion of said performance directly from Melrose & Associates. In turn, we submit documentation in the form of an invoice to the City of Las Cruces to be reimbursed for expenses incurred and administrative fees.

Since Melrose & Associates started booking acts for the City of Las Cruces Music in the Park program we have maintained our own legal and financial documentation in addition to securing the required General Liability Insurance as stated in the Service Agreement.

Evaluation Criteria No. 2

As Sole Proprietor and manager I, Robert M. Blea, shall serve as the Principal Administrative Officer on the Music in the Park Series. I am the sole contact person designated for all parties, including but not limited to any and all artists, artist agents, the City of Las Cruces, and subcontractors. I may be contacted as listed on Evaluation Criteria No. 1 of this RFP.

This year will mark 40 years in the music business as a prominent booking agent for various venues and artists of all capacities. My other qualifications comprise of: Owner of Melrose & Associates Booking Agency, Partner in an Albuquerque based sound & lighting company and recording studio, Professional musician for 43 years, and Music programmer for 30+ years. Lastly, I have taught music in the Albuquerque Public School system.

As a lifelong resident of New Mexico that has traveled across the country to experience all aspects of the music business, I have the resources to continue to support the City of Las Cruces Music in the Park Project for the coming years as well as the experience and exposure to acts up to the international level. Some of the more widely recognized names in the music business that I have had the opportunity to work with include Gloria Estefan, Tower of Power, Willie Nelson, Freddy Fender, The Righteous Brothers, and Selena to name a few.

It would be our pleasure to continue as the contracted entertainment firm on behalf of the City of Las Cruces Music in the Park Series and continue to aid in the growth of the program as we have been a part of its development since 2004.

Evaluation Criteria No. 3

In the past Melrose & Associates has been charged with multiple opportunities to manage large projects, Music in the Park being one of them. Among some others included are an annual outdoor Festival in Camp Verde, Arizona, 4th of July in Las Cruces, New Mexico for 20 years, numerous New Mexico colleges, city functions, wine festivals and the New Mexico State Fair, as well as several casinos throughout all of New Mexico and southwestern United States.

The following people are the top personnel in our company that are the named subcontractors for Music in the Park. Each are equipped with the appropriate resources and have been assigned the major roles in initiating and carrying out the event specific tasks on day of show so that each happening may be fulfilled as planned by Melrose & Associates on behalf of the City of Las Cruces.

Roman Chip (575) 621-0281
4920 Merv's Lane
Las Cruces, New Mexico 88007

Qualifications: Musician for 47 years, Back-up musician coordinator, and Music instructor for 32 years in the Las Cruces Public Schools, Gadsden Public Schools, and New Mexico State University.

Project Assignments (100%): Emcee and Stage Manager.

Kenny Arroyos (575) 649-2224
4850 Vista Cuesta
Las Cruces, New Mexico 88001

Qualifications: Sound engineer for 34 years, Co-owner of KW sound, Musician for 50 years.

Project Assignments (100%): Production Coordinator and Operator.

Since becoming a licensed business, Melrose & Associates has maintained our locally owned and managed office in Albuquerque, New Mexico where 100% of the details will be handled leading up to day of show.

Evaluation Criteria No. 4

Previous References

Robert Caldwell	(575) 640-0705	City of Las Cruces Special Event and Marketing Coordinator
Maria Rinaldi	(505) 771-7114	Town of Bernalillo Interim Administrator and Director of Community and Economic Development
Marco Nunez	(505) 280-8394	KhoolMedia.com Productions Managing Partner
Frank Wing	(615) 297-0100	Agency for the Performing Arts Vice President in Nashville
Charlie Davis	(805) 646-8433	Paradise Artists Agent
Daisy Candelaria	(505) 867-6700 ext. 173	Casino Hollywood Marketing Manager
Danny Gutierrez	(505) 690-8092	Ute Mountain Casino Chief Operating Officer
Todd Edkins	(505) 235-4943	Route 66 Casino Entertainment Director
Jeff Jacot	(505) 867-0000	Santa Ana Star Casino Marketing Operations Manager
Leah Spencer	(505) 635-0669	Apache Nugget Casino & Travel Center and Wild Horse Casino Entertainment Manager

Evaluation Criteria No. 5

As per "Schedule A: General Condition for Responses" all information regarding Cost Proposal Content is included in separately sealed envelope labeled "Cost Proposal" and will not be further discussed in this Technical Proposal portion of the Request For Proposal.

Evaluation Criteria No. 6

This page intentionally left blank, "RFP Compliance Declaration" to follow on next page.

City of Las Cruces
PEOPLE HELPING PEOPLE

RFP COMPLIANCE DECLARATION

RFP TITLE: **Music in the Park**

RFP NO.: **15-16-125**

DUE DATE/TIME: **February 23, 2016 / 2:00 p.m.**

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 0 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:

Melrose & Associates

4518 Fourth Street NW

Albuquerque, New Mexico 87107

Authorized Signature

Robert M. Blea
Typed or Printed Name

Sole Proprietor
Title

melroblea@aol.com
Email address

Telephone number **(505) 345-8649** Fax number **(505) 344-0992**

NM Tax & Revenue Dept. CRS # **02458430004**

Current NM Public Regulatory Commission Registration # **N/A** (corporations only)

Current CLC Business Registration # **N/A** (respondents located in Las Cruces only)

Federal I.D. number **72-1560995** (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed _____ Yes **x** No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

Request For Proposal

Music In The Park Series

Cost Proposal

RFP No. 15-16-125

Melrose & Associates

Robert M. Blea

Sole Proprietor

Cost for Proposal

The following is our proposed division of the proposed budget on RFP No. 15-16-125, Section II. The City of Las Cruces has an anticipated annual budget of up to $44,000 for the Music in the Park project.

Cost	Percentage	Allocations
$8,800	20%	Production Cost(s)
8,800	20%	Booking and Event Coordination
26,400	60%	Talent Fees
$44,000	**100%**	**Total Budget**