

INDEPENDENT CONTRACTOR AGREEMENT

Between

CITY OF CLEVELAND HEIGHTS, OHIO

And

RUSTY ANCHOR CONCERTS, LLC

THIS AGREEMENT for services is made this 28th day of October 2025, between the City of Cleveland Heights ("City"), a municipal corporation of the State of Ohio under the authority of C.O. Chapter 171 and "Contractor", **Rusty Anchor Concerts, LLC, an Ohio limited liability company**. City and Contractor may be individually referred to as a "Party" or collectively as "Parties."

RECITALS:

1. The City desires to supplement the several departments of the City in order to provide **Cain Park Booking and Scheduling services for the 2026 entertainment season.**

2. Contractor services will begin on October 29, 2025 and continue until December 31, 2025 and this Agreement may be renewed and/or amended by mutual agreement of the parties.

3. The City finds Contractor's Proposal acceptable and desires to engage Contractor to supplement the staff of the City and furnish services in accordance with the Scope of Services attached ("Exhibit A"), attached hereto and incorporated by reference) in addition to the other terms, conditions, provisions of this Agreement. In the event of any conflict between terms contained in Exhibit "A" and the body of this Agreement, the terms contained in the body of this Agreement shall control.

IN CONSIDERATION OF THE FOREGOING, the payments and the mutual agreements of the parties contained in this Agreement, the parties agree as follows:

Section 1. Scope of Service

A. Exhibit "A" is attached to the original of this Agreement on file in the City's Division of Accounts and made a part of this Agreement as if fully written in this Agreement, except as changed or modified by any provisions of this Agreement.

B. The City engages the services of Contractor and Contractor agrees to provide, the services as defined in this Agreement and more particularly set forth in Exhibit "A" (hereinafter referred to as "Work").

C. Any subcontracting of this Agreement by Contractor consent of the City shall incorporate by reference all of the terms of this Agreement necessary for Contractor to meet its obligations to the City under this Agreement.

D. Contractor shall render such services included in the Work as may be requested by the Director. Such services shall be completed within the time period specified by the Director and within the budget allocated for the Work;. Contractor shall not begin Work prior to receiving a written Notice to Proceed from the Director.

E. At the request of the Director, Contractor shall provide a status report. The status report shall include reports of activities performed during a given reporting period, any planned upcoming Work, and should include descriptions of significant accomplishments, milestones, and problems encountered.

F. The term "Director", as used in this Agreement, shall mean and include Contractor's direct contact as identified as the Director of Parks and Recreation, and such other duly authorized representatives as may be designated in writing to Contractor from time to time. The term "Contractor" shall mean **Rusty Anchor Concerts, LLC** or its principals, officers, directors, employees, or City-approved subcontractors as set forth in Section 5 of this Agreement (see below).

G Approval by the Director, of Work rendered under this Agreement, shall constitute only acknowledgement of performance, but shall not relieve or excuse Contractor from responsibility for any errors or omissions, and no fee or compensation will be paid to Contractor for the cost of rectification of any part of the Work required on account of such errors or omissions.

Section 2. Assistance of the City

The City shall assist Contractor as necessary and reasonable, during the term of this Agreement. Contractor shall copy and forward to Director or its designee on all written communications that Contractor sends or receives in the performance of

the Work. Contractor is not authorized to bind the City to any agreement and shall not represent to any party that it is authorized to do so.

Section 3. Payments

A. The City shall pay Contractor in accordance with Appendix "A" a weekly pay rate of one thousand five hundred dollars (\$1500), and this Agreement shall not to exceed the amount of fifty thousand dollars (\$50,000) ("Total Cost").

B. As stated in Appendix "A", Contractor shall submit a request for payment every thirty (30) days in writing to the Director for approval. Any request for payment shall include a description of the Work completed. Invoices shall include the date services were rendered and a detailed description of the particular Work provided and the time expended.

C. The City is exempt from all sales, use and excise taxes, and any other assessments in the nature of taxes. The City shall not pay Contractor any late charges, interest, finance charges or service charges.

D. Additional Services

No services beyond the scope of the Work or services that would require the City to exceed the Total Cost ("Additional Services") shall be compensated by the City except with prior approval of the City and upon additional certification of funds for the costs of such Work, issuance by the Director of a requisition and order for such Work, and modification of this Agreement in writing. Invoices for Additional Services shall be in the same detail and form as provided for regular services and shall be submitted monthly during the time the Additional Services are rendered.

Section 4. Cancellation

A. This Agreement may be cancelled by the City at any time upon written notice to Contractor.

B. If this Agreement is canceled by the City prior to its expiration, Contractor within ten (10) days of such cancellation, shall submit final progress report of the Work completed by the date of cancellation. The City shall pay Contractor for the Work completed as certified in its statement and as approved by the Director. Notwithstanding any other provision of this Agreement, including Exhibit A, all records, documents, materials and working papers prepared as part of the Work under this Agreement shall become and remain the property of the City, and upon any such cancellation, Contractor shall turn over to the City all records, judgments, documents, working papers and other materials which would be necessary, in the judgment of the City, to maintain continuity in progress of the Work by another Contractor.

Section 5.

Assignment Prohibited: Sub-Contractors

A. Contractor may not assign, transfer, convey, sell or pledge its rights or interest in this Agreement or any part of this Agreement, or any right or privilege created under this Agreement, nor shall any subcontractor commence performance of any part of the Work included in this Agreement, without first obtaining written consent and approval from the Director. Upon any attempt by Contractor to do otherwise, this Agreement shall immediately terminate. Subcontracting, if permitted, shall not relieve Contractor of any of its obligations under this Agreement.

B. Contractor shall be and remain solely responsible to the City for the acts or faults of any subcontractor and of such subcontractor's officers, agents and employees, each of whom shall for this purpose be deemed to be an agent or employee of Contractor to the extent of its subcontract. As a prior condition to approval of a subcontractor, Contractor shall file a conformed copy of the applicable subcontract with the City.

Section 6.

Professional Responsibility

Contractor shall be responsible for the professional quality of all Work performed hereunder by this Agreement. Contractor shall be and remain liable to the City in accordance with applicable law for reasonable damages to the City caused by Contractor's negligence, or breach in the performance of Contractor's Work under this Agreement.

Section 7.

Indemnification

Contractor shall indemnify and save harmless the City and its respective officers, agents, employees, successors and assigns, for and from any and all reasonable suits, claims, fines, loss, cost, damage, expense and liability from its failure to comply with all applicable laws, ordinances, orders and regulations in the performance of Contractor's Work under this Agreement, and from loss of life or damage or injury to persons or property of any person, including but not limited to the agents, employees, invitees and licensees of the parties hereto and to the property of any of them, and of the parties hereto, directly arising out of a breach of this Agreement by Contractor or its subcontractors, unless caused by the negligence or willful misconduct of the City, its employees, agents and/or contractors. Contractor shall, at its own expense, defend the City in all litigation, pay all reasonable attorneys' fees, damages, court costs and other expenses arising out of such litigation or claims incurred in connection therewith. Furthermore, Contractor, at its own expense, shall satisfy and cause to be discharged such judgments as may be obtained against the City, or any of its officers, agents, employees, successors or assigns directly arising out

of such litigation. Nothing stated in this Agreement shall prevent Contractor from seeking indemnification from Contractor's subcontractors. This indemnification clause shall survive the completion of the Work to be performed under this Agreement and the termination of this Agreement for a period of twelve (12) months.

Section 8. State Industrial Compensation

Contractor shall be required at all times during the term of this Agreement to comply with the Worker's Compensation Laws of the State of Ohio and pay such premiums as may be required under those laws and to save the City harmless from any and all liability from or under the act. It shall also furnish, upon request by the City, a copy of the official certificate or receipt showing the payments referred to above.

Section 9. Independent Contractor; Social Security Act

Contractor shall be and remain an independent contractor with respect to all services performed under this Agreement and agrees to and does accept full and exclusive liability for the payment of any and all contributions or taxes for social security, unemployment benefits, pensions and annuities now or later imposed under any state or federal laws which are measured by the wages, salaries or other remuneration paid to persons employed by the Contractor on work performed under this terms of this Agreement and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or may later be issued or promulgated under the respective laws by any duly authorized state or federal officials; and Contractor also agrees to indemnify and save harmless the City of Cleveland Heights from any such contributions or taxes or liability.

Section 10. Interest of Contractor

Contractor represents, warrants, and covenants that it and its principals, agents, subcontractor, and assigns have made no contributions or conferred any benefit upon any City official, elected or appointed, which would cause Contractor to be ineligible for the award of an unbid contract under division (I) or (J) of Section 3517.13 of the Ohio Revised Code. Contractor represents, warrants, and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner with the performance of services under this Agreement. Contractor further represents, warrants, and covenants that no person having any such interest shall be employed in the performance of this Agreement.

Section 11.

Defaults and Remedies

A. Default

Contractor shall be in default ("Default") of this Agreement upon the happening of any of the following events:

1. If Contractor fails to observe or perform any of the obligations, covenants or agreements to be observed or performed by it under this Agreement and such failure continues for a period of five (5) days after written notice thereof is given Contractor by the City;

2. The filing, execution or occurrence of: (i) a petition or other proceeding by, or a finding against, Contractor for its dissolution, reorganization or liquidation, (ii) a petition in bankruptcy by Contractor; (iii) an adjudication of Contractor as bankrupt or insolvent; (iv) an assignment or petition for assignment for the benefit of creditors; or

3. If Contractor abandons or discontinues its operations for the City except when such abandonment or discontinuance be caused by fire, earthquake, war, strike, or other calamity beyond its control.

B. Remedies

Upon Contractor's Default as set forth in paragraph A of this Section, the City may, at its option, exercise concurrently or successively any one or more of the following rights and remedies:

1. Without waiving such Default, to pay any sum required to be paid by Contractor to others than the City and which Contractor has failed to pay under the terms and conditions of this Agreement, Contractor shall repay to the City, on demand, any amount so paid by the City, with interest thereon at eight percent (8%) per annum from the date of such payment and all expenses connected therewith;

2. Enjoin any breach or threatened breach by Contractor of any covenants, agreements, terms, provisions or conditions thereof;

3. Terminate this Agreement.

C. Rights and Remedies Not Exclusive

All rights and remedies granted to the City in this Agreement and any other rights and remedies which the City may have at law and/or in equity are declared to be cumulative and not exclusive and the fact that the City may have exercised any

remedy without terminating this Agreement shall not impair the City's rights thereafter to terminate or to exercise any other remedy granted in this Agreement or to which it may be otherwise entitled.

Section 12. Notice and Payments

All notices given by one party to the other under this Agreement shall be in writing and shall be delivered personally, sent by express delivery service, certified mail, or first-class U.S. mail, postage prepaid and addressed to the parties at the respective addresses set forth in this Agreement, or to such other address as either party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, or (iii) three (3) days after mailing in the case of first class or certified U.S. mail. Such notices shall be sent to:

To the City: Attn: Director of Parks and Recreation
City of Cleveland Heights
City Hall
40 Severance Circle
Cleveland Heights, Ohio 44118

To Contractor: **Rusty Anchor Concerts, LLC**
2580 Wellington Road
Cleveland Heights, OH 44118

Section 13. Non-Discrimination Clause

This Agreement is a "contract" for the purposes of C.O. 171.011 and Contractor is hereby notified that it is prohibited from discriminating against any individual in violation of C.O. Chapter 749. A copy of this clause shall be made a part of every subcontract or agreement entered into for goods or services and shall be binding on all entities, persons, firms, employees, agents, affiliates, assigns, and with whom Performer may deal.

Section 14. O.R.C. Compliance

Contractor hereby certifies that beginning on the date the contract is awarded and extending until one year following conclusion of the contract, all persons identified in Ohio Revised Code Sections 3517.13(1)(3) and 3517.13(J)(3), as applicable, are in compliance with Ohio Revised Code Sections 3517.13 (I)(1) and 3517.13(J)(1).

Section 15.

Miscellaneous

A. Contractor agrees that no representation or warranties of any type shall be binding upon the City, unless expressly authorized in writing in this Agreement.

B. Nothing contained in this Agreement shall be deemed to constitute the City and Contractor as partners in a partnership or joint venture for any purpose whatsoever.

C. All terms and words used in this Agreement, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any paragraph or clause in this Agreement may require, the same as if such words have been fully and properly written in the number and gender.

D. The headings of sections and paragraphs, if any, to the extent used are used for reference only, and in no way define, limit or describe the scope or intent of any provision of this Agreement.

E. In the event that any term(s) or provision(s) of this Agreement are held invalid, illegal or unenforceable, for any reason, by any court of competent jurisdiction, such invalidity, illegality or unenforceability should not affect any other term or provision of this Agreement, and this Agreement shall be interpreted and construed as if such term(s) or provision(s) had never been contained in this Agreement, to the extent the same has been held to be invalid, illegal or unenforceable.

F. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

G. In the event of any conflict among the provisions of the body of this Agreement and Exhibit A, the provisions of the body of this Agreement shall control.

H. The standard of care for all services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of Contractor's profession practicing under similar conditions at the same time and in the same locality.

J. This Agreement constitutes the entire Agreement of the parties and shall not be deemed amended except by a writing signed by the parties.

K. This Agreement and any claims arising under this Agreement or related to this Agreement, whether in contract or tort shall be governed by the laws of the Ohio. Any suit regarding this Agreement must be brought in a court of competent jurisdiction in Cuyahoga County, Ohio.

The following attached documents are incorporated with and made part of this Agreement:

1. Exhibit A —Scope of Services

IN WITNESS OF THIS AGREEMENT, the parties have caused this instrument to be executed as of the day and year written above.

CITY OF CLEVELAND HEIGHTS

By: _____

Mayor Tony Cuda

RUSTY ANCHOR CONCERTS, LLC

By: Colleen Miller

Colleen Miller

Its: _____

President

The legal form and correctness of the within instrument are hereby approved:

Yannell Cella for Director W. Hanna
William Hanna, Director of Law
City of Cleveland Heights

Appendix “A-“ Scope of Services

Contractor will provide proposals, recommendations and provide negotiation, booking and scheduling services (approximately 16-20 bookings for concerts, theater productions (Evans and Alma theaters), and other activities and events) for the 2026 Cain Park entertainment season. For the contract period of 10/27/35 through 12/31/25, Contractor's responsibilities will not include production or marketing planning.

Contractor will ensure all bookings and costs are within the allocated budget amount and in the best interest of the City. Contractor will put forward best efforts to minimize errors, omissions, or accidents related to performers.

Contractor will confer and confirm approval from the finance and law departments regarding the appropriate use of funds. Contractor will ensure that all proposed agreements with vendors are promptly sent to the City law department in advance of any services being rendered, for legal review and approval. Contractor is not responsible for signing artist contracts and paying artists. Contractor will maintain regular communication with the Parks and Recreation Director for any inquiries, concerns, for direction, approvals and will keep the Director apprised of work status.

Payment for the above services will be paid at a weekly pay rate of one thousand five hundred dollars (\$1500), and this Contract shall not exceed the amount of \$50,000. Invoices describing the work completed as set forth in Section 3 of the Agreement, will be submitted for payment every thirty days.

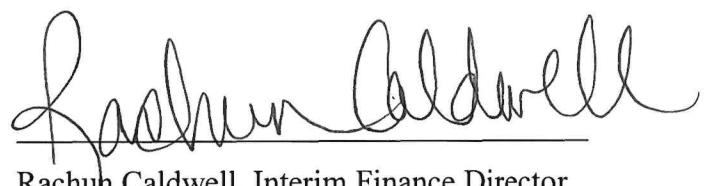
CERTIFICATE OF DIRECTOR OF FINANCE

Fiscal Officer Certificate

The undersigned fiscal officer of the City of Cleveland Heights hereby certifies that the funds required to meet the obligations of the City for services rendered by **RUSTY ANCHOR CONCERTS, LLC**, under this agreement, which shall not exceed **FIFTY THOUSAND & 00/100 DOLLARS, (\$50,000.00)** have been lawfully appropriated by the Council of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Revised Code.

11/3/28

Date



Rachun Caldwell, Interim Finance Director