

**ADAMS COUNTY  
PROFESSIONAL SERVICE AGREEMENT FOR  
ENTERTAINMENT AT THE 2019 COUNTY FAIR (2019.051)**

THIS AGREEMENT ("Agreement") #2019.051 is made this 17 day of may 2019, by and between the Adams County Board of County Commissioners, located at 4430 South Adams County Parkway, Brighton, Colorado 80601, hereinafter referred to as the "County," and El Rodeo Nightclub LLC, located at 510 25<sup>th</sup> Street, Greeley, Colorado 80631, hereinafter referred to as the "Contractor." The County and the Contractor may be collectively referred to herein as the "Parties."

The County and the Contractor, for the consideration herein set forth, agree as follows:

**1. SERVICES OF THE CONTRACTOR:**

1.1. All work shall be in accordance with the attached Exhibit A, and incorporated herein by reference. Should there be any discrepancy between Exhibit A and this Agreement the terms and conditions of this Agreement shall prevail.

**2. RESPONSIBILITIES OF THE COUNTY:** The County shall provide information as necessary or requested by the Contractor to enable the Contractor's performance under this Agreement.

**3. TERM:**

3.1. Term of Agreement: The Term of this Agreement shall be for the date first written above to August 31, 2019.

**4. PAYMENT AND FEE SCHEDULE:** The County shall pay the Contractor for services furnished under this Agreement, and the Contractor shall accept as full payment for those services, the sum of \$35,000.00 with a 50% deposit remitted as soon as feasible.

4.1. Payment pursuant to this Agreement, whether in full or in part, is subject to and contingent upon the continuing availability of County funds for the purposes hereof. In the event that funds become unavailable, as determined by the County, the County may immediately terminate this Agreement or amend it accordingly.

**5. INDEPENDENT CONTRACTOR:** In providing services under this Agreement, the Contractor acts as an independent contractor and not as an employee of the County. The Contractor shall be solely and entirely responsible for his/her acts and the acts of his/her employees, agents, servants, and subcontractors during the term and performance of this Agreement. No employee, agent, servant, or subcontractor of the Contractor shall be deemed to be an employee, agent, or servant of the County because of the performance of any services or work under this Agreement. The Contractor, at its expense, shall procure and maintain workers' compensation insurance as required by law. Pursuant to the Workers' Compensation Act § 8-40-202(2)(b)(IV), C.R.S., as amended, the Contractor understands that it and its

employees and servants are not entitled to workers' compensation benefits from the County. The Contractor further understands that it is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Agreement.

**6. NONDISCRIMINATION:**

**6.1. The Contractor shall not discriminate against any employee or qualified applicant for employment because of age, race, color, religion, marital status, disability, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices provided by the local public agency setting forth the provisions of this nondiscrimination clause. Adams County is an equal opportunity employer.**

6.1.1. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**7. INDEMNIFICATION:** The Contractor agrees to indemnify and hold harmless the County, its officers, agents, and employees for, from, and against any and all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of damage or injury to persons, entities, or property, caused or sustained by any person(s) as a result of the Contractor's performance or failure to perform pursuant to the terms of this Agreement or as a result of any subcontractors' performance or failure to perform pursuant to the terms of this Agreement.

**8. INSURANCE:** The Contractor agrees to maintain insurance of the following types and amounts:

8.1. Commercial General Liability Insurance: to include products liability, completed operations, contractual, broad form property damage and personal injury.

8.1.1. Each Occurrence: \$1,000,000

8.1.2. General Aggregate: \$2,000,000

8.2. Comprehensive Automobile Liability Insurance: to include all motor vehicles owned, hired, leased, or borrowed.

8.2.1. Bodily Injury/Property Damage: \$1,000,000 (each accident)

8.2.2. Personal Injury Protection: Per Colorado Statutes

8.3. Workers' Compensation Insurance: Per Colorado Statutes

8.4. Professional Liability Insurance: to include coverage for damages or claims for damages arising out of the rendering, or failure to render, any professional services, as applicable.

8.4.1. Each Occurrence: \$1,000,000

8.4.2. This insurance requirement applies only to the Contractors who are performing services under this Agreement as professionals licensed under the laws of the State of Colorado, such as physicians, lawyers, engineers, nurses, mental health providers, and any other licensed professionals.

8.5. Adams County as "Additional Insured": The Contractor's commercial general liability, and comprehensive automobile liability, insurance policies and/or certificates of insurance shall be issued to include Adams County as an "additional insured" and shall include the following provisions:

8.5.1. Underwriters shall have no right of recovery or subrogation against the County, it being the intent of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses resulting from the actions or negligence of the Contractor.

8.5.2. The insurance companies issuing the policy or policies shall have no recourse against the County for payment of any premiums due or for any assessments under any form of any policy.

8.5.3. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Contractor.

8.6. Licensed Insurers: All insurers of the Contractor must be licensed or approved to do business in the State of Colorado. Upon failure of the Contractor to furnish, deliver and/or maintain such insurance as provided herein, this Agreement, at the election of the County, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

8.7. Endorsement: Each insurance policy herein required shall be endorsed to state that coverage shall not be suspended, voided, or canceled without thirty (30) days prior written notice by certified mail, return receipt requested, to the County.

8.8. Proof of Insurance: At any time during the term of this Agreement, the County may require the Contractor to provide proof of the insurance coverage or policies required under this Agreement.

## **9. DAMAGES ARISING FROM BREACH OF PERFORMANCE OBLIGATIONS**

- 9.1. Notwithstanding anything else set forth in this Agreement, if Contractor fails to comply with all terms of this contract, including but not limited to, its obligation to perform its work in a workmanlike manner in accordance with all codes, plans, specifications and industry standards, Contractor shall be liable to County for all damages arising from the breach, including but not limited to, all attorney fees, costs and other damages.

## **10. WARRANTY:**

- 10.1. The Contractor warrants and guarantees to the County that all work, equipment, and materials furnished under the Agreement are free from defects in workmanship and materials for a period of one year after final acceptance by the County. The Contractor further warrants and guarantees that the plans and specifications incorporated herein are free of fault and defect sufficient for Contractor to warrant the finished product after completion date. Should the Contractor fail to proceed promptly in accordance with this guarantee, the County may have such work performed at the expense of the Contractor. This section does not relieve the Contractor from liability for defects that become known after one year.

## **11. TERMINATION:**

- 11.1. For Cause: If, through any cause, the Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, conditions, or stipulations of this Agreement, the County shall thereupon have the right to immediately terminate this Agreement, upon giving written notice to the Contractor of such termination and specifying the effective date thereof.
- 11.2. For Convenience: The County may terminate this Agreement at any time by giving written notice as specified herein to the other party, which notice shall be given at least thirty (30) days prior to the effective date of the termination. If this Agreement is terminated by the County, the Contractor will be paid an amount that bears the same ratio to the total compensation as the services actually performed bear to the total services the Contractor was to perform under this Agreement, less payments previously made to the Contractor under this Agreement.

## **12. MUTUAL UNDERSTANDINGS:**

- 12.1. Jurisdiction and Venue: The laws of the State of Colorado shall govern as to the interpretation, validity, and effect of this Agreement. The parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be with Adams County, Colorado.
- 12.2. Compliance with Laws: During the performance of this Agreement, the Contractor agrees to strictly adhere to all applicable federal, state, and local laws, rules and regulations, including all licensing and permit requirements. The

parties hereto aver that they are familiar with § 18-8-301, et seq., C.R.S. (Bribery and Corrupt Influences), as amended, and § 18-8-401, et seq., C.R.S. (Abuse of Public Office), as amended, , the Clean Air Act (42 U.S.C. 7401-7671q), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended, and that no violation of such provisions are present. The Contractor warrants that it is in compliance with the residency requirements in §§ 8-17.5-101, et seq., C.R.S. Without limiting the generality of the foregoing, the Contractor expressly agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- 12.3. OSHA: The Contractor shall comply with the requirements of the Occupational Safety and Health Act (OSHA) and shall review and comply with the County's safety regulations while on any County property. Failure to comply with any applicable federal, state or local law, rule, or regulation shall give the County the right to terminate this agreement for cause.
- 12.4. Record Retention: The Contractor shall maintain records and documentation of the services provided under this Agreement, including fiscal records, and shall retain the records for a period of three (3) years from the date this Agreement is terminated. Said records and documents shall be subject at all reasonable times to inspection, review, or audit by authorized Federal, State, or County personnel.
- 12.5. Assignability: Neither this Agreement, nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by the Contractor without the prior written consent of the County.
- 12.6. Waiver: Waiver of strict performance or the breach of any provision of this Agreement shall not be deemed a waiver, nor shall it prejudice the waiving party's right to require strict performance of the same provision, or any other provision in the future, unless such waiver has rendered future performance commercially impossible.
- 12.7. Force Majeure: Neither party shall be liable for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, governmental restrictions, riots, fires, floods, earthquakes, or other acts of God.
- 12.8. Notice: Any notices given under this Agreement are deemed to have been received and to be effective:
- 1) Three (3) days after the same shall have been mailed by certified mail, return receipt requested;
  - 2) Immediately upon hand delivery; or

3) Immediately upon receipt of confirmation that an E-mail was received. For the purposes of this Agreement, any and all notices shall be addressed to the contacts listed below:

Department: Adams County Parks and Special Events  
Contact: Casandra Vossler  
Address: 9755 Henderson Road  
City, State, Zip: Brighton, Colorado 80601  
Phone: 303-637-8027  
E-mail: cvossler@adcogov.org

Department: Adams County Purchasing  
Contact: Anna Forristall  
Address: 4430 South Adams County Parkway  
City, State, Zip: Brighton, Colorado 80601  
Phone: 720-523-6297  
E-mail: aforristall@adcogov.org

Department: Adams County Attorney's Office  
Address: 4430 South Adams County Parkway  
City, State, Zip: Brighton, Colorado 80601  
Phone: 720.523.6116

Contractor: El Rodeo Nightclub LLC  
Contact: Gustavo Perez  
Address: 510 25<sup>th</sup> Street  
City, State, Zip: Greeley, Colorado 80631  
Phone: 303-946-5841  
E-mail: arrasadorabandauniversal03@yahoo.com

- 12.9. Integration of Understanding: This Agreement contains the entire understanding of the parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the parties hereto.
- 12.10. Severability: If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.
- 12.11. Authorization: Each party represents and warrants that it has the power and ability to enter into this Agreement, to grant the rights granted herein, and to perform the duties and obligations herein described.
- 12.12. Confidentiality: All documentation related to this Agreement will become the property of Adams County. All documentation maintained or kept by Adams County shall be subject to the Colorado Open Records Act, C.R.S. 24-72-201

*et seq.* ("CORA"). The County does not guarantee the confidentiality of any records.

### **13. AMENDMENTS, CHANGE ORDERS OR EXTENSIONS:**

13.1. **Amendments or Change Orders:** The County may, from time to time, require changes in the scope of the services of the Contractor to be performed herein including, but not limited to, additional instructions, additional work, and the omission of work previously ordered. The Contractor shall be compensated for all authorized changes in services, pursuant to the applicable provision in the Solicitation, or, if no provision exists, pursuant to the terms of the Amendment or Change Order.

13.2. **Extensions:** The County may, upon mutual written agreement by the parties, extend the time of completion of services to be performed by the Contractor.

### **14. COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08:**

Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, *et seq.*, as amended May 13, 2008, the Contractor shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:

14.1. The Contractor shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the Department Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.

14.2. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

14.3. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

14.4. At the time of signing this public contract for services, the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.

14.5. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.

14.6. If the Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall: notify the subcontractor and the County within three (3) days that the Contractor has actual knowledge that the

subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous paragraph, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

- 14.7. Contractor shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- 14.8. If Contractor violates this Section, of this Agreement, the County may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

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## EXHIBIT A

### **El Rodeo Nightclub LLC**

510 25<sup>th</sup> St. Greeley Co, 80631 phone (303) 946-5841 arrasadorabandauniversal03@yahoo.com

## **Performance Agreement**

Performance Agreement between El Rodeo Nightclub LLC. In representation of the Artist "La Original Banda El Limon" (hereinafter known as "the performer") and Adams County Fair (hereinafter known as "the Company")

- **FOR GOOD CONSIDERATION**, Subject to the following terms and conditions
- **TERM OF PERFORMANCE**. Subject to the provisions for termination set forth below this agreement will be for Sunday August 4th, 2019. The Musical performance will be held at the Adams County Fair (9755 Henderson Rd, Brighton, CO 80601).
- **SALARY**. The Company shall pay the "Performer" \$35,000 (Thirty Five Thousand dollars) for one Musical Performance of 90 minutes on Sunday August 4th, 2019. Time of Show 8:00p – 9:30p
- **DEPOSIT**. A 50% deposit is required in the amount of \$17,500 (seventeen thousand five hundred dollars) into the following Bank account in order to confirm the performance.
- **BANK OF AMERICA**
- **ACCOUNT# 139101245512**
- **ROUTING # 123103716**
- **REPRODUCTION IN AUDIO/VIDEO** – The recording, reproduction, or transmission of ARTIST(S)'s Performance is prohibited unless there has been prior approval by **MANAGEMENT**
- **PARKING** - Purchaser shall provide parking spaces for vehicles in close proximity to and with direct access to backstage.
- **SECURITY** - Purchaser shall provide security for the backstage and safe areas before, during and after the Performance. Security will also be provided to protect Artist and their property.
- **MERCHANDISING** - Artist shall be able sell any goods, products, merchandise or services (other than the services provided herein) pertaining to Artist at the

performance, and shall retain the proceeds of such sales. Purchaser will provide (3) tables for Artist Merchandise Sales.

• **EXCUSE OF OBLIGATION** - Artist shall be excused from their obligations hereunder in the event of proven sickness, accident, riot, strike, epidemic, act of God or any other legitimate condition or occurrence beyond their respective control. In the event of cancellation by Artist the deposit will be returned. In the event of cancellation by purchaser the deposit will be retained. If the purchaser cancels within 7 days prior to event, the remainder of the guaranteed amount must be paid in full and be paid immediately.

• If in the case that the ARTIST cannot perform due to conditions beyond ARTIST(S)'s control and that of MANAGEMENT (illness, death in family, force majeure, etc.) then ARTIST(S) and MANAGEMENT shall be held blameless and the provisions of this agreement may not be enforced. MANAGEMENT agrees that if deemed satisfactory to PURCHASER, this engagement may be rescheduled with all provisions herein remaining intact, to a time and place mutually agreeable to all the parties hereto.

• In the case that PURCHASER cancels the engagement without written notice to MANAGEMENT of no closer than 15 days prior to the engagement described herein, and then PURCHASER shall pay MANAGEMENT the full wage agreed upon within this agreement. If written notice is extended to MANAGEMENT between 15 and 30 days prior to the engagement, then one-half the agreed upon wage shall be paid. If PURCHASER renders written notice of cancellations with more than thirty (30) days prior notice then PURCHASER shall be held blameless and unaccountable, but ARTIST shall retain any monies advanced to ARTIST.

• **THIS CONTRACT BECOMES VOID IF PURCHASER FAILED TO SIGN AND RETURN WITHIN THE ALLOWED TIME (15 DAYS FROM DATE MAILED OR EMAILED).**

• **MODIFICATIONS OF AGREEMENT.** This Agreement may be altered only in writing to become part of this Agreement.

El Rodeo Nightclub LLC

Adams County

  
Date: 11-13-19  
Gustavo Perez/PRESIDENT

Date: 11-13-19

  
Adams County

Date: 17 MAY 2019

APPROVED AS TO FORM  
COUNTY ATTORNEY  
