

RESOLUTION NO. 23-77

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH HMX PRODUCTIONS, LLC FOR THE PROVISION OF AUDIO AND VISUAL SERVICES FOR THE 2023 SUMMER CONCERT SERIES, IN THE TOTAL AMOUNT OF \$55,000.

BE IT RESOLVED that the appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement between the City and HMX Productions, LLC, relating to Summer Concert Series Audio/Visual Production, in the total amount of Fifty-Five Thousand Dollars (\$55,000), in substantially the form **attached** as Exhibit A and presented to the Council today, draft dated January 12, 2023, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 12th day of January, 2023.

CITY OF PANAMA CITY BEACH

By: _____


Mark Sheldon, Mayor

ATTEST:



Lynne Fasone, City Clerk

**Parks and Recreation Summer Concert Series
AGREEMENT**

This Parks and Recreation Summer Concert Series Agreement

is made and entered into this 12th day of January, 2023, by and between the **CITY OF PANAMA CITY BEACH, FLORIDA**, a municipal corporation (City) and HMX Productions (Contractor).

PREMISES

1. SCOPE OF SERVICES

Contractor will provide Audio-Visual Production and Entertainment Services for the ten (10) live concerts at the City's Aaron Bessant Park, to be held weekly beginning [June 8, 2023], which comprise the City's 2023 Summer Concert Series. The Contractor shall furnish, at its sole expenses, all supervision, labor, equipment, tools, material, and supplies to properly and efficiently perform all of the work required under the Contract Documents and shall be solely responsible for the payment of all taxes, permits and license fees, labor fringe benefits, insurance and all other expenses and costs required to perform such work in accordance with this Agreement

If the Contractor believes that any particular work/service is not within the scope of work/service of the contract, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the City's Representative in writing of this belief. If the City's Representative believes that the particular work/service is within the scope of the contract as written, the Contractor will be ordered to and shall continue with the work/service as changed and at the cost stated for the work/service within the scope. The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of this agreement.

2. COMPENSATION

As compensation for the services contemplated herein and performance rendered by Contractor of its duties and obligations hereunder, City shall pay Contractor according to the Bid prices submitted on PCB23-11 ITB Parks and Recreation Summer Concert Series Bid Form. The City shall pay to the Contractor as full consideration for the performance of the work required by this Agreement the lump sum of \$5,500 per concert.;

A. Extra and/or Additional Work Changes. Should City at any time during the progress of said work request any alterations, deviations, additions, or omissions from said specifications or other contract documents, it shall be at liberty to do so by written authorization to Contractor, and the same shall in no way affect or make void the Agreement. The value of such will be added to or deducted from the contract Bid price, as the case may be, by a fair and reasonable valuation.

3. PAYMENT

The “closure date” for work to be invoiced for payment shall be the 30th of each calendar month, except February where it shall be the 28th. The Contractor shall submit an itemized invoice by billing the City for the amount of work satisfactorily completed as of the closure date. The invoice(s) shall be delivered to accounts payable at City Hall, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413 no later than three days after the closure date of each calendar month.

4. TERM

Unless terminated sooner pursuant to the provision of the Termination clauses contained in paragraph 5, and subject to the availability of funds appropriated for this purpose, this Agreement shall take effect on the executed date of award for a period of one year with two (2) one-year optional renewals.

5. COMPLIANCE WITH LAWS.

The Contractor shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Contractor shall always observe and comply with all such laws, ordinances, rules, regulations, orders, and decrees. The Contractor shall protect and indemnify City of Panama City Beach and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by Contractor, its representatives, sub-contractors, sub-consultants, professional associates, agents, servants, or employees. Additionally, Contractor shall obtain and maintain at its own expense all licenses and permits to conduct business pursuant to this contract from the federal government, State of Florida, Bay County, or municipalities when legally required, and maintain same in full force and effect during the term of the contract.

6. WARRANTY

The Contractor agrees that, unless otherwise specified, the product and/or service furnished as a result of this invitation and award thereto shall be covered by the most favorable commercial warranty the Contractor gives to any customer for comparable quantities of such products and/or services and that the right and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other provision of the invitation/offer.

7. ATTORNEY'S FEES

Should either party institute any legal action or proceeding to enforce this Agreement, or for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to

receive from the other party all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with such legal action or proceeding.

8. TIME

Time is of the essence in this Agreement.

9. REMEDIES

In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the City, after due written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have. Failure to cure a breach of a material term hereunder within four (4) hours of Contractor's receipt of written notice thereof shall entitle the City to terminate this Agreement. All rights and remedies conferred upon the parties in this Agreement are governed by the laws within the State of Florida.

10. CHOICE OF LAW and VENUE

This Agreement shall be governed by the laws of the State of Florida. Any legal proceeding regarding this Agreement shall be brought in the 14th Judicial Circuit in Bay County, Florida.

11. ASSIGNMENT

This Agreement is not assignable.

12. SEVERABILITY

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

13. MODIFICATIONS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the City and Contractor.

14. WAIVER

Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of the provision or modification of this Agreement. A waiver by the City of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

15. AGREEMENT

This Agreement, and any exhibits or appendixes attached hereto and incorporated herein, constitutes the entire agreement between parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions of the parties, whether oral or written, and there are no representations, warranties, covenants, or other agreements among them.

The term "Agreement" means and includes the following documents, all of which are incorporated into this Agreement by this reference:

ADVERTISEMENT FOR BIDS

INFORMATION FOR BIDDERS

BID PROPOSAL FORM

CERTIFICATION REGARDING LOBBYING

Statement Under Section 287.087, Florida Statutes, On
Preference To Businesses With Drug-Free Workplace
Programs

Public Entity Crimes Statement

NON-COLLUSION AFFIDAVIT

E-VERIFY

CERTIFICATE OF INSURANCE

NOTICE OF AWARD

AGREEMENT

ADDENDA [LIST ANY ADDENDA ISSUED PRIOR TO EXECUTION OF THE AGREEMENT.]

No. ____, dated _____, 20__

No. ____, dated _____, 20__

No. ____, dated _____, 20__

No. ____, dated _____, 20__

The Contract Documents also includes any Work Authorizations executed by the parties and written amendments to any of the above signed by the party to be bound by such amendment. The Contract Documents are sometimes referred to herein as the "Agreement."

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7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

9. All notices required or made pursuant to this Agreement shall be in writing and, unless otherwise required by the express terms of this Agreement, may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, or (iii) by hand delivery to the appropriate address as herein provided. Notices to OWNER required hereunder shall be directed to the following address:

If to Owner:

City of Panama City Beach

17007 Panama City Beach Parkway

Panama City Beach, FL 32413

ATTENTION: _____
Drew Whitman, City Manager

Fax No.: _____
(850) 233-5108

If to Contractor:

HMX Productions

18100 Panama City Beach Parkway

Panama City Beach, FL 32413

ATTENTION: _____
Michael Frimet

Fax No.: _____

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

[Remainder of this page is intentionally left blank]

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IN WITNESS WHEREOF, the parties have hereto caused the execution of these documents as of the year and date first above written.

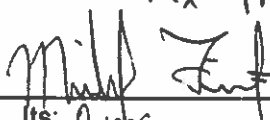
CITY OF PANAMA CITY BEACH,
FLORIDA, a municipal corporation

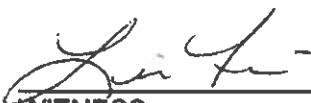
By: 
Drew Whitman, City Manager

ATTEST:

Lynne Faisone, City Clerk


[], VENDOR HMX Productions

By: 
His: Owner


WITNESS
PRINT NAME:
LISA FINN

WITNESS
PRINT NAME:

X Lane Fleckenstein
PRINT

X 
Signed.

NOTICE OF AWARD

TO: HMX Productions
18100 Panama City Beach Parkway
Panama City Beach, FL 32413

BID NUMBER: **PCB23-11**

PRODUCT DESCRIPTION:

Parks and Recreation Summer Concert Series

The City of Panama City Beach ("City") has considered the BID submitted by you for the above-described Product in response to its Advertisement for Bids dated ____ November 1_ , 2022 and associated information for Bidders.

You are hereby notified that your Bid PCB23-11 ITB Parks and Recreation Summer Concert Series for the City of Panama City Beach in the amounts listed on the bid proposal form has been accepted by the City. Provided, however, nothing in this Notice or your delivery to the City of the Agreement executed by you shall in any manner or way be deemed to create any contract between you and the City. No such contract shall be created unless and until the City signs the Agreement.

You are required by the Information for Bidders to execute the Agreement.

If you fail to execute said Agreement within ten (10) calendar days from the date of this Notice, City will be entitled to consider all your rights arising out of City's acceptance of your BID as abandoned.

You must return an acknowledged copy of this Notice of Award to the City, with the executed Agreement and required Certificates of Insurance and Bonds, within the above noted ten (10) calendar day period.

Dated this 17th day of January 2023.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

PCB23-11 – ITB – SUMMER CONCERT SERIES PRODUCTION

CITY OF PANAMA CITY BEACH
Owner

By 

Name: Drew Whitman

Title: City Manager

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged

By 

This 23rd day of January, 2023

Name Michael Frimet

Title Owner

[END OF NOTICE OF AWARD]