

AN ORDINANCE APPROVING AN AGREEMENT WITH SCOTT LAYTHAM FOR FOURTH OF JULY ENTERTAINMENT

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen hereby approves, and the Mayor is hereby authorized to execute, a contract substantially in the form "Exhibit 1" attached hereto and incorporated herein, on behalf of Twin Oaks with Scott Laytham for musical entertainment known as the "Scott Laytham & Karl Holmes Duo" to be provided on July 3, 2017 at the Twin Oaks Fourth of July celebration under the terms set forth in Exhibit 1.

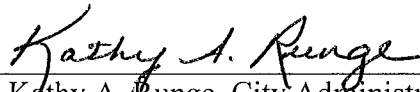
Section 2. This Ordinance shall be in full force and effect on and after its passage and approval by the Mayor.

PASSED AFTER HAVING BEEN READ IN FULL OR BY TITLE TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI, THIS 15th DAY OF FEBRUARY 2017.



Russ Fortune, Mayor

Attest:



Kathy A. Runge, City Administrator/Clerk

Exhibit 1
City of Twin Oaks, Missouri
SERVICES CONTRACT

THIS AGREEMENT, made and effective as of February ____, 2017, by and between the **City of Twin Oaks, Missouri**, a municipal corporation hereinafter referred to as the "City," and **Scott Laytham**, an individual, hereinafter referred to as "CONTRACTOR," with a business mailing address of **12223 Rain Hollow Drive, St. Louis, Missouri, 63043**;

WHEREAS, the Contractor provided the City with the proposal, attached hereto as **Exhibit A** and incorporated herein by reference, for a live performance by the **Scott Laytham & Karl Holmes Duo** on July 3rd, 2017 from 6:30 P.M. until 9:00 P.M. (the "Proposal"), and the City wishes to engage the Contractor as provider of those services to the City, in accordance with the terms of this Agreement;

WITNESSETH: That the parties hereto for the considerations hereinafter set forth agree as follows:

I. SCOPE OF SERVICES

Contractor's services are necessary for the following Project of City: *Fourth of July Ceremony entertainment.*

Except as expressly specified herein, Contractor hereby agrees to provide all of the talent, musical instruments, sound equipment, supplies, supervision, labor, skill, materials, equipment, and apparatus to perform all the services and do all the things necessary for the proper completion of the services which are generally described as 2 ½ hours of musical entertainment for the Twin Oaks Fourth of July celebration and as more particularly described in the Proposal attached **Exhibit A**, incorporated herein (the "Services").

City will provide a stage (minimum 18' wide x 12' deep) and access to power.

The Services shall be provided by the Contractor in accordance with all the provisions of the Contract and the attached **City of Twin Oaks General Conditions** which are incorporated herein by reference, and which terms shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment, including the Proposal attached hereto as **Exhibit A**. If there is any conflict between the City's General Conditions (attached hereto and incorporated herein by reference) and the Proposal attached as Exhibit A, this Agreement and its General Conditions shall prevail.

II. COMPENSATION

A. Basic Compensation. The City hereby agrees to pay the Contractor, as full compensation for the complete and satisfactory performance of the contract, and all expenses and costs related thereto as follows:

\$750.00

B. Additional Compensation. Any cost not specifically allowed the Contractor pursuant to this paragraph B dealing with additional compensation is included in Basic Compensation. If City directs in writing additional services not included in this Agreement, Contractor shall be paid as follows:

[inapplicable if left blank]

III. TIME AND MANNER OF PAYMENTS

The City shall pay a flat fee of \$750.00 for the Services with the City making a \$375.00 deposit at the time of execution of this Agreement and balance of \$375.00 due on upon completion of the Services on the day the event.

IV. CONTRACT SCHEDULE

Time is of the essence.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the effective date of Contract first above written.

CITY OF TWIN OAKS

Scott Laytham

By: _____
Mayor

DATED: _____

ATTEST: _____
City Clerk

**GENERAL CONDITIONS
CITY OF TWIN OAKS
SERVICES AGREEMENT**

Independent Contractor. The Contractor shall be and operate as an independent Contractor in the performance of this Contract. The Contractor shall have complete charge of the personnel engaged in the performance of the Services, and all persons employed by the Contractor shall be employees of said Contractor and not employees of the City in any respect.

Compliance with Laws. The Contractor shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Contract. Specifically, Contractor shall comply with the following state law requirements:

- *Work Authorization Program.* If the Contract is for services expected to cost more than \$5,000.00, the Contractor shall comply with Section 285.530 RSMo., pertaining to enrollment and participation in a federal work authorization program (as defined therein) and shall provide verification through an affidavit that the Contractor (1) does not knowingly employ any person who is an unauthorized alien in connection with the Contract and (2) is enrolled in a federal work authorization program and provide documentary proof thereof. The affidavit shall contain the notarized signature of the registered agent, legal representative or corporate officer of the business entity including but not limited to the human resources director or their equivalent.
- *Proof of Lawful Presence.* Section 208.009 RSMo., requires that all applicants *at the time of application* for any contract provided by a local government provide "affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States." Contractor's affirmative proof must be established through (i) a Missouri driver's license, (ii) any "documentary evidence recognized by the department of revenue when processing an application for a driver's license," or (iii) "any document issued by the federal government that confirms an alien's lawful presence in the United States." §208.009.3

Subcontracts. The Contractor shall not subcontract any of the Services to be performed by it hereunder without the express written consent of the City. In addition, this Contract shall not be assigned by the Contractor.

Indemnification. To the fullest extent permitted by law, the Contractor agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from Contractor's breach of the Contract or out of services and operations performed hereunder by the Contractor, including the City's reliance on or use of the services or products provided by the Contractor under the terms of this agreement. The Contractor shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, Contractor agrees that this indemnification requires Contractor to obtain insurance in amounts specified herein and that Contractor has had the opportunity to recover the costs of such insurance in the Compensation set forth in this Agreement.

Insurance. Contractor shall furnish the City the certificates of insurance for workers' compensation, public liability, and property damage, including automobile coverage in the amounts specified by the City in the request for proposals, if any, otherwise in the amounts stated on **Exhibit A**, but unless otherwise provided shall be no less than the maximum amounts of liability set forth in Chapter 537.610 RSMo., applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued be such company or companies as may be satisfactory to the City. The City and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Contractor's work, as determined by the City, shall be named as additional insured.

In addition to the foregoing, the Contractor shall maintain Professional Liability "errors and omissions" insurance in the form for the coverages satisfactory to City as indicated in the request for proposals, if any, otherwise as stated on attached **Exhibit A**. The City and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by Builder's Risk or any other property insurance, except such rights as they may have to the proceeds of such insurance; provided that nothing herein shall be deemed a waiver of the City's sovereign immunity relative to any claim against the City.

Nondisclosure. The Contractor agrees that it will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Contract.

Changes. No change in this Contract shall be made except in writing prior to the change in Services or terms being performed. The Contractor shall make any and all changes in the Services without invalidating this Contract when specifically ordered to do so in writing by the City. Contractor, prior to the commencement of such changed or revised Services, shall submit promptly to the City, a written cost or credit proposal for such revised Services. If the City and Contractor shall not be able to agree as to the amount, either in consideration of time or money to be allowed or deducted, it shall nevertheless be the duty of Contractor, upon written notice from the City, to immediately proceed with such alteration or change, and Contractor shall be compensated the reasonable value of such Services. **No work or change shall be undertaken or compensated for without prior written authorization from the City.**

Termination. The City shall have the right to terminate the Contract at any time for any reason by giving the Contractor written notice to such effect. The City shall pay to the Contractor in full satisfaction and discharge of all amounts owing to the Contractor under the Contract an amount equal to the cost of all Services performed by the Contractor up to such termination date, less all amounts previously paid to the Contractor on account of the Contract Price. The Contractor shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to the Contractor for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Services.

Multi-year contracts; Non-appropriation. Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "Event of Nonappropriation"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

Accounting. During the period of this Contract, the Contractor shall maintain books of accounts of its expenses and charges in connection with this Contract in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Contractor.

Other Contractors. The City reserves the right to employ other consultants in connection with the Services.

Request for Proposals. If the City issued a request for proposals in connection with the Services, such request for proposals and the proposal of the Contractor in response thereto are incorporated herein by reference and made a part of this Contract. In case of any conflicts between the request for proposals and the executed Contractor/Services Contract or proposal of the Contractor, the requirements of the City's Request for Proposal and this executed Contractor/Professional Services Contract shall control and supercede unless a change thereto is specifically stated in this Contract.

Project Records and Work Product. The Contractor shall provide the City with copies of all documents pertinent to the Services which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables. The City shall own all right, title and interest, including without limitations, all copyrights and intellectual property rights, to all documents and Work Product of the Contractor created in performance of or relating to this Contract. Contractor agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the Work Product.

Site Operations. Where appropriate, the City will arrange for right of entry to any property at the request of the Contractor for the purpose of performing studies, tests and evaluations in connection with the Services.

Personnel. The Services shall be performed exclusively by the personnel of the Contractor identified in the Contractor's proposal and no other personnel of the Contractor shall perform any of the Services without the express written approval of the City.

Representations. Contractor agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Contract. The parties agree the Contract represents the entire agreement between the parties.

Other Special Provisions. The special provisions set forth on Exhibit A are incorporated herein by reference, and made a part hereof.

EXHIBIT A
Proposal

SCOTT LAYTHAM
&
KARL HOLMES DUO

SCOTT LAYTHAM
12223 RAIN HOLLOW DR.
ST. LOUIS, MO 63043
(314)-576-0838

ENTERTAINMENT ENGAGEMENT CONTRACT

This Contract becomes null and void if not signed and returned with the requested deposit within (14) days of the date written.

Date Contract Written: JANUARY 13TH, 2017

This is a personal service contract for entertainment entered into by and between the undersigned parties subject to the terms and conditions hereinafter set forth on the date contract written (described above), between the undersigned Purchaser of entertainment (herein called "Client" or "Purchaser") and Scott Laytham providers of entertainment services (herein called "musicians" or "artists").

1) Name and Address of Place of Engagement: **TWIN OAKS PARK**
Ann Ave, Twin Oaks, MO 63021

-Contact On Premises: JANET HERBOLD

2) Name of Artist(s): **SCOTT LAYTHAM & KARL HOLMES DUO**

3) Date(s), Times of Engagement: **JULY 3RD, 2017. 6:30 TILL 9**

4) Type of Engagement (specify club, party, wedding, etc.): **FOURTH OF JULY CEREMONY.**

5) Compensation Agreed Upon: **\$750.00**
-Amount of Deposit Required: **\$375.00**

6) Client Will Provide: **STAGE, minimum 18' wide X 12' deep; ACCESS TO POWER**
Artist(s) Will Provide: **ALL musical instruments; SOUND equipment; and proper ATTIRE**

7) Purchaser Will Make Payments As Follows: *Deposit* (\$375.00), made payable to **SCOTT LAYTHAM**, to be sent to **SCOTT LAYTHAM** from Client upon return of this contract - *Balance* (\$375.00), made payable to **SCOTT LAYTHAM**, to be given to **SCOTT LAYTHAM** by Client upon the date of engagement.

- 8) If a rider or addendum is included with this contract, said rider is part of this agreement and for all purposes is incorporated herein.
9) Purchaser and musicians agree to abide by all federal and state labor laws. Public law shall prevail if union constitution or bylaws are in conflict with public law.
10) It is understood that the musician(s) executes this agreement as an independent contractor and therefore assumes all responsibility for withholding tax, social security, state tax, public liability, and workman's compensation insurance.
11) The agreement of the musician(s) to perform is subject to proven detention by sickness, accidents, riots, strikes, epidemics, acts of God, or any other legitimate condition beyond their control.
12) In the event of breach or cancellation of this contract by the Client up to ninety days prior to the event the entire deposit that has been returned by said Client with this contract will be kept by **SCOTT LAYTHAM** and is said to be "non-refundable". In the event of breach or cancellation of this contract by the Client within ninety days of the scheduled event, the entire fee shall be due to **SCOTT LAYTHAM**.
13) In the event that this performance is not presented due to inclement weather, artist(s) must be paid in full if present and willing to perform pursuant to the terms thereof.
14) This agreement may be modified only if in writing and signed by both purchaser and artist.
15) This contract is null and void if not signed and returned with requested deposit within fourteen (14) days of the date contract written as outlined at the top of this contract.

JANET HERBOLD

X _____

SIGNATURE OF AUTHORIZED PURCHASER

#636-861-0211
#314-707-0804

SCOTT LAYTHAM

X _____

SIGNATURE OF BAND LEADER

12223 RAIN HOLLOW DR.
ST. LOUIS, MO 63043
(314)-576-0838