

AGREEMENT FOR PERFORMANCE SERVICES FOR 2024 LIGHT UP OCALA

THIS AGREEMENT FOR PERFORMANCE SERVICES FOR 2024 LIGHT UP OCALA ("Agreement") is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation ("City"), and **STEREO FM, INC** a for-profit corporation duly organized and authorized to do business in the state of Florida (EIN: 82-5302584) ("Artist").

In consideration for the following covenants, conditions, and promises, City agrees to engage Artist for the Performance described below, and Artist agrees to provide services at such Performance under the following terms and conditions:

1. **PERFORMANCE.** City hereby engages Artist to furnish, and Artist agrees to provide **FOUR (4)** shows approximately **TWO HUNDRED TEN (210) MINUTES** in length on **NOVEMBER 23, 2024** beginning at **3:30 P.M.** and ending **8:00 P.M.** in accordance with **Exhibit A – Schedule of Performances** (the "Performance").
 - A. Exact time of scheduled Performance may change at City's discretion.
 - B. The load in and set up time on the date of Performance shall begin at **12:00 P.M.**
2. **VENUE.** The Performance shall take place at an outdoor venue at **DOWNTOWN GAZEBO STAGE** during the Light Up Ocala 2024 Event (the "Event").
3. **COMPENSATION.** Artist shall be paid the total sum of **FOUR THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS (\$4,500)** for the entire Performance (the "Performance Fee") payable as follows:
 - A. The City shall pay a lump sum to Artist equal to **TWO THOUSAND, TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$2,250)** by check made payable to **STEREO FM, INC.** as a deposit towards the Performance Fee set forth above due upon countersigned contract.
 - B. City shall remit payment for the remaining balance of the Performance Fee, in the amount of **TWO THOUSAND, TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$2,250)**, via hand-delivery to Artist immediately following the Performance unless the parties otherwise agree.
4. **AMOUNTS DUE TO THE CITY.** Artist must be current and remain current in all obligations due to the City during the performance of services under this Agreement. Payments to Artist may be offset by any delinquent amounts due to the City or fees and/or charges owed to the City.
5. **PERFORMANCE POLICY AND ARTIST RESPONSIBILITIES.** Artist's Performance must be suitable for family audiences. Artist and its employees and/or agents shall perform and conduct themselves in a manner that is consistent with City standards as specified below. Artist's failure to abide by the provisions of this Paragraph shall constitute a material breach of this Agreement at which time City shall have the right to immediately cancel the Performance and dismiss Artist from the Venue, and Artist shall forfeit any remaining compensation due under Paragraph 3 above:
 - A. **Smoking and Prohibited Substances:** The use of alcohol, illegal drugs, or other controlled substances by Artist, its employees and/or agents during the Performance is strictly prohibited. Artist shall not perform while under the influence of alcoholic beverages, illegal drugs, or other controlled substances. Venue is a non-smoking facility, and no smoking is permitted within the provided hospitality space or within thirty (30) feet of egress doorways. All smoking must take place in outdoor designated areas.
 - B. **Prohibited Conduct:** Artist's Performance must be suitable for family audiences and Artist, its employees, and/or agents agree to conduct themselves in a professional and courteous manner

in compliance with City standards at all times during the performance of their duties under this Agreement. Examples of behavior, dress, and/or language considered to be inconsistent with City standards include, but is not limited to, that which:

- (i) demeans and/or exploits persons on the basis of gender, race, or other grounds;
- (ii) references alcohol, drugs, obscene acts, or other explicit subjects;
- (iii) contains political references, religious proselytizing, discriminatory, or sexually explicit language or images.

C. **Sound and Lighting:** Artist agrees to use the sound and lighting services and personnel provided by the City for the audio and lighting reinforcement of the Performance. Artist agrees that all decisions regarding sound and lighting shall be made solely by City and/or City's production team and will abide by them accordingly.

D. **Stage Access:** Artist acknowledges that stage entry is permitted to Artist, and personnel in capacity for performance and setup. The City will limit stage access to city staff, production staff, and approved community partners and/or sponsors. The public is not permitted on stage before, during, or after the performance.

E. **Pyrotechnics:** Artist shall not be permitted to have or use any type of electronic or pyrotechnic display that in any way creates a hazardous condition for the audience

F. **Copyrights and Licenses:** Artist shall be responsible for obtaining any and all necessary licenses or authorizations related to the provision of its services under this agreement including, but not limited to any ASCAP, BMI, or SESAC license required for the playing of music subject to copyright and shall ensure that any and all license payments required to be made by Artist are made promptly and directly to the licensing or authorizing organization.

6. **NON-PERFORMANCE.** If Artist is unable to provide the Performance due to illness or accident to the Artist or because of a Force Majeure event up to the scheduled performance date, then City shall have no obligation to pay the Performance Fee. If the City did not cancel the event at least **THREE (3)** days prior to its scheduled date, and/or if Artist is present at the venue at the designated date and time for the performance and is willing and able to perform but the Event is cancelled by the City on the day of the event, then Artist shall be paid the full Performance Fee.

7. **FORCE MAJEURE.** The term "Force Majeure" shall include delays, damages, or failure in the performance of any obligation under this Agreement if such delay, damage, or failure is due to causes beyond the party's control including, without limitation: fire, flood, strikes and labor disputes, pandemic, local or statewide states of emergency, acts of war, acts of nature, terrorism, civil unrest, acts or delays in acting of the government of the United States or the several states, judicial orders, decrees or restrictions or any other like reason which is beyond the control of the respective party.

8. **TERMINATION FOR NON-FUNDING.** In the event that budgeted funds to finance this Agreement are reduced, terminated, or otherwise become unavailable, City may terminate this Agreement upon written notice to Artist without penalty or expense to City. City shall be the final authority as to the availability of budgeted funds.

9. **INSURANCE*.** Artist shall obtain general liability insurance issued by a company authorized to do business in the State of Florida and with an A.M. Best Company rating of at least B+, as will provide coverage for claims for damages for bodily injury, including accidental death, as well as for claims



for property damage. The amount of such insurance shall be not less than \$200,000 for injury to one person arising out of a single incident and \$400,000 for injuries to more than one person arising out of a single incident, and \$200,000 for property damage with a reasonable deductible. Upon request by City, Artist shall provide City with certificates of insurance which shall list "City of Ocala, a Florida municipal corporation," as an Additional Insured. These insurance requirements do not relieve or limit the liability of Artist. Should Artist desire insurance protecting its personal property from casualty or damage while on the Venue, it will purchase such insurance, it being expressly understood that City is not obligated to purchase any insurance. The insurance required of Artist, or any other insurance of Artist shall be considered primary, and any insurance or self-insurance of City shall be considered excess, as may be applicable, to claims against City which may arise.

***Exceptions and exemptions to these insurance requirements may be allowed at the discretion of the City's HR/Risk Director on a case-by-case basis and evidenced by a separate waiver attached to this Agreement and incorporated herein.**

10. **INDEMNITY.** Artist shall indemnify City and its elected officials, employees and volunteers against, and hold City and its elected officials, employees and volunteers harmless from, all damages, claims, losses, costs, and expenses, including attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the use of the venue by Artist or the use of any music, materials, devices, or processes that are patented, trademarked, franchised or subject to copyright.
11. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges billed by the attorney to the prevailing party.
12. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNs, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
13. **PUBLIC RECORDS.** The Artist shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, the Artist shall:



- A. Keep and maintain public records required by the public agency to perform the service.
- B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Artist does not transfer the records to the public agency.
- D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Artist or keep and maintain public records required by the public agency to perform the service. If the Artist transfers all public records to the public agency upon completion of the contract, the Artist shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Artist keeps and maintains public records upon completion of the contract, the Artist shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE ARTIST HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARTIST'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.gov; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

- 14. **ASSIGNMENT.** This Agreement shall not be assigned by Artist without the prior written consent of City.
- 15. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.
- 16. **WAIVER.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power, or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power, or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.
- 17. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied, and enforced in accordance with the laws of the State of Florida.

18. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.
19. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both of the parties to this Agreement.
20. **ELECTRONIC SIGNATURE(S).** Artist, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
21. **LEGAL AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
22. **ENTIRE AGREEMENT.** This Agreement and the attached Riders, if any, contains all agreements between the Parties. There are no other representations, warranties, promises, agreements, or understandings, oral, written, or implied, among the Parties, except to the extent reference is made thereto in this Agreement. In the event of a conflict between the terms of this Agreement and the terms of any attached Riders, the terms of this Agreement shall control.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.]



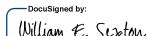
CONTRACT # REC/241041

IN WITNESS WHEREOF, the parties have executed this Agreement on 9/16/2024.

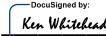
ATTEST:


Angel B. Jacobs
City Clerk

Approved as to form and legality:


William E. Sexton, Esq.
City Attorney

CITY OF OCALA


Ken Whitehead
Assistant City Manager

STEREO FM, INC.


C30081ACE2984F8...

Exhibit A – Schedule of Performances

1. Stereo FM – 4 shows totaling 210 minutes
 - a. 3:30pm-4:30pm
 - b. 4:45pm-5:45pm
 - c. 6:00pm-6:45pm
 - d. 7:15pm-8:00pm

Certificate Of Completion

Envelope Id: 95A818D391BB484AB2FE8DA526A15DD4

Status: Completed

Subject: FOR SIGNATURE - Performance Service Agreement_ Stereo FM, Inc (REC/241041)

Source Envelope:

Document Pages: 7

Signatures: 4

Envelope Originator:

Certificate Pages: 5

Initials: 0

Porsha Ullrich

AutoNav: Enabled

Enveloped Stamping: Enabled

Time Zone: (UTC-05:00) Eastern Time (US & Canada)

110 SE Watula Avenue

City Hall, Third Floor

Ocala, FL 34471

pullrich@ocalafl.gov

IP Address: 216.255.240.104

Record Tracking

Status: Original

9/11/2024 2:34:50 PM

Holder: Porsha Ullrich

Location: DocuSign

pullrich@ocalafl.gov

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: City of Ocala - Procurement & Contracting

Location: DocuSign

Signer Events**Signature****Timestamp**

Josh Belanger



Sent: 9/11/2024 2:40:28 PM

stereofmband@gmail.com

Viewed: 9/11/2024 2:43:03 PM

Leader

Signed: 9/11/2024 2:43:24 PM

Security Level: Email, Account Authentication (None)

Signature Adoption: Drawn on Device
Using IP Address: 72.239.144.225
Signed using mobile

Electronic Record and Signature Disclosure:

Accepted: 9/11/2024 2:43:03 PM

ID: 9ada8566-2822-4316-9f8f-8af026f9c7fc



Sent: 9/11/2024 2:43:26 PM

William E. Sexton

Viewed: 9/11/2024 2:58:18 PM

wsexton@ocalafl.org

Signed: 9/11/2024 3:02:29 PM

City Attorney

City of Ocala

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style
Using IP Address: 216.255.240.104

Electronic Record and Signature Disclosure:

Not Offered via DocuSign



Sent: 9/11/2024 3:02:30 PM

Ken Whitehead

Viewed: 9/16/2024 10:20:50 AM

kwhitehead@ocalafl.org

Signed: 9/16/2024 10:23:56 AM

Assistant City Manager

City of Ocala

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style
Using IP Address: 216.255.240.104

Electronic Record and Signature Disclosure:

Not Offered via DocuSign



Sent: 9/16/2024 10:23:58 AM

Angel B. Jacobs

Viewed: 9/16/2024 11:19:22 AM

ajacobs@ocalafl.org

Signed: 9/16/2024 11:19:36 AM

City Clerk

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style
Using IP Address: 216.255.240.104

Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
Accepted: 9/16/2024 11:19:22 AM ID: 393e2618-a8b2-4540-81b5-bfa5e4df9959		
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/11/2024 2:40:28 PM
Certified Delivered	Security Checked	9/16/2024 11:19:22 AM
Signing Complete	Security Checked	9/16/2024 11:19:36 AM
Completed	Security Checked	9/16/2024 11:19:36 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Ocala - Procurement & Contracting (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Ocala - Procurement & Contracting:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: contracts@ocalafl.org

To advise City of Ocala - Procurement & Contracting of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at contracts@ocalafl.org and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from City of Ocala - Procurement & Contracting

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to contracts@ocalafl.org and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Ocala - Procurement & Contracting

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to contracts@ocalafl.org and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Ocala - Procurement & Contracting as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Ocala - Procurement & Contracting during the course of your relationship with City of Ocala - Procurement & Contracting.