

# *Potawatomi Concert Series Contract Entertainment Agreement*

## Provisions

Please review and complete enclosed agreements (keeping one copy for yourself), and also complete the enclosed W-9 and immediately return as a confirmation of your commitment to this program. Agreements are due immediately.

Date: January 9, 2019

It is agreed by and between the South Bend Venues Parks & Arts Department of South Bend, Indiana, hereinafter, referred to as the City and Steve Foresman - hereinafter referred to as the second party, as follows: Steve Foresman

The second party agrees to perform for the City the service or services described below and the City agrees to compensate the Second Party for such services as agreed.

### **(1) Person who will provide service:**

Name: Steve Foresman

Address: 118 Clark Street

City: Walkerton State: IN Zip: 46574

**(2) Services to be performed:** Musical entertainment for the duration of the evening concert. Band to provide all necessary equipment in order to perform. Sound system is not provided.

Note: **ENTERTAINERS MUST BE IN PLACE AND READY TO PERFORM NO LATER THAN SCHEDULED PLAY TIME. NO SMOKING OR CONSUMPTION OF ALCHOLOL. BREAKS MUST BE LIMITED TO 15 MINUTES DUE TO CROWD RETENTION.**



**(3) Service Date and Time:**

- a. Date: 8/25/2019
- b. Time: Beginning at 7:00 p.m. (and continuing through 8:00 p.m. (Band must perform only the hour(s) contracted, with tear down done immediately following).

**(4) Location:** Potawatomi Park ~ South Bend, Indiana

Located off Wall Street in Potawatomi Park, which is off of Ironwood and Mishawaka Avenue, across from the Potawatomi Zoo.

**(5) Band Commitment:** The Second Party agrees to provide everything they will need for their performance.

**(6) Cancellation:** In the event of cancellation due to weather as determined by the Events Coordinator, the band agrees to perform the above services for the City at a different time as agreed upon by the band and the and Events Coordinator upon which the band will be paid in full for their performance. Should such cancellation happen the band will not be paid until the contract has been fulfilled. Please provide a phone number where a cancellation call can be placed in such an event.

**PHONE NUMBER:** \_\_\_\_\_

**CELL NUMBER:** \_\_\_\_\_

**E-MAIL:** \_\_\_\_\_

**(7) The Second Party agrees to perform services without any obscenities or derogatory language targeted towards race, gender or sex. **Violation of this rule will result in suspension of payment to the Second Party.****

**(8) The City shall pay the Second Party \$400.00 (Four Hundred Dollars) for said performance.**

**(9) The Second Party does not participate in any fringe benefits of the City, nor does the City provide ANY TYPE OF LIABILITY INSURANCE for the Second Party.**



**AGREEMENT FOR PERSONAL SERVICES  
BY AND BETWEEN THE CITY OF SOUTH BEND,  
INDIANA  
AND  
Steve Forseman**

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**THIS AGREEMENT** is made effective the 9 day of January 2019, by and between the City of South Bend, Indiana, a municipal corporation organized and operating under the laws of the State of Indiana, acting by and through its Board of Parks Commissioners ("City"), and Steve Forseman represented by Steve Forseman ("Contractor").

RECITALS

WHEREAS, the City intends to continue, through its Venues, Parks & Arts Department ("Parks"), to provide entertainment at Special Events; and

WHEREAS, the City is in need of professional musical entertainers; and

WHEREAS, the Contractor herein wishes to fulfill the needs of the City and Parks in order to serve as musical entertainment as needed from time to time; and

WHEREAS, the City has determined that due to Contractor's experience and expertise, it is the best interest of the City and Parks to retain the services of Contractor and to do so pursuant to the terms hereof.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the City and Contractor hereby agree as follows:

**Section 1. Duties of the Contractor.**

The Contractor shall provide the Services which are more particularly described at **Exhibit "A"** attached hereto and incorporated herein. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards.

**Section 2. Consideration.**

The total consideration under this Agreement shall not exceed the sum of \$400.00 payable per hour/game/class of successful work. Any payment that the City may deny or withhold or delay shall not be subject to penalty or interest under Indiana Code § 5-17-5.

**Section 3. Term.**

This Agreement shall commence 7 p.m. on August 25, 2019 ("Start Date") and shall terminate at 8 p.m. on August 25, 2019 ("Expiration Date"). This Agreement may only be renewed in writing by both parties.



**Section 4. Assignment; Successors.** The Contractor shall not assign or subcontract the whole or any part of this Agreement without the prior written consent of the City.

**Section 5. Changes in Scope of Services.** The Contractor understands and agrees that it shall not commence any additional work or change the scope of the Services provided unless authorized in writing by the City. No claim for additional compensation shall be made by Contractor in the absence of prior written approval of the Parties.

**Section 6. Governing Law; Compliance with Laws.** This Agreement shall be construed and interpreted according to the laws of the State of Indiana. The Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby are hereby incorporated herein by reference. Contractor shall comply with federal, state and local law in its hiring and employment practices and policies for any activity covered by this Agreement. Further, the City shall not be required to pay for Services that are inconsistent with or in violation of this Agreement nor for any Services performed in violation of federal, state or local statute, ordinance, rule or regulation

**Section 7. Relationship/Independent Contractor.** Both parties, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employee(s) or agent(s) of one party shall not be deemed or construed to be the employee(s) or agent(s) of the other party for any purpose whatsoever. Neither party will assume liability for any injury (including death) to any person(s), or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall be solely responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

Contractor is solely responsible for compliance with federal, state and local laws and regulations relating to taxes and social security payments that may be required to be made in connection with the compensation provided under this Agreement. The City, however, may file informational returns with the United States Internal Revenue Service or similar state agency regarding payment made to Contractor in accordance with this Agreement under conditions imposed by federal, state or local laws applicable to such payment. The City shall provide IRS Form 109 if applicable.

**Section 8. Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understanding of any and every nature between them.

**Section 9. Funding Cancellation and Payments.** In accordance with Ind. Code 6-1.1-18 payments by the City are subject to annual appropriation by its fiscal body. When the City makes a written determination that funds are not appropriated or otherwise available to support continued performance of this Agreement, this Agreement shall be cancelled. A determination by the City that funds are not appropriated or otherwise available to support continuation of the performance shall be final and conclusive.



**Section 10. Termination.** This Agreement may be terminated, in whole or in part, by the City whenever, for any reason, the City determines that such termination is in the best interest of the City. Termination shall be affected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to termination effective date, specifying the extent to which performance of services under which such termination becomes effective. The Contractor shall be compensated for performance prior to the effective date of termination. However, in no case shall the total payment made to Contractor exceed the original Agreement amount due on Agreement. No price increase shall be allowed on individual line items if canceled only in part.

**Section 11. Non-Collusion and Acceptance.** The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the fact of this Agreement.

**Section 12. E-Verify.** The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

The Contractor is not required to participate in the E-Verify program should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

The Contractor shall require his/her/its subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The City may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the City.

**Section 13. Minority and Women's Enterprise Diversity Development.** Persons, partnerships, corporations, associations, or joint venturers awarded a contract by the City of South Bend through its agencies, boards, or commissions shall not discriminate against any employee or applicant for employment in the performance of a City contract with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, sex, religion, color, national origin, ancestry, age, or disability that does not affect that person's ability to perform the work.



**Section 14. Corporate Authority.** The person signing on behalf of the Contractor represents that he/she has been duly authorized to execute this Agreement on behalf of the Contractor, and has obtained all necessary and applicable approvals to make this Agreement fully binding upon the Contractor after acceptance by the City.

**Section 15. Drug-Free Workplace.** The Contractor hereby agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the City within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor within the State of Indiana has been convicted of a criminal drug violation occurring in the workplace.

**IN WITNESS WHEREOF,** the Parties hereto, through their duly authorized representatives, have caused this Agreement to be executed as of the day and year first written above. The parties have read and understand the foregoing terms of this Agreement and do, by their respective signatures hereby agree to its terms.

*(Remainder of page intentionally left blank)*



**INDEPENDENT CONTRACTOR**

**CITY OF SOUTH BEND, INDIANA  
BOARD OF PARKS COMMISSIONER**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
Mark Neal, President

\_\_\_\_\_  
Consuella Hopkins, Vice President

\_\_\_\_\_  
Aimee Buccellato, Member

\_\_\_\_\_  
Dan Farrell, Member

ATTEST:

\_\_\_\_\_  
Eva Ennis, Clerk



## **EXHIBIT "A"**

### **PERSONAL SERVICES**

#### Responsibilities

Band performance at the Potawatomi Park Concert Series at Potawatomi Park on 8/25/2019, from 7:00 to 8:00 PM.

Bandshell will open 1 hour before start time.

