

COTTONWOOD HEIGHTS

RESOLUTION NO. 2014-19

A RESOLUTION APPROVING AND AGREEMENT WITH CREATIVE CONCEPTS & DISPLAY LLC FOR DESIGN AND CONSTRUCTION OF A PARADE FLOAT

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights ("*City*") met on 8 April 2014 to consider, among other things, authorizing City to engage Creative Concepts & Display LLC ("*Contractor*") to design and construct a parade float for City as specified in an agreement between Contractor and City (the "*Contract*"), a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of City's residents to authorize City to engage Contractor as proposed in the Contract;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that City is authorized to engage Contractor to provide the services specified in the Contract, and that City's mayor and recorder are authorized and directed to execute and deliver the Contract and any and all related payments and agreements on City's behalf; and be it

FURTHER RESOLVED by the city council of Cottonwood Heights that all actions heretofore taken by any of City's officers or employees in connection with the Contract are hereby ratified and approved.

This Resolution, assigned no. 2014-19, shall take effect immediately upon passage.

PASSED AND APPROVED this 8th day of April 2014.

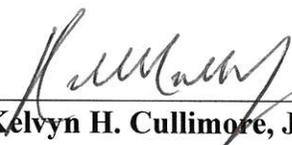
COTTONWOOD HEIGHTS CITY COUNCIL

ATTEST:





Kory Solorio, Recorder

By 

Kelvyn H. Cullimore, Jr., Mayor

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Absent	
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 8th day of April 2014.

RECORDED this 8 day of April 2014.

618072.1

CITY OF COTTONWOOD HEIGHTS
& CREATIVE CONCEPTS
PARADE FLOAT CONTRACT 2014

THIS AGREEMENT (this "AGREEMENT") made by and between the city of Cottonwood Heights, a Utah municipality whose address is 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, UT 84047 (hereinafter referred to as "SPONSOR"), and Creative Concepts & Display LLC, a Utah limited liability company whose address is 7150 S. Cottonwood Street, Midvale, Utah 84047 (hereinafter referred to as "BUILDER").

WITNESSETH:

IN CONSIDERATION OF THE MUTUAL AGREEMENTS HEREIN CONTAINED, the parties hereto agree as follows:

1. "BUILDER" agrees to design, build and decorate a float (the "*float*") in compliance with industry standards on behalf of "SPONSOR" for use in for various parades in the Salt Lake County area during summer 2014. The float's design and materials shall be mutually agreed and approved by both parties and shall be built to industry standards. This design will include fog rising from the organ pipes at the front and rear of the float; large cogs and pulleys turning on both sides of the float; circus band-organ music projecting from speakers positioned on the float; and flashing and strobing digital 12v LED lighting. The float shall be completed in time for parade participation by June 7, 2014, as agreed upon by both parties. "BUILDER" immediately will correct any defects in workmanship occurring prior to September 15, 2014 at "BUILDER'S" expense. "SPONSOR" will provide the chassis for the float. The float will be 30-35 feet long, 8-10 feet wide and not greater than 14 feet high.

2. "BUILDER" states and affirms that it is acting as an independent contractor, holding itself out to the general public as an independent contractor for other work or contracts as it sees fit; that it advertises its services as it sees fit to the general public, maintains its office or place of employment separate from "SPONSOR", and that this AGREEMENT is not exclusive of other agreements, contracts or opportunities.

A. The parties intend that an independent contractor relationship will be created by this AGREEMENT. "SPONSOR" is interested only in the results to be achieved and the conduct and control of the services will lie solely with "BUILDER." "BUILDER" is not to be considered an agent or employee of "SPONSOR" for any purpose, and the employees and agents of "BUILDER" are not entitled to any of the

benefits that “SPONSOR” provides for “SPONSOR’s” employees. It is understood that “SPONSOR” does not agree to use “BUILDER” exclusively. It is further understood that “BUILDER” is free to contract for similar services to be performed for others while working under the provisions of this AGREEMENT with “SPONSOR”.

B. Both parties agree that “BUILDER” shall be deemed an independent contractor in the performance of this AGREEMENT, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers’ compensation. “BUILDER” shall furnish Workers Compensation Insurance for “BUILDER” and all of its subcontractors and employees. “BUILDER” and its employees and agents shall have no authorization, express or implied, to bind “SPONSOR” to any agreement, settlement, liability, or understanding whatsoever, nor to perform any acts as agent for “SPONSOR.” The compensation provided for herein shall be the total compensation payable hereunder by “SPONSOR.”

3. “SPONSOR” will operate the float in the parades. Operators for the float shall be furnished at the expense and responsibility of “SPONSOR.”

4. In entering, displaying, and operating the float in any parade, “SPONSOR” will observe the rules and regulations of the parade regarding such display and operation, as well as all applicable laws, ordinances or regulations.

5. The float will be constructed in Salt Lake County, Utah at a location provided by “BUILDER.” Representatives of “SPONSOR” may, at their discretion, inspect the construction of the float. “BUILDER” shall keep “SPONSOR” advised in advance of any changes of the location of the construction site.

6. “SPONSOR” shall provide payment of entry fees for all parades that require such fees. “SPONSOR” shall maintain liability insurance on the float, driver, and personnel while in its possession.

7. “SPONSOR” shall pay “BUILDER” the sum of \$10,000.00 (ten thousand dollars) as the total cost of the services, payable as follows:

- a. \$5,000.00 (five thousand dollars) payable upon signing of this AGREEMENT by both parties.
- b. \$5,000.00 (five thousand dollars) due and payable upon full completion of the float.

“SPONSOR” shall be liable for the full contract price upon timely completion of the float, whether “SPONSOR” enters the float in a parade or not. If “SPONSOR” fails to pay any sum due hereunder within 30 days after its due date, interest shall accrue on such unpaid amount at the rate of 18% per annum.

8. The law of the State of Utah shall govern the validity of this AGREEMENT, the construction of its terms and the interpretation of the rights and duties of the parties. If litigation is commenced concerning a breach of this AGREEMENT, the prevailing party shall be entitled to their reasonable attorney’s fees and cost.

9. This AGREEMENT constitutes the entire understanding and agreement between and among the parties hereto with respect to the subject matter hereof and there are no oral or written agreements, understandings, restrictions, representations or warranties among the parties hereto other than those expressly set forth in this AGREEMENT. This AGREEMENT may not be amended, changed or modified except by written instrument signed by all parties hereto. No modification or amendment to this AGREEMENT shall be valid or binding unless such modification and/or amendment is set forth in writing and signed by all of the parties to this AGREEMENT. The invalidity of any portion of this AGREEMENT shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraph and section headings in this AGREEMENT are for convenience only and do not constitute a part of the provisions hereof. Time is the essence of this AGREEMENT.

10. Each and every provision of this AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, assigns, heirs, executors, administrators and personal representatives. This AGREEMENT will not be assigned without the written consent of the other party.

11. The ultimate goal of a parade float is the image it portrays for both its sponsor and its builder. It is therefore imperative for the float be kept in good condition at all times during the 2014 parade season. To that end, “SPONSOR” shall: provide, as needed, a tow truck and driver, observer/chase car, and float driver; keep tires inflated; keep the gas tank properly full for every parade; and regularly check and keep radiator and transmission fluid levels properly full. During transportation to and operation of the float, at least two adults (aged 21 years or over) should accompany the float at all times. The float will be towed to and from all parades at a speed not exceeding 37 MPH. The float will only be driven in parades, and should be stored indoors and in a secure location. General maintenance such as repairing broken fringe, loose sheeting, and loose

festooning is also the responsibility of the "SPONSOR," provided that such work is not necessitated due to poor workmanship by "BUILDER" during original construction of the float.

12. The term for the performance of this AGREEMENT is from the signing hereof by both parties until participation of the float in the final parade of the 2014 parade season. At the conclusion of the parade season, the props used on the float shall remain the property of "BUILDER" and the parade float chassis shall remain the property of "SPONSOR."

13. Should any provision of this AGREEMENT require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation of this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first hereinafter written. Each party represents and warrants that it has the authority to enter into this AGREEMENT.

"SPONSOR"

ATTEST:

COTTONWOOD HEIGHTS, a Utah municipality

By: _____
Kory Solorio, Recorder

By: _____
Kelvyn H. Cullimore, Jr., Mayor

"BUILDER"

CREATIVE CONCEPTS & DESIGN LLC

By: _____
_____, Manager