

THE STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

SERVICE CONTRACT
C-20-090-05-19

THIS CONTRACT is made and entered into this 19th Day of May, 2020 by and between the COUNTY OF HIDALGO, TEXAS ("County"), and DICE Productions ("Vendor"), a Texas sole proprietorship owned and managed by Martin Garcia Jr, whose address is 4822 N. 5 ½ W. Weslaco, TX 78599.

WHEREAS, County and Vendor Agree that Vendor will provide movie and equipment services to the County of Hidalgo, at The Endowment Center Memorial Park – San Carlos Park 107 Sunflower Rd. Edinburg TX, and J.R. “Milo” Ponce Memorial Park 3516 E. 2812 FM. Edinburg TX.

WHEREAS, County and Vendor agree that County, at its sole discretion, may choose to cancel and terminate any of the agreed upon dates of services for the following included but not limited to reasons:

- (i) COVID-19 (or any emergency disaster);
- (ii) Rain;
- (iii) Thunder and Lightning, and/or;
- (iv) Shelter-in-place is in affect; or
- (v) Other act of nature unforeseen

WHEREAS, County and Vendor agree that any canceled movie event shall be rescheduled at the County’s choosing.

WHEREAS, County and Vendor agree that **Vendor** will not be paid for services not rendered on the cancelled dates.

WHEREAS, Vendor represents that it is qualified and desires to perform such services; and

WHEREAS, in recognition of and in consideration of **Vendor's** agreement to perform the Services in accordance with this Service Agreement, the Commissioners Court of **County** awarded the **Vendor**.

NOW, THEREFORE, in mutual consideration of the foregoing and the further consideration of the following, the parties hereto agree to the following:

1. **County and Vendor** hereby agree that this Contract is entered into in order to provide the Services to **County**. This Contract does not extend to any third parties any duties or benefits conferred in any manner hereunder or otherwise.

2. During the term of this Service Contract, **Vendor** shall be obligated and hereby promises and agrees to render and provide the Services in accordance with specifications and terms contained in this Service Contract. Services shall be performed within **Hidalgo County** following a request for Services by the **County** or its designated agent. **Vendor** agrees in performing the Services that it will use proper professional standards, comply with any and all appropriate laws and regulations in providing the Services, and devote such time as is necessary to safely and efficiently provide the Services. Further, **County** reserves the right to request these services from other sources other than the successful vendor and shall not be in violation of any terms or conditions of said contract.

3. **Term.** This Contract shall be for a period of **four (4) month(s)**, commencing on **June 1st, 2020** and expiring on **September 30, 2020**, and any dates canceled pursuant to paragraph 3(a.) may be rescheduled at the sole discretion of the County under the same rates, terms and conditions unless this Contract is terminated pursuant to the provisions herein, whichever occurs first. The dates agreed upon by the **Vendor** and the **County** are as follows:

- (1) Friday, June 5th
- (2) Friday June 12th
- (3) Friday June 19th
- (4) Friday, June 26th
- (5) Friday, July 10th
- (6) Friday, July 17th
- (7) Friday, July 24th
- (8) Friday, August 7th

3.a. The County, at its sole discretion, may choose to cancel and terminate any of the agreed upon dates of services for the following included but not limited to reasons:

- (vi) COVID-19 (or any emergency disaster);
- (vii) Rain;
- (viii) Thunder and Lightning, and/or;
- (ix) Shelter-in-place is in affect; or
- (x) Other act of nature unforeseen

4. **Licenses.** As a condition of this Contract, **Vendor** shall hold and maintain throughout the term of this Contract all licenses and permits required, or which may be required by any authority during the term hereof to provide the Services. If such license or permit is suspended or revoked, this Contract shall automatically be terminated and **Vendor** shall immediately notify the **County**.

5. **Vendor** shall provide a sufficient number of trucks, vehicles, personnel and equipment available to safety and efficiently provide the Services.

6. All trucks or vehicles operated by the **Vendor** to perform the Services shall contain all equipment required by any authority to operate on streets and roads and all persons in the employ of **Vendor** who operate such trucks or vehicles shall have the required licenses, qualifications, skill and expertise to perform such Services and shall comply with all laws, rules and regulations prescribed by any agency or authority having jurisdiction with regard to the operation of such trucks or vehicles in providing the Services.

7. **Consideration.** As consideration for rendering the Service provided for in this Contract, the County agrees to pay **Vendor** the amount of eight hundred and eighty-five dollars (\$885) per movie night so that upon completion of providing services for eight (8) movie nights, as provided for in this agreement, a total of seven-thousand eighty dollars (\$7,080) will be paid to Vendor, subject to cancellation of any of the events or termination of this contract. Payments will be made in accordance with the Texas Prompt Payment Act, Tex. Govt. Code Ch.2251

8. **Insurance:** Consistent with its status as an independent contractor and at its sole expense, **Vendor** agrees that throughout the duration of the work under this contract and any extension hereof, it shall provide and maintain any and all insurances and abide by any requirements which are specified in the Procurement Packet/Specifications and/or which may be necessary in providing Services or are otherwise required by law. Insurance policies shall cover, but are not limited to, **Vendor's** activities and all persons, vehicles, equipment and property connected with providing Services, to include theft or loss. The amount of insurance required shall be in accordance with amounts specified by the **County** or as prescribed by law, but in no event shall any amount be less than the minimum amounts prescribed by law, including, but not limited to the Texas Tort Claims Act. These requirements do not establish limits of **Vendor's** liability. Any and all applicable insurance requirements and amounts are incorporated herein by

reference for all purposes. **Vendor** is responsible for ensuring all required insurance policies are valid for the duration of the contract. All insurance policies are to be issued by an insurance **company** authorized to do business in the State of Texas and acceptable to **County**. **Vendor** shall cause all subcontractors utilized by **Vendor** to also comply with these specifications. **Vendor** shall furnish to **County** certificate(s) of coverage, and all renewals throughout the duration of the Project, issued by the insurer that such insurance is in full force and effect. For each applicable policy, **Vendor** shall name the **County** as an additional insured. **Vendor** shall notify **County** a minimum of thirty (30) days in advance of cancellation of all or part of a policy. **Vendor** shall make any other insurance documentation available to **County** upon request.

9. **Indemnification.** **Vendor shall indemnify and hold harmless County, its elected officials, employees and agents from any and all claims, damages, losses, and expenses including attorney's fees for the defense of any action against County arising out of, resulting from, or connected with the provision of the Service by Vendor under this Contract. Said indemnity shall cover any act or failure to act by the Vendor, its agents or employees.**

10. **Assignment.** This Contract shall not be assignable in whole or in part by either party without prior written consent of the other party.

11. **Independent Contractor.** It is expressly agreed that this Contract and the performance by the parties hereunder does not create any agency relationship or master-servant relationship and that **County** has no supervision of the performance of the Services provided by **Vendor**, and that **Vendor** is an independent contractor under this Contract.

12. **Notice.** Any notice required or permitted to be given hereunder shall be in writing and shall be delivered personally or sent by certified mail, postage prepaid, as set forth below:

If to County:

**The County of Hidalgo
Attn: County Judge
100 E. Cano, 2nd Floor**

Edinburg, Texas 78539

If to Vendor:

Martin Garcia Jr.

4822 N. 5 ½ W.

Weslaco, TX 78599

13. **Provisions.** In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

14. **Termination.** The contract may be terminated without cause upon thirty (30) days written notice by County.

15. **Successors.** This Contract shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Contract.

16. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County.

17. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of **County** under this Contract, **County** may terminate this Contract upon thirty (30) days written notice to **Vendor**. **County** agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Contract. The parties intend this provision to be a continuing right to terminate this Contract at the expiration of each budget period of **County**. *Agreements for the acquisition, including lease of real or personal property under Tex. Loc. Govt. Code §271.903:* In the event that, during any term hereof, the Commissioner's Court does

not appropriate sufficient funds to meet the obligations of **County** under this Contract, **County** may terminate this Contract upon Seven (7) days written notice to **Vendor**, **County** agrees, however, to use a best efforts attempt to obtain and appropriate funds for payment of the Contract. The parties intend this provision, if applicable, to be a continuing right to terminate this at the expiration of each budget period of County in accordance with Tex. Loc. Govt. Code §271.903 (Vernon Supp. 1996).

18. **Entire Agreement.** This Contract contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or Agreement in connection with this Contract not specifically set forth herein. This Contract may be modified or amended only by agreement in writing executed by the parties hereto, and not otherwise.

19. **Immunities.** Nothing in this Contract is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses **County** enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to **County** as to any claim or action of any person, entity, or individual against **County**.

20. **Nondiscrimination:** **Vendor**, including subcontractors, assignees and successors in interest, ensures that no person shall on the grounds of race, religion, color, national origin, sex, age, or disability, or any other protected class under law, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation in any federally or non-federally funded program or activity when providing any services described herein under this contract/agreement. Parties also agree to abide by the requirements of Title VI of the Civil Rights Act of 1964, as amended.

21. **Additional Documents:** The parties hereto covenant and agree that they will execute each such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this contract.

22. **Required Contract Provision for Contracts Subject to Federal Award (if applicable):** Pursuant to 2 CFR 200.326, a non-federal entity's contracts must contain the applicable provisions described in appendix II to 2 CFR 200-Contract Provisions for non-Federal Entity Contracts under Federal Awards. Additionally, County contracts under Federal award which are subject to assistance from the Federal Emergency Management Agency (FEMA) are also required to contain additional contract clauses. The applicable required contract clauses were provided as part of the initial procurement packet and are incorporated herein and made part of this agreement for all purposes.

[SIGNATURE PAGE TO FOLLOW]

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

COUNTY OF HIDALGO

ATTEST:

By: _____
Richard F. Cortez, County Judge

Arturo Guajardo Jr., County Clerk

VENDOR: DICE PRODUCTIONS

By: _____

Printed Name: Martin Garcia Jr

Title: Owner of Dice Productions

APPROVED AS TO FORM:
Office of the Criminal District Attorney
Ricardo Rodriguez, Jr.

By: _____
David R. Cantu
Assistant District Attorney

APPROVED BY COMMISSIONES COURT: _____