

## AGREEMENT FOR CITY OF MILPITAS RECREATION SERVICES

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**Instructor Name:** Mei Wan, an individual dba  
Center Stage Performing Arts  
**Address:**  
2415 San Ramon Valley Blvd. Suite 4393  
San Ramon, CA 94538

**Phone Number:** (408) 707-7158

This Agreement for Recreation Services is made by and between the City of Milpitas, a municipal corporation of the State of California (“City”) and **Mei Wan, an individual dba Center Stage Performing Arts**, (“Contractor”). This Agreement will be in effect from **August 27, 2013 through August 26, 2014** in Milpitas, California.

1. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor’s services rendered pursuant to this Agreement. Otherwise, City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
2. Contractor No Agent. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.
3. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City with the following services: **Milpitas Recreation Childrens’ Theatre Program and Annual Tree Lighting ceremony (see attached Exhibit A)**
  - A. Contractor shall supply and furnish all necessary work, labor, and materials in carrying out this Agreement at Contractor’s sole cost and expense.
4. Compensation and City Cancellation Powers. It is agreed that payment to Contractor for work rendered hereunder shall be made within (30) days of completion of each production as herein indicated:

Payment Rate: **90%** of program cast fees (excluding the individual \$20 non-resident fee) collected by City at the end of the production. City is not responsible for compensating Contractor for participants who withdraw from the program due to dissatisfaction as stated in the Recreation Services Customer Satisfaction Policy.

# of productions: 4 (three productions and Annual Tree Lighting Ceremony)  
Minimum Participants (per production): 20  
Maximum Participants (per production): 80

- A. In the event of a rehearsal cancellation by the Contractor resulting in a make-up rehearsal, the Contractor payment shall be reduced by any necessary refunds distributed to participants who are unable to attend the make-up rehearsal.
  - B. If a production does not reach the stated minimum number of participants prior to the first rehearsal, the City may in its sole discretion cancel the production, without compensation to the Contractor. Likewise, in the event the total number of participants drops below the minimum required production size prior to the beginning of the no-refund cancellation period as set forth in the Recreation Customer Satisfaction Policy, then the City may in its sole discretion cancel the remaining production rehearsals. In that event, the City shall pay Contractor a pro-rated amount only for those production rehearsals taught, up to the time of cancellation.
  - C. City will not withhold any amount for federal or state income taxes. All instructors must complete a W-9 form and shall be responsible for payment of any applicable federal or state taxes.
5. Licenses and Permits: Compliance with Laws. Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to provide services pursuant to this agreement. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement a valid business license from City and a copy of the license shall be included with the original signed contract.
6. Insurance **Insurance requirement waived.**
- The City Attorney jointly with the Risk Manager (Finance Director) of the City has the authority to waive or vary any provision of Section 6. Any such waiver or variation shall not be effective unless made in writing and included in the Scope of Work attached in Exhibit A.
- Should Contractor employ any party or person in connection with Contractor's operations under this contract, Contractor shall obtain Worker's Compensation Insurance and will provide the City with proof thereof. The Labor Code of the Workers' compensation laws of California states that an employer must cover employees for work-related injury and illness. As an Independent Contractor, and not an agent or employee of City, the Contractor will therefore not be covered under the City's Worker's Compensation Fund. Additionally, City will not obtain unemployment insurance for the Independent Contractor. Therefore, City's insurance company will not defend or pay out claims brought against an Independent contractor of City. Contractor understands that as an Independent Contractor, he/she are responsible for his/her own insurance and liability coverage. \_\_\_\_\_ Contractor initials
7. No Assignment. Contractor has agreed that the services called for under this Agreement are personal services, and Contractor shall not, under any circumstances, assign this contract. Any attempt to do so shall render this contract void and of no further effect.

8. Publicity and Promotion. Contractor grants full permission to the City for use of his/her name and photographs, videographs, motion pictures or recordings for any publicity and promotional purposes without charge to the City.
9. Background Checks. If class/program is open to youth under the age of 18 years, Contractor and any assistant instructors/subcontractors agree to fulfill all fingerprint/background checks prior to the first class. Contractor/assistant instructor/subcontractor is not eligible to work until the clearance is received from the Department of Justice and notified by a Parks & Recreation Services representative. The Contractor attests that they have never been convicted of a crime, including military offenses, other than minor traffic offenses, which resulted in conviction and/or imprisonment.
10. Entire Agreement. This Agreement represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.
11. Indemnification. Contractor hereby indemnifies and holds harmless and releases and discharges the City of Milpitas, its officers, agents, employees, and volunteers from any and all liability for any injuries to persons or property suffered by any persons (including but not limited to contractor, contractor's employees or students) arising from or connected with this Agreement or Contractor's activities pursuant to this Agreement. Therefore, Contractor evaluated the inherent risks involved in operating his/her activity and has sufficient insurance coverage. \_\_\_\_\_ Contractor initials
12. Governing Law. The laws of the State of California shall govern this Agreement.
13. Compliance with Applicable Laws. Contractor shall comply with all local, state, and federal laws, rules, regulations, policies, and guidelines.
14. Termination. City may terminate this Agreement for convenience with seven (7) days written notice to Contractor.
15. Noncompliance and Equal Opportunity. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in the provision or any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

\_\_\_\_\_  
 CONTRACTOR SIGNATURE

\_\_\_\_\_  
 RECREATION SERVICES

\_\_\_\_\_  
 REPRESENTATIVE

DATE \_\_\_\_\_

DATE \_\_\_\_\_

Center Stage Performing Arts  
Season 2013-2014  
Scope of Work - Exhibit A

**Production Schedule**

\*Shows and Dates subject to change

Fall 2013 – Seussical, Jr.

**Auditions:**

Monday & Tuesday, August 26 & 27, 2013

**Call Backs:**

Wednesday, August 28, 2013

**Cast Meeting:**

Thursday, August 30, 2013

**Rehearsals:**

August 30, 2013 – November 7, 2013

**Performances:**

Friday, November 8, 2013

Saturday, November 9, 2013

Sunday, November 10, 2013

Thursday, November 14, 2013

Friday, November 15, 2013

Saturday, November 16, 2013

**School Performances:**

Tuesday & Wednesday, November 12 & 13, 2013

Winter 2013 – The Ransom of Emily Jane

**Auditions:**

Tuesday & Wednesday, November 12 & 13, 2013

**Cast Meeting:**

Thursday, November 14, 2014

**Rehearsals:**

November 14 – December 8, 2013

**Performances:**

Monday, December 9, 2013

Tuesday, December 10, 2013

Wednesday, December 11, 2013

Thursday, December 12, 2013

**School Performances:**

Tuesday & Wednesday, December 10-11, 2013

Spring 2014 – The Wiz

**Auditions:**

Monday & Tuesday, January 13 & 14, 2014

**Callbacks:**

Wednesday, January 15, 2014

**Cast Meeting:**

Thursday, January 16, 2014

**Rehearsals:**

January 16 – March 20, 2014

**Performances:**

Friday, March 21, 2014

Saturday, March 22, 2014

Sunday, March 23, 2014

Thursday, March 27, 2014

Friday, March 28, 2014

Saturday, March 29, 2014

**School Performances:**

Tuesday & Wednesday, March 25 & 26, 2014

Summer 2014 – Chicago

**Auditions:**

Monday & Tuesday, May 5 & 6, 2014

**Callbacks:**

Wednesday, May 7, 2014

**Cast Meeting:**

Thursday, May 8, 2014

**Rehearsals:**

May 8, 2014 – July 17, 2014

**Performances:**

Friday, July 18, 2014

Saturday, July 19, 2014

Sunday, July 20, 2014

Friday, July 25, 2014

Saturday, July 26, 2014

Sunday, July 27, 2014

Thursday, July 31, 2014

Friday, August 1, 2014

Saturday, August 2, 2014

**Camp Performances:**

Wednesday, July 30, 2014

Center Stage Performing Arts  
Season 2013-2014  
Scope of Work - Exhibit A

**Ticket & Concession Sales**

Ticket sales are the sole responsibility of Contractor. Ticket prices and Box Office hours and staffing are to be determined by Contractor. Ticket sales will not run through City of Milpitas Recreation offices and are therefore 100% of the proceeds will go to Contractor.

The purchasing and selling of Performance Concession Sales is the sole responsibility of Contractor. Concession prices are to be determined by Contractor. Concession sales will not run through City of Milpitas Recreation offices and are therefore 100% of the proceeds go to Contractor.

**Promotional Materials**

*Marketing*

Milpitas Recreation Services will market the Center Stage Performing Arts programs provided for the City of Milpitas through the seasonal activity guide, e-blasts, press releases, flyers, marquee and website. Anything additional, i.e., paid ads, will be at the cost of Contractor.

*Printing*

Recreation Services will continue to create and print the programs flyers, programs and tickets in the same style and quality that has historically been created. Any promotional printing above and beyond (i.e. full color, glossy print) will be the cost of and responsibility of Contractor.

Information to create flyers, programs and tickets must be reported and communicated to staff in a timely manner and will be determined by Contractor and Milpitas Recreation Marketing Coordinator.

**Facility Use**

City will provide audition, rehearsal, performance and other program space as needed.

**Donations**

The City will continue to accept donation on behalf of Contractor should donors wish to donate to the program.

**Insurance**

General liability Insurance requirements have been waived jointly by the City of Milpitas' Risk Manager and City Attorney.