

RESOLUTION NO. R-2019-16

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AN ENTERTAINMENT AND MUSIC PERFORMER AGREEMENT
FOR 2019 MAYWOOD FAMILY FEST**

(The Chi-Lites)

WHEREAS, the President and Board of Trustees of the Village of Maywood desire to retain the services of Marshall Thompson d/b/a "The Chi-Lites" (the "Artist") to provide certain entertainment and music performer services, (the "Services") which shall take place Friday, September 13, 2019, at the 2019 Maywood Fest in Veterans Park, Maywood, Illinois, in accordance with an agreement entitled "ENTERTAINMENT AND MUSIC PERFORMER AGREEMENT FOR 2019 MAYWOOD FAMILY FEST (The Chi-Lites)" (the "Agreement"), a copy of which is attached hereto as Exhibit "A" and made a part of hereof; and

WHEREAS, the Artist agrees to provide the Services at the 2019 Maywood Fest, in accordance with the attached Agreement, and has taken all necessary corporate action to approve the Agreement; and

WHEREAS, the President and Board of Trustees of the Village have appropriated in the annual budget and authorized the expenditure of General Corporate Funds to pay the Artist a "not-to-exceed" amount of Six Thousand Five Hundred and No/100 Dollars (\$6,500.00) for the Services to be delivered at the 2019 Maywood Fest, subject to the terms set forth in the Agreement; and

WHEREAS, the Village of Maywood, a home rule Illinois municipal corporation, has the authority to approve and enter into the attached Agreement and to approve the expenditure of its General Corporate Funds for the purposes set forth in the attached Agreement pursuant to its home rule powers and contracting authority provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970, the applicable provisions of the Illinois Municipal Code (65 ILCS 5/1 *et seq.*) and the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*), and finds that entering into the Agreement is in the best interests of the Village, its residents, property owners and the public.

BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, PURSUANT TO ITS HOME RULE POWERS AS PROVIDED BY ARTICLE VII, SECTION 6 OF THE ILLINOIS CONSTITUTION OF 1970:

SECTION 1: The Village President and Village Clerk of the Village of Maywood authorize and approve the execution of a document entitled, "ENTERTAINMENT AND MUSIC PERFORMER AGREEMENT FOR 2019 MAYWOOD FAMILY FEST (The Chi-Lites)" (the "Agreement"), to be entered into by and between the Village of Maywood and The Chi-Lites (the "Artist"), a copy of which is attached hereto as Exhibit "A" and made a part hereof, and the Village President and Village Clerk, or their designees, are authorized and directed to execute and deliver the attached Agreement and all other instruments, payments and documents that are necessary to fulfill the Village's obligations under the Agreement. The final version of the Agreement may contain non-substantive and non-financial modifications, provided that the modifications are approved by the Village Attorney.

SECTION 2: The President and Board of Trustees of the Village authorize the appropriation and expenditure of Village funds to pay the Artist a "not-to-exceed" amount of Six Thousand Five Hundred and No/100 Dollars (\$6,500.00) for the Services to be delivered at the 2019 Maywood Fest under the Agreement.

SECTION 3: This Resolution shall be in full force and effect from and after its adoption and approval as provided by law.

ADOPTED this 4th day of June, 2019, pursuant to a roll call vote as follows:

AYES: Mayor Perkins, Trustees I. Brandon, M. Jones, A. Sanchez, K. Wellington, M. Lightford and N. Booker

NAYS: None

ABSENT: None

APPROVED by me, and attested by the Village Clerk, on this 5th day of June, 2019.

Edwenna Perkins, Village President

ATTEST:

Viola Mims, Village Clerk

EXHIBIT "A"

**ENTERTAINMENT AND MUSIC PERFORMER AGREEMENT
FOR 2019 MAYWOOD FAMILY FEST**

(The Chi-Lites)

(attached)

**ENTERTAINMENT AND MUSIC PERFORMER AGREEMENT
FOR 2019 MAYWOOD FAMILY FEST**

(Marshall Thompson d/b/a The Chi-Lites)

This Agreement is made and entered into this ___ day of June, 2019, by and between the Village of Maywood, a home rule Illinois municipal corporation (hereinafter referred to as "Village") and Marshall Thompson d/b/a The Chi-Lites, a musical group ("Artist"). The Village and the Artist shall individually be referred to as a "Party" and collectively be referred to as the "Parties."

WITNESSETH

WHEREAS, the President and Board of Trustees of the Village of Maywood (or "Corporate Authorities") desire to retain the entertainment and music performer services of the Artist to headline and appear at the 2019 Maywood Family Fest ("Maywood Fest") in Veterans Memorial Park, Maywood, Illinois, and perform a live music show during the date(s) and time(s) set forth below, subject to the terms of this Agreement; and

WHEREAS, the Artist agrees to appear at the 2019 Maywood Family Fest and perform a live music show during the date(s) and time(s) set forth below (the "Performance"), subject to the terms of this Agreement; and

WHEREAS, the Parties have agreed that the Village will pay the Artists a "not-to-exceed" amount of Six Thousand Five Hundred and No/100 Dollars (\$6,500.00) for the Performance, subject to the terms set forth below; and

WHEREAS, the President and Board of Trustees of the Village of Maywood find that it is in the best interests of the Village and its residents to enter into this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Incorporation**. Each of the Whereas paragraphs is incorporated by reference into Section 1 of this Agreement.

2. **Services**. The Artist shall perform as a live music act for a period of **one (1.0) hour** at the 2019 Maywood Family Fest on **Friday, September 13, 2019** (the "Performance Date") in Veterans Park, Maywood, Illinois (the "Performance Site"), from ___ a.m. / p.m. to ___ a.m. / p.m. (the "Performance Hours"). This Agreement is subject to the "The Chi-Lites Engagement Contract" and the Rider, copies of which are attached hereto as **Group Exhibit "A"** and made a part hereof.

3. **Fee**. The Village agrees to pay the sum of **Six Thousand Five Hundred and No/100 Dollars (\$6,500.00)** ("Performance Fee") to the Artist for the Performance. Payment for the Performance shall be made by certified check, money order or bank draft as follows:

- a. Three Thousand Two Hundred Fifty and No/ 100 Dollars (\$3,250.00) (fifty percent (50%) of total payment) upon signing of this Agreement. By signing this Agreement, the Artist is committing to perform its/his/her live music show on the Performance Date at the Performance Site; and
- b. Three Thousand Two Hundred Fifty and No/ 100 Dollars (\$3,250.00) (fifty percent (50%) of total payment) immediately upon conclusion of the Performance.

4. Artist and Village Commitments. The Artist agrees that:
- a. All Artist and accompanying personnel must arrive at the stage at the Performance Site no later than sixty (60) minutes prior to the Performance start time.
 - b. A sound check will be conducted no later than twenty (20) minutes prior to the Performance start time.
 - c. Artist will begin the Performance at the agreed upon start time.
 - d. No breaks will be allowed.
 - e. Duration of the Performance: one (1) hour.
 - f. In the event that it becomes necessary to cancel the Performance due to inclement weather prior to the Performance Date, as determined solely by the Village, the Artist will be paid one-half (1/2) of the agreed upon Performance Fee set forth above.
 - g. In the event that it becomes necessary to cancel the Performance due to inclement weather occurring on the Performance Date or during the Performance, as determined solely by the Village, the Artist will be paid the full agreed upon Performance Fee by the Village.

5. Independent Contractor Status. It is understood that the Artist executes this Agreement as an independent contractor and is not an employee of the Village, and the Artist shall have the exclusive control over the means, method and details of fulfilling its/his/her obligations to perform a live music show under this Agreement, except as otherwise set forth herein. The Artist shall not be considered as having employee status, nor shall the Village withhold any sums for the payment of income taxes or FICA taxes. As an independent contractor, it is the responsibility of the Artist to file all necessary tax returns (federal, state, county and local) and to pay all income tax, social security, and any and all other taxes due as an independent contractor in his/her profession. As an independent contractor, the Artist agrees that he/she is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the Village, and agrees not to file any such claims in the event this Agreement is terminated or if he/she is hurt performing services under this Agreement. The Artist agrees to assume all risk of death, illness and injury relative to performing any services under this Agreement. The Artist is not a Village employee for any purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act and the Worker's Compensation Act (820 ILCS 305/1, *et seq.*). The provisions of this paragraph applies to all owners, employees and agents of the Artist as well as any entertainment / music performers associated with the Artist, its/his/her subcontractors, third-party vendors or third-party providers that the Artist engages to perform any activities or services under this Agreement for the Artist at the Maywood Fest.

6. Equipment. The Artist shall provide all of its/his/her own equipment required for the Performance and shall have sole responsibility and liability for any damage to, theft of or loss of Artist's equipment used prior to, during or after the Performance. The provisions of this paragraph applies to all owners, employees and agents of the Artist as well as any entertainment / music performers associated with the Artist, its/his/her subcontractors, third-party vendors or third-party providers that the Artist engages to perform any activities or services under this Agreement for the Artist at the Maywood Fest.

7. Assumption of Liability. The Artist assumes all liability for personal injuries of any kind or death that might occur while performing any services under this Agreement. The Artist assumes all liability and responsibility for their personal property while performing any services under this Agreement. The provisions of this paragraph applies to all owners, employees and agents of the Artist as well as any entertainment / music performers associated with the Artist, its/his/her subcontractors, third-party

vendors or third-party providers that the Artist engages to perform any activities or services under this Agreement for the Artist at the Maywood Fest.

8. Indemnification: Defense; Hold Harmless. To the fullest extent permitted by law, the Artist agrees to defend, indemnify and hold harmless the Village, its appointed and elected officials, officers, past, current and future presidents and trustees, agents, engineers, attorneys, employees and volunteers (the "Village's Affiliates") against all injuries, death, losses, damages of any kind, claims, lawsuits, liabilities, judgments, costs and expenses which may be brought or are brought against the Village and the Village's Affiliates relating to or arising out of any services performed by or other acts or omissions of the Artist or any owners, employees and agents of the Artist as well as any entertainment / music performers associated with the Artist, its/his/her subcontractors, third-party vendors or third-party providers that the Artist engages to perform any activities or services under this Agreement, except to the extent that those claims, actions, lawsuits, damages, costs, expenses and liabilities arise from the willful or wanton actions of the Village or the Village's Affiliates. The Village may choose to defend itself with its own attorneys in the event of any claim or litigation filed as a result of the acts or omissions of the Artist. The provisions of this paragraph applies to all owners, employees and agents of the Artist as well as any entertainment / music performers associated with the Artist, its/his/her subcontractors, third-party vendors or third-party providers that the Artist engages to perform any activities or services under this Agreement for the Artist at the Maywood Fest.

9. Intellectual Property Rights Infringement. The Artist agrees and represents that, in performing his/her live music show under the terms of this Agreement, he/she is not infringing on the property right, copyright, patent right, trademark or service mark right, protected image or likeness right, or any other right of any other person; and if any suit is brought or a claim made by anyone that anything in conjunction with the ownership or the presentation of said Performance or appearance is an infringement on the property right, copyright, patent right, trademark or service mark right, protected image or likeness right or other rights, Artist will indemnify the Village and the Village's Affiliates against any and all losses, damages of any kind, claims, lawsuits, liabilities, judgments, costs and expenses, including payment of defense attorney fees and any award of plaintiff attorney fees, which may be brought or are brought against the Village and the Village's Affiliates relating to or arising out of such infringement. The Artist grants to the Village the limited right to use the Artist's name, the music band's name or any photographs, pictures and video of the Performance and of the Artist in future advertising materials for subsequent Maywood Family Fests. The provisions of this paragraph applies to all owners, employees and agents of the Artist as well as any entertainment / music performers associated with the Artist, its/his/her subcontractors, third-party vendors or third-party providers that the Artist engages to perform any activities or services under this Agreement for the Artist at the Maywood Fest.

10. Cancellation. If, in the sole judgment of the Village, it becomes necessary to cancel the Performance to protect health, life or welfare of the public, the Village's property or the property of others, or facilities become unavailable or inaccessible for reason(s) of inclement weather, fire, other acts of God, public disturbance, or similar occurrences beyond the control of the Village, then the Village may do so without liability to the Artist, except as provided for in this Agreement. If the Village is forced to cancel the Performance due to actions of the Artist that put health, life or welfare of the public, the Village's property or the property of others at risk, then the Village shall not be obligated to pay any Performance Fee to the Artist for the Performance, the Artist shall be obligated to return any portion of the Performance Fee already paid and the Artist shall be liable for his/her actions to the fullest extent of the law.

11. Breach; Termination. Both Parties agree that timing, schedule and professionalism are paramount to a successful Performance. In the event that Artist is not ready to perform at the start time, or if any performing member(s) is/are not present, or if Artist arrives at the Performance Site in such a

condition as to appear to the Village or Village's agent or employee to be incapable of performing in a reasonably acceptable manner, then the Artist shall be deemed to have committed a material breach of this Agreement and the Village shall have the absolute right, in its sole discretion, to cancel the Performance or terminate the Performance in progress, and to refuse further payment of the Performance Fee, and to recover from the Artist the Performance Fee paid to date and all of its costs and expenses relating the Performance, including but not limited to any expenses incurred in the advertising, promotion, reservation and technical rentals and set-up of equipment or facilities for the Performance and any other out-of-pocket expenses incurred by the Village, including any attorneys' fees and litigation expenses incurred to enforce the terms of this Agreement, as well as the right to enforce any other remedies allowed by law.

12. Crowd Control. The Village shall have the sole responsibility for and control of all crowd-control and other security operations and activities within the Performance Site and elsewhere on Village property prior to, during and after the Performance takes place on the Village's property. The Artist shall comply with the directives of the Mayor, the Village Events Coordinator, the Village Manager, the Police Chief, any Village police officer and all of the Village's regulations, and with all federal, state and local laws, regulations and ordinances applicable to Artist's activities and obligations under this Agreement.

13. Care, Maintenance and Restoration. The Artist shall be responsible for repairing any damage to any Village real or personal property or infrastructure (e.g., grass, streets, curbs, sidewalks, signs, utilities, etc.) (the "Village Property") caused by the Artist, its owners, employees and agents, or the Production Services or any of its subcontractors, third-party vendors or third-party providers that the Artist engages to perform any activities or services for the Maywood Fest.

14. Allocation of Costs; Additional Costs. The Village shall provide or pay for only those items or services specifically indicated in this Agreement. No additional costs for items or services will be borne by the Village without its prior consent, specifically written herein or attached hereto as a rider.

15. Disputes; Negotiation; Remedies. If a dispute arises between the Parties concerning this Agreement, the Parties will first attempt to resolve the dispute by negotiation. Each Party will designate persons to negotiate on their behalf. The Party contending that a dispute exists must specifically identify in writing all issues and present it to the other Party. The Parties will meet and negotiate in an attempt to resolve the matter. If the dispute is resolved as a result of such negotiation, there must be a written determination of such resolution, and ratified by the corporate authorities of each Party, which will be binding upon the Parties. If necessary, the Parties will execute an addendum to this Agreement to confirm the dispute resolution. Each Party will bear its own costs, including attorneys' fees, incurred in all proceedings in this Section. If the Parties do not resolve the dispute through negotiation, any Party to this Agreement may pursue any other equitable or legal remedies to enforce the provisions of this Agreement. Any controversies arising between the Artist and the Village pertaining to this Agreement shall be resolved under the laws of the State of Illinois, and it is agreed by both Parties that the venue for any such dispute shall be in the Circuit Court of Cook County, Illinois. Any ambiguous language in this Agreement shall be interpreted as to its fair meaning, and not strictly for or against either Party.

16. Assignment; Authority. This Agreement is a personal contract, and the rights and interest that this Agreement accords to the Artist may not be sold, transferred, assigned, pledged, encumbered or hypothecated by them, without the Village's approval, which may be withheld in its discretion. This Agreement shall be binding upon, and inure to the benefit of, the Artist, his/her heirs, executors, administrators, representatives, successors, transferees and assigns, and the Village and its former, current and future elected and appointed officers, officials, trustees, agents, transferees, assigns and successors-in-

interest. The Parties warrant and represent that the execution, delivery of and performance under this Agreement is pursuant to authority, validly and duly conferred upon the Parties and the signatories hereto.

17. Severability. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement shall continue in effect.

18. Execution; Effective Date. This Agreement may be executed and all of the counterparts can be combined to create one original. This Agreement and any of the counterparts can be executed by the signatories and the executed signature pages can be exchanged via facsimile or email, with the originals being forwarded to the respective Parties via U.S. Mail. Thus exchanging the executed signature pages via facsimile or email is an accepted method of finalizing the approval of this Agreement. This Agreement shall be effective as of the last date executed by the Parties as shown below, which date shall be inserted on page 1 of this Agreement.

19. Exhibits. In the event of any conflict or inconsistency between the terms and provisions of this Agreement and the attached Engagement Contract or any Exhibits, this Agreement shall control and govern the rights and obligations of the Parties.

20. Entire Agreement. This Agreement embodies the entire agreement between the Parties hereto with respect to the subject matter contained herein, and supersedes any and all prior agreements and understandings, whether written or oral, and whether formal or informal. No change hereto may be effective without the written consent and authorization of the Parties hereto.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date(s) written below.

We, the undersigned, acknowledge that each of us has read the foregoing terms and that, at the time we signed below, each of us had a full and complete understanding of the purposes for which this Agreement was made, and we further state that our signatures below represent that we have voluntarily and willingly signed this Agreement fully conversant with and understanding each of its terms.

VILLAGE OF MAYWOOD

ARTIST

By: _____
Name: _____
Village President

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

Attest:

Attest:

By: _____
Name: _____
Village Clerk

By: _____
Name: _____
Notary Public

Commission Expires: _____

Group Exhibit "A"

The Chi-Lites Engagement Contract

(attached)

RIDER

ADDITIONAL TERMS AND CONDITIONS:

1. TRANSPORTATION AND LODGING

The Artist, at its own cost, shall provide its own transportation, hotel reservations and meals.

2. SECURITY

The Village agrees to provide Maywood police officers for the Artist immediately prior to, during and after the Performance.

3. TECHNICAL REQUIREMENTS to be provided by the Artist, at its own cost, or by the Maywood Fest Producer (CRSEM, LLC d/b/a Chicago Special Events Management):

- Professional sound system including voice monitoring system DJ provided
- Professional lighting system
- One (3) cordless microphones
- CD Dat Player
- Hospitality

4. PROMOTION AND ADVERTISING

The Village shall have final approval of all advertising and promotional materials relating to the 2019 Maywood Family Fest, and shall have final approval of any advertising and promotional materials that the Artist desires to display immediately prior to, during or after the Performance. Any such materials shall be removed by the Artist at the conclusion of the Performance.

5. RECORDING EQUIPMENT

The Village will take reasonable actions, including the posting of signs or removal of individuals from the Performance area, to advise persons not associated with the Artist that they are not allowed to record, videotape, reproduce, transmit or disseminate the Performance in or from the place of engagement in any manner or by any means whatsoever without specified written consent by the Artist or his manager. The Village will deny entrance into the Performance area of any person carrying audio or video recording devices. The foregoing prohibition includes members of the audience, the press and staff members.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, do certify that the attached is a true and correct copy of that certain Resolution now on file in my Office, entitled:

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF
AN ENTERTAINMENT AND MUSIC PERFORMER AGREEMENT
FOR 2019 MAYWOOD FAMILY FEST**

(The Chi-Lites)

which Resolution was passed by the Board of Trustees of the Village of Maywood at a Village Board Meeting on the 4th day of June, 2019, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 4th day of June, 2019.

I further certify that the vote on the question of the passage of said Resolution by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

AYES: Mayor Perkins, Trustees I. Brandon, M. Jones, A. Sanchez, K. Wellington,
M. Lightford and N. Booker

NAYS: None

ABSENT: None

I do further certify that the original Resolution, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 5th day of June, 2019.

Viola Mims, Village Clerk

[SEAL]