

# COMPOSITION PURCHASE AGREEMENT

This Title-Composition Purchase Agreement ("Agreement") is made and entered into on September 10, 2024 ("Effective Date") by and between the City of Rancho Cucamonga, a municipal corporation ("City") and the undersigned individuals ("Composers"). The City and Composers hereby agree to the following terms and conditions:

## 1. Parties and Purchase.

- a. Composers are engaged in the business of songwriting and music production.
- b. City is a municipal corporation within the State of California.
- c. City hereby agrees to commission from Composers the development of an original music/lyrical composition and professional production of an original song as a work made for hire, prepared in accordance with the specifications identified and described in Exhibit "A" attached hereto and incorporated by reference herein (the "Title"), together with any and intellectual property and proprietary rights related thereto including all rights to use all or portions of the Title, reproductions, and copies thereof, and Composers' waivers set forth herein.

- 2. Composer Services and Compensation.** City agrees to pay Composers as follows: (i) \$18,000.00 for the Title, plus various formats (ringtones, instrumental, etc.) together with any and intellectual property and proprietary rights related thereto, and Composers' waivers set forth herein; (ii) \$1,500.00 per Composer, per event plus travel expenses to retain Composer(s) for future, in-person performance(s). Full band option available and will be quoted at the time of request. Total compensation to be paid to Composers shall be the ALL-INCLUSIVE, NOT-TO-EXCEED AMOUNT OF \$25,000.00. Payment terms are \$4,500.00 (25%) due via wire transfer at the signing of this Agreement, \$9,000.00 (50%) via wire transfer upon delivery of the Title at the internal listening milestone per timeline, and \$4,500.00 (25%) upon delivery of all final digital format files of the Title to City's designated representatives, and acceptance by the City. Composers shall bear all risk of loss of the Title prior to City's acceptance and final payment. Agreement for additional in-person performances can be renewable to a maximum of three (3) years from the date of this Agreement.

Composers will be solely responsible for all costs and expenses of preparing the Title and its recording, including composition, arrangement, orchestration, copying and delivery of the complete Title recording, and any related costs. The fee payable under this Section 2 has been set in contemplation of Composers' sole responsibility for the foregoing expenses.

- 3. Assignment of Intellectual Property Interests.** Composers agree that the Title has been specially ordered or commissioned by City and accordingly the Title will be a "work made for hire" (as defined in the Copyright Act of 1976); and that City will be considered the author of the Title for all purposes (except that Composers will receive credit for the Title as required by law), and City will be the owner of all of the rights comprised in the undivided copyright (and all renewals and extensions thereof) in and to the Title and of any and all other rights in the Title, including patents and trademarks. Without limiting the generality of the foregoing, Composers expressly acknowledge and agree that City will be and remain the sole owner of all rights of every kind and character whatsoever throughout the universe, whether or not those rights are now existing or come into existence hereafter, and whether or not the rights are now known, recognized, or contemplated. Composers are, however, entitled to performance royalties to the extent the music is played publicly.

In the event that the Title is not deemed a work made for hire by a court, then this Composition Agreement shall be construed such that Composers shall be deemed to grant and assign to City licensing rights of the Title, including the right to broadcast the composition in any arena they deem appropriate. Artists, as a matter of course, retain all publishing rights, as well as commercial distribution rights to the composition, with the understanding that any and all releases will be of a good faith, mutually beneficial nature to both parties.

Without limiting the foregoing, by virtue of its ownership of the Title, City will have the exclusive right throughout the universe and in perpetuity, in City's sole discretion: to use and exploit any and all of the rights in the Title; to change, edit, or transpose the Title, or to add or take away lyrics, or to add additional music; to publicly perform the Title, and to advertise and publicize the Title. Any and all third-party additions requiring adjustments to the writer/publisher splits will be mutually agreed upon and negotiated in good faith prior to any public/commercial release of the edited song.

- 4. Composer's Warranty and Indemnity.** Composers warrant and represents that: (i) the Title is original, one of a kind, and is solely the product of Composers' own creative efforts; (ii) neither the Title nor City's ownership, use or display, infringes, or will infringe, any patent, copyright, trademark, trade name, or other intellectual property or proprietary right of any person or entity; (iii) until accepted by the City, Composers are the sole creators of the Title including any and all intellectual property and proprietary rights related thereto; (iv) Composers have not entered into any agreement with any third party that would affect or restrict Composers' ability to enter into this Agreement or to convey sole ownership of the Title and all intellectual property and proprietary rights to the City; (v) the Title shall be delivered to City free and clear of any lien, encumbrance, or claim of ownership by any third party; and, (vi) Composers are fully authorized under all state, federal, and international laws, statutes and regulations, to enter this Agreement and to forever convey complete ownership of the Title to the City, including any and all intellectual property and proprietary rights related thereto.

To the fullest extent permitted by law, Composers shall indemnify, defend and hold the City, its elected officials, officers employees, agents, and volunteers ("Indemnitees") harmless from and against any and all costs, claims, liens, losses, liabilities, and expenses of any kind (including, but not limited to, reasonable attorneys' fees) arising out of or related to (i) any breach by Composers of this Agreement; (ii) the acts, omissions or willful misconduct of Composers or Composers' contractors or agents in the performance of this Agreement, including transportation, delivery, and/or installation or any other services; and (iii) any and all claims, suits, actions, or proceedings alleging that City's use, possession, reproduction, sale, or display of the Title or any image of the Title infringes any copyright, patent, or other intellectual property or proprietary right under any state, federal, or international law, statute, or regulation.

- 5. Delivery.** The Composers will provide digital transfer of all related format files of Title to designated city representative. The Composer shall orchestrate, arrange, assume the responsibility for, and bear all costs associated with, all required transfer and delivery of digital files. The Composers are anticipated to deliver the Title to the City before January 16, 2025.
- 6. Inspection.** At the time of delivery, the City will confirm all files have transferred properly and undamaged. Composers shall provide assistance if digital transfer is unable to occur at no cost to the City.
- 7. Insurance; Risk of Loss.** All risk of loss, injury, damage, theft, and/or destruction of the Title will be borne by Composers until acceptance and final payment by the City. Composers waive all rights of subrogation against the City, its elected officials, officers, employees, and agents.
- 8. License to Use Title.** Upon City's acceptance of the Title and all related rights conveyed herein, Composers, as a matter of course, retain all publishing rights, as well as commercial distribution rights to the composition, with the understanding that any and all releases will be of a good faith, mutually beneficial nature to both parties without further agreement or compensation to City.
- 9. Publicity.** Composer forever grants the City all rights to use and/or publish without compensation Composers' name, likeness, and biographical information, for purposes of promoting, advertising, and/or attributing creation of the Title. In connection with Composers' grant of the foregoing rights, and to the fullest extent permitted by law, Composers waive and releases, in advance, the City, its elected officials, officers, employees, and agents, from any and all claims, liabilities, damages, and/or losses of any kind.

- 10. Binding on Successors.** This Agreement is binding upon Composers' heirs, successors, licensees, agents and assigns.
- 11. Governing Law and Venue.** This Agreement is governed by the laws of the State of California. Venue for any legal action arising out of this Agreement shall be the Superior Court of the County of San Bernardino or the U.S. District Court, Central District, State of California, without regard for conflicts of law principles.
- 12. Conflicts.** in the event of any conflict between this Agreement and the attached Exhibit(s), the terms of this Agreement shall control.
- 13. Entire Agreement; Modification.** This Agreement represents the entire and integrated agreement between City and Composers, and replaces and supersedes all other negotiations, understandings, promises, and agreements, whether oral or written. No promise or representation not expressly set forth herein shall be binding or have any force or effect. This Agreement may only be modified in writing signed by the City's authorized representative and Composers.

**NOW, WHEREFORE, this Agreement is entered as of the Effective Date set forth above.**

Composer

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(date)

Composer

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(date)

City

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(date)

## **EXHIBIT A**

### **Scope of Work and Title Timeline**

#### **Creative Writing and Professional Production of an Original Custom Song**

The Custom Song creative process begins with an on-line Zoom consultation with a designated City Project Team. This will consist of a Q&A wherein we look at the subject at hand through the creative lens in search of a inspiring jumping off point with everyone weighing in on which musical direction might be best to head. From there, Tony and Keaton get to work on the actual writing and recording of the Custom Song itself. A series of check-ins can be scheduled as we continue to discuss the style, direction and scope of the composition. Once a completion date is set for the final recording, a second Zoom call is set up with the City Project Team, to serve as an internal reveal/listening party. Generally, this is when music files are exchanged and the City takes delivery of their original work.

As well, it has been discussed that Tony and Keaton agree to publicly attaching themselves to the Custom Song as part of a promotional campaign through the use of their respective social media platforms. This is also included in the fee currently being discussed. However, any and all public appearances, performances and in-person press requirements will entail additional compensation. (i.e. performance fees, travel and accommodation stipends, per diems, etc.)

Custom song: \$18,000 (does not include in-person performances)

Including instrumental, ringtone & other formats identified

Custom song project will be invoiced at the following milestones:

Upon Acceptance of Agreement	25%
Upon Conclusion of Song Listening Reveal	50%
Upon Delivery of all Music files/formats	25%

Solo Acoustic in-person performance rates: \$1,500/each performer, per show plus travel & accommodations

In-Person Performances will be Invoiced for Payment to be received at Performance (TBD)

Full Band rates: Dependent on size and scope of performance (# of musicians, backline needs, etc.); can be quoted on an as needed basis.

## **TIMELINE**

<b>PROJECT TIMELINE</b>	
August / September	On-line Zoom Creative meeting w/Lucca & Simons

Aug - Oct 2024	Creative Process
Throughout process	Capture videos/pictures of creative process for video of creation / potential music video
TBD	Series of Check-Ins (as needed)
October / November	Identification of any In-Person Performances desired
October / November	Completion Date Identified
Fall/Winter	Recording / Professional Production of Song
Fall/Winter	Zoom "Reveal/Listening Party" Date Identified
January 2025	Digital File Transfers of Final Composition
2025 State of the City April/May	Launch Song