



## **WEBER COUNTY FAIR** **AGREEMENT FOR EMPLOYMENT OF** **INDEPENDENT CONTRACTOR**

Contracted By: The Birdman  
Event: Weber County Fair  
Contact Person: Joe Krathwohl  
Address: PO Box 97136  
Las Vegas, NV 89193  
Phone: (702) 896-4274  
Email: [birdmanlv@aol.com](mailto:birdmanlv@aol.com)  
Event Dates: August 10 – 13, 2022

1. This agreement, made January 5, 2022, made between WEBER COUNTY CORP, hereinafter referred to as COUNTY and **THE BIRDMAN**, hereinafter referred to as CONTRACTOR.
2. This agreement covers the term of the Weber County Fair on the above dates.
3. Duties and Obligations of the COUNTY:
  - A. Pay CONTRACTOR \$6,600 for up to (3) shows per day, (4) on Saturday's. Payable on the last day of the fair.
  - B. Provide a stage area of at least 70' wide x 40' deep that is fairly flat and preferably either lawn or concrete where no water collects and stands.
  - C. (1) 50-amp RV 4-prong outlet and (1) 30-amp RV plugs with a 110v 20-amp outlet plug located within 25' of center of stage where the RVs will be parked.
  - D. A drinkable water source with a garden hose spigot available within 50' of stage.
  - E. An open area that is flat and visually unobstructed for the flying of birds during shows, and not near any adult carnival rides, moving structures, inflatables, overhead lines, in-operation engines or generators, live electrical support equipment (generators, transformers, etc), other simultaneous live sound systems or concurrently performing stages, portable restrooms, or other animal shows and displays unless pre-approved by the CONTRACTOR.
  - F. Provide up to (3) daily entrance passes for staff.
  - G. Allowance for the show to have a bird collect conservation donations or tips as a show closer.
  - H. All revenue from photographs with the birds and bird related merchandise will be retained by CONTRACTOR.
  - I. Understanding that per humane association guidelines, the performing birds shall not perform for longer than a 8 hour period each day (from start of first show to conclusion of final show) and they shall have at least 14 hours of rest time between shifts for their health and safety. This does not include media appearances or other special arrangements made at least 72 hours in advance.
  - J. The final show of the day shall commence at least 75 minutes prior to sunset to avoid mosquitoes and allow enough daylight to recover a stray bird. This does not apply to night shows, if requested in advance, which presents mostly non-flighted routines.
  - K. Shall not itself nor shall it knowingly permit others to record, broadcast, televise, professionally photograph, or otherwise reproduce the full visual and/or audio performance hereunder, or any part thereof without permission of CONTRACTOR (TV and print media are allowed provided it is a promotional segment for the parties and not a broadcast of the performance).
4. Duties and Obligations of CONTRACTOR:
  - A. All travel and any hotel accommodations.
  - B. Sound system, music, and microphones.
  - C. All necessary animals, animal housing, animal support, and show props.
  - D. Supply available advertising material as needed by the COUNTY.
  - E. Any necessary state or local wildlife permits as required by law for the performance of this show shall be the responsibility of CONTRACTOR.
  - F. Performances of about 30 minutes in length, which consist of various bird species performing stunts such as talking and free flying. However, due to circumstances beyond the CONTRACTOR's control, particular specific birds or species cannot be guaranteed. The CONTRACTOR reserves the right to change the specific birds or routines used in any show or display without advance notice. All wildlife is subject to all state, federal and local laws, which can change without warning. Whenever there must be a substitution, and as much as possible within the control of the CONTRACTOR, the replacement bird or routine shall be as impacting as the original bird would have been.
5. CONTRACTOR agrees to abide by the rules and regulations of the FAIR, including all federal, state, and local laws. If CONTRACTOR violates any terms of this agreement, either before or during the event, FAIR may terminate this agreement, not allow the performance, pro-rate, or make no payment. CONTRACTOR acknowledges that CONTRACTOR has received a copy of the rules and regulations governing use of the GOLDEN SPIKE EVENT CENTER and agrees that all employees, staff, volunteers, or any individual involved with the promotion or production of CONTRACTOR's event will be made aware of the rules and regulations and agrees in their behalf to abide by such rules and regulations.

**INITIAL:** JK

6. In the event the CONTRACTOR defaults on its obligations to the COUNTY under this agreement, CONTRACTOR agrees to assume liability for any claim, injury, damages, losses and costs, whether direct, indirect, or consequential, arising out or resulting from such default. Furthermore, in the event of any breach of this agreement, the party at fault shall pay all costs of enforcing the provisions of this agreement, including costs and attorney's fees. CONTRACTOR shall also indemnify and hold harmless the COUNTY and its agents and employees from and against any and all claims arising out of or resulting from CONTRACTOR'S negligent or intentional acts or omissions related to this agreement. CONTRACTOR'S negligent or intentional acts or omissions shall also include negligent or intentional acts or omissions by any subcontractor, any person or organization directly or indirectly employed by CONTRACTOR or any subcontractor, or anyone for whose acts any of them may be liable. CONTRACTOR'S obligation to indemnify the COUNTY is not limited or waived in any way by compliance or non-compliance with the insurance requirements of this agreement. CONTRACTOR will be required to indemnify the COUNTY to the fullest extent allowed by law, regardless of whether CONTRACTOR has sufficient insurance to cover this obligation.
7. For the duration of this agreement, CONTRACTOR shall maintain at its own expense, and provide proof of said insurance (at least two weeks prior to event) to the COUNTY, the following types of insurance:
  - A. CONTRACTOR shall provide Commercial General Liability ("CGL") insurance with contractual liability coverage to cover its obligations under the indemnification section of this agreement in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate. The policy shall be primary and noncontributory to any other policy(ies) or coverage available to COUNTY, whether such coverage be primary, contributing, or excess. If CONTRACTOR'S CGL coverage is provided on a claims-made basis, CONTRACTOR shall maintain such policy for no less than four years after termination of this agreement.
  - B. If CONTRACTOR will sell any product to any party other than COUNTY in the performance of this agreement, CONTRACTOR shall secure products liability insurance with contractual liability coverage to cover its obligations under the indemnification section of this in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate. The policy shall be primary and noncontributory to any other policy(ies) or coverage available to COUNTY, whether such coverage be primary, contributing, or excess. If CONTRACTOR'S product liability coverage is provided on a claims-made basis, CONTRACTOR shall maintain such policy for no less than four years after termination of this agreement.
8. Any CONTRACTOR selling items may need to acquire a temporary business license from Ogden City. No selling of any products will be allowed without prior approval from FAIR and then only during performance or within 30 minutes following the performance. Collection and/or remittance of any applicable taxes and licenses are the sole responsibility of the CONTRACTOR.

Approved by FAIR for selling      Yes   X                        No     

9. CONTRACTOR agrees to respect the facilities provided by the COUNTY and further agrees to assume direct responsibility for any cost of repair or replacement of any facility damaged by the negligence of the CONTRACTOR.
10. The COUNTY reserves the right to take temporary possession and control or evacuate the premises at any time inclusive of CONTRACTORS activity in the premises where it is deemed necessary for the safety of the general public or any person.
  - A. If conditions arise which affect the show conditions, the CONTRACTOR will do their best to be flexible and re-write the show to work around such hazards. If inclement weather conditions prevail (such as rain, standing water on stage, snow, high winds, temperatures below 45 degrees, natural disaster, strike, etc.), CONTRACTOR will attempt to delay the performance to work around the issue. Due to the fact that birds are frail, the routines will be altered for the safety of the birds, CONTRACTOR, and audiences. Since some equipment is electrical, amplified, and could create a hazard to the lives of the CONTRACTOR and stage persons, standing water in stage areas must be removed prior to performances in post-rain or flood conditions. Should such inclement weather conditions arise during a performance, making it impossible to continue that show, or should weather pre-empt any shows, CONTRACTOR shall nevertheless be paid the full contract price for their expenses, time, and effort.
11. In the performance of this agreement, the CONTRACTOR shall at all times operate as an independent contractor and not as an employee of the COUNTY. All persons employed by the CONTRACTOR in the performance of services hereunder shall be under the sole and exclusive direction and control of CONTRACTOR and for no purpose shall they be considered the employees of the COUNTY. CONTRACTOR shall be responsible for and shall promptly pay all federal, state, and municipal taxes chargeable or assessed with respect to CONTRACTOR'S employees, including, not by way of limitation, social security, unemployment, federal and state withholding, and other taxes.
12. WORKER'S COMPENSATION (Please initial the one applicable to your event):

     A. CONTRACTORS WITH EMPLOYEES AND/OR SUB-CONTRACTORS: CONTRACTOR agrees to secure and maintain for the entire term of this agreement worker's compensation insurance for any employee or contractor working to produce this event (Utah Code Ann. § 34A-2-201) and provide the COUNTY with a certificate of that insurance coverage at least two weeks prior to the event. In addition, a contractor coming from outside of Utah shall obtain and provide an extraterritorial certificate and/or Utah endorsement from an authorized officer of the industrial commission or other department of the other state that certifies the contractor is insured in the other state and that any employee or subcontractor will be covered while working in Utah. Utah Code Ann. § 34A-2-406.

**JK B. CONTRACTORS WITHOUT EMPLOYEES AND/OR SUB-CONTRACTORS:** CONTRACTOR certifies that it is a sole proprietor or business entity without any employees or sub-contractors, and is therefore not subject to worker's compensation insurance requirements. CONTRACTOR shall include a copy of its workers compensation coverage waiver from the Utah Labor Commission as part of this contract. Waiver applications are available at <https://webaccess.laborcommission.utah.gov/wccoveragewaivers/>. In any event, CONTRACTOR agrees to indemnify and hold harmless the COUNTY from and against any and all workers compensation claims.

13. The rights and obligations of CONTRACTOR hereunder shall not be assigned to a third party without prior consent in writing from the COUNTY. Otherwise, this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.
14. Due to the importance and community nature of the event, we require excellence of any CONTRACTOR. Sensitivity, proficiency, and good taste are among the requirements for excellence. Cleanliness will be required as a COVID-19 hygiene precaution. The COUNTY reserves the right to work with any CONTRACTOR failing to meet these requirements in order to correct the situation and, failing correction, to cancel any performance or future performance, pro-rate, or make no payment.
15. The COUNTY will not be liable for damages due to delay or failure to perform any obligation under this agreement if such delay or failure resulting directly or indirectly from circumstances beyond the control of such party. Such circumstances shall include, but not be limited to, strikes, disturbances, riots, fire, water damage, flood, severe weather, governmental action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the reasonable control of the party from whom the affected performance was due.
16. This agreement shall be governed by and interpreted under the laws of the State of Utah. All disputes or litigation arising from, or in connection with, this agreement shall be heard in the courts of the State of Utah, with venue in WEBER COUNTY.
17. This agreement contains the entire understanding of the parties and no oral or other representations not contained herein shall be binding on the parties.
18. The invalidity of any portion of this agreement shall not be deemed to affect the validity of any other provision, and the remainder of the agreement will remain in full force and effect, unless the invalidation of the term materially alters this agreement. If the invalidation of the term materially alters the agreement, then the parties shall negotiate in good faith to modify the agreement to match, as closely as possible, the original intent of the parties.
19. By signing, I agree that I have read and understand all information contained in this agreement.

WEBER COUNTY FAIR

CONTRACTOR

  
ASHTON WILSON  
Manager of Events, GSEC  
Date 1/13/22

  
JOE KRATHWOHL  
The Birdman  
Date 1-13-2022

WEBER COUNTY, a body, corporate and politic.

\_\_\_\_\_  
WEBER COUNTY COMMISSION      Date \_\_\_\_\_

Attest: \_\_\_\_\_ Date \_\_\_\_\_  
RICKY HATCH  
CPA, Weber County Clerk/Auditor

