# SESAC PERFORMANCE LICENSE for MUNICIPALITIES

Agreement made in New York by an with offices at 55 Music Square East	d between SESAC LLC ("SESAC"), a Delaware limite , Nashville, TN 37203 and	ed liability company,
(Legal Name of Enlity) Reldur		_("LICENSEE")
(Billing Address) SHS (City, State, ZIP) Polation,		
	eax(559)(237-7253 E-mail: <u>Savahoveid</u>	<u>D veedlug</u> (a. go
SESAC and LICENSEE hereby mut	ually agree as follows:	
non-exclusive right and license to pu	s of <u>April 01, 2013</u> (the "Effective Date") SESAC granulicly perform live or recorded non-dramatic rendition so to which SESAC controls and/or is empowered to licensection with the following:	s of the musical
Name City of Reedley Location Reedley, CA	(the "Municipality")	
which are used as governmental offi LICENSEE's sole control and attend	nclude those locations owned, operated, and/or lease ces or for related purposes; those locations at which e led by LICENSEE's employees, their families, social a public; and those areas owned, operated, and/or lease ontrol.	events are held under acquaintances,

- 2. LIMITATIONS OF RIGHTS: The Rights granted pursuant to Paragraph 1 above shall specifically exclude:
- A. the right to perform, broadcast, televise or otherwise transmit the Compositions to any location (unless and to the extent otherwise expressly permitted in Schedule "A");
- B. the right to grant the Rights to any third party;
- C. "Grand Rights" in and to the Compositions ("Grand Rights" include, but are not limited to, the right to perform in whole or in part, dramatico-musical and dramatic works in a dramatic setting);
- D. performances of the Compositions (i) which are part of a background music service originating from any location including the Municipality, for which SESAC performance license fees are otherwise paid, regardless of the means by which such performances are transmitted on or to the Municipality, and/or (ii) by coin-operated phonorecord players ("jukeboxes"), as defined in 17 U.S.C. § 116.

# 5. MISCELLANEOUS:

- A. In the event LICENSEE fails to pay the License Fee when due or is otherwise in default of any other provision of this Agreement, then SESAC shall have the right to terminate this Agreement in addition to pursuing any and all other rights and/or remedies available if LICENSEE has not cured such breach within thirty (30) days following SESAC's written notice of such default.
- B. SESAC shall have the right to withdraw from the scope of this License, upon written notice, the right to perform any musical composition licensed hereunder as to which any action has been threatened, instituted, or a claim made that SESAC does not have the right to license the performance rights in such composition.
- C. This Agreement shall be binding upon and inure to the benefit of SESAC's and LICENSEE's legal representatives, successors, and assigns, but no assignment shall relieve SESAC or LICENSEE of their obligation under this Agreement.
- D. This Agreement supersedes and cancels all prior negotiations and understandings between SESAC and LICENSEE in connection with the Municipality. No modification of this Agreement shall be valid or binding unless in writing and executed by SESAC and LICENSEE. If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Agreement shall remain in full force and effect. No waiver of any breach of this Agreement shall be deemed a waiver of any preceding, continuing or succeeding breach of the same, or any other provision of this Agreement.

IN WITNESS THEREOF, the parties have caused this	Agreement to be duly signed as of  Please insert today's date.
BY: (please sign here)	SESAC LLC BY:
(Type or print name)	-
TITLE: <u>City Manager</u>	TITLE:
Please mail signed license to:	SESAC 55 Music Square East Nashville, TN 37203

City of Reedley

Account No: 63-04-01326 / MD 1.D. No: 386129

V0208AM

## Schedule "A" MUNICIPALITY - 2013

I. <u>Municipality</u>. "Municipality," as used in the SESAC Performance License effective <u>April 01, 2013</u> (the "Agreement") to which this Schedule "A" is attached, shall be defined as the following Municipality:

Name Location City of Reedley

Reedley, CA

(the "Municipality")

# II. Fee Schedule/License Fee.

A. The annual License Fee shall be based upon the "Population" of the Municipality as noted below:

<u>"Popu</u>	lation"	License Fee for calendar year 2013
25,000 c	or less	\$ 327
25,001	- 50,000	\$ 652
50,001	- 100,000	\$ 1,062
100,001	- 150,000	\$ 1,549
150,001	- 250,000	\$2,117
250,001	- 500,000	\$2,769
500,001	And over	\$3,504 + \$327 for each additional 100,000 population

Population: 24,000

This license will authorize audio and/or audio/visual musical performances (radio, records, tapes, compact discs, videocassettes, laser discs, television, and similar media), and five musical performances. This license will also authorize performances via music on hold systems operated by LICENSEE.

- B. As used herein, "Population" shall mean the total population of the Municipality as of the most recent United States Census.
- C. LICENSEE shall pay the License Fee to SESAC upon execution of this Agreement, with license fees due and payable in advance. The initial License Fee payment shall be a pro-rated amount calculated using the then current License Fee rate(s) from the Effective Date through the end of the current billing period. Subsequent payments shall be made annually in one (1) payment on or before the first day of January, for the billing period of January 1 through December 31 of each calendar year of the Term.
- D. Upon execution of this Agreement, LICENSEE shall provide SESAC with a report detailing the Population as of the Effective Date. Thereafter, on or before October 1 of each calendar year, in the event that a change in the Population results in a change in fee category, LICENSEE shall submit an updated report of the Population. License fees will be adjusted effective the following January 1. SESAC retains the right to obtain these figures through United States Census Data and make appropriate adjustments to the license fee.
- E. Notwithstanding anything to the contrary contained in this Agreement, upon written notice to LICENSEE, SESAC shall have the right to adjust the rates set forth in the Fee Schedule. In the event that LICENSEE's License Fee increases as a result of such adjustment to the Fee Schedule, LICENSEE shall have the right to terminate this Agreement as of the date such increase is to take effect. LICENSEE must give SESAC written notice of such termination by certified mail, return receipt requested, not later than thirty (30) days after written notice of such increase is sent to LICENSEE by certified mail. This paragraph shall not apply to paragraph 4.D of the Agreement.
- III. This Schedule is incorporated and made part of the Agreement. Unless otherwise indicated, all capitalized terms in this Schedule "A" shall have the same meaning as set forth in the Agreement.

Please do not detach, must accompany license Please mail completed license to: SESAC, 55 Music Sq. E., Nashville, TN 37203

City of Reedley / 63-04-01326 / MD ID# 386129

V1207AM



Nicole R. Zieba City Manager

DATE:

TITLE:

SUBMITTED:

APPROVED:

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CA				,		Consent Regular Worksho Closed S Public H	ltem p Session
					ITEN	/I NO:	
05/14/2013	3						
	FOR MUNICIP PERFORM	CITY MANAGER ALITIES WHICH COPYRIGHTED			Y OF I		
Sarah Reio Community	d y Services Sup	erintendent					
Joel Glick Community	Services Direc	tor					
Nicole R. Zi	ieba						

# RECOMMENDATION

To authorize City Manager to sign the SESAC Performance License for Municipalities which allows the City of Reedley to play and/or perform copyrighted music for the artists SESAC represents.

### **EXECUTIVE SUMMARY**

This agreement will allow the City the non-exclusive right and license to publicly perform live or recorded non-dramatic renditions of the musical compositions for the artists, writers and performers that SESAC represents.

# BACKGROUND

For the past couple of years, the City has paid an annual fee to two music license agencies - ASCAP and BMI. Each agency covers different artists, writers and performers. Recently the City was contacted by SESAC to contract for their clients. Because there is not an agency that covers all music, the City must contract with all three agencies.

Staff made contact with surrounding cities to investigate how they are handling the matter with music licensing. It was a consensus that cities are purchasing all three because of the diversity of artists that are covered by each agency. These licenses will cover the City for any festivals, parades, concerts, community recreational centers and numerous other community activities that have music attached to them. Each agency has determined a flat rate based on population of the municipality.

## FISCAL IMPACT

The annual fee of \$327 will be paid out of the General Fund, Enrichment License Agreements.

## **ATTACHMENTS**

SESAC Performance License for Municipalities

Motion:	
Second:_	