

CITY OF BERKELEY POLICE DEPARTMENT SERVICE AGREEMENT

This agreement for services (“Agreement”) is by and between the City of Berkeley, a chartered California municipal corporation (“City”) and _____ (“Organization”). The City and the Organization may be referred to herein individually as a “Party”, or collectively as the “Parties”.

The Parties agree to the following terms and conditions:

1. DATES: Unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on _____ and terminate on _____.
2. SERVICES; CONDITIONS; CITY EMPLOYEES: In exchange for the compensation from the Organization, as described in this Agreement, the City’s Police Department Peace Officer Personnel (“Personnel”) shall provide security services, crowd control, and/or traffic control (collectively, “Services”) as may be separately requested by the Organization and agreed upon by the City. In performing such Services, the Personnel shall be utilized only in their capacity as Peace Officers, as defined by California Government Code Section 50920 and Penal Code Sections 830 and 830.1.

The Personnel shall, at all times, be subject to the exclusive direction, supervision, and control of the City. The Personnel shall remain employees of the City when performing Services under this Agreement, and shall not be deemed employees of the Organization.

Services shall be provided only upon written request by the Organization via the completion of an Application for Extra Duty Services, attached hereto as Exhibit A. Any request shall include the date and time-period for which Services are required, the number of Personnel anticipated, and a description of the Services. The City may reject any request for any reason in its sole discretion.

The City’s ability to perform such Services is subject to the availability of its Personnel, as such availability may be determined by the City in its sole discretion. It is understood and agreed that the City assumes no liability for its rejection of any request for Services or its inability to provide Personnel for Services on any particular date and/or time.

3. BILLING: The Organization will be billed by the City for Services rendered by the Personnel at the overtime rate of the individual Personnel who provide the Services plus indirect costs of 10% of the hourly rate. The specific hourly rate for the individual Personnel shall be determined by the City and shall include a three-hour minimum charge per individual Personnel. Billing for Services shall begin from the time the officer leaves the police station to travel to the off-site work area and will continue until the officer has returned from the off-site work area to the police station.
4. INDEMNITY/HOLD HARMLESS: To the maximum extent permitted by law, and excluding the gross negligence or willful misconduct by the Personnel while providing the Services, the Organization shall defend, indemnify, and hold harmless, the City (including any City employee, officer, or agent), from any claim, injury, loss, or damage,

including all costs and reasonable attorney's fees, in any way arising from the Services provided under this Agreement.

5. **LIABILITY INSURANCE/ADDITIONAL INSUREDS:** The Organization shall provide and maintain certificates of insurance for a Commercial General Liability and Automotive Liability insurance policy (in a form acceptable to the City Attorney's Office), which carries general policy coverage limits of at least one million dollars (\$1,000,000).

The Organization shall also provide an endorsement to such insurance policy providing coverage at least as broad as Insurance Services Office Endorsement CG 2010, 1985 Edition, which names the City of Berkeley and its employees, officers, and agents as additional insureds under said policy. Such insurance shall be primary and non-contributing, and shall include a waiver of any right of subrogation against the City. The Additional Insureds endorsement must include the following, or very similar, language: The City of Berkeley and its employees, officers, and agents are hereby added as additional insureds with respect to liability arising out of the paid services the City provides to the Organization under the terms of the Berkeley Police Department Service Agreement.

6. **WORKER'S COMPENSATION CLAIMS**

An employee's worker's compensation claim for an injury sustained while performing Services under this Agreement shall be primarily covered by the City's Workers' Compensation Insurance Plan.

7. **BINDING and NON-DELEGATION:** The City and Organization bind themselves to the terms and conditions of this Agreement, and except as otherwise set forth in this Agreement, no interest in this Agreement or any of the Services provided for in a request under this Agreement shall be assigned, delegated, or transferred, either voluntarily or by operation of law, without the prior written approval of the Parties.

8. **NOTICES:** All notices prescribed by this Agreement shall be in writing and shall be deemed effective once delivered and properly received by:

To City: Chief of Police
Berkeley Police Department
2100 Martin Luther King, Jr., Way
Berkeley, CA 94704

To Organization: _____

9. **GOVERNING LAW:** This Agreement shall be governed and construed in accordance with City of Berkeley Municipal Code and the laws and regulations of the State of California.

10. AMENDMENTS: The City or Organization may, from time to time, request changes in the terms and conditions of this Agreement. Such changes, which are mutually agreed upon in writing by the City and Organization shall be incorporated in amendments to this Agreement.
11. COUNTERPARTS: This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile or scanned email attachment, shall be sufficient to bind the Parties.
12. OTHER AGREEMENTS: This Agreement shall not supersede, amend, or otherwise alter any other contract, memorandum of understanding, or any other written agreement between the Parties.
13. UNDERSTANDING/AUTHORITY TO SIGN: The Parties hereby certify that they have read the above terms and conditions, and agree to conform to them and all laws and regulations pertaining to the use of City Personnel for the purposes as set forth in this Agreement. The signatories below warrant and represent they have the authority to bind the Party to the terms of this Agreement.

CITY OF BERKELEY

Dated: _____

Office of the City Manager
 City of Berkeley
 2180 Milvia Street, 5th Floor
 Berkeley, CA 94704

ORGANIZATION NAME: _____

Dated: _____

By: _____
 (Signature of Person authorized to bind the Organization)

Name: _____

Title: _____

Address: _____

Email Address: _____

Telephone: () _____

Fax: () _____