

Agreement # \_\_\_\_\_



**AGREEMENT TO PROVIDE SERVICES**

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and the Santa Maria Fairpark-37<sup>th</sup> District Agricultural Association (hereafter CUSTOMER) wherein COUNTY agrees to provide and the CUSTOMER agrees to accept the services specified herein.

**WHEREAS**, there are within the boundaries of the County of Santa Barbara certain events which attract such large numbers of persons and vehicles that additional assistance from outside law enforcement agencies, including the Santa Barbara Sheriff's Office, is required in order to provide adequate law enforcement services; and,

**WHEREAS**, the CUSTOMER has requested the COUNTY, through its Sheriff's Office, to assist in the provision of necessary law enforcement services pursuant to a contractual agreement; and,

**WHEREAS**, the COUNTY, through its' Sheriff's Office, has expressed willingness to provide law enforcement assistance on a cost reimbursement basis pursuant to contractual agreement; and

**WHEREAS**, pursuant to Government Code 53069.8, "the Board of Supervisors...contract on behalf of the Sheriff... to provide supplemental law enforcement services to public entities to preserve the peace at special events or occurrences that happen on an occasional basis;"

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**1. DESIGNATED REPRESENTATIVE.** Sheriff Bill Brown or his designee (Contract Services Bureau) at phone number (805) 681-4290 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Autumn Acquistapace, Chief Executive Officer, Santa Maria Fairpark-37<sup>th</sup> District Agricultural Association at phone number 805-925-8824 and address of 937 South Thornburg Street, Santa Maria, CA 93458 is the designated representative of the CUSTOMER and will administer this agreement on behalf of the CUSTOMER. Changes in designated representatives shall be made only after advance written notice to the other party.

**2. NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Contract Services Bureau, Santa Barbara County Sheriff Office, 4434 Calle Real, Santa Barbara, California 93110

To CUSTOMER: Autumn Acquistapace, Chief Executive Officer, Santa Maria Fairpark-37<sup>th</sup> District Agricultural Association, 937 South Thornburg Street, Santa Maria CA 93458

Or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** COUNTY agrees to provide services to the CUSTOMER in accordance with Exhibit A attached hereto and incorporated herein by reference.

4. **TERM.** COUNTY shall commence on August 1, 2021 and complete services on June 30, 2023, unless earlier terminated. Should the CUSTOMER choose to extend the coverage, the CUSTOMER will be charged for the actual additional cost incurred by COUNTY.

5. **COMPENSATION OF COUNTY.** COUNTY shall be paid for performance under this Agreement in accordance with the terms of Exhibit B attached hereto and incorporated herein by reference.

6. **STANDARD OF PERFORMANCE.** COUNTY represents that it has the skills and expertise necessary to perform the services required under this Agreement. Accordingly, COUNTY shall perform services in the manner and according to the standards observed by a competent practitioner of the same profession.

7. **OWNERSHIP OF EQUIPMENT.** COUNTY shall be the owner of all items incidental to the performance of this Agreement. No transfer of ownership of equipment from COUNTY to the CUSTOMER shall occur as a result of this contract.

8. **INDEMNIFICATION AND INSURANCE.** The CUSTOMER shall agree to defend indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of Exhibit C, attached hereto and incorporated herein by reference.

9. **INDEPENDENT CONTRACTOR.** It is expressly understood between the parties to this contract that no employer/employee relationship is intended; the relationship of COUNTY to CUSTOMER being that of an independent contractor and CUSTOMER to COUNTY retain sole and independent liability for the actions of the employees of each.

10. **NONDISCRIMINATION.** COUNTY hereby notifies the CUSTOMER that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and the CUSTOMER agrees to comply with said ordinance.

11. **NONEXCLUSIVE AGREEMENT.** The CUSTOMER understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others to provide the same or similar services.

12. **ASSIGNMENT.** The CUSTOMER shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

13. **TERMINATION.**

A. By COUNTY. COUNTY may, by written notice to CUSTOMER, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience or because of the failure of the CUSTOMER to fulfill the obligations herein.

- 1) For Convenience. COUNTY may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, COUNTY shall promptly cease work and notify CUSTOMER as to the status of its performance.
- 2) For Cause. Should the CUSTOMER default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate this Agreement by written notice, which shall be effective upon receipt by the CUSTOMER.

B. By CUSTOMER. Should COUNTY fail to provide the CUSTOMER all or any part of the services set forth in Exhibit A, the CUSTOMER may, at the CUSTOMER option terminate this agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY.

Notwithstanding any other payment provision of this Agreement, the CUSTOMER shall pay COUNTY for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made.

**14. SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

**15. SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**16. REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

**17. TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

**18. NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

**19. ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either

oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppels.

**20. SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

**21. COMPLIANCE WITH LAW.** The CUSTOMER shall, at their sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of the CUSTOMER in any action or proceeding against the CUSTOMER, whether COUNTY be a party thereto or not, that the CUSTOMER has violated any such ordinance or statute, shall be conclusive of that fact as between the CUSTOMER and COUNTY.

**22. CALIFORNIA LAW.** The laws of the State of California shall govern this Agreement. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

**23. EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

**24. AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, the CUSTOMER hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which the CUSTOMER is obligated, which breach would have a material effect hereon.

**25. PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

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Agreement between the CUSTOMER and COUNTY regarding contracted law enforcement services as approved by the following parties:

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA:

CUSTOMER:

By:   
Bob Nelson  
Chair, Board of Supervisors

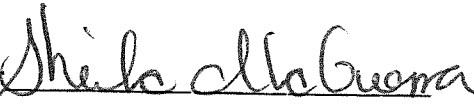
By:   
Autumn Acquistapace  
Chief Executive Officer, Santa Maria Fairpark

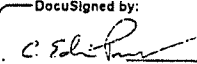
Date: 8-31-2021

Date: 8/18/21

ATTEST:  
Mona Miyasato  
County Executive Officer

APPROVED AS TO ACCOUNTING FORM:  
Betsy M. Schaffer, CPA  
Auditor-Controller

By: 

By:   
DocuSigned by:  
C. Schaffer  
Deputy

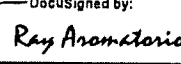
Date: 8-31-21

Date: 8/11/2021 | 2:59 PM PDT

RECOMMENDED FOR APPROVAL:  
Sheriff Bill Brown  
Sheriff's Office

APPROVED AS TO FORM:  
Ray Aromatorio

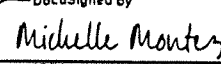
By: 

By:   
DocuSigned by:  
Ray Aromatorio  
Risk Manager

Date: 8/17/21

Date: 8/10/2021 | 2:19 PM PDT

APPROVED AS TO FORM:  
Rachel Van Mullem  
County Counsel

By:   
DocuSigned by:  
Michelle Monter  
Deputy County Counsel

Date: 8/10/2021 | 2:23 PM PDT

**EXHIBIT A**  
**STATEMENT OF WORK**

The COUNTY agrees to provide special event law enforcement services for the CUSTOMER, Santa Maria Fairpark-37<sup>th</sup> District Agricultural Association. The Santa Maria Fairpark hosts several events throughout the year, in which they request uniformed personnel from the Santa Barbara County Sheriff's Office. These events include but are not limited to Santa Barbara County Fair, Strawberry Festival, concerts, rodeos, car shows, etc. These events require Sheriff's personnel to patrol via foot, vehicle, and/or horseback. Staffing levels for each specific event shall be agreed upon by the CUSTOMER and the COUNTY prior to the event start date. A quote for services will be provided prior to the event, upon CUSTOMER request.

Written notice will be presented to COUNTY by the CUSTOMER for specific personnel requests, preferably thirty days in advance of the special event sponsored by the CUSTOMER. Untimely requests are subject to inability to accommodate the request. Deputies will be scheduled outside of their regular work calendar to serve supplemental security requests. If the event is canceled by the CUSTOMER, a written notice from the CUSTOMER to the COUNTY must be received at least twenty-four hours prior to the event in order to avoid a two-hour minimum charge per officer scheduled. If deemed necessary to carryout the duties assigned to the Sheriff's Office, personnel and/or equipment may be added by written notification to the designated representative of the other party. Additionally, in the unlikely event that additional Sheriff's Deputies are requested to respond to the event for emergency assistance, the CUSTOMER will be charged for such resources at the current Sheriff's Volunteer Response rate. If additional charges are accrued during and SVR event, the area Lieutenant and the CUSTOMER will confer prior to any billing taking place.

The rendition of services to be performed by COUNTY under this Agreement, including the standards of performance, the discipline of all Sheriff's Office personnel and the control of all Sheriff's Office personnel employed under the Agreement shall be under, and remain under, the ranking Sheriff's Office officer assigned.

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## EXHIBIT B

### PAYMENT METHODOLOGY

The CUSTOMER will reimburse the COUNTY for actual, additional personnel, supply costs and mileage costs incurred in the provision of the services described in Exhibit A. Costs will be tracked through the COUNTY's financial (FIN) system and a summary invoice will be sent to the CUSTOMER within 60 days of the conclusion of the work performed. A minimum of two hours per scheduled deputy will be assessed for each event unless the event is cancelled and the COUNTY is informed at least twenty-four hours in advance (using the standard SVR rate). A detailed listing of these charges will be kept on file at the COUNTY office and made available to the CUSTOMER upon written request. These records will be maintained for a period of one year after the date of the original invoice.

The CUSTOMER may request and receive an estimate of costs based on number and rank of staff, hours of service and direct expense items requested. In no way will an estimate constitute a minimum or maximum allowable charge under the terms of this contract.

The CUSTOMER payment is due to the COUNTY within sixty (60) days of the date of the invoice. Payment will be made payable to: Santa Barbara County Sheriff, and mailed to Santa Barbara County Sheriff's Office, Attention: Business Office, P. O. Box 6427, Santa Barbara, CA 93160-6427.

If such payment is not delivered to the COUNTY office within sixty days after the date of the invoice, COUNTY is entitled to recover interest thereon. Said interest shall be at the rate of ten (10) percent per annum and commence sixty (60) days after the date of the invoice and continue until such time as the payment is delivered to the COUNTY office described on said invoice.

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## EXHIBIT C

### Indemnification and Insurance Requirements (For Service Contracts Not Requiring Professional Liability Insurance)

#### INDEMNIFICATION

CUSTOMER agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CUSTOMER's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CUSTOMER shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CUSTOMER shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder, and the results of that work by the CUSTOMER, its agents, representatives, employees or subcontractors.

##### A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the CUSTOMER maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CUSTOMER. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.



B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CUSTOMER including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CUSTOMER's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CUSTOMER's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CUSTOMER's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CUSTOMER hereby grants to COUNTY a waiver of any right to subrogation, which any insurer of said CUSTOMER may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CUSTOMER agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CUSTOMER to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CUSTOMER shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CUSTOMER's obligation to provide them. The CUSTOMER shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CUSTOMER shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CUSTOMER shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CUSTOMER agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

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