

AGREEMENT NUMBER

17-134

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

21st District Agricultural Association, Big Fresno Fair

CONTRACTOR'S NAME

City of Fresno

2. The term of this Agreement is: October 1, 2017 through October 18, 2018

3. The maximum amount of this Agreement is: \$ Not to exceed \$326,032.76 w/ contingency budget of \$5,686.00/2017; \$340,777.24 w/contingency \$5,970.00/2018. For 2 yrs. with contingency budget included \$678,466.00.

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 1 page(s)

Exhibit B – Budget Detail and Payment Provisions 1 of 1 page(s)

Exhibit C* – General Terms and Conditions 4 pages

Check mark one item below as Exhibit D:

☐
☐

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)

2 pages page(s)

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions

1 page(s)

Exhibit F Indemnification language

1 page

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Fresno

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Wilma Quan-Schecter, City Manager

ADDRESS

2600 Fresno Street
Fresno, CA 93721

STATE OF CALIFORNIA

AGENCY NAME

21st District Agricultural Association, Big Fresno Fair

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Lauri King, Deputy Manager II

ADDRESS

1121 South Chance Avenue, Fresno, CA 93702

California Department of General
Services Use Only

☐ Exempt per:

Standard Agreement Continued

#17-134
City of Fresno

~~The State shall defend, indemnify and save harmless the Contractor, its officers, agents and employees from any and all claims, demands, damages, costs, expenses or liability arising out of this agreement or occasioned by the performance or attempted performance of the provisions hereof except those arising from the negligence or willful misconduct of the Contractor.~~

Lauri King, Deputy Manager II

City of Fresno

(Please Initial)

The State may terminate this contract for cause by giving the Contractor written notice thereof. In the event the services of Contractor are terminated, payment shall be made on an hourly/daily rate for the portion actually worked up to the date and time of termination which shall be prorated on the number of hours/days of service performed by the Contractor in relation to the total amount of the financial consideration stated in the contract.

The State shall reimburse the Contractor for all hours above the stipulated amount should such hours be necessary to maintain the public safety during usual or emergency periods not previously included as part of this agreement. Furnishing of such extra hours shall be by the request/notification of either party and by the written concurrence of both parties. A daily tabulation of all hours shall be made based on actual costs of providing the services according to Exhibit "D" of this contract. Any increase in payment would be amended by the contract.

An outline of areas to be manned by Fresno City Police is included in Exhibit "G", which is attached and made a part of this agreement.

For the services provided as stipulated herein, payment will be made by the State to the Contractor upon the Contractor providing a list of each person on Fair duty with rank, grade, or job title, with their hours worked included. Contractor agrees to pay all police personnel who are assigned to the performance of this agreement in accordance with the Contractor's current salary levels and to save the State free and harmless from any claim on account hereof.

21st District Agricultural Association

City of Fresno

Lauri King, Deputy Manager II

Chief of Police

City Manager

Scope of Work

Contractor agrees that in addition to basic law enforcement services provided without charge by the City of Fresno, contractor will furnish police protection and law enforcement services to the 21st District Agricultural Association for a (2) two year period 2017, and 2018. The Big Fresno Fair dates are October 4-15, 2017; October 3-14, 2018. Services will be furnished by Fresno City Police Department commencing the first day of the Fair and continue through the final day of the Fair each year listed in areas mutually agreed upon by Fair Management and Police Department staff.

Budget Detail and Payment Provisions

The State agrees to pay the contractor Three hundred twenty six thousand thirty two dollars and seventy six cents (\$326,032.76) plus contingency budget of Five thousand six hundred eighty six dollars (\$5,686.00) for 2017; Three hundred forty thousand seven hundred seventy seven dollars and twenty four cents for 2018, plus contingency budget of Five thousand nine hundred seventy dollars (\$5,970.00). The total sum for two years with contingency budget included not to exceed Six hundred seventy eight thousand four hundred sixty six dollars (\$678,466.00.) based upon Exhibit "D" including booking fees and upon satisfactory completion of the terms of this agreement.

GTC 04/2017

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: ~~Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.~~
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: ~~The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted~~

from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: ~~The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).~~

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

2017 – 12 DAY EVENT PROPOSED BUDGET

Contract Officers	4416 hours@ \$56.86 per hour	\$251,093.76
Contract Sergeants	156 hours@ \$67.01 per hour	\$ 10,453.56
Command Sergeant	208 hours@ \$73.83 per hour	\$ 15,356.64
Command Officer	540 hours @ \$61.24 per hour	\$ 33,069.60
Community Services Officers	192 hours @ \$37.82 per hour	\$ 7,261.44
Dispatchers	96 hours@ \$39.56 per hour	\$ 3,797.76
Police Lieutenant	60 hours@\$ 60.00 per hour	\$ 3,600.00
Police Captain	20 hours @ \$ 70.00 per hour	\$ 1,400.00

TOTAL: **\$ 326,032.76**

2017 Proposed Policing Cost **\$326,032.76**

****Contingency Budget** (100 hours@ \$56.86 per hour) **\$ 5,686.00**

2017 Proposed Cost with Contingency **\$331,718.76**

2018 – 12 DAY EVENT PROPOSED BUDGET

Contract Officers	4416 hours@ \$59.70 per hour	=	\$ 263,635.20
Contract Sergeants	156 hours @ \$70.36 per hour	=	\$ 10,976.16
Command Sergeant	208 hours @ \$76.04 per hour	=	\$ 15,816.32
Command Officer	540 hours@ \$63.09 per hour	=	\$ 34,068.60
Community Services Officers	192 hours@ \$38.58 per hour	=	\$ 7,407.36
Dispatchers	96 hours@ \$40.35 per hour	=	\$ 3,873.60
Police Lieutenant	60 hours @ \$ 60.00 per hour	=	\$ 3,600.00
Police Captain	20 hours @ \$ 70.00 per hour	=	\$ 1,400.00

TOTAL: **\$ 340,777.24**

2018 Proposed Policing Cost	\$340,777.24
**Contingency Budget (100 hours@ \$59.70 per hour)	<u>\$5,970.00</u>

2018 Proposed Cost with Contingency	\$ 346,747.24
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TWO YEAR BUDGET TOTAL

2017 Proposed Policing Cost (12 Day)	\$ 326,032.76
2018 Proposed Policing Cost (12 Day)	<u>\$ 340,777.24</u>
TOTAL	\$666,810.00

With two year contingency monies included: 2017 - \$5,686.00
2018 - \$5,970.00

TOTAL	\$ 678,466.00
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INSURANCE REQUIREMENTS

I. Evidence of Coverage - It is understood and agreed that the contractor maintains a self-insurance program to fund its respective liabilities including general liability, automotive liability, workers' compensation, and employer's liability as stated below. **In the event the State is required to indemnify the Contractor, regardless of the type of claim or liability, the State's duty to indemnify the Contractor shall not be deemed to be released or diminished by the fact that the Contractor maintains a program of self-insurance in accordance with the terms set forth below; this agreement requires both indemnification and insurance.** The contractor/renter shall provide a signed original evidence of coverage form for the term of the agreement protecting the legal liability of the State of California, District Agricultural Associations, County Fairs, Counties in which County Fairs are located, Lessor/Sublessor if fair site is leased/subleased, Citrus Fruit Fairs, or California Exposition and State Fair, their directors, officers, agents, servants, and employees, from occurrences related to operations under the contract. This may be provided by:

A. **Insurance Certificate** - The contractor/renter provides the fair with a signed original certificate of insurance (the ACORD form is acceptable), lawfully transacted, which sets forth the following:

1. **List as the Additional Insured:** "That the State of California, the District Agricultural Association, County Fair, the County in which the County Fair is located, Lessor/Sublessor if fair site is leased/subleased, Citrus Fruit Fair, or California Exposition and State Fair, or Entities (public or non-profit) operating California designated agricultural fairs, their directors, officers, agents, servants, and employees are made additional insured, but only insofar as the operations under this contract are concerned."
2. **Dates:** The dates of inception and expiration of the insurance. **For individual events, the specific event dates must be listed, along with all set-up and tear down dates.**
3. **Coverages:**
 - a. **General Liability** - Commercial General Liability coverage, on an occurrence basis, at least as broad as the current Insurance Service Office (ISO) policy form #CG 0001. Limits shall be not less than \$5,000,000 per occurrence for Fairtime Carnival Rides; \$3,000,000 per occurrence for Motorized Events All Types except arena or track motorcycle racing and go-cart racing; \$3,000,000 per occurrence for Rodeo Events all types **with a paid gate** and any Rough Stock events; \$2,000,000 per occurrence for Rodeo Events All Types **without a paid gate** and with any Rough Stock events; \$1,000,000 per occurrence for Rodeo Events All Types **without** any Rough Stock Events; \$2,000,000 per occurrence for Interim Carnival Rides, Fairtime Kiddie Carnival Rides of up to 6 rides, Concerts with over 5,000 attendees, Rave Type Events All Types, Mechanical Bulls, Extreme Attractions All Types, Orbitrons, Simulators, and Motorized Events of arena or track motorcycle racing and go-cart racing; \$1,000,000 per occurrence for all other contracts for which liability insurance (and liquor liability, if applicable) is required.
 - b. **Automobile Liability** - Commercial Automobile Liability coverage, on a per accident basis, at least as broad as the current ISO policy form # CA 0001, Symbol #1 (Any Auto) with limits of not less than \$1,000,000 combined single limits per accident for contracts involving use of contractor vehicles (autos, trucks or other licensed vehicles) on fairgrounds.
 - c. **Workers' Compensation** - Workers' Compensation coverage shall be maintained covering contractor/renter's employees, as required by law.
 - d. **Medical Malpractice** - Medical Malpractice coverage with limits of not less than \$1,000,000 per occurrence shall be maintained for contracts involving medical services.
 - e. **Liquor Liability** - Liquor Liability coverage with limits of not less than \$1,000,000 per occurrence shall be maintained for contracts involving the sale of alcoholic beverages.
4. **Cancellation Notice:** A statement by the insurance company that it will not cancel or reduce the limits or coverages of said policy or policies without giving 30 days prior written notice to the named certificate holder.
5. **Certificate Holder:**
 - For Individual Events Only - Fair, along with fair's address, is listed as the certificate holder.
 - For Master Insurance Certificates Only - California Fair Services Authority, Attn: Risk Management, 1776 Tribute Road, Suite 100, Sacramento, CA 95815 is listed as the certificate holder.

**Agree #17-134
City of Fresno
Exhibit "F"**

The State shall defend, indemnify and save harmless the Contractor, its officers, agents and employees from any and all claims, demands, damages, costs, expenses or liability arising out of this agreement or occasioned by the performance or attempted performance of the provisions hereof except those arising from the negligence or willful misconduct of the Contractor, provided nothing herein shall constitute a waiver by the State of governmental immunities including California Government Code section 810 et seq.

The Contractor shall defend, indemnify and save harmless the State, its officers, agents and employees from any and all claims, demands, damages, costs, expenses or liability arising out of this agreement or occasioned by the performance or attempted performance of the provisions hereof except those arising from the negligence or willful misconduct of the State, provided nothing herein shall constitute a waiver by the Contractor of governmental immunities including California Government Code section 810 et seq.

EXHIBIT G

