

**34621****AGREEMENT FOR USE OF SAN BERNARDINO COUNTY SHERIFF DEPARTMENT'S WEAPONS FIRING RANGE FACILITIES**

This agreement is made and entered into on this nineteenth day of May, 2017, (the "Execution Date"), by and between City of Long Beach, Long Beach Police Department, (hereinafter the "CONTRACTOR") and the County of San Bernardino (hereinafter the "COUNTY").

**WHEREAS**, the COUNTY operates a Weapons Firing Range (Range) and a Live Fire House (LFH), located at the Frank Bland Regional Training Center; **AND**

**WHEREAS**, the CONTRACTOR desires to enter into a contract for the use of said Weapons Firing Range for the purpose of firearms training or periodic chemical agent (tear gas) training and/or periodic firearms qualification shoots and of said Live Fire House for the purpose of firearms training;

**NOW, THEREFORE**, the parties agree as follows:

**A. SCOPE OF SERVICES**

- A.1** CONTRACTOR shall make use of the Range and the Live Fire House at approximately quarterly intervals during each contractual year. CONTRACTOR shall be provided access to the Range as many times as required to ensure that all CONTRACTOR's law enforcement personnel and/or students have successfully completed qualifying shoots and/or training sessions. Use of the Range shall take place during normal Range operating hours, at times and dates specified by the Sheriff's Range Master and/or Range Safety Officer. Available Range facilities shall include, but are not limited to, the following: pistol range, rifle range, and classroom facilities.
- A.2** CONTRACTOR shall coordinate with a designated COUNTY Range Safety Officer regarding the proper use of the Range and LFH facilities. CONTRACTOR shall ensure that all CONTRACTOR's personnel and students utilizing the Range or LFH are knowledgeable with regard to the proper use of Range and/or LFH facilities
- A.3** Use of the Live Fire House must be approved by the Sheriff's Range Master or designee to assure proper training and qualification and is limited to use by SWAT teams.
- A.4** Instructors must consult with the Sheriff's Range Safety Officer for an update of LFH procedures if a 12 month period of non-use has occurred.
- A.5** The CONTRACTOR shall supply, at no cost to the COUNTY, a qualified Range Master, who has successfully completed a California Peace Officer Standards of Training (P.O.S.T.) approved (or equivalent) firearms instructor course, who shall personally supervise and control the course of training of CONTRACTOR's personnel and students at the Range and LFH, subject to oversight and approval of the Sheriff's Range Master and Range Safety Officer. CONTRACTOR shall always have at least two safety persons (approved by Sheriff Department's staff) per scenario on site at the LFH during any training activity. Depending upon the nature of the training activity, Sheriff's Range Master or Range Safety Officers or equivalent Range/LFH personnel may take direct control of the course of training of CONTRACTOR's personnel and students with the assistance of CONTRACTOR's Range Master.
- A.5.1** All participants shall conduct themselves in accordance with Range Rules and Regulations, as detailed in Exhibit A and with Live Fire House Regulations and Safety Rules, as detailed in Exhibit B, attached hereto and incorporated herein by reference.
- A.5.2** Violations of Range rules and regulations may result in immediate termination of CONTRACTOR's Range and LFH privileges.

- A.6 The CONTRACTOR shall limit the use of COUNTY Sheriff Department's Range and LFH facilities to those personnel and students currently employed or enrolled with CONTRACTOR at the time the Range or LFH is used.
- A.7 CONTRACTOR shall supply and bear the cost of all necessary supplies or equipment, necessary for shoots or training, above those detailed in the Schedule A attached hereto and incorporated herein by reference. CONTRACTOR shall supply all necessary ammunition and weapons. All expended shell casings shall become the sole property of the COUNTY.
- A.8 CONTRACTOR shall submit a course of fire to the Sheriff's Range Master or Range Safety Officer prior to CONTRACTOR's initial use of the Range or LFH facilities. CONTRACTOR shall submit a new course of fire prior to making any change in use of the Range or LFH facilities. CONTRACTOR shall also supply copies of all related certifications of all instructors/safety officers.
- A.9 CONTRACTOR shall supply the Range Master or Range Safety Officer with contact information for a lead instructor/Range Master.

**B. TERM AND TERMINATION**

The term of this contract shall be for a period commencing on the Execution Date and ending on June 30, 2017. Notwithstanding the foregoing, this contract may be terminated at any time with or without cause by CONTRACTOR or by SHERIFF upon written notice given to the other party at least thirty (30) days prior to the date specified for such termination. Any such termination date shall coincide with the end of a calendar month. In the event of such termination, each party shall fully pay and discharge all obligations in favor of the other accruing prior to the date of such termination, and each party shall be released from all obligations or performance which would otherwise accrue subsequent to the date of termination. Neither party shall incur any liability to the other by reason of termination.

**C. FISCAL PROVISIONS**

- C.1 CONTRACTOR shall compensate the COUNTY at the rates detailed in the Schedule B attached hereto and incorporated herein by reference, per agency, based upon the actual number of hours per session. Sessions up to four hours will be considered a half-day session. Sessions more than four hours will be considered a whole day session.
- C.2 Each CONTRACTOR Agency is responsible for session charges. If multiple agencies train together, the charges cannot be combined and will be separately billed.
- C.3 CANCELLATION POLICY: CONTRACTOR agrees to pay the full cost of any scheduled facility session according to the Schedule B charges for the specific time booked unless the reserved time has been cancelled within twenty-four (24) hours prior to the scheduled session time. CONTRACTOR may cancel scheduled session by calling the SHERIFF's Range office at (909) 473-2549.
- C.4 CONTRACTOR shall be billed in arrears on a quarterly basis. CONTRACTOR will submit payment to the Sheriff Department's Bureau of Administration for the costs billed.
- C.5 COUNTY shall have the right to renegotiate the rates for the Range facilities and supplies provided under this contract at the end of each fiscal year for the ensuing fiscal year. Any rate change shall be agreed to in writing by both parties in the form of an amendment to this contract.
- C.6 It shall be the sole responsibility of the CONTRACTOR to ensure that all shooters arrive for all shoots and/or training sessions. CONTRACTOR is required to submit a roster of individuals in attendance at Training Center.

**D. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

**D.1 Indemnification**

The CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The CONTRACTOR's indemnification obligation applies to the COUNTY's "active" as well as "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. Provided, however, that this indemnity does not extend to any environmental hazards or risks.

**D.2 Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions, and Professional Liability policies, shall contain endorsements naming the COUNTY and its officers, employees, agents, and volunteers as additional named insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

**D.3 Waiver of Subrogation Rights**

CONTRACTOR shall require the carriers of the above required coverages to waive all rights of subrogation against the COUNTY, its officers, employees, agents, volunteers, contractors, and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the CONTRACTOR and CONTRACTOR's employees or agents from waiving the right of subrogation prior to a loss or claim. The CONTRACTOR hereby waives all rights of subrogation against the COUNTY.

**D.4 Policies Primary and Non-Contributory**

All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

**D.5 Severability of Interests**

The CONTRACTOR agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the CONTRACTOR and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

**D.6 Proof of Coverage**

CONTRACTOR shall furnish Certificates of Insurance to the Sheriff's Department to the address referenced in Paragraph E. or third-party contractor working on behalf of the COUNTY, evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and CONTRACTOR shall maintain such insurance from the time CONTRACTOR commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of the contract, the CONTRACTOR shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

**D.7 Acceptability of Insurance Carrier**

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 "Best" Insurance Guide rating of "A-VII".

**D.8 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**D.9 Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the COUNTY has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the COUNTY will be promptly reimbursed by the CONTRACTOR or COUNTY payments to the CONTRACTOR will be reduced to pay for COUNTY purchased insurance.

**D.10 Insurance Review**

Insurance requirements are subject to periodic review by the COUNTY. The Direction of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY's risk.

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

Any failure, actual or alleged, on the part of the 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 the COUNTY.

**D.11 The CONTRACTOR agrees to provide insurance set forth in accordance with the requirements herein. If the CONTRACTOR uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.**

For CONTRACTORS which are considered self-insured public entities: Both CONTRACTOR and COUNTY are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability, and Workers' Compensation. CONTRACTOR and COUNTY warrant that through their respective program of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.

For CONTRACTORS which are not considered self-insured public entities: Without in anyway affecting the indemnity herein provided and in addition thereto, the CONTRACTOR shall secure and maintain throughout the contract the following types of insurance with limits as shown:

**D.11.1 Workers' Compensation Liability** - A program of Workers' Compensation insurance or a state-approved self-insurance program in an amount and form to meet all applicable

requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons including volunteers providing services on behalf of the CONTRACTOR and all risks to such persons under this contract.

- D.11.2 Commercial/General Liability Insurance** - The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
- a. Premises operations and mobile equipment.
  - b. Products and completed operations.
  - c. Broad form property damage (including completed operations).
  - d. Explosion, collapse and underground hazards.
  - e. Personal injury.
  - f. Contractual liability.
  - g. \$2,000,000 general aggregate limit.

- D.11.3 Automobile Liability Insurance** - Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- D.11.4 Umbrella Liability Insurance** - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

- D.12** Any such reduction or waiver for the entire term of the agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

## **E. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Sheriff's Department  
Bureau of Administration  
P.O. Box 569  
San Bernardino, CA 92402-0569  
Fax Number: (909) 387-3444

City of Long Beach  
Long Beach Police Department  
Financial Bureau  
400 West Broadway, 2<sup>nd</sup> Floor  
Long Beach, CA 90802-4401  
Fax Number: (562) 570-5833

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

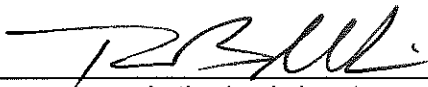
**F. ENTIRE AGREEMENT**

This Contract, including all Exhibits and Schedules, which are attached hereto and incorporated by reference, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. Any amendment to this contract shall be in writing signed by both parties. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

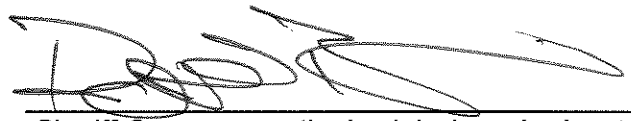
In Witness Whereof, the parties have duly executed and delivered this Contract on the Execution Date.

City of Long Beach  
Long Beach Police Department

San Bernardino County Sheriff's Department



Authorized signature



Sheriff-Coroner or authorized designee's signature

TOM Modica

Name of person signing agreement (print or type)

Robert O'Brine

Name of person signing agreement (print or type)

Asst. City Manager

Title

Captain

Title

5/15/17

Date

5/19/17

Date

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

APPROVED AS TO FORM

May 11, 2017

CHARLES PARKIN, City Attorney

By



MONICA J. KILAITA  
DEPUTY CITY ATTORNEY

## **SCHEDULE A**

**SUPPLIES AND SERVICES PROVIDED BY THE SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT FOR USE OF THE RANGE FACILITIES:**

1. Target backing.
2. Target frames (stands).
3. Gun cleaning supplies and a designated area for gun cleaning.

**ADDITIONAL INFORMATION:**

- **CONTRACTOR** will provide targets (serviceable steel only), staple guns and staples.
- Inmate assistance for range set up and target maintenance is available on a limited basis and is not guaranteed.
- Nighttime use of the Range facilities is available on a limited basis and must be approved by the Sheriff's Range Master or Range Safety Officer.

# SCHEDULE B

## COST SCHEDULE 2014-17

### Charges for Range Use

FACILITY	HALF DAY (UP TO FOUR HOURS/DAY)	FULL DAY (MORE THAN FOUR HOURS/DAY)
Range	\$160	\$320
Mat Room	\$160	\$320
RAC House/Simmunition House	\$160	\$320
Gas House	\$160	\$320
Live Fire House	\$483	
Classroom	\$160	



## EXHIBIT A

# NOTICE

## RANGE SAFETY ADVISORY

### THE FOLLOWING SAFETY PROCEDURES WILL BE STRICTLY ENFORCED:

1. Upon arrival, all weapons are to remain holstered until instructed to report to the firing line and given commands for the course of fire.
2. All shooters must wear proper ear and eye protection as approved by the Range Safety Officer.
3. Weapons are to be loaded or down loaded at the firing line or as otherwise instructed by the Range Safety Officer.
4. Only magazines and speed loaders may be down loaded and replaced with live ammunition in the staging area.
5. After completing your course of fire, weapons are to be re-holstered upon leaving the firing line.
6. Weapons may be un-holstered in the cleaning room and rendered safe for cleaning by using the bullet containment system located in the cleaning room.
7. A duty round may only be re-chambered at the firing line or by using the bullet containment system located in the cleaning room.
8. Violation of any safety rule will result in removal of the violator from the Range. Flagrant safety violations could lead to suspension of future range privileges to the violator and/or the agency or organization the violator represents.

**IF THERE ARE ANY QUESTIONS, PLEASE CONSULT THE RANGE SAFETY OFFICER OR RANGE MASTER.**

**EXHIBIT B**  
**San Bernardino Sheriff's Department**  
**Live Fire House (LFH) Regulations and Safety Rules**

1. Approval for use of the LFH must be made by the Range Safety Officer or the Range Master; authorized firearms instructors must be present during use; the primary (lead) instructor is responsible for the safe operation and maintenance of the LFH; all training, presentation, or demonstrations, whether live fire or not, will be under the direct supervision of an instructor; the primary instructor will ensure that all participants involved in live fire training are qualified to do so; all instructors must have satisfactorily completed a "Live Fire House Operations-Instructor Development Course", as offered by either San Bernardino County Sheriff's Department (or equivalent subject to the approval of the Sheriff's Range Master); the primary instructor will ensure that all participants involved in LFH training receive a safety briefing that includes basic firearms safety, and the safe operating procedures for the LFH; all loading and unloading of weapons will be under the direct supervision of a firearms instructor; the primary instructor will ensure that the following safety equipment is on-hand prior to "Live Firearms Training", these include, first aid trauma kit, radio or other form of communication, that fire extinguishers are present and charged, and the approach gate to the LFH remains clear of obstruction at all times.
2. Under most circumstances, the student to authorized instructor ratio will not exceed 3 to 1; body armor, eye and hearing protection must be worn by everyone who enters the LFH; prior to live fire exercises, all rooms will be checked to ensure that no personnel are present; firearm instructors will ensure that targets are placed so that, when engaged, rounds will hit the proper backstop and rounds will not exit the building; authorized/approved frangible ammunition shall only be used, if your ammunition is not on the approved list a test must be conducted by the Range Safety Officer to verify that the ammunition is appropriate for the facility; no metal targets will be allowed; instructors shall review all targets and angles of deflections before beginning live fire; if during any training a safety whistle is blown or a command that is designated as a "Cease Fire" command is made, shooter shall freeze their movement, place trigger fingers outside of trigger guards, depress the weapons muzzles, repeat "Cease Fire" and wait for further commands from the instructor; students are required to follow the direction of the instructors and the safe operating procedures at all times, failure to do so is just cause for removal from training, all observers are required to follow the safety rules established for the LFH at all times, failure to comply with these safety rules is just cause for removal from the LFH facility; instructors shall ensure that no shots impact any containment wall closer than 18" from its upper edge; instructors shall monitor students to ensure that firing positions are not taken that may endanger other students or may allow fired round(s) from escaping the containment area.
3. The red range flag must be posted prior to use; at the conclusion of the training session the building shall be checked for damage, fire and then secured; all damage not consistent with normal wear must be repaired, replaced and reported.
4. The entrance gates to the LFH will be closed during all live fire exercises, with entry being approved only by the primary safety officer; no unauthorized persons shall be present in or around the LFH without checking in with the safety officer and having his or her consent to be present; any injuries must be immediately reported to the Range Safety Officer or Range Master; a post operation inspection of the LFH facility will be made by the primary instructor to insure the following: all weapons, ammunition, diversionary devices, body armor, and other equipment used during the training period are accounted for, that brass has been collected and that all other debris within the LFH has been removed, that no student(s) has sustained any injuries during training, that no damage has been caused by the training; account for all personnel who used the LFH.
5. All agencies seeking to use the LFH must have a current contract with the County of San Bernardino for such use, and insurance document, on file; curriculum of exercises that are to be conducted in the LFH must be submitted in advance to the Range Safety Officer for his/her approval; specific safety policies and procedures of the San Bernardino County Sheriff's Department must be followed at all times; firearms shall not be handled by persons with a blood alcohol content in excess of .00% by weight or under the influence of drugs or medication that would impair their motor skills, judgment, or balance; and no chemical agents may be used in the LFH.