

OFFICE OF THE CITY ATTORNEY
Charles Parkin, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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AGREEMENT

FOR SUPPLEMENTAL LAW ENFORCEMENT SERVICES

34573

This Agreement is made and entered into, in duplicate, as of December 14, 2016, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on December 13, 2016, by and between DDR URBAN, LP, a Delaware limited liability company, with offices located at 95 South Pine Avenue, Long Beach, California 90802 (hereinafter referred to as "DDR") and the CITY OF LONG BEACH, a municipal corporation (hereinafter referred to as "City").

WHEREAS, the Long Beach Police Department (LBPd) provides public law enforcement services within the City of Long Beach which includes the The Outlets at the Pike, commonly referred to as "The Pike" (the "Premises"); and

WHEREAS, DDR has requested the City to provide supplemental law enforcement services to the Premises over and above the law enforcement services provided to the public generally; and

WHEREAS, the parties desire to enter into an agreement where City shall make available, for a fee, trained LBPd personnel to provide supplemental law enforcement services to the Premises.

NOW, THEREFORE, it is agreed between the parties hereto as follows:

1. DEFINITIONS. For the purpose of this Agreement:

"Basic Law Enforcement Services" shall mean provision of law enforcement personnel and facilities of the same character and to the same extent as are furnished from time to time without a service fee to other dwellings and inhabitants in the City. Such Basic Law Enforcement Services shall include, but not necessarily be limited to, responses to citizen initiated calls, assistance provided by Officers to the public generally; community relations services provided to the public generally; attendance at meetings to the same extent such services are provided to the general public; homicide investigations, gang investigations, narcotics investigations, arson investigations, explosives investigations,

1 SWAT teams, vice investigations, child abuse investigations, patrol of public streets,
2 maintenance of records and preparation of statistical and other reports generally
3 maintained and prepared by LBPD; booking and jailing services; and time spent in court to
4 testify as to Basic Law Enforcement Services matters.

5 "Supplemental Law Enforcement Services" shall refer to the provision of
6 LBPD law enforcement personnel dedicated to the performance of law enforcement duties
7 at the Premises in addition to the Basic Law Enforcement Services. During the hours
8 specified herein, law enforcement personnel performing Supplemental Law Enforcement
9 Services will not leave the Premises. Their duties will include performing visible patrols of
10 the Premises, except for when performing specific duties such as responding to calls or
11 taking breaks. While performing the Supplemental Law Enforcement Services, officers will
12 maintain regular communication with the DDR's security staff.

13 2. **TERM.** Unless sooner terminated as provided for herein, this
14 Agreement shall be for a term of six (6) months commencing on January 1, 2017, and
15 ending on June 30, 2017. The Agreement may be extended for additional six-month terms
16 as approved by the City.

17 3. **AGREEMENT PRICE.** The price for the Supplemental Law
18 Enforcement Services to be provided by LBPD to DDR shall be at the rates provided for in
19 Exhibit "A" attached hereto. Upon the submission of an invoice by City, DDR agrees to
20 pay for services rendered prior to the execution of this Agreement at the rates provided for
21 in Exhibit "A". City shall submit invoices to DDR on a monthly basis. DDR shall pay said
22 invoices within thirty (30) days of receipt.

23 4. **LONG BEACH POLICE DEPARTMENT'S RESPONSIBILITIES.**

24 (a) **Level of Service.** In consultation with DDR, the Chief of Police shall
25 determine the level of service to be provided. In the event of a dispute between the parties
26 as to the extent of the duties and functions to be rendered herein, or the minimum level or
27 manner of performance of such services, these shall be reasonably determined by the
28 LBPD Chief of Police and shall be final and conclusive.

1 (b) **LSPD Responsibilities.** LSPD agrees to perform the Supplemental
2 Law Enforcement Services in a good and workmanlike manner, maintaining at least the
3 professional standards required by LSPD of its general professional law enforcement
4 personnel performing police services for the public generally.

5 (c) **Personnel.** LSPD shall provide all personnel to perform service
6 functions under this Agreement. The recruitment, selection, training and supervision shall
7 be the sole responsibility of the LSPD.

8 The LSPD shall use best efforts to respond to DDR's requests and needs in
9 filling personnel positions under this Agreement.

10 5. **BILLING AND REPORTS.** LSPD shall bill DDR monthly for
11 Supplemental Law Enforcement Services rendered under this Agreement. Such monthly
12 billing shall identify and detail the Supplemental Law Enforcement Services provided by
13 personnel during the preceding period. Said billing shall not include charges for Basic Law
14 Enforcement Service responses.

15 6. **EMPLOYEES OF CITY.** All persons employed in the performance of
16 such service shall be City employees and shall remain under the immediate direction and
17 control of the Chief of Police.

18 City shall pay all wages, salaries, and other amounts due its employees in
19 connection with this Agreement and shall be responsible for all reports and obligations for
20 such employees including, but not limited to, social security, income tax withholding,
21 unemployment compensation, and workers' compensation. DDR shall not be liable for
22 compensation or indemnity to any employee for injury or sickness arising out of his or her
23 employment with the City.

24 This Agreement does not, is not intended, nor shall it be construed to create
25 the relationship of agent, employee, or joint venture between DDR and LSPD. DDR shall
26 not be responsible or liable for the direct payment of any salaries, wages, or other
27 compensation to any LSPD personnel performing services hereunder; and except as
28 otherwise specified herein, DDR shall not be liable for compensation or indemnity to any

1 LBPDP employee for injury or sickness arising out of his or her employment.

2 **7. COMPLIANCE WITH LAWS.**

3 (a) LBPDP agrees to be bound by applicable federal, state, and local laws,
4 regulations and directives as they pertain to the performance of the Agreement.

5 (b) LBPDP will comply with the requirements of the following statues and
6 regulations: (i) the California Drug-Free Workplace Act of 1990; (ii) all applicable federal,
7 state, and local laws governing safety, health and sanitation; (iii) the Civil Rights Act of
8 1964, Title VI; (iv) Age Discrimination Act of 1975 and Section 504 of the Rehabilitation
9 Act of 1973.

10 **8. INSURANCE.** Concurrent with the execution of this Agreement by
11 DDR, and as a condition precedent to the effectiveness of this Agreement and in partial
12 performance of the obligations assumed under the Agreement, DDR shall procure and
13 maintain at DDR's expense for the duration of this Agreement the following insurance
14 against claims for injuries to persons or damage to property which may arise from or in
15 connection with the performance of this Agreement by DDR, its agents, representatives,
16 employees or subcontractors.

17 A. Comprehensive General Liability in an amount no less than Two
18 Million Dollars (\$2,000,000) combined single limit for each occurrence or Four Million
19 Dollars (\$4,000,000) General Aggregate for bodily injury, personal injury and property
20 damage. The City, their officials, employees, agents, and volunteers shall be covered as
21 insureds as respects liability arising out of activities performed by or on behalf of DDR and
22 coverage shall be in a form acceptable to the City Risk Manager.

23 B. Automobile liability in an amount not less than Five Hundred
24 Thousand Dollars (\$500,000) combined single limit per accident for bodily injury and
25 property damage covering owned, non-owned and hired vehicles.

26 C. Workers' Compensation as required by the Labor Code of the State of
27 California and Employers' Liability limits of One Million Dollars (\$1,000,000) per
28 occurrence.

1 Each insurance policy shall be endorsed to state that coverage shall not be
2 cancelled by either party, reduced in coverage or in limits, except after thirty (30) days'
3 prior written notice has been given to the City, and shall be primary and not contributing to
4 any other insurance or self-insurance maintained by the City.

5 Acceptable insurance coverage shall be placed with carriers admitted to write
6 insurance in California, or carriers with a rating of or equivalent to A:VIII by A.M. Best
7 Company and may be subject to such self-insurance or deductible as may be approved by
8 the City Risk Manager. Any subcontractors which DDR may use in the performance of
9 services under this Agreement shall be required to maintain insurance in compliance with
10 the provisions of this Section.

11 DDR shall furnish City with certificates of insurance and with original
12 endorsements affecting coverage as required above. The certificates and endorsements
13 for each insurance policy shall be signed by a person authorized by that insurer to bind
14 coverage on its behalf. Policies written on a "claims made" basis shall provide for an
15 extended reporting period of not less than one hundred eighty (180) days. No claims made
16 policies shall be acceptable to City unless the City Manager determines that no occurrence
17 policy is available in the market for the particular risk being insured. Any modification or
18 waiver of the insurance requirements contained in this Agreement shall only be made with
19 the written approval of the City Risk Manager in accordance with established City policy.

20 **9. CONFLICT OF INTEREST.** The City certifies that it has no interest
21 and shall not acquire any interest, direct or indirect, which would conflict in any manner or
22 degree with the performance of services under this Agreement, except as allowed by law.
23 The City further certifies that in the performance of this Agreement, no person having any
24 such interest shall be employed hereunder.

25 **10. INDEMNIFICATION AND HOLD HARMLESS.** DDR expressly
26 agrees to defend, protect, indemnify and hold harmless the City, its officers, employees
27 and agents, from and against any and all claims, damages, expenses including attorney's
28 fees, costs, loss or liability of any kind or nature whatsoever growing out of, or resulting

1 from, the alleged acts or omissions of DDR, its officers, agents or employees, in the
2 performance of this Agreement; and DDR shall at its own cost, expense and risk, defend
3 all claims or legal actions that may be instituted against either DDR or the City, and DDR
4 shall pay any settlement entered into or satisfy any judgment that may be rendered against
5 either DDR or the City as a result of said alleged acts or omissions of DDR, its officers,
6 agents or employees, in the performance of this Agreement.

7 City expressly agrees to defend, protect, indemnify and hold harmless DDR,
8 its officers, employees and agents, free and harmless from and against any and all claims,
9 damages, expenses, loss or liability of any kind or nature whatsoever growing out of, or
10 resulting from the alleged acts or omissions of City, its officers, agents or employees, in
11 the performance of this Agreement; and City shall at its own cost, expense and risk, defend
12 all claims or legal actions that may be instituted against either DDR or the City, and City
13 shall pay any settlement entered into or satisfy any judgment that may be rendered against
14 either DDR or the City as a result of said alleged acts or omissions of City, its officers,
15 agents or employees, in the performance of this Agreement.

16 **11. TERMINATION OF EITHER PARTY.** Either party may terminate this
17 Agreement for convenience, without cause, upon thirty (30) days advance written notice.

18 **12. THIRD PARTY BENEFICIARIES.** No person or entity shall be
19 deemed to be a third party beneficiary of this Agreement.

20 **13. SUCCESSOR AND ASSIGNMENT.** This Agreement may not be
21 assigned by either party except with prior written consent of the other party.

22 **14. SUBCONTRACTING.** The City shall not subcontract any part of work
23 covered by this Agreement.

24 **15. INTERPRETATION.** No provision of this Agreement is to be
25 interpreted for or against either party because that party's legal representative drafted such
26 provision, but this Agreement is to be construed as if it were drafted by both parties hereto.

27 **16. WAIVER.** No breach of any provision hereof can be waived unless in
28 writing. Waiver of any one breach of any provision shall not be deemed to be a waiver of

1 any breach of the same or any other provision hereof.

2 **17. NOTICES.** Notices provided for in this Agreement shall be in writing
3 and shall be addressed to the party intended to receive the same, at the following address:

4 DDR: DDR URBAN, LP
5 95 South Pine Avenue
6 Long Beach, CA 90802
7 Attn: Sasha Brandon Shepard, Director of Property
8 Management

9 City: City of Long Beach Police Department
10 400 W Broadway
11 Long Beach, CA 90802
12 Attn: Chief of Police

13 Notices addressed as above provided shall be given (i) by U.S. Mail, postage
14 prepaid, return receipt requested; (ii) delivered in person with written acknowledgment of
15 the receipt thereof; or (iii) by facsimile transmission confirmed by electronic confirmation-
16 of-receipt slip. The LBPD and DDR may designate a different address or addresses for
17 notices to be sent by giving written notice of such change of address to the other party.
18 Notice shall be deemed to have been given or delivered upon personal delivery thereof,
19 upon receipt by facsimile, or two (2) days after deposit in the U.S. Mail.

20 **18. ENTIRE AGREEMENT.** This Agreement with Exhibit "A" constitutes
21 the full and final understanding and agreement of the parties with respect to the matters
22 provided for herein, and supersedes all previous understandings, representations,
23 commitments or agreements, oral or written, pertaining to the services provided for herein.
24 No other understanding, oral or otherwise, regarding the subject matter of this Agreement,
25 shall be deemed to exist or to bind either party hereto.

26 **19. MODIFICATIONS.** No modification of, or amendment or addition to,
27 this Agreement shall be valid or enforceable unless in writing and signed by both parties.

28 **20. PARTIAL INVALIDITY.** If any part of this Agreement shall be finally
declared invalid or unenforceable by a court of competent jurisdiction, either party shall
have the option to terminate this Agreement upon written notice to the other.

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1 21. CHOICE OF LAW. This Agreement shall be governed by and
2 construed pursuant to the laws of the state of California.

3 22. TAX IDENTIFICATION NUMBER. DDR's tax identification number is
4 34-1861748. City's tax identification number is 95-6000733.

5 24. AUTHORIZATION TO EXECUTE. Parties warrant and affirm that any
6 and all persons signing this Agreement are authorized and empowered to so sign and
7 signing by such person or persons does bind their respective Party to all terms, covenants
8 and conditions of this Agreement.

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IN WITNESS WHEREOF, City and DDR have executed this Agreement through their duly authorized officers effective the date first set forth herein.

DDR URBAN, LP, a Delaware limited liability company

March 15th, 2017

By Sasha Shepard
Name Sasha Shepard
Title Director - Property Management

"DDR"

CITY OF LONG BEACH, a municipal corporation

March 29, 2017

By [Signature]
City Manager
Assistant City Manager
"City"
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

The foregoing Agreement is approved as to form on March 21, 2017.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

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LONG BEACH POLICE DEPARTMENT

FY17 DDR Agreement

EXHIBIT "A"

Cost for January 1, 2017 - June 30, 2017

DIRECT COSTS

PERSONNEL OVERTIME	Estimated Hours to be billed for 6 months	Average Hourly Overtime Rate	Estimated Monthly Cost	Total
Police Sergeant (as-needed)		\$92.16		
Police Officer		\$70.60		
Police Corporal		\$82.38		
Average Police Officer/Corporal	208	\$76.49	\$2,652	\$15,909.92

Totals \$2,652 \$15,910

TOTAL DIRECT COSTS \$2,652 \$15,910

INDIRECT COSTS			Estimated Monthly Cost	Total
25% of Direct Costs			\$663	\$3,977
Totals			\$663	\$3,977

TOTAL COSTS \$2,652 \$15,910

Total Direct Costs January 1, 2017 - June 30, 2017	\$15,910
Total Indirect Costs @ 25% January 1, 2017 - June 30, 2017	\$3,977
Total Costs January 1, 2017 - June 30, 2017	<u>\$19,887</u>

Direct Costs will be billed based on actuals