

**CITY OF COSTA MESA  
SERVICES AGREEMENT  
WITH  
DOHENY SECURITY**

THIS SERVICES AGREEMENT ("Agreement") is made and entered into this 8th day of June, 2022 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and DOHENY SECURITY, INC., a California corporation ("Contractor").

WHEREAS, City proposes to utilize the services of Contractor as an independent contractor to provide unarmed security services at City's Concert in the Park events, as more fully described herein; and

WHEREAS, Contractor represents that it has that degree of specialized expertise and holds all necessary licenses to practice and perform the services herein contemplated; and

WHEREAS, City and Contractor desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed.

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

**1.0. SERVICES PROVIDED BY CONTRACTOR**

1.1. Scope of Services. Contractor shall provide professional unarmed security guard services for the City's Concerts in the Park events on July 11, 2023, July 18, 2023 and July 25, 2023 (each, an "Event"), as further described in Exhibit A, attached hereto and incorporated herein.

1.2. Professional Practices. All professional services to be provided by Contractor pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional contractors in similar fields and circumstances in accordance with sound professional practices.

1.3. Warranty. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Contractor shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Contractor's performance under this Agreement.

1.4. Non-Discrimination. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their 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 or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.5. Non-Exclusive Agreement. Contractor acknowledges that City may enter into agreements with other contractors for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.6. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Contractor may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.

## 2.0. COMPENSATION AND BILLING

2.1. Compensation. City shall pay Contractor at a rate of Forty-One Dollars (\$41.00) per hour, per security guard. Contractor's total compensation shall not exceed One Thousand Two Hundred Thirty Dollars (\$1,230.00).

2.2. Method of Billing. Contractor shall provide to City Contractor's completed Taxpayer Identification Number form following execution of this Agreement. City will use its best efforts to pay Contractor for all services provided under this Agreement at the conclusion of the Event on July 25, 2023. If City cannot make such immediate payment, City will pay Contractor within seven (7) days of July 25, 2023.

## 3.0. INSURANCE

3.1. Minimum Scope and Limits of Insurance. Contractor shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California.

Contractor agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Contractor for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

3.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Contractor pursuant to its contract with the City; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; automobiles owned, leased, hired, or borrowed by the Contractor."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "The Contractor's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

3.4. Certificates of Insurance. Contractor shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

3.5. Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

#### 4.0. GENERAL PROVISIONS

4.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

4.2. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONTRACTOR:

Doheny Security  
1232 Village Way #K  
Santa Ana, CA 92705  
Tel: (714) 541-4111  
Attn: Kerri Dewin

IF TO CITY:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: (714) 754-5679  
Tel: Monique Villasenor

Courtesy copy to:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Attn: Finance Dept. | Purchasing

4.3. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

4.4. Indemnification and Hold Harmless. Contractor agrees to defend, with counsel of the City's choosing, indemnify, and hold harmless the City, its elected officials, officers, agents and employees, at Contractor's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable.

Notwithstanding the foregoing, the Contractor shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Contractor's proposal, which shall be of no force and effect.

4.5. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Contractor shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

4.6. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

4.7. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

4.8. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

4.9. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

4.10. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

4.11. Construction. The parties have participated jointly in the negotiation and drafting

of this Agreement and have had an adequate opportunity to review each and every provision of the Agreement and submit the same to counsel or other consultants for review and comment. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

4.12. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

4.13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

4.14. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.


**CONTRACTOR**

  
\_\_\_\_\_  
Signature

Date: 6/8/23

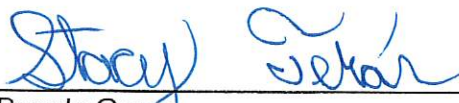
Kerni Derwin, Ops Mgr.  
[Name and Title]

**CITY OF COSTA MESA**


  
\_\_\_\_\_  
Carol Molina  
Purchasing Officer

Date: 8/3/2023

**ATTEST:**

  
\_\_\_\_\_  
For Brenda Green  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kimberly Hall Barlow  
City Attorney

Date: 8/8/23

APPROVED AS TO INSURANCE:

  
\_\_\_\_\_  
Ruth Wang  
Risk Management

Date: 8/8/23

**EXHIBIT A**  
**SCOPE OF SERVICES**

**Location of Events:** Fairview Park (2525 Placentia Avenue)  
**Dates of Events:** July 11, 2023, July 18, 2023 and July 25, 2023  
**Hours of Services:** 3:30 p.m. – 8:30 p.m.  
**Number of Security Guards:** Two (2) for each listed date

Contractor will provide two (2) security guards to provide unarmed security guard services during each Concert in the Park event at Fairview Park (2525 Placentia Ave., Costa Mesa) (each, an "Event"), to be held on July 11, 2023, July 18, 2023 and July 25, 2023. Contractor's personnel will provide said services from 3:30 p.m. to 8:30 p.m. on the date of each Event.

- Contractor's personnel shall monitor the Event area on a continuous basis throughout the Event.
- Contractor shall cooperate with City staff in the performance of the services.
- Contractor's personnel shall immediately report suspicious activity, and contact the appropriate emergency personnel in situations where safety is compromised or criminal activity is evident.
- Contractor's personnel shall deter any type of illegal activity, and ensure that areas of travel are clear for accessibility.
- Contractor's personnel shall wear uniforms at all times during the Event. These uniforms must clearly identify the name of Contractor and the name of the individual security guard, in conformance with California requirements.
- Contractor's personnel must maintain a courteous and respectful demeanor when dealing with all members of the public. Contractor's personnel are not authorized to physically apprehend, subdue, or restrain any member of the public for any reason. Contractor's personnel shall immediately report any suspicious, illicit, or illegal activity or evidence of vandalism to the Costa Mesa Police Department.