



## City Council Report

915 I Street, 1<sup>st</sup> Floor  
Sacramento, CA 95814

[www.cityofsacramento.org](http://www.cityofsacramento.org)

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**File ID:** 2019-00913

June 25, 2019

**Consent Item 35**

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**Title:** Fiscal Year 2019/20 Supplemental Employment Agreements

**Location:** Citywide

**Recommendation:** Pass a Motion authorizing the City Manager or the City Manager's designee to: 1) execute a Supplemental Employment Agreement for Fiscal Year (FY) 2019/20 with Sacramento Basketball Holdings, LLC in an amount not to exceed \$2 million; and 2) execute a Supplemental Employment Agreement for FY 2019/20 with Arden Fair Mall in an amount not to exceed \$250,000.

**Contact:** Mark Greenlee, Police Captain, Metro Division, (916) 808-0701, Police Department

**Presenter:** None

**Attachments:**

- 1-Description/Analysis
- 2-Agreement - Sacramento Basketball Holdings, LLC
- 3-Agreement - Arden Fair Mall

## Description/Analysis

**Issue Detail:** The Sacramento Police Department (SPD) manages a supplemental employment program to provide contracted services to a variety of entities (retail, restaurants, associations, entertainment, etc.). Historically, signature authority for supplemental employment agreements has been delegated by the Chief of Police to the Sergeant, Lieutenant, and Captain of the SPD's Special Events Unit. Most of the entities have obtained these services on an intermittent, temporary, or seasonal basis with costs averaging less than \$100,000 per entity.

The SPD has identified the agreements with Sacramento Basketball Holdings (SBH) and Arden Fair Mall both exceed \$100,000 for the fiscal year. Per Sacramento City Code Section 3.04.020, the agreement can only be executed with authorization from the Sacramento City Council. The increase in anticipated reimbursements is due to higher than anticipated requests for security services.

**Policy Considerations:** The recommendations contained in this report are consistent with Sacramento City Code 3.04.020 which requires City Council approval to enter into an agreement that is equal to or greater than \$100,000.

Proposition 26 was passed by the voters on November 2, 2010, amending Article XIII C of the State constitution. According to the ballot measure, the intent of the measure is to ensure the effectiveness of Propositions 13 and 218 by providing a definition of a "tax" for state and local purposes "so that neither the Legislature nor local governments can circumvent these restrictions on increasing taxes by simply defining new or expanded taxes as 'fees'." Thus, under Proposition 26, a tax has been defined broadly to include any levy, charge or exaction of any kind imposed by a local government, except for seven specified categories of charges. Moreover, the City bears the burden of proving that a fee or charge is not a tax. The hourly rate is not a "tax" under section 1, subdivision (e2), in Article XIII C of the California Constitution because it is to recuperate the reasonable cost of providing police services to entities that contract with the City. The hourly rates do not recover more than 100% of the SPD's actual cost of administering the program. No hourly rate waivers are provided, and the SPD's costs are allocated equally to the entities who contract with the City for police services.

**Economic Impacts:** None

**Environmental Considerations:** Not applicable

**Sustainability:** Not applicable

**Commission/Committee Action:** Not applicable

**Rationale for Recommendation:** The SPD considers these agreements to be in the best interest of the City because: 1) it operates in such a way that patrol resources are not adversely impacted under performance of these agreements; 2) local businesses and other entities are able to hold safe, fun events for their patrons; and 3) it is cost neutral with the current hourly reimbursement rates. Government Code section 53069.8(a) permits supplemental law enforcement services to take place at critical facilities on an occasional or ongoing basis. A “critical facility” means any building, structure, or complex that in the event of a disaster, whether natural or manmade, poses a threat to public safety. It is the position of SPD that the Arden Fair Mall and the Golden 1 Center, the sites of the subject agreements, represent critical facilities.

**Financial Considerations:** In November 2018, the City Council approved Resolution 2018-0446 which authorized the SPD to increase the reimbursement rate to \$74 per hour to offset the salary and benefits costs of sworn staff hours billed under the program. The increased rate also allowed the SPD to hire 1.0 Full Time Equivalent Administrative Technician to manage program scheduling and billing activities and offsets some of the SPD’s administrative overhead costs. The SPD will continue to monitor secondary employment revenue budget and actuals and will make any necessary adjustments to the reimbursement rate to remain cost neutral.

**Local Business Enterprise (LBE):** Not applicable

**SACRAMENTO POLICE DEPARTMENT  
SUPPLEMENTAL LAW ENFORCEMENT SERVICES AGREEMENT**

THIS AGREEMENT is made at Sacramento, California, as of May 21, 2019 and between CITY OF SACRAMENTO, a municipal corporation (CITY), and Sacramento Basketball Holdings, LLC (via Tim Lea) (CUSTOMER), at ADDRESS: PO Box 191 WORK PHONE #: (916) 707-5400

CITY/STATE/ZIP: Sacramento, CA 95814 CELL PHONE #: ( ) who agrees to as follows:

1. **Services.** Subject to the terms and conditions set forth in the Agreement, CITY shall provide to CUSTOMER peace officers to perform supplemental law enforcement services pursuant to Government Code Section 53069.8, as described below, at the work site indicated below, and pursuant to the schedule and costs set forth below. CITY reserves the right to determine the number and rank of peace officers or reserve peace officers that shall be assigned and whether the services shall be performed in uniform or plain clothes. CUSTOMER may request specific peace officers to be assigned under this Agreement, but CITY is not obligated to comply with such requests. CUSTOMER agrees that assigned peace officer(s) shall not be required to perform tasks that are outside of routine peace officer job duties nor perform services authorized to be provided by a private patrol operator, as defined in Business and Professions Code Section 7582.1. CUSTOMER hereby authorizes any employee of the Sacramento Police Department to enter the premises at the below mentioned work site whenever necessary to fulfill the duty of CITY to provide services under this Agreement. CITY reserves the right to reassign any or all peace officers provided to CUSTOMER pursuant to this Agreement when, in the opinion of the Chief of Police, or his designee, public safety needs require such reassignment.

Type of Event: General Security - Open Contract Event Location: Golden 1 Center / Other Locations

Name of Event Contact: \_\_\_\_\_ Day Phone No. for Event Contact: \_\_\_\_\_

Customer's Driver License Number: \_\_\_\_\_ Customer's SSN Number: \_\_\_\_\_

Estimated Number of Attendees: \_\_\_\_\_ Alcohol Served:  Yes No Music (Live/Recorded):  Yes No

2. **Term (check applicable type of event).**

**Single Day:** Date: \_\_\_\_\_ Reporting Time: \_\_\_\_\_  AM  PM. Ending Time: \_\_\_\_\_ AM  PM

**Recurring Events:** The term of this Agreement shall commence on July 1st, 2019 and shall continue in full force and effect until June 30, 2020, unless terminated pursuant to this Agreement.

CUSTOMER shall notify CITY of events requiring CITY supplemental law enforcement services no less than **10** calendar days in advance of the event.

Estimated Services to be provided by:  Non Sworn Personnel  Peace Officers  Reserve Peace Officers

Estimated Quantity	Employee Rank	Hourly Rate	Estimated Work Hours	Estimated Cost
	<b>Police Officer</b>	<b>\$74</b>		
	<b>Sergeant</b>	<b>\$89</b>		
	** Open Contract Not to Exceed**			
	**\$2,000,000**			
# Of Vehicles		Flat Fee Amount (\$35.00 each vehicle)		Cost For Vehicles
		<b>\$35</b>		

**ESTIMATED TOTAL COST: Based on total hours**

3. **Payment.** CUSTOMER shall pay CITY for services pursuant to this Agreement at the times and in the manner set forth below, and based on the following:

- Hourly rates (billed to the next half hour): **\$68.00** per hour for officers and **\$83.00** per hour for sergeants.
- Minimum of four (4) hours per peace officer provided. In the event CUSTOMER cancels a request for services under the Agreement with less than forty-eight (48) hours notice, CUSTOMER shall pay CITY an amount equal to four (4) hours pay for each peace officer position canceled.
- CUSTOMER will be billed for the time required by the peace officer(s) to complete reports related to any enforcement action and/or incident occurring while employed under this Agreement.
- Rate for provision of marked police vehicle: minimum of **\$ 35** per day + **\$0.50** per mile after first fifty (50) miles.
- The hourly rates and vehicle fees are subject to change. Should the CITY increase the rates, CUSTOMER will be provided written notice at least 30 days in advance of the rate increase and what the new rates will be. If CUSTOMER does not agree to the new rates, written notice must be provided at least 10 days prior to the date that the new rates are to take effect indicating CUSTOMER's intention to terminate the services as provided in Section 8 (Termination) below.
- At CITY'S option, CUSTOMER shall either i) make an initial payment (based on the number of peace officers multiplied by the cost of each officer multiplied by the anticipated number of hours of the event) and be billed for any additional hours of services provided afterwards; or ii) be billed by CITY at the end of the month in which services were provided. CUSTOMER shall make payment within **thirty (30) days** of the billing date and all delinquent accounts are subject to a late payment charge of **twelve (12) percent per annum** on any unpaid or delinquent balance.

4. **Facilities and Equipment.** Except for the provision of marked police vehicle(s) as specified above, CITY is not obligated to furnish any facilities or equipment pursuant to this Agreement. CITY, at its sole discretion, may furnish other equipment to assigned peace officer(s).
5. **Compliance with Laws and Regulations.** CUSTOMER represents and warrants to CITY that CUSTOMER has all licenses, permits City Business Operations Tax Certificate, and approvals of whatsoever nature which CUSTOMER is legally required to possess to conduct the event described herein. CUSTOMER represents and warrants to CITY that CUSTOMER shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any required licenses, certificates, permits and approvals. CUSTOMER shall comply with all applicable Federal, State and Local laws, ordinances, rules and regulations pertaining to its obligations under this Agreement.
6. **No Grant of Agency.** Except as the parties may specify in writing, neither party shall have authority, express or implied, to act on behalf of the other party in any capacity whatsoever as an agent. Neither party shall have any authority, express or implied, pursuant to this Agreement to bind the other party to any obligation whatsoever.
7. **Assignment Prohibited.** CUSTOMER shall not assign any right or obligation pursuant to this Agreement without the written consent of CITY. Any attempted or purported assignment without CITY ' s written consent shall be void and of no effect.
8. **Termination.** CITY shall have the right to terminate this agreement at any time, in the sole discretion of the Chief of Police or his designee, with or without cause, by giving notice to CUSTOMER. In the event of termination, CITY shall immediately cease rendering services pursuant to this Agreement and CUSTOMER shall pay CITY the value of services rendered pursuant to this Agreement. CITY ' S entire liability to CUSTOMER for any failure to perform the services required by this Agreement shall not exceed the amount of total payments CITY received, or would have received, under this Agreement for the services CITY failed to perform, and CITY shall not be liable for lost profits or punitive, special, indirect or consequential damages, even if CITY has been advised of the possibility of such damages.
9. **Indemnity and Hold Harmless.** *To the fullest extent allowed by law, CUSTOMER shall defend, indemnify, and hold harmless CITY, its directors, officers, agents, employees, and guests against any claim or demand arising from any actual or alleged act, error, or omission by CUSTOMER or its directors, officers, agents, employees, volunteers, or guests arising from CUSTOMER's duties and obligations described in this agreement or imposed by law. To the fullest extent allowed by law, CITY shall defend, indemnify, and hold harmless CUSTOMER, its directors, officers, agents, employees, and guests against any claim or demand arising from any actual or alleged act, error, or omission by CITY or its directors, officers, agents, employees, volunteers, or guests arising from CITY's duties and obligations described in this Agreement or imposed by law.*
10. **Nondiscrimination.** In the performance of the services or obligations required by this Agreement, neither party shall discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or disability, or sexual orientation.
11. **General Orders.** CUSTOMER agrees that the assigned peace officers shall act in accordance with the General Orders, rules, procedures and other directives of the Sacramento Police Department, which by this reference are hereby incorporated herein.
12. **Entire Agreement.** This document contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by the CITY.
13. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
14. **Waiver.** Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.
15. **Ambiguities.** The parties have each carefully reviewed this Agreement and have agreed to each term herein. No ambiguity shall be presumed to be construed against either party.
16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
17. **Authority.** The person signing this Agreement for CUSTOMER hereby represents and warrants that he or she is fully authorized to sign this Agreement on behalf of CUSTOMER.

Executed as of the day and year first above stated.

**CITY OF SACRAMENTO**  
A Municipal Corporation

**ORGANIZATION NAME**

\_\_\_\_\_  
[type or print name of organization, if applicable]

\_\_\_\_\_  
Daniel Hahn Chief of Police

\_\_\_\_\_  
Customer Signature (Print title, if applicable)

**SACRAMENTO POLICE DEPARTMENT  
SUPPLEMENTAL LAW ENFORCEMENT SERVICES AGREEMENT**

THIS AGREEMENT is made at Sacramento, California, as of May 21, 2019 and between CITY OF SACRAMENTO, a municipal corporation (CITY), and Arden Fair Mall (via Guillermo Godinez) (CUSTOMER), at

ADDRESS: 1689 Arden Wy # 1167 WORK PHONE #: (916) 514-4415

CITY/STATE/ZIP: Sacramento, CA 95833 CELL PHONE #: (916) 514-4415 who agrees to as follows:

- Services.** Subject to the terms and conditions set forth in the Agreement, CITY shall provide to CUSTOMER peace officers to perform supplemental law enforcement services pursuant to Government Code Section 53069.8, as described below, at the work site indicated below, and pursuant to the schedule and costs set forth below. CITY reserves the right to determine the number and rank of peace officers or reserve peace officers that shall be assigned and whether the services shall be performed in uniform or plain clothes. CUSTOMER may request specific peace officers to be assigned under this Agreement, but CITY is not obligated to comply with such requests. CUSTOMER agrees that assigned peace officer(s) shall not be required to perform tasks that are outside of routine peace officer job duties nor perform services authorized to be provided by a private patrol operator, as defined in Business and Professions Code Section 7582.1. CUSTOMER hereby authorizes any employee of the Sacramento Police Department to enter the premises at the below mentioned work site whenever necessary to fulfill the duty of CITY to provide services under this Agreement. CITY reserves the right to reassign any or all peace officers provided to CUSTOMER pursuant to this Agreement when, in the opinion of the Chief of Police, or his designee, public safety needs require such reassignment.

Type of Event: General Security- Open Contract Event Location: Arden Mall (1689 Arden Wy)

Name of Event Contact: \_\_\_\_\_ Day Phone No. for Event Contact: \_\_\_\_\_

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	<b>**\$250,000**</b>			
<b># Of Vehicles</b>	<b>Flat Fee Amount (\$35.00 each vehicle)</b>		<b>Cost For Vehicles</b>	
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Executed as of the day and year first above stated.

**CITY OF SACRAMENTO**  
A Municipal Corporation

**ORGANIZATION NAME**

\_\_\_\_\_  
[type or print name of organization, if applicable]

\_\_\_\_\_  
Daniel Hahn                      Chief of Police

\_\_\_\_\_  
Customer Signature (Print title, if applicable)