



CITY of NOVI CITY COUNCIL

Agenda Item E
May 9, 2016

SUBJECT: Approval of Resolution for the Law Enforcement Services Agreement for the Novi Police Department.

SUBMITTING DEPARTMENT: Public Safety - Police *DEM*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

In order to comply with standards set by the Commission on Accreditation for Law Enforcement Agencies (CALEA), the Novi Police Department revised its current Law Enforcement Services Agreement for contracted police security services provided to private entities. Section 33-795 of the Novi Code of Ordinances authorizes the Chief of Police to execute agreements for security services in a form approved by resolution of City Council. Over the last three years, the Novi Police Department entered in to 61 Law Enforcement Services Contracts, averaging 20 contracts each year.

In comparing our existing "Security Agreement" for contracted police services to CALEA standards, we identified a need to modify our existing agreement and create a "Contractual Agreements for Law Enforcement Services" directive. The new agreement states the provider agency (City of Novi) will maintain any records concerning the performance of services and contains specific language which allows for the termination of a contract and references legal contingencies in regards to governing law and the enforcement of laws. Also stipulated in the new agreement is the City of Novi maintains exclusive supervision and control of the police officers, and addresses equipment and facilities provided by the City. None of the new factors were mentioned in the existing "Security agreement."

The proposed agreement and resolution was prepared by legal counsel. The agreement complies with the CALEA standards and the Police Department intends to utilize it for all future requests for contracted police services. The billable rates are provided by the Finance Department on an annual basis at the beginning of each fiscal year.

RECOMMENDED ACTION: Approval of Resolution for the Law Enforcement Services Agreement for the Novi Police Department.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION NO. _____

At a meeting of the City Council of the City of Novi, Oakland County, Michigan, held on _____, 2016, at the City Hall, 45175 Ten Mile Road, Novi, Michigan 48375-3024.

The following Resolution was offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, Section 33-795 of the City of Novi Code of Ordinances authorizes the City to offer police security services in addition to those services generally provided to the public.

WHEREAS, the provisions of 33-795 authorize the Chief of Police to execute agreements for security services in a form approved by resolution of City Council.

NOW THEREFORE, IT IS THEREFORE RESOLVED::

1. To approve the Law Enforcement Services Agreement, in the format attached hereto and incorporated as Exhibit A.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this ____th day of _____, 2016, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Maryanne Cornelius, City Clerk

MEMORANDUM



TO: DAVID E. MOLLOY
DIRECTOR OF PUBLIC SAFETY/ CHIEF OF POLICE *Dem*

FROM: JERROD S. HART *JH*
ASSISTANT CHIEF OF POLICE

SUBJECT: LAW ENFORCEMENT SERVICES AGREEMENT

DATE: APRIL 22, 2016

In August 2014, the Novi Police Department started the 36 month self-assessment period for the Advanced Law Enforcement Accreditation through the Commission on the Accreditation of Law Enforcement Agencies (CALEA). During the self-assessment period, agencies modify and create directives to meet International best practices.

In comparing our existing "Security Agreement" for contracted police services to CALEA standards 3.1.1 "Written Agreement for Services Provided" and 3.1.2 "Employee Rights" we identified a need to modify our existing agreement.

Sgt. Rhea worked with Elizabeth Saarela at Johnson, Rosati, Schultz and Joppich to create a new agreement which meets the aforementioned standards. Section 33-795 of the Novi Code of Ordinances authorizes the Chief of Police to execute agreements for security services in a form approved by resolution of City Council.

I recommend we add the attached resolution and background material to the May 9, 2016 City Council Agenda for their consideration.

New Law Enforcement
Services Agreement
(May 2016)

LAW ENFORCEMENT SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2016, by and between the City OF NOVI, a Michigan municipal corporation, with its principal offices located at 45175 Ten Mile Road, Novi, MI 48375-3024 (hereinafter referred to as the "City") and _____, a _____, with its principal office located at _____, its agents, heirs, executors, administrators, successors and assigns (hereinafter referred to as the "Contracting Entity");

RECITALS:

WHEREAS, the City has an existing police department that is sufficiently staffed and equipped to properly provide regular police services within the City; and

WHEREAS, the Contracting Entity desires to obtain the on-site presence of officers for security and related services from the City that exceed the regular law enforcement services provided by the City in accordance with the statement attached hereto and incorporated herein as Exhibit "A" (the "Law Enforcement Services"); and

WHEREAS, the City is willing to provide the Law Enforcement Services to the Contracting Entity subject to certain terms and conditions referenced in this Agreement; and

WHEREAS, the City and the Contracting Entity desire to enter into this Agreement in order to specify the terms and conditions of the Law Enforcement Services provided by the City; and

WHEREAS, the parties have discussed and understand the terms of this Agreement and have taken all necessary actions to enter into the same.

NOW, THEREFORE, in consideration of the foregoing recitals and preambles, incorporated herein by reference, the parties agree as follows:

1. Law Enforcement Services. The City shall provide the Law Enforcement Services on the dates, times and location referenced in the attached and incorporated Exhibit "A". The selection of the City police officers providing the Law Enforcement Services, shall be at the sole discretion of the City. The City shall assign Officers to Facilities to perform police patrols and law enforcement duties ("Services"). Each period of Services rendered by an Officer shall be designated an "Assignment". The Services shall only encompass duties and functions customarily rendered by City and Officers assigned to Contracting Entity shall at all times be subject to the control and direction of the City. The City shall maintain public documents created in the course of providing the Services set forth in this Agreement in accordance with its records retention policy. Any additional or different types of documentation required by the Contracting Entity for its purposes shall be specified in detail in the attached and incorporated Exhibit A. In consultation with the Contracting Entity, the number of police officers and/or police supervisors that are safely needed for the specific event will be discussed with the Contracting Entity and the City prior to finalizing Exhibit "A".

2. Equipment and Facilities. Each Officer shall dress in the standard law enforcement uniform issued by the City, to include all necessary and required accoutrements that are authorized by the City and customarily worn by officers, such as a firearm, radio, vest, safety equipment, in a manner and form deemed suitable by the City at its complete discretion. Officers shall use City vehicles and standard equipment issued by the City, as needed, in the course of providing Law Enforcement Services. Should alternate attire be desired for the Assignment (plain clothes or other), this may be accommodated at the discretion of the City and with the accoutrements deemed necessary by the City in its complete discretion.

3. Enforcement of Laws. Contracting Entity shall not exercise control over Officer's enforcement of laws and Officers shall not enforce any rules and regulations that are not otherwise violations of the law, as determined by Officer and City. Officers shall be subject to, and shall abide by, all City and departmental rules and regulations as well as complying with all local, state and federal laws.

4. Rate and Invoices. The Contracting Entity agrees to pay the City the hourly rates, costs and expenses set forth in the attached and incorporated Exhibit "A". The Contracting Entity shall remit payment to the City for the Law Enforcement Services within four (4) calendar days prior to the scheduled service time. Such payment shall be made to the City Treasurer at the Civic Center located at 45175 Ten Mile Road, Novi, MI 48375-3024, via United States currency or check made payable to the "City of Novi." The City may, at its complete and sole discretion, arrange for alternate payment arrangements with the Contracting Entity. Any such alternate arrangements must be noted in writing in Exhibit "A".

For Law Enforcement Services rendered to the Contracting Entity on a continuing regular basis, the City may, at its sole discretion, waive the pre-payment requirement referenced above provided that the Contracting Entity guarantees payment for the Law Enforcement Services in a manner acceptable to the City. Where the City waives such pre-payment requirement, the City shall invoice the Contracting Entity within a reasonable time after the Law Enforcement Services are provided under this Agreement, and the Contracting Entity shall remit payment in full within thirty (30) calendar days after the date of such invoice. The City may revoke any such pre-payment waiver for any reason, including but not limited to the Contracting Entity's failure to timely remit payment to the City for any such invoiced Law Enforcement Services and/or Contracting Entity's failure to timely remit payment for any City-related taxes, fees and/or other charges owed by the Contracting Entity and/or related to the property upon which the Law Enforcement Services are provided.

5. Independent Contractor. Contracting Entity and City enter into this Agreement at arms' length. The City, at all times shall be considered an independent contractor for all purposes under this Agreement, including the performance of Services. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership or employer/employee relationship between the Parties. Neither Contracting Entity nor City shall hold itself out as the representative or agent of the other Party. The Contracting Entity shall not seek to exercise any control over the City, its Officers or its agents. The City, its employees, and Officers assigned to Facilities shall not be deemed employees or joint employees of Contracting Entity for any purpose. City retains the sole right and authority to recruit, hire, promote, discipline, demote, discharge, determine rates of pay for, establish the terms and conditions of employment of, and/ or to direct and control the manner in which its

employees and Officers discharge their professional and work duties. City is responsible for instructing and training its Officers consistent with this Agreement. City retains the sole right and authority to decide and direct which Officers it shall assign, at what times, and to which Facilities to provide Services under this Agreement. City shall be solely responsible for all employee wages, timesheets, payroll deductions, federal and state taxes, unemployment compensation contributions, social security taxes, and benefits of its employees and Officers. Neither City nor its employees, agents or Officers are entitled to receive any benefits, including but not limited to salary, vacation pay, sick leave, retirement benefits, social security, workers' compensation, health, disability, unemployment and stock options that Contracting Entity may provide to its employees. It is understood that Contracting Entity will not provide and shall not be responsible for worker's compensation coverage for City or any Officer. Responsibility for providing such coverage remains solely with City. When rendering Services at the Facilities, Officers act solely as the agents of City. Services contracted in accordance with this Agreement shall be subject to the employment rights of City personnel as enumerated in the applicable collective bargaining agreement. For the purposes of this Agreement, unless otherwise specified, the term "Officers" refers to all Novi Police Personnel of all ranks, including, but not limited to the ranks of Officer, Corporal, Sergeant, Lieutenant, Captain, Assistant Chief, Deputy Chief, Chief, Director, or otherwise.

6. Cancellation of Service. The Contracting Entity may cancel the Law Enforcement Services no less than forty eight (48) hours prior to the beginning of the scheduled service time by calling the Director of Public Safety / Chief of Police, or if he or she is not available, by speaking to a command officer of the Novi Police Department. If a scheduled service is not cancelled within the allotted time, then the Contracting Entity will be responsible for paying the City the minimum hour charge for each officer referenced on the statement attached hereto and incorporated herein as Exhibit "A".

7. Insurance. The City agrees to furnish insurance coverage on its police officers for all time that the said officers are on the Contracting Entity premises. Such insurance coverage shall be in the same form and amount as that maintained by the City for police operations in the City. Neither party shall be liable for any damages proximately resulting from the negligent or wrongful acts or omissions of the other party, or the party's employees or agents in the performance of this Agreement.

8. Inability to Provide Services. The City shall only be required to provide those Law Enforcement Services referenced in the statement attached hereto and incorporated herein as Exhibit "A". In the event that unusual requirements in the City or elsewhere interfere with the City's delivery of the Law Enforcement Services, the City shall, during such period of time, not be required to offer or provide the Law Enforcement Services to the Contracting Entity. Under such circumstances, the Contracting Entity shall not be required to pay for such services not provided by the City, and the City shall refund to the Contracting Entity any pre-payment made by the Contracting Entity for such services under Paragraph 2 above.

9. Salary Responsibility. The Contracting Entity shall not be required to assume any liability for the direct payment of any salaries, wages or other compensation to any City personnel performing Law Enforcement Services for Contracting Entity. During the period that Law Enforcement Services are provided, the City personnel providing such services shall be acting as an agent, servant, and employee of the City and not of the Contracting Entity.

10. Supervision and Control of Officers. The parties agree that the police officers of the City are employed by the City and are under the exclusive supervision and control of the City.

11. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Michigan.

12. Binding Effect; Assignment. This Agreement and all terms and conditions hereof shall be binding upon and inure to the benefit of all parties, their heirs, administrators, executors, successors and assigns. Provided, however, the Contracting Entity shall not assign this Agreement without the prior written consent of the City.

13. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the parties and cannot be amended unless agreed to in writing executed by all parties.

14. Termination. The City may terminate the Agreement at any time upon written or verbal notification to the Contracting Entity or its employees, servants, officers or agents.

15. Severability. If any term of this Agreement is found to be invalid or unenforceable, then the invalidity or unenforceability shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

16. Modification. This Agreement may only be modified or amended by the mutual written agreement of the parties. Any such modification or amendment shall be signed by each party, and shall be attached to and become part of this Agreement.

17. Costs and Attorneys Fees. Each party shall be responsible for its own attorneys fees and costs in an action regarding the enforcement of this Agreement.

18. Counterparts. This Agreement may be executed in any number of counterparts. Each counterpart when executed shall be deemed to be an original, and such counterparts collectively shall constitute one and the same instrument.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the City has caused this Agreement to be duly executed by the appropriate officials and its seal affixed hereto, and Principal has caused this Agreement to be duly executed by its authorized officials and its seal affixed hereto on the day and year written above.

City

City OF NOVI, a Michigan municipal corporation

By: _____
David E. Molloy Date
ITS: Director of Public Safety / Chief of Police

CONTRACTING ENTITY

Requesting Party Date
By: _____

Its: _____

EXHIBIT "A"

STATEMENT OF LAW ENFORCEMENT SERVICES

City OF NOVI

APPLICATION FOR LAW ENFORCEMENT SERVICES

Applicant Name: _____

Applicant Address: _____

Type of Organization: _____

Applicant Representative/Contact: _____

Description of services to be provided: _____

Location where services are to be provided: _____

Date and hours services requested: _____

Estimated number of attendees: _____

Number of police officers requested: _____

Number of Police Sergeants/Lieutenants: _____

Applicant hereby agrees to pay City \$_____ per hour for each officer providing services pursuant to the above stated request. A minimum of three (3) hours is charged for each police officer position.

Applicant hereby agrees to pay City \$_____ per hour for each Sergeant providing services pursuant to the above stated request. A minimum of three (3) hours is charged for each police Sergeant position.

Applicant hereby agrees to pay City \$_____ per hour for each Lieutenant providing services pursuant to the above stated request. A minimum of three (3) hours is charged for each police Lieutenant position.

Applicant hereby agrees to pay City \$_____ per hour for each _____ providing services pursuant to the above stated request. A minimum of three (3) hours is charged for each police _____ position.

All Applications for Law Enforcement Services shall be submitted _____ days prior to the requested service time.

By executing this application, the Applicant and/or his/or her authorized representative hereby certifies that the statements made herein are true and correct to the best of his/her knowledge, information and belief, and certifies that he/she is authorized to execute this application on behalf of the Applicant.

Applicant/Representative Signature: _____

Printed Name: _____

Position/Title: _____

Date: _____

Directive 211,
CALEA Standards
and
Existing
Security Agreement



Novi Police Department

Director of Public Safety
Chief of Police

David E. Molloy

Subject		Directive	Number of Pages	
Contractual Agreements for Law Enforcement Services		211	1	
<i>*This Directive Supersedes All Previously Issued Correspondence Relative To This Topic*</i>				
CALEA Standards:	3.1.1, 3.1.2	Effective Date		Revised Date
		02/09/2016		02/09/2016

I. Purpose

The purpose of this directive is to set forth the policy of the Novi Police Department regarding contractual agreements entered into by the agency for providing law enforcement services.

II. Policy

The Novi Police Department will coordinate law enforcement services with outside agencies and other entities when the delivery of such services is in the best interest of the citizens of the City of Novi.

III. Procedure

A. All contractual agreements for law enforcement services will contain the following:

1. a statement of the specific services to be provided;
2. specific language dealing with financial agreements between the parties, including the cost and method of payment;
3. specification of the records to be maintained concerning the performance of services;
4. language dealing with the duration, modification, renewal, and termination of the contract;
5. specific language dealing with legal contingencies, including provisions for possible litigation that may arise;
6. stipulation that the Novi Police Department maintains complete managerial control over agency personnel;
7. specific arrangements for the use of equipment and facilities; and
8. a procedure for review and revision of the agreement, if needed. [3.1.1 a-h]

B. All contracts for law enforcement services will assure that employment rights of personnel assigned, as enumerated in that employees collective bargaining agreement, are not abridged by the provider agency. [3.1.2]

C. All interagency contracts, interagency agreements, and law enforcement services contracts in effect prior to the issuance of this directive will be reviewed upon renewal by the Novi Police Department Administration and City of Novi legal counsel and may be reviewed at any time upon request to ensure compliance with this directive.

3.1.1

(M M M M) (LE1) Written Agreement for Services Provided

A written agreement exists governing law enforcement services provided by the agency, and includes:

- a. a statement of the specific services to be provided;*
- b. specific language dealing with financial agreements between the parties;*
- c. specification of the records to be maintained concerning the performance of services by the provider agency;*
- d. language dealing with the duration, modification, and termination of the contract;*
- e. specific language dealing with legal contingencies;*
- f. stipulation that the provider agency maintains control over its personnel;*
- g. specific arrangements for the use of equipment and facilities; and*
- h. a procedure for review and revision, if needed, of the agreement.*

Commentary

The elements of contract law enforcement services should be identified in a written agreement. At a minimum, the subjects listed in the bullets of this standard should be addressed. Additional clauses may clarify other identified needs or agreements. (M M M M) (LE1)

3.1.2

(M M M M) Employee Rights

A written directive stipulates that employment rights of personnel assigned under a contract for law enforcement services are not abridged by the provider agency.

Commentary

Participation in a contracted law enforcement service arrangement should not penalize participating employees nor should it in any way threaten their employment rights, promotional opportunities, training opportunities, or fringe benefits. (M M M M)

SECURITY AGREEMENT

AGREEMENT made the ____ day of _____, 20XX between the City of Novi, a Michigan municipal corporation, the address of which is 45175 Ten Mile Road, Novi, Michigan 48375 ("City"), and the _____ ("Requesting Party").

WHEREAS, the Requesting Party has asked the City to provide police security at its _____ at the _____ on the following dates and times:

Date, Time, # of Officers

WHEREAS, the City is willing, pursuant to Section 33-795 of the Novi Code of Ordinances, to provide such service provided that the Requesting Party pays to the city the cost of such service.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. The City shall provide police security for the Requesting Party at the specified location, on the following dates and times: see above. The security shall consist of the presence of _____ Officers at said location during the dates and times provided above.
2. The Requesting Party shall pay the City for such security at the rate of _____/hour/officer. Such amount shall be paid to the City within thirty (30) days after written invoice by the City.
3. The Agreement contains the entire agreement between the parties, and no statement, promises, or inducements made by either party or agent of either party that is not contained in this written contract shall be valid or binding; and this contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed herein.
4. It is expressly understood and agreed by the parties that this Agreement, and all stipulations and provisions contained herein, shall apply to and bind the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

WITNESSES:

CITY OF NOVI, a Michigan municipal corporation

BY: David E. Molloy Date
ITS: Director of Public Safety/Chief of Police

REQUESTING PARTY Date

BY:
ITS: