

**AGREEMENT BETWEEN THE SAN MATEO COUNTY VEHICLE THEFT TASK
FORCE AND THE CITY OF SAN MATEO**

THIS AGREEMENT, entered into this ____ day of March, 2022, by and between the COUNTY OF SAN MATEO VEHICLE THEFT TASK FORCE, hereinafter called "VTTF," and CITY OF SAN MATEO, hereinafter called "Contractor", and collectively hereinafter called "Parties";

W I T N E S S E T H:

WHEREAS, The VTTF is a unit composed of officers from the California Highway Patrol and the Sheriff's Office located in San Mateo County. The VTTF operates under the authority of the San Mateo County Police Chiefs and Sheriff Association through a Joint Powers Agreement (JPA) to which the County and all the incorporated cities are parties;

WHEREAS, The Police Chief of San Mateo is a member of the San Mateo County Police Chiefs and Sheriff Association;

WHEREAS, The Parties understand that this agreement is distinct from and independent of the terms of the JPA establishing the VTTF and its amendments and that, by this agreement, the JPA is in no way modified or amended;

WHEREAS, The Board of Directors appoints a Commander for the San Mateo County Narcotics Task Force and Vehicle Theft Task Force. The Commander holds the rank of Lieutenant or higher in a participating agency in order to be eligible for appointment.

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of combating vehicle theft related crime in San Mateo County.

WHEREAS, it is necessary and desirable that Contractor assign a peace officer (the "Officer") to the VTTF so that Contractor and the VTTF can better assist one another in the detection, apprehension, and prosecution of vehicle theft related criminal activity, and improve engagement in a coordinated and concentrated effort to combat vehicle theft in San Mateo County and the City of San Mateo;

WHEREAS, the Parties believe it fair to reimburse Contractor for a part of the cost of the Officer assigned to the VTTF in a manner reflects the contribution of the Officer to the VTTF's County-wide efforts while the Officer remains an employee solely of Contractor.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
AS FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth below, Contractor shall assign a San Mateo Police Officer to the VTTF.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit A, VTTF shall reimburse Contractor in an amount constituting 75% of the cost of salary and benefits paid to the Officer by Contractor and 100% of overtime paid as a result of overtime worked for the benefit of the VTTF but excluding any worker's compensation payments, benefits, reimbursement or costs. The reimbursement will be made quarterly based on invoices generated by Contractor.

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from March 1, 2022, through February 28, 2024.

This Agreement may be terminated by Contractor, the VTTF Commander, or his/her designee at any time without a requirement of good cause upon fifteen (15) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of VTTF and shall be promptly delivered to VTTF. Upon termination, Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

VTTF may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or VTTF funds by providing written notice to Contractor as soon as is reasonably possible after VTTF learns of said unavailability of outside funding.

6. Relationship of Parties

6.1 Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of VTTF and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of VTTF employees.

6.2 Officer assigned to VTTF shall take direction from the VTTF Commander and comply with the rules and regulations set forth in the Operations Manual adopted by the Board of Directors of the VTTF unless those rules and regulations conflict with the rules and regulations of the San Mateo Police Department, in which case the rules and regulations of the San Mateo Police Department shall take precedence. Further, ultimate responsibility for supervision and training of any Police Officer assigned to the Vehicle Theft Task Force remains with Contractor. However, when any conflict is found to exist between VTTF policy and training and Contractor policy and training, the matter will be brought to the attention of the Commander by Contractor who will so advise the Board of Directors for action as they may determine.

6.3 The San Mateo Police Chief shall be immediately notified of all personnel complaints against any officer assigned to the task force. Personnel complaints will be investigated by the San Mateo Police Department pursuant to San Mateo Police Department policy.

6.4 If discovery or disclosure of peace officer personnel records, or records maintained pursuant to Penal Code Section 832.5 or information from such records is sought concerning the any officer assigned to the VTTF, the San Mateo Police Department shall be responsible for responding to the discovery or disclosure request. The VTTF shall provide to the San Mateo Police Department any of its records necessary to respond to the discovery or disclosure request to the extent permitted by law.

6.5 The VTTF will furnish equipment to the Officer assigned to the VTTF that includes, but is not limited to, safety equipment, surveillance equipment, vehicles, and other items to the extent issued to other members assigned to the VTTF.

6.6 All money received through state asset forfeiture or federal equitable sharing will remain with the VTTF to supplement task force operating costs and upgrades.

6.7 The release of information regarding VTTF operations will normally be coordinated through the VTTF Commander. Additionally, in the event of an officer involved shooting or highly publicized VTTF activity, participating agencies will attempt if feasible to meet and confer in advance regarding what agency will release what type of information.

6.8 Any officer involved shootings or accidental discharges involving the Contract Officers assigned to the VTTF shall be investigated by Contractor in conjunction with SMPCSA OIS Protocol.

6.9 Any on-duty vehicle collision involving the Officer assigned to the VTTF shall be investigated and reported by Contractor in collaboration with VTTF Commander.

7. Hold Harmless

7.1. Contractor shall defend, hold harmless and indemnify VTTF and the County of San Mateo, their officers, agents, and/or employees from any and all claims for injuries to persons and/or damage to property, which both arise out of this Agreement and are caused by or are alleged to be caused by the acts or omissions

of Contractor, its officers, agents and/or employees including, but not limited to claims alleging negligence, excessive force, or violations of state or federal civil rights laws, except to the extent such claims arise out acts performed by the VTTF, its officers, agents and/or employees.

7.2. VTTF shall defend, hold harmless and indemnify Contractor, its officers, agents and/or employees from any and all claims for injuries to persons and/or damage to property, which both arise out of this Agreement and are caused by or are alleged to be caused by the acts or omissions of VTTF, its officers, agents and/or employees including, but not limited to claims alleging negligence, excessive force, or violations of state or federal civil rights laws, except to the extent such claims arise out acts performed by the Contractor, its officers, agents and/or employees.

7.3. In the event of the concurrent negligence of Contractor, its officers, agents and/or employees, and VTTF, its officers, agents and/or employees, then the liability for any and all claims for injuries or damages which arise out of this Agreement shall be apportioned under California's theory of comparative fault as presently established or may be hereafter modified.

7.4 Contractor will be responsible for the defense of any of its employees assigned to the VTTF in any lawsuit filed against that employee, regardless of the allegations.

7.5 The parties understand and agree that because the Officer assigned will be deemed to be continuing under the employment of the Contractor, any damage, injury, disability, or death incurred by the Officer while working with the VTTF shall be deemed to have arisen out of and to have been sustained in the course of the Officer's employment with Contractor. The Officer assigned to the VTTF who sustains any damage or injury arising out of and in the course of his work with the VTTF shall be accorded by Contractor all of the same benefits, including Workers Compensation Benefits, which he would have received if he had been acting under the immediate direction of Contractor. If the Officer, or anyone on his behalf, files a claim for Workers' Compensation or claims and violation of any labor or employment laws against the VTTF, for any damage or injury claimed to have been sustained while working with the VTTF, Contractor shall indemnify, defend, and hold harmless the VTTF.

8. Assignability, Subcontracting and Assignment of Officer

8.1 Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of VTTF. Any such assignment or subcontract without VTTF's prior written consent shall give VTTF the right to automatically and immediately terminate this Agreement.

8.2 Contractor shall assign a single Officer to the VTTF. Before re-assigning that officer and re-assigning a different Officer, Contractor shall meet and confer in good faith with the VTTF to discuss the re-assignment and receive input from the VTTF. Re-assignment inconsistent with the wishes of the VTTF is grounds for immediate termination of this Agreement. However, the final decision regarding assignment of its personnel remains with Contractor.

9. Insurance

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by VTTF's Risk Management and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish VTTF with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to VTTF of any pending change in the limits of liability or of any cancellation or modification of the policy. These requirements may be satisfied by a certificate of self-insurance.

- (1) **Workers' Compensation and Employer's Liability Insurance.** Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, (a) that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) that it will comply with such provisions before commencing the performance of work under this Agreement.

- (2) **Liability Insurance.** Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or by an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000

VTTF and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to VTTF and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the VTTF or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, VTTF, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

10. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *General non-discrimination.* No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.
- B. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.
- C. *Section 504 of the Rehabilitation Act of 1973.* Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

- D. *Discrimination Against Individuals with Disabilities.* The Contractor shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.

12. Retention of Records, Right to Monitor and Audit

(a) Contractor shall maintain all required records for three (3) years after VTTF makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit of VTTF, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: Contractor shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State, and local agencies, and as required by VTTF.

(c) Contractor agrees upon reasonable notice to provide to VTTF, to any Federal or State department having monitoring or review authority, to VTTF's authorized representatives, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

13. Merger Clause & Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated herein by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

14. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

15. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1)

transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of VTTF, to:

Name/Title: Michael Leishman, Lieutenant
Address: 400 County Center, RWC, CA 94063
Telephone: 650-573-3592
Facsimile: 650-594-9327
Email: mjleishman@smcgov.org

In the case of Contractor, to:

Name/Title: Dave Peruzzaro, Captain
Address: 200 Franklin Parkway, San Mateo, CA 94403
Telephone: 650-522-7684
Facsimile: 650-522-7601
Email: dperuzzaro@cityofsanmateo.org

The SMCVTTF agrees that the Commander will furnish to the San Mateo Police Department upon request any reports, summaries or other documents pertaining to the operation of the Task Force to the extent permitted by law.

17. Electronic Signature

If both VTTF and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For VTTF: ☒ If this box is checked by VTTF, VTTF consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☐ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

CITY OF SAN MATEO

BY _____

ED BARBERINI, CHIEF OF POLICE
SAN MATEO POLICE DEPARTMENT

SAN MATEO COUNTY VEHICLE THEFT TASK FORCE

DocuSigned by:
Michael J Leishman 2/10/2022
BY _____ 4EBABF3099F94F2...

MICHAEL LEISHMAN, LIEUTENANT
VEHICLE THEFT TASK FORCE
COUNTY OF SAN MATEO

(Revised 7/1/13)

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- ☐ a. Employs fewer than 15 persons.
- ☐ b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person:

Name of Contractor(s):

Street Address or P.O. Box:

City, State, Zip Code:

I certify that the above information is complete and correct to the best of my knowledge

Signature:

Title of Authorized Official:

Date:

*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."