

**SAN BERNARDINO COUNTY SHERIFF/CORONER/PUBLIC ADMINISTRATOR FACILITIES
IN-KIND USE AGREEMENT**

This agreement is made and entered into on this _____ day of _____, 20____, by and between _____ (hereinafter the “CONTRACTOR”) and the County of San Bernardino Sheriff’s Department (hereinafter the “COUNTY”).

RECITALS

WHEREAS, the COUNTY operates:

- ☐ Weapons Firing Range (WFR) or Live Fire House (LFH) for the purpose of firearms training and/or periodic chemical agent (tear gas) training and/or periodic firearms qualification shoots and of said LFH for the purpose of firearms training
- ☐ Explosives/Ordinance Range
- ☐ Emergency Vehicle Operation Center (EVOC);
- ☐ Advanced Officer Training (AOT)
- ☐ Training Center **AND**

WHEREAS, the CONTRACTOR desires to enter into a contract for the use of said:

- ☐ Use of WFR for the purpose of firearms training and/or periodic firearms qualification shoots and of said LFH for the purpose of firearms training for periodic chemical agent (tear gas) training
- ☐ Use of Explosives/Ordinance Range
- ☐ Use of EVOC Facility
- ☐ Use of AOT
- ☐ Training Center

NOW, THEREFORE, the parties agree as follows:

I. SCOPE OF SERVICES.

- A. CONTRACTOR shall make use of the WFR, and/or the LFH, and/ or the Explosives/Ordinance Range, and/or the EVOC facility, and/or AOT, and/or use of Training Center at COUNTY approved dates and times. CONTRACTOR shall be provided access to the WFR and/or EVOC as many times as required to ensure that all CONTRACTOR’s law enforcement personnel and/or students have successfully completed qualifying shoots and/or training sessions. Use of the WFR, the LFH, and/or Explosives/Ordinance Range, and/or EVOC, and/or AOT, and/or Training Center shall take place during normal operating hours, at times and dates specified by the facility commander or his/her Designee. Available WFR facilities shall include, but are not limited to, the following: pistol range, rifle range, and classroom facilities.
- B. CONTRACTOR shall coordinate with a designated COUNTY Training Center Staff member regarding the proper use of the WFR and LFH facilities and Explosives/Ordinance Range, and with the EVOC Officer regarding the proper use of the EVOC facility. CONTRACTOR shall ensure that all CONTRACTOR’s personnel and students utilizing the WFR, LFH, Explosives/Ordinance Range, EVOC, AOT, and/or Training Center facility are knowledgeable with regard to the proper use of those facilities.

- C. Use of the LFH must be approved by the Sheriff's Rangemaster or his/her Designee to assure proper training and qualification and is limited to use by tactical teams or persons similarly trained.
- D. Instructors must consult with the Sheriff's Rangemaster for an update of LFH procedures if CONTRACTOR has not used the WFR and/or LFH in the previous 12 months.
- E. The CONTRACTOR shall supply, at no cost to the COUNTY, a qualified Rangemaster and/or Range Safety Officer, who has successfully completed a California Peace Officer Standards of Training (P.O.S.T.) approved (or equivalent) firearms instructor course, who shall personally supervise and control the course of training of CONTRACTOR's personnel and students at the WFR and LFH, subject to oversight and approval of the Sheriff's Rangemaster or Designee. CONTRACTOR shall supply copies of all certifications for all instructors and/or safety officers. CONTRACTOR shall always have at least two safety persons (approved by Sheriff's Department) per scenario on site at the LFH during any training activity. Depending upon the nature of the training activity, the Sheriff's Rangemaster or Range Safety Officers or equivalent WFR/LFH personnel may take direct control of the course of training of CONTRACTOR's personnel and students with the assistance of CONTRACTOR's Rangemaster.
1. All participants shall conduct themselves in accordance with WFR Rules and Regulations, as detailed in **Exhibit A**, with LFH Regulations and Safety Rules, as detailed in **Exhibit B**, and with Explosives/Ordinance Range Safety Rules, as detailed in **Exhibit C**, all of which are attached hereto and incorporated herein by reference.
 2. Violations of WFR rules and regulations included in **Exhibits A, B, and C** may result in immediate termination of CONTRACTOR's WFR, LFH, and/or Explosives/Ordinance Range privileges.
- F. The CONTRACTOR shall limit the use of COUNTY's WFR and/or LFH facilities and/or Explosives/Ordinance Range and/or EVOC facility and/or AOT, and/or Training Center to those personnel and students currently employed or enrolled with CONTRACTOR at the time the WFR and/or LFH and/or EVOC, AOT, or Training Center is used.
- G. CONTRACTOR shall supply and bear the cost of all supplies and/or equipment, necessary for shoots or training, above those detailed in the **Schedule A** which is attached hereto and incorporated herein by reference. CONTRACTOR shall supply all necessary ammunition and weapons. All expended shell casings shall become the sole property of the COUNTY.
- H. CONTRACTOR shall submit a course of fire to the Sheriff's Rangemaster or Designee prior to CONTRACTOR's initial use of the WFR, LFH, and/or Explosives/Ordinance Range. CONTRACTOR shall submit a new course of fire prior to making any change in use of the WFR, LFH, and/or Explosives/Ordinance Range.
- I. CONTRACTOR shall supply the Rangemaster or Range Safety Officer with contact information for a lead instructor/Rangemaster supervising the CONTRACTOR'S personnel and students.

II. CONSIDERATION.

- A. In consideration for use of WFR facilities, CONTRACTOR shall provide to the COUNTY _____ student spaces for San Bernardino County Sheriff's Department personnel free of charge.

- B. In consideration for use of the LFH, CONTRACTOR shall provide to the COUNTY _____ student spaces for San Bernardino County Sheriff's Department personnel free of charge.
- C. In consideration for use of the Explosives/Ordinance Range, CONTRACTOR shall provide to the COUNTY _____ student spaces for San Bernardino County Sheriff's Department personnel free of charge.
- D. In consideration for use of EVOC, CONTRACTOR shall provide to the COUNTY _____ student spaces for San Bernardino County Sheriff's Department personnel free of charge.
- E. In consideration for use of AOT, CONTRACTOR shall provide to the COUNTY _____ student spaces for San Bernardino County Sheriff's Department personnel free of charge.
- F. In consideration for use of the Training Center, CONTRACTOR shall provide to the COUNTY _____ student spaces for San Bernardino County Sheriff's Department personnel free of charge.

III. TERM AND TERMINATION.

The term of this contract shall be for a period of _____ day(s) commencing upon _____, 20____ and ending on _____, 20____, upon the approval by the Sheriff/Coroner/Public Administrator or his designee. Notwithstanding the foregoing, this contract may be terminated at any time, with or without cause, by either party, upon written notice given to the other party at least thirty (30) days prior to the date specified for such termination. In the event of termination, each party shall fully pay and discharge all obligations in favor of the other accruing prior to the date of such termination, and each party shall be released from all obligations or performance which would otherwise accrue subsequent to the date of termination.

IV. NOTICES.

All notices required to be given under this contract shall be in writing and delivered to the other party by registered or certified mail, postage prepaid. The addresses of the parties hereto, until further notice, are as follows:

CONTRACTOR: Name: _____
(Company)

Address: _____

(City)

(State)

(Postal Code)

COUNTY: San Bernardino County Sheriff's Department
Training Center
18901 Institutional Road
P.O. Box 9037
San Bernardino, CA 92427

WITH COPY TO: San Bernardino County Sheriff's Department
Bureau of Administration Contracts Unit
655 East Third Street
San Bernardino, CA 92415-0061

V. INDEMNIFICATION AND INSURANCE REQUIREMENTS.

Indemnification

Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers (Indemnitees) from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

Additional Insured

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of Services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

Waiver of Subrogation Rights

The Contractor shall require the carriers of the required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, Contractors, and Subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

Severability of Interests

Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and County or between the County and any other insured or additional insured under the policy.

Proof of Coverage

Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of Services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of Services hereunder until the completion of such Services. Within fifteen (15) days of the commencement of this

Contract, Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII".

Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor(s)/Applicant(s) will be reduced to pay for County purchased insurance.

Insurance Review

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interest of the County. In addition, if Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the these insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

A. Insurance Specifications

Contractor agrees to provide insurance set forth in accordance with the requirements herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in any way affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

Workers' Compensation/Employers Liability

A program of Workers' Compensation insurance or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's

Liability with two hundred and fifty thousand dollar (\$250,000) limits, covering all persons, including volunteers, providing Services on behalf of the Contractor and all risks to such persons under this Contract.

If Contractor has no employees, it may certify or warrant to COUNTY that it does not currently have any employees or individuals who are defined as “employees” under the Labor Code and the requirement for Workers’ Compensation coverage will be waived by the COUNTY’s Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers’ Compensation insurance.

Commercial/General Liability Insurance

Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations)
- d. Explosion, collapse and underground hazards.
- e. Personal Injury
- f. Contractual liability
- g. \$2,000,000 general aggregate limit

Automobile Liability Insurance

Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Contractor is transporting one or more non-employee passengers in performance of Services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

Umbrella Liability Insurance

An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

VII. AUTHORITY.

The Sheriff/Coroner/Public Administrator of San Bernardino County shall have the right to exercise the COUNTY’s authority under this contract including the right to give notice of termination on behalf of the COUNTY at his sole discretion.

VIII. FULL UNDERSTANDING.

This contract represents the full and complete understanding of the parties with respect to the subject matter hereto, and this contract supersedes all prior oral and written agreements or understandings between the parties with respect to the subject matter hereto. This contract shall be governed by the laws of the State of California. Venue for any lawsuit pertaining to this contract shall be Superior Court of California, County of San Bernardino, San Bernardino Division. Any amendment to this contract shall be in writing, signed by both parties. Schedule A, and Exhibits A, B, and C are incorporated herein by reference.

IX. CONCLUSION.

This contract consisting of five (5) pages, Schedule A, and Exhibits A, B, and C is the full and complete document describing the services to be rendered by COUNTY to CONTRACTOR, including all covenants, conditions and benefits.

**San Bernardino County Sheriff/Coroner/Public
Administrator Department**

(Contractor/Company Name)

Authorized Signature

Sheriff's Academy Captain

or

Bureau of Administration Captain or Designee

and

Deputy County Counsel

Name of person signing agreement (print or type)

Name of person signing agreement (print or type)

Title

Title

Date

Date

SCHEDULE A

SUPPLIES AND SERVICES PROVIDED BY THE SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT FOR USE OF THE RANGE FACILITIES:

1. Target backing.
2. Target frames (stands).
3. Gun cleaning supplies and a designated area for gun cleaning.

ADDITIONAL INFORMATION:

- CONTRACTOR will provide targets, staple guns and staples. Additional imported targets (steel, windshields, etc.) need the approval of the Rangemaster or his/her Designee.
- Inmate assistance for range set up and target maintenance is available on a limited basis and is not guaranteed.
- Nighttime use of the range facilities is available on a limited basis and must be approved by the Sheriff's Rangemaster or his/her Designee.

EXHIBIT A

NOTICE

RANGE SAFETY ADVISORY

THE FOLLOWING SAFETY PROCEDURES WILL BE STRICTLY ENFORCED:

1. Upon arrival, all weapons are to remain holstered until instructed to report to the firing line and given commands for the course of fire.
2. All shooters must wear proper ear and eye protection as approved by the Sheriff's Range.
3. Weapons are to be loaded or down loaded at the firing line or as otherwise instructed by the Range Safety Officer.
4. Only magazines and speed loaders may be down loaded and replaced with live ammunition in the staging area.
5. After completing your course of fire, weapons are to be re-holstered upon leaving the firing line.
6. Weapons may be un-holstered in the cleaning room and rendered safe for cleaning by using the bullet containment system located in the cleaning room.
7. A duty round may only be re-chambered at the firing line or by using the bullet containment system located in the cleaning room.
8. Violation of any safety rule will result in removal of the violator from the Range. Flagrant safety violations could lead to suspension of future range privileges to the violator and/or the agency or organization the violator represents.
9. Eating, open toed shoes, and shorts are not permitted on the firing ranges

IF THERE ARE ANY QUESTIONS, PLEASE CONSULT THE RANGE SAFETY OFFICER OR RANGEMASTER

EXHIBIT B

San Bernardino Sheriff's Department Live Fire House Regulations and Safety Rules

1. Approval for use of the Live Fire House must be made by the or the Rangemaster or his/her Designee; authorized firearms instructors must be present during use; the primary (lead) instructor is responsible for the safe operation and maintenance of the Live Fire House; all training, presentation, or demonstrations, whether live fire or not, will be under the direct supervision of an instructor; the primary instructor will ensure that all participants involved in live fire training are qualified to do so; all instructors must have satisfactorily completed a "Live Fire House Operations-Instructor Development Course", as offered by either San Bernardino County Sheriff's Department (or equivalent subject to the approval of the Sheriff's Rangemaster); the primary instructor will ensure that all participants involved in Live Fire House training receive a safety briefing that includes basic firearms safety, and the safe operating procedures for the Live Fire House; all loading and unloading of weapons will be under the direct supervision of a firearms instructor; the primary instructor will ensure that the following safety equipment is on-hand prior to "Live Firearms Training", these include, first aid trauma kit, radio or other form of communication, that fire extinguishers are present and charged, and the approach gate to the LFH remains clear of obstruction at all times.
2. Under most circumstances, the student to authorized instructor ratio will not exceed 3 to 1; body armor, eye and hearing protection must be worn by everyone who enters the Live Fire House; prior to live fire exercises, all rooms will be checked to ensure that no personnel are present; firearm instructors will ensure that targets are placed so that, when engaged, rounds will hit the proper backstop and rounds will not exit the building; authorized/approved frangible ammunition shall only be used, if your ammunition is not on the approved list a test must be conducted by the Range Staff to verify that the ammunition is appropriate for the facility; no metal targets will be allowed; instructors shall review all targets and angles of deflections before beginning live fire; if during any training a safety whistle is blown or a command that is designated as a "Cease Fire" command is made, the shooter(s) shall freeze their movement, place trigger fingers outside of trigger guards, depress the weapons muzzles, repeat "Cease Fire" and wait for further commands from the instructor; students are required to follow the direction of the instructors and the safe operating procedures at all times, failure to do so is just cause for removal from training, all observers are required to follow the safety rules established for the Live Fire House at all times, failure to comply with these safety rules is just cause for removal from the Live Fire Facility; instructors shall ensure that no shots impact any containment wall closer than 18" from its upper edge; instructors shall monitor students to ensure that firing positions are not taken that may endanger other students or may allow fired round(s) from escaping the containment area.
3. The red range flag must be hoisted prior to use; at the conclusion of the training session the building shall be checked for damage, potential fire concerns and then secured; all damage not consistent with normal wear must be repaired, replaced and reported.

4. The entrance gates to the Live Fire House will be closed during all live fire exercises, with entry being approved only by the primary safety officer; no unauthorized persons shall be present in or around the Live Fire House without checking in with the safety officer and having his or her consent to be present; any injuries must be immediately reported to the Range Safety Officer or Rangemaster; a post operation inspection of the Live Fire House facility will be made by the primary instructor to ensure the following: all weapons, ammunition, diversionary devices, body armor, and other equipment used during the training period are accounted for, that brass has been collected and that all other debris within the Live Fire House has been removed, that no student(s) has sustained any injuries during training, that no damage has been caused by the training; account for all personnel who used the Live Fire House.
5. All agencies seeking to use the Live Fire House must have a current contract with the County of San Bernardino for such use, and insurance document, on file; curriculum of exercises that are to be conducted in the Live Fire House must be submitted in advance to the Rangemaster for approval; specific safety policies and procedures of the San Bernardino County Sheriff's Department must be followed at all times; firearms shall not be handled by persons with a blood alcohol content in excess of .00% by weight or under the influence of drugs or medication that would impair their motor skills, judgment, or balance; and no chemical agents may be used in the Live Fire House.
6. All ammunition(s) used at the Live Fire House must be approved by the San Bernardino County Sheriff's Department and meet Department standards.

EXHIBIT C

EXPLOSIVES/ORDNANCE RANGE SAFETY RULES

THE FOLLOWING SAFETY PROCEDURES WILL BE STRICTLY ENFORCED:

A. STUDENT SAFETY ON THE RANGE

1. Students MUST follow ALL instructions from the Range Safety Officer (RSO)
2. No running or horseplay on the range
3. No smoking on the range
4. No wandering from the class or on the range
5. Pay close attention to where you are walking
 - a. Firing lines
 - b. Explosives
 - c. Obstacles
6. No transceivers, radios, or cell phones on the range
7. All injuries must be reported to the RSO IMMEDIATELY

B. GENERAL SAFETY RULES FOR RANGE PERSONNEL

1. The Range Safety Officer will control and coordinate all range operations
2. The Range Safety Officer must be an active duty Bomb Squad member who has completed the F.B.I. Hazardous Devices School
3. No running on the range
4. No smoking on the range
5. If feasible, ensure that telephone communications are available for potential accidents
6. No unauthorized radio transmissions on the range

7. During high fire danger, fire suppression personnel should be on standby during render safe or general explosive operations
8. All range personnel should be wearing clothing that lessens static electricity
9. Range Safety Officer shall ensure proper storage of all explosives for display and demonstration
10. Prior to any shots being initiated, the Range Safety Officer shall ensure that the range perimeter is free from any unknowing personnel/civilians
11. The range should be checked before and after use for any hazardous debris and/or unexpended explosives
12. Prior to any explosive operation, all local entities will be notified (i.e. Academy, Range, Jail, and heavy equipment operators)
13. Generally, the explosive limit on the range is five (5) pounds subject to Range Safety Officer approval
14. Generally, no more than two (2) technicians down range during a render safe procedure
15. Minimum safe distance on the range is 100 yards (300 ft.). Extra precaution should be taken during fragmentation producing shots