

## AGREEMENT WITH CALIFORNIA BARRICADE RENTALS, INC., TO PROVIDE TRAFFIC CONTROL EQUIPMENT AND SERVICES TO THE CITY OF SANTA ANA

THIS AGREEMENT is made and entered into this 15th day of March 2022, by and between California Barricade Rentals, Inc., dba as California Barricade, a California corporation (“Contractor”), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (“City”).

### RECITALS

- A. On December 20, 2022, the City issued Request for Proposal No. 21-139, by which it sought a qualified contractor to provide traffic control equipment and services for the City’s Parks, Recreation, and Community Services Agency.
- B. Contractor submitted a responsive proposal that was selected by the City. Contractor represents that it is able and willing to provide the services described in the scope of work that was included in RFP 21-139.
- C. In undertaking the performance of this Agreement, Contractor represents that it is knowledgeable in its field and that any services performed by Contractor under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional contracting firm in the field.

**NOW THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

### 1. SCOPE OF SERVICES

On an on-call basis, and at the City’s sole discretion, Contractor shall perform the services described in the scope of work that was included in RFP No. 21-139, which is attached as **Exhibit A** and the portion of Contractor’s proposal outlining the manner in which it will provide services attached as **Exhibit B**. All Exhibits are incorporated by reference as though completely set forth herein.

### 2. COMPENSATION

- a. City neither warrants nor guarantees any minimum compensation to Contractor under this Agreement. Contractor shall be paid only for actual services performed under this Agreement at the rates and charges identified in **Exhibit C**, attached hereto and incorporated by reference. The annual compensation for services provided under RFP No. 21-139 shall not exceed Fifty Thousand Dollars and Zero Cents (**\$50,000**) with a total Agreement amount not to exceed One Hundred Fifty Thousand Dollars and Zero Cents (**\$150,000**).
- b. Payment by City shall be made within forty-five (45) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures.

Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals and Scope of Work, which may reasonably be expected by City.

### **3. TERM**

This Agreement shall commence on April 1, 2022 and terminate on March 31, 2025, unless terminated earlier in accordance with Section 16, below.

### **4. INDEPENDENT CONTRACTOR**

Contractor shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this Agreement; however, the services to be provided by Contractor shall be provided in a manner consistent with all applicable standards and regulations governing such services. Contractor shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

### **5. OWNERSHIP OF MATERIALS**

This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement ("Documents & Data"). Contractor shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Contractor represents and warrants that Contractor has the legal right to license any and all Documents & Data. Contractor makes no such representation and warranty in regard to Documents & Data which were provided to Contractor by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

### **6. INSURANCE**

Prior to undertaking performance of work under this Agreement, Contractor shall maintain and shall require its subcontractors, if any, to obtain and maintain insurance as described below:

#### **a. Minimum Scope and Limit of Insurance**

- 1. Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including

products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with a limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability:** if Contractor is or employs a licensed professional such as an architect or engineer: Professional liability (errors and omissions) insurance, with a combined single limit of not less than **\$2,000,000** per claim with \$2,000,000 in the aggregate.
5. **Broader Coverage:** if the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

b. Other Insurance Provisions

1. **Additional Insured Status:** The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 2037 if a later edition is used).
2. **Primary Coverage:** For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees,

or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.
4. **Waiver of Subrogation:** Contractor hereby grants to City a waiver of any right to subrogation that any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
5. **Self-Insured Retentions:** Self-insured retentions must be declared to and approved by the City. The City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.
6. **Acceptability of Insurers:** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.
7. **Claims Made Policies (applicable only to professional liability):**
  - i. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract of work.*
  - iii. If coverage is canceled or non-renewed, and not replaced *with another claims-made policy form with a Retroactive Date prior to* the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of *five (5) years* after completion of work.
8. **Verification of Coverage:** Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and

Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them.

The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

9. **Subcontractors:** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.
10. **Special Risks or Circumstances:** City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

## 7. INDEMNIFICATION

Contractor agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Contractor or its subcontractors, agents, employees, or other persons acting on their behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Contractor further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Contractor's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

## 8. INTELLECTUAL PROPERTY INDEMNIFICATION

Contractor shall defend, indemnify and hold harmless the City, its officers, agents, representatives, and employees against any and all liability, including costs, and attorney's fees,

for infringement of any United States' letters patent, trademark, or copyright contained in the work product or documents provided by Contractor to the City pursuant to this Agreement.

## **9. RECORDS**

Contractor shall keep records and invoices in connection with the work to be performed under this Agreement. Contractor shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such records and invoices shall be clearly identifiable. Contractor shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Contractor under this Agreement.

## **10. CONFIDENTIALITY**

If Contractor receives from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Contractor agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Contractor disclosed in a publicly available source; (c) is in rightful possession of the Contractor without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Contractor without reference to information disclosed by the City.

## **11. CONFLICT OF INTEREST CLAUSE**

Contractor covenants that it presently has no interest and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

## **12. NOTICE**

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City: Clerk of the City Council  
City of Santa Ana  
20 Civic Center Plaza (M-30)  
P.O. Box 1988  
Santa Ana, CA 92702-1988  
Fax 714- 647-6956

Executive Director  
Parks, Recreation, and Community Services Agency  
City of Santa Ana  
20 Civic Center Plaza (M-23)  
P.O. Box 1988  
Santa Ana, CA 92702

To Contractor: California Barricade Rentals, Inc.  
1550 E. Saint Gertrude Place  
Santa Ana, CA 92705  
Attn: David Tangitau, President

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these timeframes, weekends, federal, state, County or City holidays shall be excluded.

### **13. EXCLUSIVITY AND AMENDMENT**

This Agreement represents the complete and exclusive statement between the City and Contractor regarding the subject matter herein, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Contractor. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Contractor or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein.

### **14. ASSIGNMENT**

Inasmuch as this Agreement is intended to secure the specialized services of Contractor, Contractor may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without

the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services that are the subject to this Agreement performed by City personnel or by other contractors retained by City.

**15. WAIVER**

No waiver of breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure or right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

**16. TERMINATION**

This Agreement may be terminated by the City upon thirty (30) days written notice of termination. In such event, Contractor shall be entitled to receive and the City shall pay Contractor compensation for all services performed by Contractor prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Contractor to deliver to the City all work product completed as of such date, and in such case such work product shall be the property of the City unless prohibited by law, and Contractor consents to the City's use thereof for such purposes as the City deems appropriate.
- b. Payment need not be made for work that fails to meet the standard of performance specified in the Recitals of this Agreement.

**17. NON-DISCRIMINATION**

Contractor shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, gender expression, gender, medical conditions, genetic information, or military and veteran status, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, teaching, training, utilization, promotion, termination or other employment related activities or any services provided under this Agreement. Contractor affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

**18. JURISDICTION-VENUE**

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.



**19. PROFESSIONAL LICENSES**

Contractor shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Contractor shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

**20. MISCELLANEOUS PROVISIONS**

- a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- b. All exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

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

**ATTEST:**

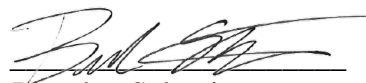
**CITY OF SANTA ANA**


\_\_\_\_\_  
Daisy Gomez  
Clerk of the Council

\_\_\_\_\_  
Kristine Ridge  
City Manager

**APPROVED AS TO FORM**  
SONIA R. CARVALHO  
City Attorney

**CALIFORNIA BARRICADE**

By:   
Brandon Salvatierra  
Deputy City Attorney

  
\_\_\_\_\_  
David Tangitau  
President

**RECOMMENDED FOR APPROVAL**

\_\_\_\_\_  
Lisa Rudloff  
Executive Director  
Parks, Recreation, and Community Services Agency

**EXHIBIT A**

**Appendix  
ATTACHMENT 1-E  
SCOPE OF WORK**

**SERVICE:  
TRAFFIC CONTROL EQUIPMENT**

The City is seeking a company with the capacity to provide traffic control equipment for various events. Below is a sample listing of equipment provided for previous large-scale events.

- 7-Arrow Boards
- 1-Message Board
- 100-Pedestrian Barricades
- 100-Parade Barricades
- 49-Water-Filled K-Rails
- 35-Type I Barricades
- 45-Type III Barricades
- 166-Signs on Type I Barricades
- 40-Signs on Type III Barricades
- 15-Traffic Control Technicians
- 1-Water truck to fill K-Rails

Traffic control plans will be specific for individual events and the contractor is expected to work with various city departments, particularly the Santa Ana Police department and Planning and Building Agency.

**EXHIBIT B**

<b>MANNER FOR PERFORMING SERVICES OUTLINE</b>
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1. Client initiates event
  - a. Call or email comes in
  - b. Plan is provided or requested
2. Vendor assesses required service
  - a. Physical site review
  - b. Review of plans or equipment list
    - i. Design of plan if requested
  - c. Engagement with client for additional information
3. Pre-event meeting
  - a. Attend all pre-event meetings scheduled by client
  - b. Engage in questions and receiving of directives
4. Finalization of exact scope
  - a. Vendor and client agree, and have a clear understanding of the scope
5. Event specific proposal
  - a. Vendor provides proposal
  - b. Client accepts proposal
    - i. Issuance of purchase order
6. Vendor engages with water delivery service
  - a. Secure event date
  - b. Communicate volume
7. Vendor's preparation of equipment
  - a. Assess for adequate inventory
  - b. Inspection for cleanliness and maximum reflectivity
  - c. Load and secure equipment for transport to deliver, or pre-stage
8. Vendor pre-stages event (if needed)
  - a. Drop equipment in strategic locations for expeditious set-up on event day
9. Event day
  - a. Timely placement of delivered, or pre-staged equipment
  - b. Drive through completed set up
    - i. Adjust placement
    - ii. Add more equipment if needed
  - c. Notify client set-up is complete
10. Pick-up
  - a. Mobilize technicians for timely pick up
  - b. Dispatch adequate number of trucks
  - c. Drive through event area to ensure all equipment is picked up
11. Vendor's issuance of invoice
  - a. Review field documents for accuracy
  - b. Issue accurate and timely invoice
  - c. Address client questions if any
12. Post event meeting
  - a. Attend wrap-up meeting post event
  - b. Engage in feedback, and suggestions for future success
  - c. Express appreciation to all who participated in the execution of the event

**EXHIBIT C**

**Appendix  
ATTACHMENT 3-8-E  
FEE SCHEDULE**

**SERVICE:  
TRAFFIC CONTROL EQUIPMENT**


City may request equipment or services during the term of the agreement at prices identified in the price listing. If a requested item is not listed on the price listing the city will negotiate a price with the company. Include a picture of each equipment item listed below.

<b>Equipment</b>	<b>Unit Price</b>	<b>Equipment</b>	<b>Unit Price</b>
Water-Filled K-Rails	\$4.00 each	Water truck to fill K-Rails	\$750.00 minimum*
Type I Barricades	\$.40 each	Pedestrian Barricades	\$4.00 each
Type III Barricades	\$2.75 each	Parade Barricades	\$3.00 each
Traffic Control Technicians (per hour)	\$105.00 per hour	Traffic Control Technicians Overtime (per hour)	\$145.00 per hour

\* The unit price for water truck service depends on the quantity of barriers per event.

Certification - I certify that I have read, understand and agree to the terms and conditions of this Request for Proposals. I have examined the Scope of Services and am familiar with the scope of work locations. I am familiar with all the existing conditions and limitation that may impact work requests. I understand and agree that I am responsible for reporting any errors, omissions or discrepancies to the City for clarification prior to the submission of my proposal.

Proposal Item Price - The proposer warrants that the prices, terms and conditions quoted will be valid for a period of 120 days from the date the proposal is due, in order to allow time to award an agreement.

David Tangitau	President
Printed Name of Authorized Agent	Title
	01/17/2022
Signature of Authorized Agent	Date