

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Sean C. Whenf
Interim Chief of Police

SUBJECT: California Highway Patrol MOU

DATE: September 1, 2013

City Administrator
Approval

Date

9/11/13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff request that the City Council approve the resolution authorizing the City Administrator or her designee to extend a Memorandum of Understanding (MOU) with the California Highway Patrol (CHP) for two years of Crime Suppression Assistance whereby CHP will deploy 10 officers in five, double unit patrol vehicles and two Sergeants in a supervisor vehicle, up to four days per week, at a cost not to exceed Two Million Six Hundred Thousand Dollars (\$2,600,000) August 8, 2013 to August 7, 2015, and a MOU extension total amount not to exceed Three Million Two Hundred Seventy Six Thousand Dollars (\$3,267,000), subject to the availability of funds as appropriated by the Council.

OUTCOME

This report outlines the request for supplemental police services for the City of Oakland to be provided by the CHP (Golden Gate Division) for a period of 2 years from Aug 08, 2013 to August 7, 2015. The City's previous MOU with the CHP expired on August 08, 2013, and an MOU is required to continue supplemental police services. Oakland Police Department (OPD) is requesting that it continue to receive the able assistance of CHP in maintaining high visibility in key areas throughout the City, in order to assist with crime suppression, investigation, and Operation Cease Fire.

Additionally, the City recognizes that this recommendation requires that the City meet and confer with the Oakland Police Officers Association (OPOA) prior to taking action relative to the proposed recommendation and the City has already reached out to fulfill this requirement. For the duration of this contract, the City will meet and confer with the OPOA in 90 day increments or longer, if agreement achieved.

BACKGROUND/LEGISLATIVE HISTORY

On November 01, 2012, the Golden Gate Division of CHP began conducting enforcement efforts in the City of Oakland. The services were provided in-kind and scheduled through December 2012. CHP then agreed to extend the in-kind services to January 31, 2013, and shouldered the financial burden associated with these services all on its own, but informed the City that this

Item: _____
Public Safety Committee
September 24, 2013

DUI Arrests	381
Total Arrests	577
Guns Recovered	38

arrangement could not last. CHP subsequently extended their provision of in-kind services until February 28, 2013, after which they would either be reimbursed or cease providing free in-kind services. The City then entered into an MOU with CHP for an amount not to exceed \$162,000, which ended April 26, 2013 and an extension to the contract for \$514,000 for May – July 2013. The second extension also allowed for CHP to “double” their deployment with up to four ten hour shifts a week.

With this arrangement, CHP will provide supplemental focused enforcement by providing high-visibility patrols in select focused enforcement areas up to four nights per week. CHP hours and staffing will be scheduled as the operational needs dictate according to crime trends and OPD staffing. OPD will provide each CHP double unit patrol with one OPD hand-held radio for emergency communication with OPD Dispatch. This MOU will also define CHP’s willingness to engage in strategic crime fighting efforts by offering their police personnel, equipment, and services during the project period.

ANALYSIS

The primary purpose of the MOU is to establish that OPD has jurisdiction throughout the City and CHP is assisting by supplementing with resources to the City of Oakland. It is understood that OPD is the primary law enforcement agency in the City of Oakland and has primary policing responsibilities in all instances. The request for assistance is based on OPD analyzing current enforcement techniques and capacity due to the shortage of staffing. It also proposes supplemental staffing that will impact gang-related violence, homicides, robberies, burglaries, auto theft, and quality of life crimes more effectively.

By implementing CHP’s MOU, the City of Oakland will maintain an additional law enforcement partner who will work towards the enactment of Operation Cease Fire, in addition to the supplemental law enforcement services provided. By providing additional resources, data-driven information regarding Operation Cease Fire can be shared amongst law enforcement agencies more efficiently.

The following enforcement results are from November 01, 2012 to April 25, 2013:

Table 1: CHP Enforcement Activity in Oakland (11/01– 4/25)

Traffic Stops	5505
Citations Issued	3670
Felony Arrests	284
DUI Arrests	381
Total Arrests	577
Guns Recovered	38

PUBLIC OUTREACH/INTEREST

Entering into an MOU agreement with CHP will result in having additional personnel and technology and increase the likeliness of an officer apprehending a subject involved in a violent crime as well as improve community awareness. The shared policing efforts will be accessible to the community to inform them of what is taking place in our city.

COORDINATION

This project will be a shared partnership of OPD and CHP. Prior to taking action, OPD will communicate with the Federal Monitor and the Compliance Director to ensure that this action complies with Court Orders and outstanding provisions of the Negotiated Settlement Agreement (NSA) and of the Amended Memorandum of Understanding (AMOU). As already stated, the City recognizes that this recommendation requires that the City meet and confer with the OPOA prior to taking any action relative to the proposed recommendation. The Budget Office and the City Attorney's Office were consulted in preparation of this report.

COST SUMMARY/IMPLICATIONS

The cost of a two-year operation from Aug 08, 2013 through Aug 7, 2015 is estimated to cost approximately \$2.6 million for up to four, ten hour shifts a week. If approved, the total amount Council has authorized for the CHP contract to date will be \$3,276,000, including the \$676,000 funded in FY 2012-13.

Funding is available in OPD's FY 2013-15 baseline budget; (1010), Office of the Chief of Police (Organization 90591), Contract (Account 54919), Agency-wide Administration Program (PS01) and project number to be determined.

SUSTAINABLE OPPORTUNITIES

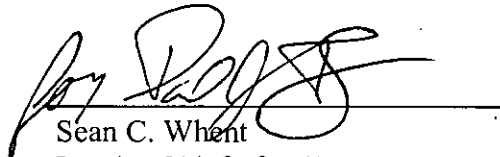
Economic: Partnering with a pre-existing law enforcement agency already policing our city and having clearly defined roles while doing so helps the City to become more efficient and responsive to the needs of our citizens while providing additional resources to assist, and decrease the amount of gun related violence. Responding to crime scenes in a timelier manner, having an increased capacity to analyze crime results, using resources more efficiently, focusing efforts on crime trends and patterns, and enhancing police services to respond to emerging crime trends all improve public safety; thereby providing a safer environment for residents, and local commerce to flourish.

Environmental: There are no environmental issues associated with this report.

Social Equity: OPD and CHP will continue to provide competent, professional, and strategic police services to the citizens of Oakland while being transparent and available to ensure that all its staff members are providing these services with respect and integrity.

For questions regarding this report, please contact Deputy Chief David Downing at (510) 238-7620.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sean C. Whent', is written over a horizontal line.

Sean C. Whent
Interim Chief of Police
Oakland Police Department

Prepared by:
Lieutenant Steve Walker
Bureau of Field Operations
Oakland Police Department

Attachment: CHP MOU Agreement

STATE OF CALIFORNIA
STANDARD AGREEMENT AMENDMENT
 STD. 213 A (Rev 6/03)

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED | Pages

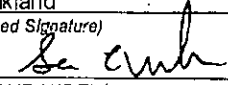



AGREEMENT NUMBER	1
REGISTRATION NUMBER	

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
 Department of California Highway Patrol (CHP)
 CONTRACTOR'S NAME
 Oakland Police Department (OPD)
- The term of this Agreement is: 5/23/2013 through 11/18/2013
- The maximum amount of this Agreement after this amendment is: \$ 1,026,657.50
 (One Million Twenty-Six Thousand Six Hundred Fifty-Seven Dollars and Fifty Cents)
- The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:
 - Point 2 of the Standard Agreement is amended to extend this Agreement's ending date from 8/20/2013 through 11/18/2013.
 - Point 3 of the Standard Agreement is amended to increase the maximum amount from \$513,328.79 to \$1,026,657.50
 All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) City of Oakland		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 8-23-13	
PRINTED NAME AND TITLE OF PERSON SIGNING Sean Whent, Interim Chief of Police		
ADDRESS Oakland Police Department, 2651 73 rd Avenue, Oakland CA 94601		
CONTRACTOR		
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) City of Oakland		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Deanna Santana, City Administrator		
ADDRESS #1 Frank Ogawa Plaza, Oakland, CA 94612		
CONTRACTOR		
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) City of Oakland		
BY (Authorized Signature) 		
PRINTED NAME AND TITLE OF PERSON SIGNING Tricia Hynes, City Attorney		
ADDRESS #1 Frank Ogawa Plaza, 6 th Floor, Oakland, CA 94612		
STATE OF CALIFORNIA		
AGENCY NAME Department of California Highway Patrol		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING T. L. Anderson, Assistant Chief, Administrative Services Division		
ADDRESS P.O. Box 942898, Sacramento, CA 94298-0001		

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER 12R370002
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME Department of California Highway Patrol (CHP)
CONTRACTOR'S NAME Oakland Police Department (OPD)
- The term of this Agreement is: **5/23/2013** through **8/20/2013**
8/21/2013 **11/18/2013**
- The maximum amount of this Agreement is: **\$ 513,328.78**
(Five Hundred Thirteen Thousand Three Hundred Twenty Eight Dollars and Seventy-Nine Cents)
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Attachment A – Memorandum of Understanding Between the Oakland Police Department and California Highway Patrol Regarding Law Enforcement Services in the City of Oakland. **5 page(s)**

Attachment B – Budget Details and Payment Provisions **2 page(s)**

Exhibit C* - General Terms and Conditions **4 page(s)**
With exception to Item #5, Indemnification.

Signatures appear on page 5 of 5 of Agreement.

Items shown with an Asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.cis.dgs.ca.gov/Standard+Language*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only <div style="border: 2px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> APPROVED JAN - 6 2013 DEPT. OF GENERAL SERVICES <i>Kyates</i> </div> <input type="checkbox"/> Exempt per:
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
BY (Authorized Signature) <i>Sean Whitten</i>	DATE SIGNED (Do not type) 5/20/13 7/23/13	
PRINTED NAME AND TITLE OF PERSON SIGNING Sean Whitten Chief of Police		
ADDRESS		
STATE OF CALIFORNIA		
AGENCY NAME		
BY (Authorized Signature) <i>[Signature]</i>	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS		

*Exempt per Capt Whitten CHP
 (510)450-3821 8/23/13 [Signature]*

EXHIBIT A
STATE OF CALIFORNIA
CALIFORNIA HIGHWAY PATROL
REIMBURSABLE SERVICES AGREEMENT

MEMORANDUM OF UNDERSTANDING BETWEEN THE OAKLAND POLICE DEPARTMENT AND CALIFORNIA
HIGHWAY PATROL REGARDING LAW ENFORCEMENT SERVICES IN THE CITY OF OAKLAND

THIS AGREEMENT, Reimbursable Law Enforcement Services Agreement, made and entered into this Twenty-Third day of May 2013 by and between the State of California, acting by and through the California Highway Patrol, Golden Gate Division, (hereinafter called CHP and/or State) and the City of Oakland, by and through Oakland Police Department, (hereinafter referred to as City and/or OPD).

WITNESSETH: By and in consideration of the covenants and conditions herein contained, the City and OPD and CHP do hereby agree to the following terms and conditions, consistent with California Penal Code Section 830.1(a) (2) governing authority of peace officers within a city jurisdiction:

1. For a period of ninety (90) days from the commencement date of this services agreement CHP agrees to provide uniformed personnel with patrol vehicles and all necessary safety equipment, in order to assist the OPD with traffic enforcement, (excluding traffic accident investigations) gang-related crime and other high visibility law enforcement services as necessary within the city of Oakland. The law enforcement services to be provided are specified further below. CHP retains full control over CHP employee(s) for all purposes, unless specified otherwise in this agreement.

The amount of this contract shall not exceed \$513,328.79 (Five Hundred Thirteen Thousand Three Hundred Twenty Eight Dollars and Seventy-Nine Cents).

2. CHP agrees to have available and to deploy uniformed personnel between two and four days a week at various locations in the city of Oakland to help with gang-related violence and crime. Deployment days will be agreed upon by OPD and CHP, up to a maximum of fifty-two (52) deployment days. Each detail will consist of two (2) CHP sergeants and ten (10) CHP officers. Additionally, there will also be two (2) full time CHP officers in a vehicle providing investigative assistance. OPD will provide each CHP double unit patrol with one OPD hand-held radio for emergency communication with OPD Dispatch. Shifts will generally be 10 hours in duration for CHP officers and 12 hours for CHP Sergeants as predetermined and agreed upon between CHP and OPD.
3. CHP patrol personnel will communicate with the California Highway Patrol Dispatch Center during their deployment within the City of Oakland, while conducting enforcement activities. CHP patrol personnel will use OPD-provided radios to monitor ongoing activities by OPD in their designated areas and to call, or respond to calls, for assistance from OPD. OPD will provide CHP with portable radios, one per two-person patrol vehicle and one for the supervisor vehicle, to enable communication with OPD dispatch by CHP personnel. CHP personnel will use plain language talk on OPD frequencies. OPD will use plain language talk with CHP personnel.
4. CHP officers will be responsible for enforcing state vehicle code and criminal violations observed while on patrol in city areas as designated by OPD during the specified operation period. CHP will provide cover to OPD officers responding to in-progress calls as necessary and requested by OPD, and OPD will provide cover for CHP officers as may become necessary. OPD will provide CHP patrol specific directives relating to priority enforcement based on public safety needs in designated areas.
5. While CHP patrol personnel may detain/arrest suspects involved in serious misdemeanor or felony offenses, OPD retains jurisdiction to enforce and investigate serious misdemeanor crimes and felonies, including all Part I violent crimes as defined by the FBI Uniform Crime Report. CHP personnel will provide support to OPD at crime scenes, as needed and requested by OPD;

OR

From Execution Through June 30, 2013
Steve Larson,
Acting Commander, CHP Oakland Office
Golden Gate Division
3601 Telegraph Avenue
(510) 460-3021

Effective July 1, 2013
B. J. Whitten, Captain
CHP Oakland Office
Golden Gate Division
3601 Telegraph Avenue
(510) 4350-3821

All cancellation and other notices hereunder to OPD shall be made to:

Acting Captain Kirk Coleman
Oakland Police Department
2651 73rd Ave.
Oakland, CA 94601
Telephone (510) 777-8543

Notices shall be given during business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

17. CHP agrees to make reasonable efforts to notify those CHP uniformed employees of the cancellation.
18. **INDEMNIFICATION:** To the fullest extent permitted by law, OPD shall hold harmless, defend and indemnify the State of California, its officials, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are solely by the negligence or willful misconduct of any indemnitee. The State may participate in the defense of any such claim without relieving OPD of any obligation hereunder. The State and CHP shall hold harmless, defend and indemnify the City of Oakland, its Councilmembers, officials, employees, members agents and volunteers from and against any and all claims, losses damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the negligent or willful acts or omissions of any CHP employee, officer, supervisor or agent in the performance of his or her duties under this agreement. The City may participate in the defense of any such claim without relieving the State and CHP of any obligation hereunder.
19. Each of the parties to this agreement shall immediately notify the other of any litigation or claim asserted by or against either party regarding this agreement.
20. This agreement represents the entire and integrated agreement between the parties. It is expressly agreed that all the terms and conditions of this agreement are included herein and no verbal agreements of any kind shall be binding upon the parties. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.

21. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
22. The City and OPD agree to provide CHP with a resolution, motion, order or ordinance of the governing body, which authorizes execution of this Agreement and indicates the individual who is authorized to sign the Agreement on behalf of the City and OPD.
23. Any dispute concerning a question of fact arising under the terms of this agreement which is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this contract shall be brought to the attention of the Administrative Services Officer (or designated representative) of each organization for joint resolution.
24. Gifts, donations, or gratuities may not be accepted by CHP employees in their own behalf or in behalf of the Department, informal squad club, or other local funds.
25. This agreement may be amended by mutual consent to include one (1) extension of three (3) months duration with the same terms.

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IN WITNESS THEREOF, the parties have executed this agreement on the dates as set forth hereinafter.

CALIFORNIA HIGHWAY PATROL

22 Anderson

E. K. Knudsen, Chief, ASD

Date: 5-30-13

CITY OF OAKLAND

Se Cmb Se cmb 7/27/13

Sean Whent, Acting Chief of Police

Date: 5/20/13

Deanna Santana
Deanna Santana, City Administrator

Date: 5/21/13

7/25/13

Approved by:

Priscilla Holmes
Priscilla Holmes
City Attorney

4/26/13

**EXHIBIT B
 (Standard Agreement)**

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. The CHP shall provide OPD with an Itemized Invoice which details all CHP costs for the specified investigative, patrol and enforcement services under this Agreement.

Monthly Itemized Invoices will be submitted in duplicate to:

Sgt. J. D. Cook
3601 Telegraph Avenue
Oakland, CA 04609
(510) 450-3821
OR
B. J. Whitten, Captain, Oakland Office
Golden Gate Division, CHP
3601 Telegraph Avenue
(510) 450-3821

City and OPD agree to pay CHP within thirty (30) days after the date of the Invoice.

- B. This Agreement includes hourly wages for deployments focusing on traffic enforcement, gang-related crime, investigative and other high visibility law enforcement services in the city of Oakland.

The following is an estimate of cumulative costs for Oakland law enforcement services. The costs indicated in this agreement are for estimate purposes only. For billing purposes, actual costs plus indirect costs will be charged for overtime hours worked by CHP personnel. This includes personnel to travel between CHP's Golden Gate Division Substation and the services locations assigned to CHP for patrol services as directed by the OPD. The parties agree that CHP will bill overtime for reimbursement by OPD, and will not bill regular time unless mutually agreed. OPD agrees to pay CHP's actual overtime costs. Rates charged to City and OPD shall in no event exceed the actual overtime costs incurred by the CHP to perform the requested services. The following cost information applies to this agreement.

Description	Hourly Overtime Rate	Hours per Deployment	Extension
Sergeant	\$89.30	24 (2 each 12 hour shifts)	\$2,143.20
Officer	\$73.43	100 (10 each 10 hour shifts)	\$7,343.00
		Cost per Deployment	\$9,486.20
Estimated total for a maximum of 52 deployments:			\$493,282.40
Estimated total for a maximum of 273 hours for two (2) Investigative officers:			\$20,046.39
Estimated Total			\$513,328.79

- C. In consideration for the law enforcement services contained herein, City and OPD agree to reimburse the CHP upon receipt of an Itemized Invoice. City and OPD agree to reimburse the CHP for the actual costs incurred at the time services are provided. It is understood by both parties that rate increases in salary and benefits are governed by collective bargaining agreements and/or statute and that no advance written notification is necessary prior to implementing the increased rates. In the event CHP is granted a rate increase, City and OPD agree to pay the increased rate. The above information is the CHP officer and sergeant overtime rates effective Fiscal Year 2012/2013, until superseded.

- D. City and OPD agree that additional charges, which are directly related to the services provided, may be assessed for CHP supplies, additional equipment utilized, or property repaired or replaced at CHP's expense with prior approval by OPD and within the total contract budget authorized by the Oakland City Council.
- E. Invoices for additional charges will be billed separately from other charges, and will be accompanied by a memorandum containing a full description of the additional charges. OPD shall be consulted in advance of the accrual of these additional charges and OPD must pre-approve these expenditures. Such additional charges shall also be supported with receipts, invoices and/or a clear costing methodology for prorated charges before they will be deemed reimbursable.

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GTC 510
With Exception to Item #5, Indemnification

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

Parties Initial & Date Here *SW 7/23/13* *1 tla 9/30/13*
SW

5. INDEMNIFICATION: ~~Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.~~
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS:** Time is of the essence in this Agreement.
13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (e) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
16. **CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. **PRIORITY HIRING CONSIDERATIONS:** If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. **SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
 - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
20. **LOSS LEADER:** If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

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OAKLAND CITY COUNCIL*Priscia Holmes*
City AttorneyFILED
OFFICE OF THE CITY CLERK
OAKLAND

RESOLUTION No. _____ C.M.S.

2013 SEP 12 PM 1:26

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO EXTEND THE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CALIFORNIA HIGHWAY PATROL (CHP) FOR UP TO TWO YEARS OF CRIME SUPPRESSION ASSISTANCE WHEREBY CHP WILL DEPLOY 10 OFFICERS IN FIVE, DOUBLE UNIT PATROL VEHICLES AND TWO SERGEANTS IN A SUPERVISOR VEHICLE, UP TO FOUR DAYS PER WEEK, AT A COST NOT TO EXCEED TWO MILLION SIX HUNDRED THOUSAND DOLLARS (\$2,600,000) AUGUST 8, 2013 TO AUGUST 7, 2015, AND A MOU EXTENSION TOTAL AMOUNT NOT TO EXCEED THREE MILLION TWO HUNDRED SEVENTY SIX THOUSAND DOLLARS (\$3,267,000), SUBJECT TO THE AVAILABILITY OF FUNDS AS APPROPRIATED BY THE COUNCIL

WHEREAS, for a period of two years from the commencement date of this proposed extension of the Memorandum of Understanding (MOU) with the California Highway Patrol (CHP), CHP agrees to provide uniformed personnel with patrol vehicles and all necessary safety equipment, in order to assist the Oakland Police Department (OPD) with conducting high visibility law enforcement to help reduce crime and gun and gang violence, as well as homicides, robberies, burglaries, assaults, traffic enforcement (excluding traffic accident investigations), and other law enforcement services as necessary within the City of Oakland (City); and

WHEREAS, Oakland has had an increased amount of street crime, robberies, and violence that have resulted in citizens being injured or killed. OPD's low staffing levels have affected how OPD can effectively respond to in progress crimes; and

WHEREAS, the primary purpose of the proposed MOU extension is to establish that OPD has primary jurisdiction throughout the City, has primary policing responsibilities in all instances, and that CHP serves as a supplemental resource; and

WHEREAS, OPD's service agreement with the Alameda County Sherriff's Office to provide contracted crime suppression assistance has concluded; and

WHEREAS, pursuant to the MOU, CHP retains control over CHP employees, and

WHEREAS, under the proposed MOU extension, CHP will deploy ten (10) officers in five (5) double unit patrol vehicles and two sergeants in a supervisor vehicle up to four days per week on varying days as requested in advance by OPD. Shifts will generally be 10 hours in duration as predetermined by CHP and OPD; and

WHEREAS, OPD will provide each CHP double unit patrol with one OPD hand-held radio for emergency communication with OPD Dispatch; and

WHEREAS, approval of this resolution will authorize OPD to extend the MOU with CHP for up to two years, for an amount not to exceed \$2.6 million and for a total contract amount not to exceed \$3,276,000.

WHEREAS, funds have been appropriated in OPD's FY 2013-15 General Purpose Fund budget and are available in (#1010), Office of the Chief of Police (Organization #90591), Contract (Account #54919), Agency-wide Administration Program (#PS01) and project number to be determined; and

WHEREAS, Section 504(1) of the Oakland City Charter provides that, when directed by City Council, the City Administrator shall have the power and duty to represent the City in its intergovernmental relations and to negotiate contracts for joint government actions, subject to Council Approval; and

WHEREAS, intergovernmental agreements for services are not subject to the RFP/Q requirements of the purchasing ordinance (Oakland Municipal Code Chapter 2.04); now, therefore, be it

RESOLVED: That the City Council authorizes the City Administrator, or her designee, to extend the MOU whh CHP for up to two years at an amount not to exceed \$2.6 million; and be it

FURTHER RESOLVED: The funds have been appropriated in OPD's FY 2013-15 General Purpose Fund budget and are available in (#1010), Office of the Chief of Police (Organization #90591), Contract (Account #54919), Agency-wide Administration Program (#PS01) and project number to be determined; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend the proposed MOU extension with CHP; and be it

FURTHER RESOLVED: That the City Attorney shall review and approve said proposed MOU extension with CHP, as to form and legality and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California