

AGREEMENT FOR POLICE SPECIAL DUTY OFFICERS

THIS AGREEMENT, is entered into this _____ day of July, 2022, by and between the **City of Ocala** ("City") and **The School Board of Marion County, Florida** ("Requester"), for the services as set forth on the attached Application for Special Duty Officers.

1. **Understanding:** Special Duty Police Officers may be hired through the City of Ocala Police Department for a police presence at events, functions or at businesses located within the City of Ocala. They are subject to the control of the Ocala Police Department, however, and will not be subject to control or orders of the Requester. They are on-duty police officers working special details at the Requester's expense. As such, they shall conduct themselves according to accepted police procedure and the orders of their superior officers in the Ocala Police Department. They will under no circumstances be subject to the command and control of the Requester. Special Duty Officers (SDO) have volunteered to work special details in this program and because of this no guarantee of officer availability can be made. If more requests are received than available officers can cover, officers will be assigned based upon the assignment criteria set forth in paragraph 6. Special circumstances, such as emergencies, court appearances, unavailability of a scheduled shift officer, etc. may cause a cancellation on short notice of a Special Duty Officer's appearance. In such circumstances, the Requester shall be refunded any money paid in advance for this service and this shall be the Requester's only recourse.

2. **Terms:** Special Duty Officers are available for employment at the following hourly rates:

1. Normal Rate. \$50.00 per hour per officer.
2. Holiday Rate. \$60.00 per hour per officer. (00:00 - 24:00 on New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, and Christmas Day)
3. High Risk Rate. \$75.00. If in the determination of the Chief of Police, or his designee, the requested Special Duty involves unique risks that may cause the Special Duty to be more hazardous than a normal Special Duty request, then the City will charge the increased rate set forth herein.

All payment to be made payable by check or money order to the City of Ocala. A request for Special Duty Officers shall be made at least two weeks (2) weeks in advance of the time that their engagement is desired, but may be waived by the Chief of Police or his Deputy if circumstances allow for late application. Payment is required at the time of the request. A non-refundable minimum of three (3) hours of duty is required for each request.

Any amounts remaining unpaid after thirty (30) days from the date of the request shall bear interest at the highest lawful rate from the date of the request until paid in full.

3. **Requirements of Requester:** Requester agrees, as a condition of this agreement, to:
- a. Obey all lawful orders given by the Special Duty Officer(s) assigned during the time of employment.
 - b. Obey all federal, state or local laws themselves and to report immediately any known law violations they become aware of during the Special Duty Officer(s) time of employment.

- c. Not interfere with the Special Duty Officer(s) from doing their duty in accordance with standard police procedure and the orders of their superior officers. The SDO is there to enforce the law and keep the peace, not as an employee of the Requester.
- d. Refrain from directing the actions of any Special Duty Officer(s) during the Special Duty Officer(s) time of employment.
- e. Maintain their premises in a safe manner consistent with all federal, state and local building and/or safety laws or regulations.
- f. Pay for a minimum of three non-refundable hours of service.
- g. Notify the Ocala Police Department in advance of any cancellation. Requester shall not be entitled to a refund unless the cancellation notice is received by the Ocala Police Department at least 48 hours prior to the scheduled assignment when the notice is given during the normal business day (Monday through Friday from 8:00 a.m. until 5:00 p.m.) or 96 hours when the cancellation notice is given on a weekend or a holiday (New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day, and Christmas Day).
- h. Refrain from providing financial gratuities to the Special Duty Officer(s) at any time.
- i. Provide to the Special Duty Officers suitable bathroom facilities during the time of their employment.
- j. Refrain from taking any action that would incite a confrontation or instigate unlawful or unruly behavior.
- k. Not tolerate unlawful activity of any kind that Requester has the ability to control on the Requester's property.
- l. Refrain from engaging in any activity that is designed to inflame or incite others. This would include, but is not limited to, activity that has derogatory racial, ethnic, religious or political overtones to which opposing groups would likely take offense.

4. **Termination:** This Agreement may be terminated at any time by the Chief of Police for a violation of any of the conditions of this contract. Cancellation may also occur, if in the opinion of the Chief of Police, the Special Duty Officers presence is detrimental to sound police practices or inconsistent with the proper enforcement of laws. Cancellation for any violation shall preclude any Requester from obtaining Special Duty Officers for a period of one year from the date of violation.

5. **Assignment Criteria:** The Special Duty Officers program is only available if enough officers volunteer during any given period of time to meet the number of requests for that period. Additionally, volunteer officers may be precluded from working even if available if their regular duty requirements or requirements of the Department otherwise prohibit their working. For that reason Special Duty Officers may not always be available. If there is more demand for Special Duty Officers than the Ocala Police Department can provide, then the requests shall be allocated by the Chief of Police or his designee, based on the following criteria:

- a. Date of request.
- b. Payment for request.
- c. Scheduling availability.
- d. Special needs of requester.
- e. Frequency of requests.
- f. Community or public service events to take precedence over business interests.

- g. Public safety assessment.
- h. Length of employment.

The Ocala Police Department reserves the right to review the nature of the request and to determine if the number of the Special Duty Officers requested is adequate to appropriately provide police services. That evaluation will be based on all relevant information to include, but not limited to, expected crowd, time of day, whether alcohol will be available, or any other unique event specific criteria that would dictate the need for more officers. Should the Ocala Police Department determine that more Special Duty Officers are required than are requested, then the Requester can either agree to the additional Special Duty Officers or withdraw their application.

6. **Waiver**: The failure or delay of the City to require performance of any provision of this Agreement, even if known, shall not affect the right of the City to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by the City of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement.

7. **Governing Law**: This Agreement is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.

8. **Rights of Third Parties**: Unless expressly stated herein to the contrary, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

9. **Liability**: Both parties recognize and agree that pursuant to state statute, the hiring of off-duty Police Officers may result in a claim for property damage, bodily and personal injury, including a claim for worker's compensation against SCHOOL BOARD, except that any Police Officer injured while enforcing the criminal, traffic or penal laws of this state will be regarded as working on duty and will be covered under the City of Ocala's insurance, including workers compensation.

10. **Attorney Fees**: If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges billed by the attorney to the prevailing party

11. **Jurisdiction and Venue:** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedure or local rules.

12. **Jury Waiver:** In any civil action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to this agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, trial shall be to a court of competent jurisdiction and not to a jury. Each party hereby irrevocably waives any right it may have to a trial by jury. Any party may file an original counterpart or a copy of this agreement with any court, as written evidence of the consent of the parties hereto of the waiver of their right to trial by jury. Neither party has made or relied upon any oral representations to or by any other party regarding the enforceability of this provision. Each party has read and understands the effect of this jury waiver provision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

Approved as to form and legality

CITY OF OCALA

Patrick G. Gilligan
Assistant City Attorney

BY: _____
Mike Balken, Chief of Police
Lou Biondi, Deputy Chief of Police

REQUESTER: (If Business entity)

The School Board of Marion County, Florida

By: _____
Eric Cummings, Board Chair

By: _____
Diane V. Gullett, Ed. D., Superintendent