



**Downtown Hayward Improvement Association  
Sidewalk Operations, Beautification & Order (SOBO) Committee  
Wednesday, October 27<sup>th</sup>, 2021, 11:00 AM  
Zoom Link (sent out)**

**AGENDA**

1. **Call to Order & Introductions:** Jeff Jurow, Committee Chair
  
2. **Committee Item Updates:**
  - a. Downtown Maintenance Operations:
  - b. Downtown Security & Public Safety Concerns:
  - c. Downtown Supplemental Security Patrol:
    - i. Review & Possible Action on Contract Between the DHIA  
& Legion Corporation for Downtown Security Patrols

**Action Item**

3. **Next Meeting:** \_\_\_\_\_
  
4. **Adjournment**

**BROWN ACT:**

*Government Code 54950 (The Brown Act) requires that a brief description of each item to be transacted or discussed be posted at least 72 hours prior to a regular meeting. The Corporation posts all Board and Committee agendas at the meeting location designated for the Board meeting. Action may not be taken on items not identified as such and posted on the agenda. Meeting facilities may be accessible to persons with disabilities. If you require special assistance to participate in the meeting, notify Monica Montes of New City America at 888 356-2726.*



Agreement for Professional Security Services  
Downtown Hayward Improvement  
Association

Joseph Shelley, CEO  
Legion Corporation

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## AGREEMENT FOR PROFESSIONAL SECURITY SERVICES

This Agreement for Professional Security Services (the "Agreement"), effective \_\_\_\_\_ 2021, is by and between Legion Corporation, a domestic business corporation licensed by the California Bureau and Investigative Services, Division of Licensing Services, as Private Patrol Operator, with its principal office at 5150 N. Sixth Street, Suite 173, Fresno, CA 93710 (hereinafter "Legion"), and Downtown Hayward Improvement Association (DHIA), with an address of 22650 Main Street, Hayward, CA 94541 for notice purposes (hereinafter "Client").

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties hereto agree as follows:

### 1. SERVICES.

1.a, Services to Client: Legion shall provide professional security services ("Services") for the protection of Client's real and personal properties located in Hayward CA within the boundaries of Client's district (the "Property") (attached hereto as Exhibit "A"). Legion shall not be responsible for incidents at the Property that occur while Legion is acting in good faith and performing its duties as outlined in this Agreement and according to general orders, and the incident occurs as a result of an unforeseen circumstance, or upon the reliance by a third party not a party to this Agreement. Legion employees will not perform any duties not contracted pursuant to this Agreement. This Agreement is solely for the mutual benefit of the parties who enter into it.

1.b, The duties of the Legion security guard regarding the protection of the Property include: (1) Providing a physical presence, (2) responding to incidents called in by client and authorized persons (3) taking action when there is a security related issue or event at the Property by alerting the proper law enforcement authority of reportable incidents immediately (4) observing, documenting, and reporting incidents. Legion will provide security guards with the qualifications described in section 4 of this Agreement.

#### 1.c, Unarmed, patrolling guards as follows:

- **2-officer team**
- **5 days per week**
- **Wednesday-Sunday from 0900-1730 hours**
- **8-hour shifts with 30-minute unpaid lunch and 2, 10-minute paid rest breaks as required by CA statute**
- **Full uniform**

1.d, Detailed Post Orders shall be drafted in collaboration with Client and approved by all parties prior the start date.

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**1.e, Rates per officer:**

ITEM	PAY TYPE	RATE
Unarmed guard	Regular hourly rate	\$46.00
	Overtime hourly rate	\$69.00
	Holiday hourly rate (Federal only)	\$69.00

1.f, No overtime will be authorized unless specifically requested (in writing) via DHIA Executive Staff.

1.g, 40-hours of training shall be billed to the client upon successful completion of the training program per officer not to exceed [2] officers. Client shall not be billed for officers who are hired for the position that are unable to complete the training. Client shall only be billed to train guards initially hired by Legion to perform services to Client under this Agreement. Any subsequent officers shall be trained at Legion's expense.

**2. PAYMENT AND INVOICING TERMS.**

2.1 Payment for Services: Legion shall invoice Client on a monthly basis for the services provided to Client pursuant to this Agreement for the preceding month. Invoices are due within 40 days of receipt. All payments are subject to Client's receipt of appropriate W-9 forms, insurance certificates (per Exhibit "B") and similar documentation as requested by Client.

2.2 Late Payment Policy: The Client shall be liable for late payments charges of \$35.00 for payments received more than 5 days from due date. If the Client's account has unpaid invoices overdue by more than 30-days, the Client will be notified, and Legion may opt to discontinue service. Non-payment of any invoice does not release the Client from any amount due at the time of termination. All amounts due plus late charges, if any, may be referred to an outside collection agency and law firm for collection.

2.3 Payment Methods: The Client shall provide credit card information for either ACH recurring billing or provide a credit card on file. If Client elects to mail a physical check please send to or mailing address at:

**Legion Corporation  
181 O'Farrell Street, Suite 506  
San Francisco, CA 94102**

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### **3. CHANGES.**

Client may, with the approval of Legion, issue written directions within the general scope of Security Services to be ordered. Such changes (the "Change Order") may be for additional work or Legion may be directed to change the direction of the work covered by the Task Order, consistent with all applicable laws, but no change will be allowed unless agreed to by Legion in writing.

### **4. STANDARD OF CARE.**

Legion warrants that its services shall be performed by personnel possessing competency consistent with applicable industry standards, who are licensed by the Bureau of Security and Investigative Services, have prior to appointment for employment at Legion, been subject to a comprehensive character background investigation, personal interview, submitted to fingerprint screening, screened for sex offender status, department of corrections check, and pre-employment drug screening. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of any services performed. This section sets forth the only warranties provided by legion concerning the services and related work product. This warranty is made expressly in lieu of all other warranties, express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, non-infringement, title or otherwise.

### **5. LIMITATION OF LIABILITY FOR LOSS.**

5.1 The parties acknowledge that Legion has been retained to provide services to Client as a deterrent against loss and/or damage from criminal and/or other prohibited acts on or about the protected Property, and not as an insurer against all or any such loss or damage.

5.2 It is further acknowledged by the parties that the amounts payable to Legion under this Agreement are based upon the value of the services rendered and are unrelated to the value of Client's property, both real and personal, or the property of third parties located in or about the protected Property. Client therefore acknowledges and agrees that Legion is making no guarantee or warranty – either express or implied – that its services will absolutely avert and/ or prevent all or any loss or damage to the protected premises.

### **6. MISCELLANEOUS.**

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6.1 Insolvency and Adequate Assurances: If reasonable grounds for insecurity arise with respect to Client's ability to pay for the Services in a timely fashion, Legion may demand in writing adequate assurances of Client's ability to meet its payment obligations under this Agreement. Unless Client provides the assurances in a reasonable time and manner acceptable to Legion, in addition to any other rights and remedies available, Legion may partially or totally suspend its performance while awaiting assurances, without any liability.

6.2 Severability: Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. Any provision shall nevertheless remain in full force and effect in all other circumstances.

6.3 Modification and Waiver: Waiver of breach of this Agreement by either part shall not be considered a waiver of any other subsequent breach.

6.4 Independent Contractor: Legion is an independent contractor of Client. In no event shall this Agreement create a partnership or agency relationship between Legion and Client. Legion is solely responsible for all wages, taxes, costs, insurance, worker's compensation, training, licenses and expenses of its employees and contract personnel.

6.5 Notices: All notices or other communications hereunder shall be in writing, sent by courier or the fastest possible means, provided that recipient receives a manually signed copy and the transmission method is scheduled to deliver within 48 hours, and shall be deemed given when delivered to the address specified in the introductory paragraph of this Agreement or such other address as may be specified in a written notice in accordance with this Section. Any party may, by notice given in accordance with this Section to the other parties, designate another address or person or entity for receipt of notices hereunder.

6.6 Assignment: The Agreement is not assignable or transferable by Client or Legion, except as agreed by both parties in writing.

6.7 Disputes: Legion Corporation and the Client recognize that disputes arising under this Agreement are best resolved at the working level by the parties directly involved. Both parties are encouraged to be imaginative in designing mechanism and procedures to resolve disputes at this level. Such efforts shall include the referral of any remaining issues in dispute to higher authority within each participating party's organization for resolution. Failing resolution of conflicts at the organizational level, Legion and Client agree that any remaining conflicts arising out of or relating to this Contract may be submitted to non-binding mediation upon agreement of Legion and Client. If the dispute is not resolved through non-binding mediation, then the parties may take other appropriate action subject to the other terms of this Agreement.

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6.8. Defense and Indemnity.

6.8a, Legion shall, to the fullest extent permitted by law, hold harmless, protect, defend (with attorneys approved by Client) and indemnify Client, its officers, agents, employees, representatives, and their successors and assigns, from and against any and all losses, liabilities, claims, suit damage, expenses and costs including reasonable attorney's fees and costs, and expert costs and investigation expenses ("Claims"), which arise out of or are in any way connected to the performance under this Agreement or any negligent or wrongful act or omission by Legion, its officers, employees, representatives, subcontractors, or agents regardless of whether or not such claim, loss or liability is caused in part by a party indemnified hereunder. Legion shall have no obligation, however, to defend or indemnify Client if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of Client. Section Headings: Title and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

6.8b, General Indemnity Provisions. The obligations described above are in addition to any other rights or remedies which Client may have under the law or this Agreement.

6.8c, Legion agrees that its duty to defend the indemnities arises upon an allegation of liability based upon the performance of services under this Agreement by Legion, its officers, agents, representatives, employees, sub-consultants, or anyone for whom Legion is liable and that an adjudication of Legion's liability is not a condition precedent to Legion's duty to defend.

6.9 Section Headings: Title and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

6.10 Representations; Counterparts: Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so, on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed (by original or tele-copied signature) in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

6.11 Non-solicitation of Employees: During and for one (1) year after the term of this Agreement, Client will not solicit the employment of Legion's personnel, without the Legion's prior written consent.

6.12 Governing Law and Construction: This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to the principles of conflicts of law. The language of this Agreement shall be deemed to be the result of negotiation among the parties and their respective counsel and shall not be construed strictly for or against any Party.

6.13 Entire Agreement; Survival: This Agreement, including any Exhibits, states the entire Agreement between the parties and supersedes all previous contracts, proposals, oral or

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written, and all other communications between the parties respecting the subject matter hereof, and supersedes any and all prior understandings, representations, warranties, agreements, or contracts (whether oral or written) between Client and Legion respecting the subject matter hereof. This Agreement may only be amended by an agreement in writing executed by the parties hereto. Additional services may be added at any time by request of the Client and agreement by Legion. Such service or services shall be deemed to be consistent with the warranties established herein.

6.14 Force Majeure: Legion shall not be responsible for delays or failures if such delay arises out of causes beyond its control. Such causes may include, but are not restricted to, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, electrical outages, computer or communications failures, and severe weather, and acts or omissions of subcontractors or third parties.

6.15 Confidentiality: In the course of Legion's relationship with Client, Legion may have access to confidential or trade secret information (referred to in this Agreement as "Confidential Information") including, but not limited to tenant lists, property prospects and financial information, investor information, information related to the management of properties, purchase prices offers and terms, employment information, business strategies, plans, and operations. All of the Confidential Information will remain the sole property of Client and will not be used or duplicated by Legion except in connection with the work to be done by Legion under this Agreement. Legion will keep the Confidential Information in the strictest confidence and will not disclose it by any means to any third party, except with Client's prior written approval, and only to the extent necessary to do the work. Legion may disclose the Confidential Information to its employees or contract personnel only to the extent necessary to do the work and only after they have agreed in writing to the provisions of this Agreement. Upon termination of this Agreement, Legion will return to Client all of the Confidential Information in Legion's possession, including computer files, written documents, and notes, and will cease to make any further use of it. Legion's obligations under this Paragraph will remain in effect during the term of this Agreement and will continue after its termination.

6.16 Term & Termination: The initial term of this Agreement shall be for a period of one year from the date fully executed by all parties and will automatically renew on a month-to-month basis thereafter if not cancelled by either party or new terms are not renegotiated. After the first year, either party may cancel at any time by delivering a 30-day notice to the other party of its election to terminate this agreement.

6.16a, A maximum annual increase of 3% shall be applied to all service charges on the anniversary date of this contract if new terms are not negotiated.

6.16.b, Termination for Convenience. Notwithstanding the foregoing, either party may terminate this Agreement without cause after giving the other party 30-days' notice. Legion shall be paid for any portion of the Services performed prior to the date of termination





IN WITNESS WHEREOF, the parties hereto have executed this Agreement, consisting of seven pages, plus Exhibits "A" and "B."

DHIA

LEGION CORPORATION

By: \_\_\_\_\_

By: Joseph Shelley

Title: \_\_\_\_\_

Title: Chairman, Legion Corporation

Signature: \_\_\_\_\_

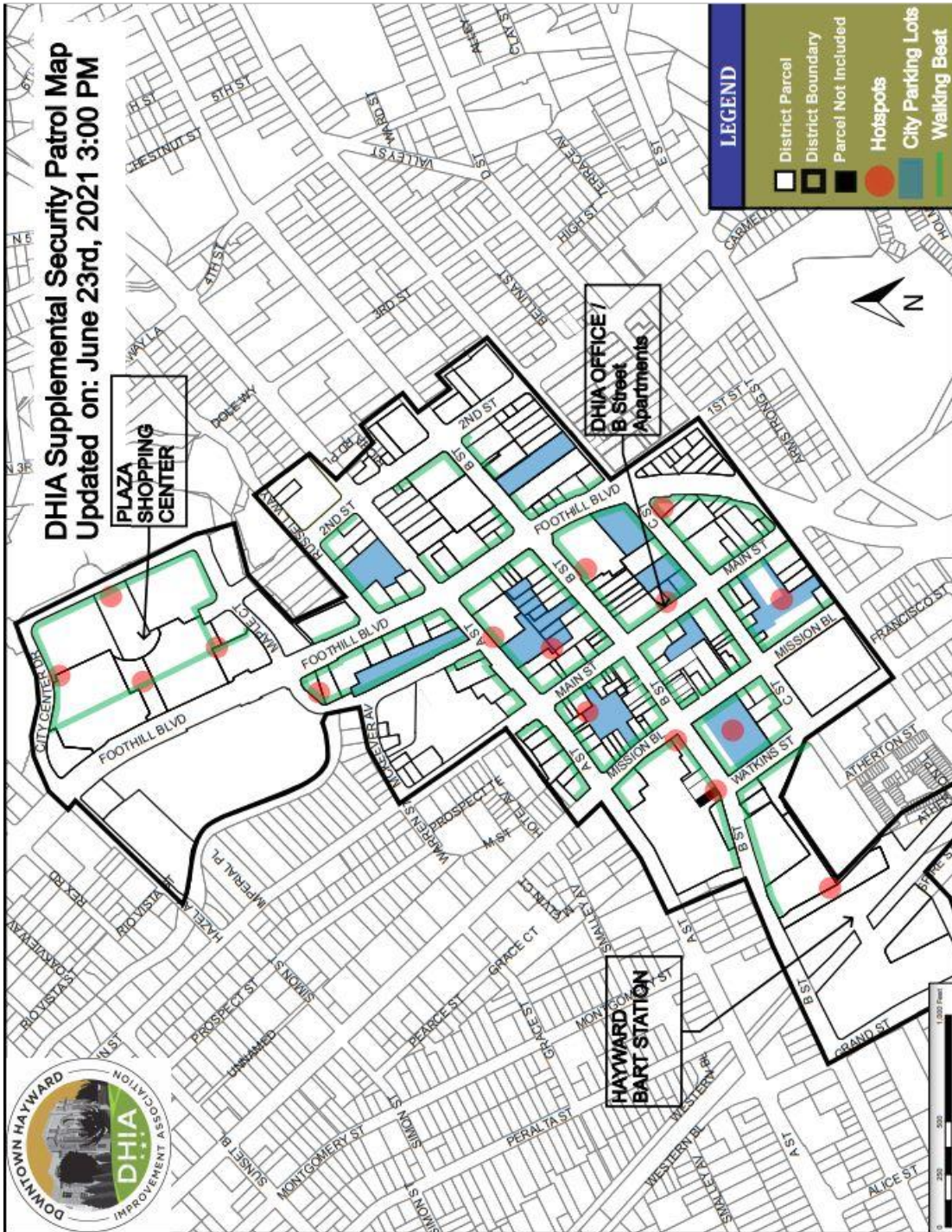
Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



EXHIBIT A





## EXHIBIT B

## MINIMUM INSURANCE REQUIREMENTS

General Liability:	\$1,000,000 (occurrence) / \$2,000,000 (aggregate)
Automobile Liability:	\$1,000,000
Worker's Compensation:	Statutory
Employer's Liability:	\$1,000,000
Excess (Umbrella) Liability:	\$5,000,000 (in excess of General Liability, Employer Liability and Auto Liability)

- All Certificates shall identify Downtown Hayward Improvement Association, its partners, owners, officers, directors, agents, representatives, employees, successors, and assigns, as additional insureds.
- A provision or endorsement providing that such insurance afforded by this policy for the benefit of the additional insureds shall be primary insurance and that any insurance maintained by the additional insureds shall be excess and non-contributory.
- All coverage shall be on an "occurrence" basis and issued under forms providing coverage not less than the Commercial General Liability insurance policy form ("Occurrence Form") and shall otherwise be acceptable to Client. If requested by Client, Legion shall provide certified copies of all requested insurance policies to Client.
- All such policies shall be endorsed to provide 30 days direct prior written notice to Client and Additional Insureds by certified mail in the event of cancellation or material change in coverage. (This applies to all coverages requested.)
- All deductibles must be approved by Client and disclosed on the Certificates.
- The insurer issuing the policy must be authorized to do business in the jurisdiction in which the Property is located and, unless approved in writing, have a current AM Best Company rating of A-, Class VIII, or better.
- Any insurance limits required are minimum limits only and are not intended to restrict the liability imposed on any contractor for work performed under the Agreement.
- Certificates of Insurance along with the required endorsements evidencing that the above requirements have been met must be issued and delivered to Client prior to commencement of performance under this Agreement and as a condition to any payment obligation of Client under this Agreement.



- Legion hereby waives all rights against Client and their partners, owners, officers, directors, agents, representatives, employees, successors, and assigns, with respect to any loss or damage, including consequential loss or damage, to Legion's property caused or occasioned by fire and/or any other perils and/or risks, to the extent coverage is maintained or required to be maintained by Legion's policies of insurance. All policies of insurance required herein shall include a waiver of subrogation endorsement in favor of Client, and any additional party designated by Client.