

**SANTA BARBARA CITY AGREEMENT NO. \_\_\_\_\_**

**with**

**National Association for Civilian Oversight of Law Enforcement  
for the Community Formation Commission**

This contract is entered into on June 8, 2021 by and between:

**The City of Santa Barbara**, a Municipal Corporation, referred to herein as the "City,"

and,

**National Association for Civilian Oversight of Law Enforcement**  
a non-profit organization, referred to herein as the "Consultant,"

This contract includes the following attached exhibits:

- Exhibit A – scope of services; personnel; rates and schedule of payments; time and schedule of performance;
- Exhibit B – Insurance Requirements;

**1. CONTRACT ADMINISTRATION**

a. The City Administrator is the City's authorized representative for administration of this contract. The City Administrator may delegate administrative responsibilities under this contract. References in this contract to City Administrator include references to a person exercising authority delegated by the City Administrator.

b. Cameron McElhiney ("Project Manager") is the Consultant's representative for administration of this contract. The Project Manager is also the professional responsible to provide the services under this contract except as otherwise expressly stated in Exhibit A. Consultant may not change the Project Manager without the written consent of the City Administrator, which consent may be withheld at the discretion of the City Administrator. An unauthorized substitution of the Project Manager is a material breach of this contract.

**2. SCOPE OF CONSULTANT SERVICES**

a. Consultant agrees to provide consultation to the Community Formation Commission ("Commission") to assist with the technical aspect and considerations related to the creation of a civilian oversight mechanism. This will include but not be limited to virtual attendance at commission meetings, assistance with obtaining relevant examples of and contact with mechanisms throughout the United States, revision of documents, and training as needed on specific topics applicable to the work of the Commission.

b. Consultant's services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar conditions and with all applicable federal, state, and local laws relating to this scope of work. Delivery of work by Consultant includes Consultant's affirmative representation that the work conforms to the requirements of this contract, all applicable federal, state and local laws, and the professional standard of care and skill applicable to the scope of services.

c. Consultant's responsibilities under this section may not be delegated or assigned. Consultant is responsible to the City for acts, errors, or omissions of Consultant's subcontractors.

d. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents or subcontractors, if any, is an employee of the City by virtue of this contract or performance of any work under this contract. Consultant retains the right to pay and supervise its employees and subcontractors as it sees fit. The City has no right to supervise Consultant's employees or subcontractors. If any issues arise with Consultant's employees or subcontractors as to their performance, the City may contact the Consultant directly so that Consultant may address any issues.

### 3. COMPENSATION

a. This contract provides the exclusive means of payment for services and reimbursement for costs to Consultant. The payment for services includes all expenses incurred in the performance of this contract, including materials, travel, lodging, overhead, and similar costs, unless expense reimbursement is expressly authorized in Exhibit A. The maximum payment to Consultant under this contract, including compensation for services and reimbursement of authorized expenses, will not exceed the sum of **\$35,000** unless an amendment to this contract has been approved by the City. This contract is for as-needed services, Consultant acknowledges that the City does not make any assurance or covenant, either expressed or implied, that this dollar amount will be authorized under this contract through Task Orders.

b. Payment for services performed will be at the hourly rates stated in the rates and payment schedule included in Exhibit A or a lump sum according to the Performance and Payment Schedules of Task Orders issued under Section 3. Changes in personnel or hourly rates stated in Exhibit A or a Task Order may be made only after written notice to and written approval by the City Administrator. Automatic increases to hourly rates are not permitted.

c. City may withhold payments if work is not performed in accordance with a Task Order Performance and Payment Schedule.

d. Consultant may be reimbursed for actual and necessary costs, without markup, as specified in Exhibit A and when included in a Task Order Performance and Payment Schedule. Where travel costs are included in Exhibit A, reimbursement will be made for actual travel costs (at fare, rate per mile or lump sum approved), and actual expenses consistent with guidelines approved by the City Finance Director for travel by City employees. Work performed by authorized subcontractors will be billed as reimbursable costs, subject to a mark-up not to exceed ten percent, according to the subcontractor's scope of work and payment contained in Exhibit A.

e. Consultant will be paid as promptly as City's fiscal procedures will permit upon receipt by the City Administrator of itemized invoices. Itemized invoices must state the number of hours work performed by task, the person performing the work, the hourly rate for that person, and an itemized list of costs for which reimbursement is sought. If the City Administrator has established a standard billing format, then invoices must be submitted in the standard billing format established by the City Administrator. Consultant must keep records concerning payment items on a generally recognized accounting basis and maintain the records for three years following the Completion Date. Consultant must make records available for copying, inspection or audit by City employees or independent agents upon reasonable notice during reasonable business hours.

f. Consultant will submit invoices on a monthly basis unless otherwise authorized in writing by the Department Head.

g. If this contract exceeds \$10,000, the performance and payments under it, and the parties to it may be subject to examination and audit by the California State Auditor pursuant to California Government Code § 8546.7 for three years following final payment under the contract.

### 4. CONTRACT DURATION AND TIME FOR PERFORMANCE

a. This contract will have a duration of one year, unless earlier terminated as provided in Sections 12 or 23.

b. Time is of the essence in the performance of this contract.



c. Consultant's failure to perform in accordance with the performance schedule, or complete the scope of services within the time specified, due to avoidable delays, may at the City's discretion be considered a material breach of this contract.

d. If Consultant is unable to meet a performance schedule due to circumstances beyond Consultant's reasonable control, such as war, riots, natural disaster, epidemic, strikes, lockouts, work slow-down or stoppage, except strikes, lockouts, or work slow-down or stoppage of Consultant's employees or subcontractors, Consultant may request an extension of time. The request must be made within a reasonable time and must state the duration and justification for the delay. The City Administrator will not unreasonably withhold consent to a schedule change.

## 5. CHANGES IN SCOPE OF WORK

No payment for changed or additional work will be made unless the changed or additional work has first been approved in writing by the City Administrator and the parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work. The City Administrator may order changes or additions to the scope of work. Whether a change or addition to the scope of work is proposed by the Consultant or ordered by the Department Head, the parties will negotiate an appropriate adjustment, if any, to the payment schedule and maximum payment for the changed or additional work. An approved change or addition, along with the payment adjustment, if any, will be effective upon execution of a change order signed by the Consultant and the City Administrator. Changes in work that increase the amount of payment are subject to approval in accordance with the City's municipal code.

## 6. OWNERSHIP OF DOCUMENTS

All documents, computer programs, plans, renderings, charts, designs, drafts, surveys and other intellectual property which is originally developed by Consultant pursuant to this contract shall become the property of City upon payment to Consultant for the services performed. Consultant will take such steps as are necessary to perfect or to protect the ownership interest of the City in such property. Consultant may retain copies of said documents for Consultant's file. Consultant agrees that all copyrights which arise from creation of the work pursuant to this contract shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

## 7. ASSIGNMENT OF CONTRACT

Consultant shall not assign, sublet or transfer any right, privilege or interest in this contract, or any part thereof, without prior written consent of City. Consultant shall not substitute personnel designated in the proposal of Consultant without the written consent of City.

## 8. NOTICES

a. When notice is required by law to be delivered by personal delivery or by mail, notices to either party may be provided by personal delivery or by depositing them in the United States mail, first class postage prepaid, and addressed as identified at the signature page of this contract. A party may change mailing address for all purposes under this contract, by written notice.

b. Reference in this contract to a writing includes paper documents and documents in an electronic format. Writings may be delivered via delivery of an original or duplicate in person or by mail, or in an electronic format, including transmission by electronic mail, secure Internet drop-

box, facsimile, or similar other standard interchange format capable of reproduction and storage, as agreed to by the City Administrator and Project Manager.

## 9. DEFENSE, INDEMNITY AND HOLD HARMLESS

a. To the fullest extent permitted by law, the Consultant will defend and indemnify the City, and its council, officers, and employees from and against all liabilities regardless of nature or type that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant or Consultant's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the active negligence or willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the active negligence or willful misconduct of an indemnified party, the Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

b. The Consultant will defend the City and its council, officers, and employees, immediately upon tender to the Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. The defense obligation includes an obligation to provide independent defense counsel approved by the City if the Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of an indemnified party.

c. The direction, review, acceptance, or approval of the Consultant's work or work product by any indemnified party shall not affect, relieve or reduce the Consultant's indemnification or defense obligations.

d. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance.

## 10. INSURANCE REQUIREMENTS

Consultant only maintains Director's and Officer Liability insurance and Worker's Compensation insurances, copies of which are attached to this contract as Attachment B. Consultant agrees to maintain policies providing at least the limits of coverage provided in these attachments for the term of this Contract. If during the course of this Contract Consultant obtains general liability, automobile, or umbrella insurance, it agrees to document that insurance on a certificate of insurance will be incorporated and each policy shall name the City as an additional insured for the possible liabilities resulting from Consultant's actions or omissions.

## 11. TERMINATION

a. The City may terminate or abandon any portion or all of the work by giving ten days written notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all work product, whether completed or not, as of the date of termination and not otherwise previously delivered. The City will pay Consultant for services performed in accordance with this contract before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by the City and Consultant for the portion of work completed in conformance with this contract before the date of termination. In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City will not be liable for any fees or costs associated for the



termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

b. Consultant, if Consultant is not in default or breach, may terminate Consultant's obligation to provide further services under this contract upon thirty (30) days' written notice only in the event of a material default by the City, which default has not been cured within thirty days following the written notice to the City of the default.

## 12. RIGHT TO PERFORM SIMILAR SERVICES

Nothing in this contract shall restrict the City from providing the same or similar services through City employees, other contractors, other resources, or by arrangements with other agencies. Consultant may engage in similar activities to the extent that such work does not conflict with the proper performance of services under this contract.

## 13. CONFLICT OF INTERESTS

a. Consultant warrants by execution of this contract that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage or contingent fee, and that Consultant maintains no agreement, employment, or position which would be in conflict with the duties to be performed for City under this contract. Consultant further agrees that during the term of this contract, Consultant will not obtain, engage in, or undertake any interests, obligations or duty that would be in conflict with, or interfere with, the services or duties to be performed under the provisions of this contract.

b. Consultant will not make or participate in making or in any way attempt to use Consultant's position to influence a governmental decision in which Consultant knows or has reason to know Consultant has a direct or indirect financial interest other than the compensation promised by this contract. Consultant will not have such interest during the term of this contract. Consultant will immediately advise the City if Consultant learns of such a financial interest of Consultant's during the term of this contract. If Consultant's participation in another City project would create an actual or potential conflict of interest, in the opinion of the City, the City may disqualify Consultant from participation in such other project.

## 14. ADMINISTRATION OF EMPLOYMENT

Consultant shall obtain and administer the employment of personnel having the background, training, experience, licenses and registration necessary for the work assigned, including all coordination, the withholding of proper taxes and benefits, the payment of wages, employer's contributions for FICA, and Federal and State unemployment payments, and the review and maintenance of any necessary licenses, certificates, memberships and other qualifications necessary for the services to be provided. Consultant is an independent contractor and shall not be considered an agent or employee of the City for any purpose. Consultant and its employees and agents are not entitled to any of the benefits or privileges that the City provides its employees.

## 15. BUSINESS TAX CERTIFICATE

Not later than 10 days after execution of the contract, Professional must obtain a business tax certificate from the City at Professional's expense. Professional must maintain a business tax certificate as required by the City Finance Director during the term of this contract. Payment under this contract may be withheld for violation of this section.

## 16. NO WAIVER OF PROVISIONS

No waiver of a breach of any provision of this contract shall be construed to be a continuing waiver of that provision, nor a waiver of any breach of another provision of this contract.

17. APPLICABLE LAWS, PARTIAL INVALIDITY

This contract shall be subject to the Santa Barbara City Charter, and the laws, rules, regulations and ordinances in effect within the City of Santa Barbara, County of Santa Barbara, California, and any interpretation of the law that may be necessary shall be pursuant to the laws applicable within that jurisdiction. If any provision of this contract is determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this contract and such deletion shall in no way affect, impair, or invalidate any other provision of this contract, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

18. NON-DISCRIMINATION ORDINANCE

Consultant shall perform all work pursuant to this contract in compliance with Santa Barbara Municipal Code § 9.126.020, which is an indispensable and integral provision of this contract pursuant to Santa Barbara Municipal Code § 9.126.010.

19. WORKPLACE CONDUCT

Consultant and Consultant's officers, employees, agents and subcontractors, while on City property or interacting with City officers, employees, contractors, or agents, will comply with the City's policies, rules, and regulations governing work place safety, conduct, and behavior, including without limitation policies prohibiting discrimination or sexual harassment. City will provide Consultant a copy of the applicable policies.

20. NONAPPROPRIATIONS OF FUNDS

Notwithstanding any other provision of this contract, in the event that no funds or insufficient funds are appropriated or budgeted by the City, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this contract, then City will notify Consultant of such occurrence and City may terminate or suspend this contract in whole or in part, with or without a prior notice period. Subsequent to termination of this contract under this provision, City shall have no obligation to make payments with regard to the remainder of the term.

21. EXECUTION

This contract may be executed in any number of original counterparts. The contract will be effective when all parties have executed the same counterpart, or each party has executed separate counterparts and has delivered a copy of the signature page of the counterpart to the other party. Upon execution by all of the parties, the counterparts shall constitute one and the same contract. Counterparts or signature pages may be delivered via delivery of an original or duplicate in person or by mail, or a duplicate, including scanned copy, in an electronic format, including transmission by electronic mail, secure Internet drop-box, facsimile, or similar other standard interchange format capable of reproduction and storage.

22. VENUE – CHOICE OF LAWS

This contract and disputes arising out of or relating to it or the parties' relationship are governed by the laws of the State of California. Any action or proceeding arising out of or relating to the contract or the parties' relationship must be brought in a state court situated in the County of Santa Barbara, State of California or a federal court in the district that includes the County of Santa Barbara.



IN WITNESS WHEREOF, the parties have executed this contract as of the date and year first written above.

CITY OF SANTA BARBARA, a municipal corporation

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

  
Paul Casey, City Administrator

**National Association for Civilian Oversight of Law Enforcement**


\_\_\_\_\_  
Susan Hutson, President

P.O. Box 20851  
Indianapolis, IN 46220-0851  
(317) 721-8133

APPROVED AS TO FORM:

Ariel Pierre Calonne, City Attorney

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

  
John Dojmas  
Assistant City Attorney

## EXHIBIT A

### **Scope of Services and Personnel**

As the only professional organization in the field of civilian oversight of law enforcement, the National Association for Civilian Oversight of Law Enforcement (NACOLE) plays an essential role in identifying effective practices and guiding principles in the complex arena of civilian oversight of law enforcement. In that capacity, NACOLE proposes the following scope of work to assist the Community Formation Commission in guiding the creation of a civilian review system in the City of Santa Barbara, California.

NACOLE will provide up to 175 hours of consultation to the Community Formation Commission to assist with the technical aspect and considerations related to the creation of a civilian oversight mechanism. This will include but not be limited to virtual attendance at commission meetings, assistance with obtaining relevant examples of and contact with mechanisms throughout the United States, revision of documents, and training as needed on specific topics applicable to the work of the Commission.

### **Rates and Payments Schedule**

The hourly rate is \$200. This fee assumes all services to be provided virtually. Should the Santa Barbara Community Formation Commission and NACOLE agree that some services be provided in-person, adjustments to the number of hours provided can be made to offset the reimbursement of all travel-related expenses including airfare, car rental, lodging, transfers, and per diem in addition to the fee noted above.

### **Performance Schedule**

To be available to the Commission for meetings, working group meetings, and assisting the Commission in drafting a report/recommendation to City Council.



EXHIBIT B

**INSURANCE REQUIREMENTS**

**DECLARATIONS**

**FEDERAL INSURANCE COMPANY**

A stock insurance company, incorporated under the laws of Indiana, herein called the Company

Capital Center, 251 North Illinois, Suite 1100  
Indianapolis, IN 46204-1927

Policy Number: 8261-2012

THE DIRECTORS AND OFFICERS LIABILITY AND ENTITY LIABILITY, FIDUCIARY LIABILITY AND EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTIONS (WHICHEVER ARE PURCHASED) PROVIDE CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD", OR DURING AN APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED UNLESS OTHERWISE PROVIDED HEREIN, BY "DEFENSE COSTS," AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. READ THE ENTIRE POLICY CAREFULLY.

**Item 1. Organization:** National Association for Civilian Oversight of Law Enforcement  
Principal Address: 638 E Vermont Street  
Indianapolis, IN 46202

**Item 2. Policy Period:** (A) From: 12:01 A.M. on October 18, 2020  
(B) To: 12:01 A.M. on October 18, 2021  
Local time at the address shown in Item 1.

**Item 3. A Combined Maximum Aggregate Limit of Liability is applicable:**

Yes  No The Combined Maximum Aggregate Limit of Liability for all **Claims** under all **Liability Coverage Sections** each **Policy Year** shall be: \$N/A

**Item 4. Coverage is available for the following only:**

Yes  No Directors & Officers Liability and Entity Liability Coverage Section

Yes  No Employment Practices Liability Coverage Section

Yes  No Fiduciary Liability Coverage Section

Yes  No Crime Non-Liability Coverage Section

Yes  No Kidnap/Ransom and Extortion Non-Liability Coverage Section



**DECLARATIONS**

**FEDERAL INSURANCE COMPANY**  
a stock insurance company, incorporated under  
the laws of Indiana, herein called the Company.

**THIS COVERAGE SECTION PROVIDES CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO "CLAIMS" FIRST MADE DURING THE "POLICY PERIOD", OR AN APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY "LOSS" WILL BE REDUCED AND MAY BE EXHAUSTED BY "DEFENSE COSTS" UNLESS OTHERWISE SPECIFIED HEREIN, AND "DEFENSE COSTS" WILL BE APPLIED AGAINST THE RETENTION. IN NO EVENT WILL THE COMPANY BE LIABLE FOR "DEFENSE COSTS" OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. READ THE ENTIRE POLICY CAREFULLY.**

Item 1. **Organization:**  
National Association for Civilian Oversight of Law Enforcement  
638 E Vermont Street  
Indianapolis, IN 46202

Item 2. Limits of Liability:

- (A) Maximum Limit of Liability for this Coverage Section for all **Claims** each  
**Policy Year:** \$1,000,000.00
- (B) Sublimit for all **Excess Benefit Transaction Excise Tax:** \$100,000.00

Note: The Sublimit shown in (B) above is part of, and not in addition to, the Limit of Liability in (A) above.

Unless the Defense Outside the Limits of Liability Option is purchased pursuant to Item 5 below, the Limits of Liability will be reduced and may be exhausted by **Defense Costs**.

Item 3. Retention:

- (A) Insuring Clause 1: None
- (B) Insuring Clause 2: \$5,000.00
- (C) Insuring Clause 3: \$5,000.00

Item 4. Pending or Prior Date: May 08, 2008

Item 5. Defense Outside the Limits of Liability Option purchased:  Yes  No



**WORKERS' COMPENSATION INSURANCE PLAN**  
 P.O. Box 40767 TOLL FREE: 866 221 9640  
 Lansing, MI 48901 7967 FAX: 844 778 1070  
 NCCI Carrier Code: 19968 EMAIL: Policy@AssignedRiskSolutions.com  
 AssignedRiskSolutions.com

**Workers' Compensation  
 and Employers Liability  
 Insurance Policy**

Renewal of Policy: ARP12000218303

Date of Mailing: 02/09/2021

Legal Entity: Non or not for profit corp

Quote Number	Policy Period	
	From	To
0030106524	04/25/2021	04/25/2022
	12:01 AM Standard Time at the described location	

**RENEWAL OFFER - STATEMENT OF PREMIUM  
 WCIP**

**ITEM 1 - Named Insured and Address**

NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT O  
 F LAW ENFORCEME  
 PO BOX 87227  
 TUCSON, AZ 85754

**Agency**

Huntington Insurance, Inc  
 37 W BROAD ST  
 COLUMBUS, OH 43215-4132

Intrastate ID:

Tax ID #: 52-1931116

Bureau Risk ID:

State ID #:

Other Workplaces Not Shown Above: See schedule attached

The limits of our liability under Part Two are

Bodily Injury by Accident	\$500,000	each accident
Bodily Injury by Disease	\$500,000	policy limit
Bodily Injury by Disease	\$500,000	each employee

The premium for this quote has been determined by our Manuals of Rules, Classifications, Rates, and Rating Plans.  
 All information below is subject to verification and change by audit.

**CLASSIFICATIONS**

**SEE SCHEDULE OF CLASSIFICATIONS ON FOLLOWING PAGE(S)**

Minimum Premium	Deposit Premium	Experience Modification	Total Estimated Annual Premium	Premium Adjustment Period:
\$ 198.00	\$ 320.00	N/A	\$ 317.00	Annually

Expense Constant: \$ 160 00  
 Total Policy Fees: \$ 3.00  
 Total Policy Cost: \$ 320 00  
 Total Amount Required to Renew: \$ 320.00

**Payment Options**

