

**AGREEMENT BETWEEN THE CITY OF SAN LEANDRO AND THE
SAN LEANDRO IMPROVEMENT ASSOCIATION
FOR MANAGEMENT AND OPERATION OF THE SAN LEANDRO
CHERRY FESTIVAL**

THIS AGREEMENT is made and entered into by and between the CITY OF SAN LEANDRO, a municipal corporation of the State of California, herein called "City," and SAN LEANDRO IMPROVEMENT ASSOCIATION, a non-profit public benefit corporation, herein called "SLIA" (collectively, the "Parties").

Recitals

WHEREAS, on or about June 1 of each year, City plans, produces, and manages the San Leandro Cherry Festival (the "Festival"); and

WHEREAS, City desires to enter into a multi-year agreement with SLIA to assist the City with planning, production, management, and operation of the Festival; and

WHEREAS, the purpose of this Agreement is to define the scope of work and responsibilities of the Parties to plan, manage and implement the Festival.

NOW, THEREFORE, for good and valuable consideration described herein, the receipt of which is hereby acknowledged, the City and SLIA agree as follows:

GENERAL.

Term: This agreement shall be effective December 1, 2023, to June 30, 2025. The agreement shall allow for three additional 1-year term extensions upon mutual agreement by both parties only in the event that the extension agreement is executed by August 1 of each year.

The extension agreement will result in an amendment if there are any changes to the General Responsibilities of either party or the compensation.

During the term of this Agreement, the Parties agree that SLIA shall bear the primary duties and responsibilities for the planning, management, and operation of the Festival, as provided in section 2 below.

During the term of this Agreement, City agrees to fund the production of the Festival and pay compensation to SLIA for the planning, management, and operation of the Festival for a not to exceed amount of compensation inclusive of all fees, costs, and expenses, of **\$55,000 (Fifty five thousand dollars)**.

- a. In the second year of the agreement, the compensation shall be increased by 5%.

1. GENERAL RESPONSIBILITIES OF SLIA.

In coordination with City staff, SLIA shall be responsible for the following in relation to the Festival:

- A. Recommend all activities, including the run of show and development of event footprint map, for the Festival.
- B. Develop responsibilities and requirements for City Departments and direct the coordination with City Departments, specifically City Manager's Office, Public Works, Police, Risk Management, Library, Recreation and Parks, and Alameda County Fire Department, regarding planning and management of the activities to be included in the Festival.
- C. Schedule coordination meetings and ongoing communication with those Departments; provide written notes and action items; follow up with Departments as needed; bring issues to the attention of the Recreation and Parks Department Director in a timely manner. Attend an Executive Team meeting in January of each year to review the recommendations for changes and improvements for the upcoming year.
- D. Procure, conduct all necessary and proper vetting (update application documents, host application website, outreach to vendors and City departments), and manage all Festival vendors (Artisans, Food, Community Resource, Kids Zone), presenters (Main Stage emcee, Community Stage coordinator), entertainment acts (Main Stage and Community Stage), and Festival activities (contests, Farmers' Market, Casa Peralta, History Museum, Chamber of Commerce section – Bistro and PubParc).
- E. Follow the City issued detailed expenditure plan in order to implement this Agreement. Request changes from the City to the expenditure plan if proposed expenditures are over or under budget line items by 5%, or if the overall budget will be exceeded.
- F. Project Manage all Pre and Post Festival activities and aspects:
 - 1. Conduct vendor outreach to ensure a broad variety and range of vendor types. Receive vendor applications, review, and approve based on City provided criteria.
 - 2. Completion and submission of all required permits and rentals: St. Leander Parish, Alameda County Department of Environment Health, Alameda County Fire Department, and temporary banner permit.
 - 3. Selection of and coordination with 3rd party vendors – stage, AV system, portable toilets, radios, tents, tables, and chairs, except for traffic barriers and signage.
 - 4. Ensure vendor contracts are executed using City approved forms with all proper requirements (insurance, W9).
 - 5. Request a Purchase Order from the City after selection of vendors and written authorization of quotes prior to April 1.
 - 6. Development of volunteer schedule matrix including volunteer duties, shifts and times, number of volunteers needed per location/per shift, location of

assignments, training, enrollment of volunteers, and supervision of volunteers.

7. Creation of all sponsorship collateral and sponsor recognition materials in coordination with a City representative for solicitations. Submit in advance to City for approval and prior to finalizing materials or making solicitations.
8. Coordinate with City staff to facilitate any street closures and vendor parking.
9. Conduct a comprehensive Festival debrief including surveying the City departments who participated, and prepare a written After Event Action Plan including recommendations for changes and improvements with City departments, community partners, and staff.

G. Manage all communications, marketing, advertising, and public relations for the Festival.

1. Develop a draft Marketing plan with deadlines and scheduling and who is responsible for each of the marketing tasks including but not limited to: design of all print and digital materials, creation and maintenance of event website page, design of event signage, banners, and program, and posting of such marketing materials on social media. Submit to City for advance approval. Coordinate with City throughout the pre-Festival period to ensure all marketing plan deadlines are met.

Recommendations shall include development of brand and use of advertising online, social media, posters, radio, newsprint, television, and other advertising outlets. Arrange all media events.

H. Provide Setup, Take Down, Pre-Festival management, staffing and Day-of Festival management and operations, including:

1. Prepare and staff an Information Booth.
2. Complete and disseminate a master event checklist, event map/footprint, and run-of-show.
3. Manage and implement all onsite volunteers (City employees included).
[See F 6]
4. Provide vendor oversight for all sections of the Festival.
5. Manage load-in/out of all vendors of the Festival.

2. GENERAL RESPONSIBILITIES OF CITY

In coordination with SLIA, CITY shall be responsible for the following in relation to the Festival:

- A. Provide a detailed Festival expenditure and revenue budget.
- B. Assign a City representative to participate with SLIA staff for solicitation of Festival

- sponsors.
- C. Notify City employees as to SLIA's Volunteer Schedule Matrix shifts and populate volunteer shifts with City employees prior to April 1.
 - D. Facilitate, as needed, SLIA's direct communication with relevant City departments and key contacts; identify and advise SLIA on the list of key city staff, their role and responsibilities, and contact information. Intervene upon request to assist with department coordination and communication.
 - E. Execution of marketing tasks assigned to the City primarily based on posting to City's social media and through the City's media contacts. Submit press releases and event information to paid advertising publications as well as free publications that builds on the City's vendor list and relationships with community-based organizations.
 - F. Merchandise procurement and staffing of the Cherry Store booth.
 - G. Coordination of vendor parking with non -City owned properties.
 - H. Secure vendor to install street barriers and traffic/wayfinding signage and notifications.
 - I. Submission of Caltrans Encroachment permit

3. CONTACTS. The Parties shall assign main contact persons who shall have responsibility for the execution and progress of this agreement, and to whom all formal communication regarding this agreement shall be sent.

The contact person for the City:

Karen McNamara-Interim Recreation and Parks Director
 City of San Leandro
 835 E 14th St
 San Leandro, CA 94577
 Email: kmcnamara@sanleandro.org

With a copy to
 Ely Hwang-Recreation Services Manager
 City of San Leandro
 835 E 14th St
 San Leandro, CA 94577
 Email: ehwang@sanleandro.org

The contact person for the SLIA:

Morgan Mack-Rose-Executive Director
 San Leandro Downtown Community Benefit District
 384 W. Estudillo Ave
 San Leandro, CA 94577
 Email: morgan@downtownsanleandro.com

4. TERMINATION This Agreement may only be terminated by joint agreement of the

Parties and only if the agreement is terminated on or before January 15 for that year's event. A Party may initiate termination by delivery of thirty (30) days' written notice to terminate. Notices shall be served either by personal delivery or mail, to the contacts in Section 3. above.

5. ASSIGNMENT Neither this Agreement nor any interest herein may be assigned by either party without the prior written consent of the other party. Neither party shall subcontract to any other person, entity, or agency the performance of any of its obligations under this Agreement without the prior written consent of the other party.
6. CAPACITY AND AUTHORITY All individuals signing this Agreement represent and warrant that they have the necessary capacity and authority to act for, sign and bind the respective party on whose behalf they are signing.
7. INSURANCE. SLIA, at its own cost and expense, shall carry, maintain for the duration of this Agreement, and provide proof thereof that is acceptable to the City the insurance specified in subsections (a) and (b) below with insurers and under forms of insurance satisfactory in all respects to the City.

(a) Workers' Compensation. Statutory Workers' Compensation Insurance and Employer's Liability insurance shall be provided with limits not less than **one million dollars (\$1,000,000.00)**. The insurer, if insurance is provided, shall waive all rights of subrogation against the City for loss arising from work performed under this Agreement.

(b) Commercial General and Automobile Liability. SLIA, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this Agreement in an amount not less than **one million dollars (\$1,000,000.00)** per occurrence, combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance or an Automobile Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting there from, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) and Insurance Services Office Automobile Liability form CA 0001 (more recent edition) Code 1 (any auto).

(c) Notice of Reduction in Coverage. In the event that any coverage required

under subsections (a) or (b) of this section of the Agreement is reduced, limited, or materially affected in any other manner, SLIA shall provide written notice to City at the earliest possible opportunity and in no case later than five days after SLIA is notified of the change in coverage.

(d) All Policies Requirements. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII. If applicable and deemed necessary by City, SLIA shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City. All insurance required above with the exception of Workers' Compensation, shall be endorsed to name as additional insured: City of San Leandro, its officials, officers, agents, employees, and volunteers.

8. INDEMNIFICATION AND HOLD HARMLESS SLIA shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liabilities, losses, damages, claims, expenses, and costs (including without limitation, attorneys' fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with the performance or other obligations under this Agreement, including but not limited to Liability caused by the actions of volunteers, except such Liability caused by the sole negligence or willful misconduct of City. This Section shall survive the termination of this Agreement.

9. MISCELLANEOUS PROVISIONS

A. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the Parties, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

B. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate the Parties, to any person or entity other than the parties hereto.

C. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

D. *Exhibits and Schedules.* Any Exhibits and Schedules attached to this Agreement are incorporated into this Agreement by this reference for all purposes.

E. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the Parties.

F. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

G. *Authority.* The individuals executing this Agreement represent and warrant that they have the lawful authority to execute this Agreement and bind their respective agencies.

H. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

I. *Payments.* Payment by the City to SLIA shall be made as follows: 75% payment after the completion of the event; 25% payment after completion of the Festival debrief and After Event Action Plan as outlined in Section 1.F.9.

J. *Materials and Documents:* All materials, communications and documents shall be the property of the City and shall be provided to the City by SLIA upon request in an electronic format where one is available.

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

- a. This Agreement shall be in effect from December 19, 2023, until June 30, 2025

SIGNATURES ON FOLLOWING PAGE

WHEREFORE, the Parties hereto have executed this Agreement on the ___day of _____, 2023.

CITY OF SAN LEANDRO

SAN LEANDRO IMPROVEMENT ASSOCIATION

By: _____
Fran Robustelli
City Manager

By: _____
Morgan Mack-Rose
Executive Director

APPROVED AS TO FORM:

By: _____
Richard D. Pio Roda
City Attorney

By: _____
Karen McNamara
Interim Recreation and Parks Director

ATTEST:

By: _____
Kelly B. Clancy
City Clerk