

AGREEMENT TO HIRE OVERTIME EMPLOYEE(S)

CONTRACTING ENTITY: Row Crop, LLC

CONTRACTED AGENCY: LANCASTER COUNTY SHERIFF'S OFFICE

I. ROLE OF THE EMPLOYEE.

When hiring a commissioned, law enforcement employee to perform law enforcement functions, the employee can enforce applicable State and local laws, and perform law enforcement responsibilities including traffic direction.

II. PURPOSE.

Row Crop, LLC, as the undersigned, is requesting the Lancaster County Sheriff's Office ("LSO") to provide public safety employees for the Luke Bryan Farm Tour concert, September 28th, 2017, at 701 SW 63rd Street, Lincoln, Nebraska ("the event").

1. Lancaster County Sheriff's deputies will supplement the Row Crop, LLC staff during the event. LSO employees will have the responsibility of security at 701 SW 63rd Street, Lincoln, and the surrounding area, safety of the public, which includes calls for service directed to the police function, and traffic control within the premises and the surrounding area for the duration of the event. Parking within the event will be the responsibility of the Row Crop, LLC staff.
2. LSO employee roles and responsibilities will vary depending on assignment. Roles may include oversight of area entrances or areas within or outside the event and escort of specified personnel for detection of violations, threatening situations and as a physical deterrence to criminal acts; first response to disturbances and complaints of potential or obvious criminal violations; and, traffic direction in the immediate proximity to 701 SW 63rd Street, Lincoln. Supervision is determined by LSO and is structured within the Incident Command System ("ICS").
3. Assignments may be from 6 to 12 hours in duration.

III. FINANCE

LSO will pay its employees provided under this Agreement for their hours worked. Row Crop, LLC, agrees to reimburse LSO for the Actual Costs of providing the employee(s) as described below:

1. LSO will produce a list of employees working the event and the number of hours worked by each employee, as well as any vehicles requested during each event.
 - a. Commissioned, non-exempt personnel: Actual Costs include compensation at the rate of one and one-half (1.5) times the regular hourly rate of the employee, plus benefits calculated at 15.45% of gross pay earned for work under this Agreement. Benefits shall include FICA, Social Security, Medicare and Retirement.
 - b. Commissioned, exempt personnel: Actual Costs include compensation at the regular hourly rate of the employee, plus benefits calculated at 15.45% of gross pay earned for work under this agreement. Benefits shall include FICA, Social Security, Medicare, and Retirement.
 - c. Any other costs must be approved in advance by Row Crop, LLC and LSO.

A spreadsheet showing each employee's hours worked, wages, and benefits shall be included with each invoice.

In addition, Row Crop, LLC, agrees to reimburse LSO for the costs of providing vehicles as described below:

1. Cruiser charge is \$100 per day or portion thereof, if requested.
2. Transport Van charge is \$100 per day or portion thereof, if requested.

At least 90 days before the date of the event, Row Crop, LLC, shall provide to LSO a written request for employees and vehicles. Once LSO has assigned employees to work at the event according to the request, LSO shall submit to Row Crop, LLC, a Preliminary Invoice for the Actual Costs of providing employees and the costs of providing vehicles, no later than 45 days before the date of the event. Within 30 days of the date of the Preliminary Invoice, Row Crop, LLC shall remit payment to LSO in the amount of 50% of the total of the Preliminary Invoice (“the Deposit”).

Within 30 days after the date of the event, LSO shall submit to Row Crop, LLC, a Final Invoice for the Actual Costs of providing employees and the costs of providing vehicles. Within 30 days of the date of the Final Invoice, Row Crop, LLC shall remit payment to LSO for the total amount of the Final Invoice, less the amount of the Deposit.

If the event is cancelled due to a force majeure event (e.g., act of God, severe weather, act of war or terrorism, failure of equipment or power supply, accident or illness of performers, or other causes beyond the parties’ reasonable control), Row Crop, LLC and LSO will use reasonable efforts to re-schedule the event and the services to be provided by LSO for an alternative date. If the parties are unable to agree on an alternative date for the event on which LSO is able to provide services, LSO agrees to refund the Deposit to Row Crop, LLC promptly upon request.

IV. NOTICE

All notices, request for services, or other communications provided under this Agreement shall be in writing and shall be given to County or Row Crop, LLC, at the email address set forth below or such other email address as either Party may specify hereafter in writing:

LSO:

Lancaster County Sheriff’s Office
c/o Capt. Josh Clark
jclark@lancaster.ne.gov

Row Crop, LLC:

Row Crop, LLC
c/o Dennis Freeman
dennis@freemanenterprises.com

Such notice or other communication from one Party shall be emailed to the email address of the other Party listed above, return receipt requested. For the purpose of the Agreement, all notices will be deemed to have been given upon the date of the delivery of the email, as proved by the return receipt described above.

V. EMPLOYMENT/BENEFITS.

Employees of LSO hired under this agreement shall not be considered employees of Row Crop, LLC and shall not be entitled to any benefits from Row Crop, LLC including, but not limited to, overtime, retirement benefits, worker’s compensation, sick leave, or injury leave.

VI. TERM.

The term of this Agreement shall be from the date of execution by all Parties through the conclusion of the event.

VII. INDEMNIFICATION/ INSURANCE.

Row Crop, LLC, requests assistance of employee(s) of the Lancaster County Sheriff's Office and the undersigned acknowledges that employees which are commissioned law enforcement may have to use reasonable force or effectuate an arrest during the job/assignment; provided that LSO shall be responsible for its employees fulfilling the job/assignment hereunder in accordance with applicable State and local laws. In consideration of this Agreement, Row Crop, LLC agrees to the fullest extent permitted by law, and without regard to the availability, terms or limits of liability of any insurance, to defend, indemnify and hold harmless Lancaster County, its agents, officers and employees from and against any and all claims, suits, demands, actions, liabilities, losses, damages or judgments arising by injury or death of any person, claim of wrongful arrest, or civil violation of any civil right, or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs, investigator fees and expert fees) of any nature whatsoever that is caused in whole or in part by the intentional or negligent act or omission of Row Crop, LLC or its employees or contractors (other than LSO or its employees), or anyone for whose acts Row Crop, LLC may be liable. Notwithstanding the above indemnification, Row Crop, LLC shall give the Lancaster County Sheriff reasonable notice of any matter covered herein that occurred during the job/assignment and shall forward to the Lancaster County Sheriff a copy of every demand, notice, summons or other process received in any claim or legal proceeding covered hereby.

Row Crop, LLC, shall provide proof of insurance coverage in a form satisfactory to LSO, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Agreement are set forth below and shall be in effect for all times that work is being done pursuant to this Agreement. No work pursuant to this Agreement shall begin until all insurance obligations herein are met to the satisfaction of LSO, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by LSO prior to execution of the Agreement and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Row Crop, LLC,'s insurer and will be no more than \$25,000.00 per occurrence. Said insurance shall be written on an OCCURRENCE basis, and shall be PRIMARY, with any insurance coverage maintained by Lancaster County being secondary or excess.

A. **Commercial General Liability.** Row Crop, LLC, shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Row Crop, LLC, shall provide an additional insured endorsement acceptable to LSO. The required insurance must include coverage for all projects and operations of Row Crop, LLC, or similar language that meets the approval of LSO, which approval shall not be unreasonably withheld.

B. **Additional Insured.** An Additional Insured endorsement shall be provided to LSO naming Lancaster County, Nebraska, as additional insured using an ISO additional insured endorsement, under the commercial general liability policy. Said insurance shall be written on an **OCCURRENCE** basis.

C. **Certificates.** Row Crop, LLC, shall provide certificates of insurance and endorsements evidencing compliance with these requirements. Row Crop, LLC's insurance shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation. Intent to notify is not acceptable. During the Term of the Agreement and during the period of any

required continuing coverages, Row Crop, LLC, shall provide, prior to expiration of the policies, certificates and endorsements evidencing renewal insurance coverages. The Parties agree that the failure of LSO to object to the form of a certificate and/or additional insured endorsement provided shall not constitute a waiver of this requirement.

D. **Minimum Scope of Insurance.** All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

E. **Umbrella or Excess Liability.** Row Crop, LLC, may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

F. **Sovereign Immunity.** Nothing contained in this Section or other Sections of this Agreement shall be construed to waive the Sovereign Immunity of Lancaster County.

In the event of a failure to provide the described insurance, Row Crop, LLC shall defend, indemnify and hold harmless Lancaster County, its employees and its assigns to the same extent as if the described insurance had been obtained as required by this Agreement.

Section VII survives the expiration of this Agreement and/or the completion of services by the employee(s).

VIII. FAIR EMPLOYMENT & LABOR STANDARDS.

Row Crop, LLC shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Neb. Rev. Stat. § 48-1122, as amended. The undersigned shall maintain Fair Labor Standards in the performance of this agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.

IX. INTEGRATION, AMENDMENTS, ASSIGNMENTS.

This Agreement represents the entire agreement between the Parties and supersedes all prior contracts, agreements and negotiations between the Parties whether verbal or written. Row Crop, LLC is prohibited from subcontracting duties and responsibilities found in this Agreement. Additionally, the undersigned shall be prohibited from entering into a separate agreement with Lancaster County employee(s) which is inconsistent with this document, specifically but not limited to liability and insurance requirements. No amendment to this Agreement will be effective unless it is in writing and signed by both Parties.

X. SEVERABILITY & SAVINGS CLAUSE.

Each section and each subdivision of this Agreement is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the acceptance of the terms of this document and invalidity of any section or subdivision of a section of this Agreement shall not invalidate any other section or subdivision of a section thereof.

XI. NEBRASKA LAW.

The terms of this Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.

XII. THIRD PARTY RIGHTS.

This Agreement is not intended to, and does not, create any rights or benefits on behalf of any person, whether an individual or an entity, other than the Parties to this Agreement. Neither Party shall be obligated or liable hereunder to any person, whether an individual or an entity, other than the other Party to this Agreement.

XIII. FORBEARANCE NOT WAIVER.

Either Party's failure or neglect to enforce any of its rights under this Agreement will not be deemed to be a waiver of that Party's rights.

XIV. CAPACITY.

Each of the undersigned representatives hereby agrees and represents that he or she is legally capable to sign this document and to lawfully bind his or her respective Party to the terms of this document.

By: Row Crop, LLC

Kerri P. Edwards

Rep for Row Crop, LLC

Manager

Title

8/2/17

Date

By: Lancaster County

Todd Wiltgen for Lancaster County Board of County Commissioners

Date

Chairperson, Lancaster County Board of County Commissioners