

City Agreement # \_\_\_\_\_  
State Fair Agreement # 13-047  
Between the City of Saint Paul and  
the Minnesota State Agricultural Society

THIS AGREEMENT, is made and entered into effective as of this 1<sup>st</sup> day of May, 2013, by and between the Minnesota State Agricultural Society, commonly known as the Minnesota State Fair (hereinafter called "State Fair"), a Minnesota public corporation, whose principal office is located at 1265 Snelling Avenue North, Saint Paul, Minnesota 55108-3099, and the City of Saint Paul (hereinafter called the "City"), a Minnesota municipal corporation, whose principal office is located at 15 West Kellogg Boulevard, Saint Paul, Minnesota 55102.

WHEREAS, the State Fair intends to engage the City's Saint Paul Fire Department (the "Fire Department") to provide Fire, Emergency Ambulance and Paramedic Services, and the Hazardous Materials Response Team Services to certain properties located outside the limits of the City of Saint Paul, specifically the State Fairgrounds located in between Falcon Heights and Saint Paul, Minnesota; and,

WHEREAS, the Fire Department is willing and able to provide year round services and equipment desired by the State Fair;

NOW, THEREFORE, subject to the terms and conditions set forth below, the State Fair and the City hereby agree as follows:

**SECTION 1. Definitions.**

1. **Business Associate** shall mean an entity that performs a function involving the use or disclosure of individually identifiable health information as defined in 45 CFR §160.103. For the purposes of this Agreement, the State Fair shall be considered a Business Associate of the City and the City shall be considered a Business Associate of the State Fair.

2. **Covered Entity** shall mean a health care provider who transmits any health information in electronic form as defined in 45 CFR § 160.103. For purposes of this Agreement, the City shall be considered a Covered Entity.

3. **Designated Record Set** shall have the meaning as defined in 45 CFR § 160.103.

4. **Emergency** shall mean fires, drowning(s), building damages, cave-in, accidents, explosions, or other types of incidents which a fire department would respond to for the protection of life, health, and property. This term shall be interpreted broadly to effect the purpose of this Agreement.

5. **Fire Chief** shall mean the Chief of the Saint Paul Fire Department.

6. **HIPAA** means the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164).

7. **Individual** means the person who is the subject of the PHI.

8. **Minimum Necessary** shall have the meaning as defined in 45 CFR part 154.502.

9. **Privacy Rule** shall mean the Standards for Privacy of Individually Identifiable Health information as defined in 45 CFR Part 160 and Part 164 Subparts A and E.

10. **Protected Health Information (PHI)** shall have the same meaning as the term "Protected health information" in 45 CFR § 164.501, limited to the information created or received by a Business Associate from or on behalf of another Business Associate.

11. **Required by Law** shall have the same meaning as the term "required by law" in 45 CFR § 164.501.

12. **Secretary** means the U.S. Secretary of the Department of Health and Human Services.

13. **State Fairgrounds** shall mean the property located within the following geographic boundaries within Ramsey County, Minnesota:

North Larpenteur Avenue;

East Snelling Avenue;

South Property south of Como Avenue, bounded by Wynne Street to the east, Stella Street on the west and the Burlington Northern spur line on the south;

West University of Minnesota and State Fair Transitway, Randall Avenue north of Dan Patch Avenue, Dan Elmer Way and all the way north along fence line to Larpenteur Avenue.

**SECTION 2. Scope of Services From City.**

A. Services.

The Fire Department shall provide the following services to the State Fair and the State Fairgrounds pursuant to the terms and conditions set forth herein:

1. Fire, Emergency Ambulance, and Paramedic Services (ALS) from City Fire Station 23 and other stations as needed in the performance of the services described herein. Mutual aid services as deemed necessary by each individual situation.

2. Services of the Saint Paul Hazardous Materials Response Team.

B. Equipment.

The Fire Department shall provide all personnel and equipment as may be required to perform the above services.

C. Reports.

The City of Saint Paul Fire Department shall provide the Minnesota State Fair an After Action Report which will reflect both daily and overall run volume. The report shall include general volume of patient contact, patient transports, and hospitals that were transported to. If specific patient care reports are requested by the Minnesota State Fair for risk management or insurance purposes, it will be the responsibility of the patient to obtain said report from the city and distribute as they feel is appropriate. The Minnesota State Fair will not receive patient care reports directly from the fire department.

D. Chain of Command.

The Chain of Command for purposes of making emergency decisions shall be as follows when City staff is on the State Fairgrounds providing services as described herein.

1. State Fair Chief of Police or designee, overall.
2. For Medical Direction/MD-FACS for the State Fairground: Regions Health Partners ER Medical Director.
3. For transport decisions: Medical Aid Charge Nurses.
4. All ALS ambulances shall report to the Medical Aid station dispatched for patient evaluation, except in the instance of cardiac arrest.

**SECTION 3. Obligations of State Fair.**

A. Information.

The State Fair will provide the following information upon execution of this Agreement:

1. A hard copy and electronic version of the most recent comprehensive emergency plan with resources and Fairgrounds area map and building addresses with ongoing updates.
2. Information relating to emergency and non-emergency radio and telephone capability (frequencies/numbers) between the City and the State Fair;
3. Emergency response plans by facility, pre-fire plan, and other information as may be needed;
4. Training level of the State Fair support personnel (i.e. first responders, etc.).

B. Request For Services.

All requests by State Fair for services during the annual State Fair shall be made by a Charge Nurse in either of the State Fair Medical Aid Stations and shall be directed to the Fire Department's Communications Division. State Fair will be responsible for providing the following information, as available, at the time of the request.

1. A description of the incident, including what happened, the time, the type of materials involved, if any, the geographic area, and any other detail which may be helpful;
2. A description of the most favorable response route to minimize the response time.

**C. Incident Risk Management.**

State Fair will provide, at its own expense, for the overall incident management and shall provide for crowd control and the evacuation of the site, site security, heavy equipment and dike preparation materials as needed for the incident.

**SECTION 4. Term.**

**A. Term.**

This Agreement shall commence upon execution by both parties and shall remain in full force for a period of five (5) years from that date unless terminated earlier by the parties;

**B. Renewal.**

The Agreement may be renewed for additional three-year periods if mutually agreeable to the parties.

**SECTION 5. Contacts/Authorized Agents.**

The State Fair contact person and authorized agent for this Agreement is the State Fair Chief of Police or his/her designee whose address is as follows:

**Non-Fair Period:**

1880 Como Avenue  
 Saint Paul, MN 55108-3099  
 Phone: (651) 288-4414  
 Cell: (612) 328-1106

**Fair Time:**

State Fair Police Station  
 1826 Dan Patch Avenue  
 Saint Paul, MN 55108-3099  
 Phone: (651) 288-4414  
 Cell: (612) 328-1106

An alternative contact is the State Fair Operations Deputy General Manager, or his/her designee whose address is 1880 Como Avenue, Saint Paul, MN 55108. Phone: (651) 288-4406 or Cell: (651) 497-0100.

**SECTION 6. Compensation and Billing.**

**A. Compensation.**

1. For performance under this Agreement, State Fair agrees to compensate the City at the rate of \$114,000 for the basic fire, ambulance, and paramedic services for the calendar year 2013. The amount each subsequent year will increase by 5%.

For 2014	\$119,700
For 2015	\$125,685
For 2016	\$131,969
For 2017	\$138,567

3. The State Fair shall also compensate the City for the additional costs associated with responding to any hazardous materials incident:

a) Hazardous Materials Emergency Response Compensation. The City will be reimbursed by the State Fair for the reasonable and necessary costs associated with an actual response as follows:

- **Team Personnel Costs** - \$95 per hour, including wages and fringe benefits, per person
- **Additional Wage Costs for Local Callback Personnel** - \$55 per hour, including wages and fringe benefits, per person
- **Vehicle Operating Costs** - \$120 per hour for Chemical Assessment Team vehicle; \$115 per hour for the Emergency Response Team Vehicle; and, \$62 per hour for additional vehicles;
- **Cost of Consumable Supplies Used** - City will submit an itemized invoice for actual costs incurred;
- **Costs of Repair or Replacement of Damaged or Destroyed Equipment** - The City will submit an itemized invoice for actual costs incurred if costs exceed \$500 (five hundred dollars), the State Fair may request competitive bids, RFPs, or quotes prior to the repair or replacement of equipment. Bids shall be issued in accordance with Minnesota Statutes 471.345.
- **Communication Costs** - The City will submit an itemized invoice for actual costs incurred. Eligible costs are defined as cellular and land line telephone costs for voice, data, or facsimile transmission;
- **Administrative Costs Directly Resulting from the Emergency Response** - Up to \$400 (four hundred dollars) per response, including wages and fringe benefits.

b) The City may request additional administrative cost compensation, based on an itemized invoice for actual costs incurred, when extraordinary circumstances, resulting from a specific State Fair authorized emergency response, are authorized.

3. The City shall be responsible for and pay, when due, all taxes, including but not limited to, withholding insurance amounts and other taxes on City employees' income.

4. City shall accept no income, payment, or compensation of any kind from any third party in connection with or related in any way to the provision of the subject third party goods or services to State Fair.

5. City agrees to be responsible for all costs incurred in the operation and maintenance of all equipment, including any loss, damage or cleanup which may be incurred as a result of the actions, acts, or omissions of City, and/or its agents.

**B. Billing.**

The City shall submit an itemized invoice for services rendered to the State Fair's Contract Manager, documenting all labor and/or any other miscellaneous expenses as previously approved by the State Fair on or about October 1 of each year. Upon review and verification of the charges, State Fair will pay City within 45 days of receipt.

**SECTION 7. HIPAA Compliance.**

**A. Obligations and Activities of Provider as a Business Associate.** City and Business Associate mutually agreed that Business Associate shall carry out its obligations under this Agreement in compliance with the Privacy Rule and shall protect the privacy of any protected health information (PHI) that is collected, processed or learned as a result of the services provided hereunder:

1. Business Associate shall not use or disclose PHI except as permitted under this Agreement or required by law.
2. Business Associate will take appropriate steps to safeguard and prevent use or disclosure of PHI except as permitted by this Agreement.
3. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.
4. Business Associate shall report to the Saint Paul Fire Department any use or disclosure of PHI not provided for by this Agreement of which it becomes aware.
5. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides, Protected Health Information received from, or created or received by the Business Associate on behalf of the City agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
6. Business Associate agrees to provide access, at the request of the City, and in the time and manner mutually agreed upon with the City, to make PHI available to the City as directed by the City to an Individual to meet the requirements under 45 CFR § 164.524.
7. Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the City, available to the Secretary for purposes of determining the City's compliance with HIPAA.
8. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for the City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

9. Business Associate agrees to make PHI available for appropriate amendments, to make any amendment(s) to PHI in a Designated Record Set that the City directs or agrees to and to incorporate those amendments pursuant to 45 CFR § 164.526 at the request of the City or an Individual, and in the time and manner the City directs.

**B. Permitted Uses and Disclosures.** Except as otherwise permitted under this Agreement, Business Associate may only use or disclose PHI to the City and other City's identified Business Associate contractors in order to provide services to the City for the following purposes, if such use or disclosure of PHI would not violate the Privacy Rule if done by the City or HIPAA "minimum necessary" policies and procedures of the City:

1. Preparation of invoices to the Individuals, treatment, payment, or health care operations or otherwise required by HIPAA.

2. Preparation of reminder notices and documents pertaining to collection of overdue Accounts to the Individuals, treatment, payment, or health care operations or otherwise required by HIPAA.

3. Submission of supporting documentation to the Individuals, treatment, payment, or health care operations or otherwise required by HIPAA to substantiate the health care services provided by the City to its patients or to appeal denial of payment for the same.

4. Other uses or disclosures of PHI as permitted by the Privacy Rule.

**C. Obligations of the City.**

1. The City shall notify the Business Associate of any limitation(s) in its notice of privacy practices of the City in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

2. The City shall notify the Business Associate of any changes in, or revocation of, permission by an Individual to use or disclosure PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

3. The City shall notify the Business Associate of any restriction to the use or disclosure of PHI that the City has agreed to in accordance with 45 CFR § 164.522, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

**SECTION 8. Independent Contractor.**

City shall be acting as an independent contractor to State Fair, and nothing in this Agreement shall be deemed to create a relationship of employer-employee, common law employee, principal-agent, partner, or joint venture between City and State Fair. Neither party has any authority to bind the other to any contract or agreement without the other's written permission. City shall operate independently, consistent with State Fair's business, and agrees to be responsible for all of its own federal, state, and local taxes, withholding, social security, insurance, and other employee benefits. Upon request, City shall provide State Fair with satisfactory proof of independent contractor status, including, without limitation, applicable business licenses.

### **SECTION 9. Indemnification, Responsibility.**

City hereby agrees to indemnify, defend, and hold State Fair, its staff, officers, directors, agents, and employees harmless from and against any and all suits, actions, claims, demands and causes of action of any nature whatsoever brought because of injury to, disease, sickness, death or damage received or sustained by any person, persons or property due to the negligent acts, errors, omissions or operations of City, its staff, agents and employees; in consequence of or on account of any negligent act in safeguarding their work; through use of unacceptable materials in performing the work; because of any negligent act or misconduct of City; because of any claims arising or amount recovered from infringement of patent, trademark, or copyright; because of any claim arising from or amount recovered under the Workers Compensation Act or under any other law, ordinance or degree, and against any and all claims, damages, losses and expenses, including, but not limited to, attorney's fees and disbursements, arising out of or resulting from any claim action or other proceeding (including without limitation, any proceeding by City's employees, agents or contractors) that is based upon:

- a) City's breach of this Agreement,
- b) The conduct or actions of City within the scope of this Agreement, or
- c) Any negligent act, omission or willful misconduct by City.

City shall assume full responsibility for all damage to property of any nature resulting from any negligent act, omission or misconduct in the execution of its work. To the extent of City's liability, and at its own expense, City shall restore damaged property to a condition similar or equal to that existing before the damage was done. City shall repair, rebuild or replace the damage as directed, or it shall otherwise make good on the damage in a manner acceptable to State Fair.

### **SECTION 10. Insurance.**

City is a municipal subdivision under the statutes of the State of Minnesota, and represents and warrants that it is authorized as self-insured for purposes of all property damage and general liability claims. City further represents that it has in full force and effect applicable health insurance, including worker's compensation or disability insurance for City and its employees performing work under this Agreement. Liability limitations and exceptions apply to City pursuant to Minn. Stat. Chapter 466 and laws related thereto. The City shall provide to State Fair a copy of its certificate or letter evidencing self insurance as described herein, including auto liability.

### **SECTION 11. City's Warranties and Covenants.**

City hereby represents, warrants, and covenants as follows:

1. City is financially solvent; able to pay its debts and is possessed of sufficient working capital to provide the services/equipment in accordance with this Agreement.
2. City warrants that it has complied with all applicable registration and licensing requirements to enable City to act as an independent contractor under the terms of this Agreement.



3. City has the experience and skills necessary to perform and provide the services and equipment required pursuant to this Agreement. All services provided by the City shall be performed:

a) in a professional manner, with a high grade, nature, and quality commensurate with that which is customary in the industry;

b) in compliance with all applicable federal, state, and local laws, rules, regulations and ordinances, including, without limitation, the laws, rules and regulations of the Occupational Safety and Health Act (OSHA) and State Fair, while City is on State Fair premises.

#### **SECTION 12. Termination of Agreement.**

A. Regardless of the term set forth above, either party may terminate this Agreement at any time, with or without cause, upon providing ninety (90) days written notice to the other party. "Cause" includes but is not limited to:

- a breach of this Agreement;
- a lack of need for City's services by State Fair
- State Fair reserves the right to cancel certain contracts based on availability of funds.

B. In the event of cancellation, and within thirty (30) days of cancellation, the City shall invoice State Fair for the pro-rated portion of the total work already completed of the total up to the time of cancellation. All physical property and any equipment leased or purchased by State Fair for City's use during the term of this Agreement shall be promptly returned by City to State Fair at the termination of this Agreement.

C. Notwithstanding any other provisions of this Agreement, this Agreement may be terminated by the City, in its sole discretion, if the City determines that Business Associate has violated a term or provision of the Agreement pertaining to the City's obligations under the HIPAA privacy rule.

D. Upon termination of this Agreement, for any reason, as directed by the City, Business Associate shall return or destroy all Protected Health Information received from the City, or created or received by the Business Associate on behalf of the City. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate. Business Associate shall retain no copies of the Protected Health Information.

E. In the event that the Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to the City notification of the conditions that make the return or destruction infeasible. After City's review and acceptance of Business Associate's notification of conditions of infeasibility, Business Associate shall extend HIPAA protections of this Agreement to such PHI for so long as the Business Associate possesses in any form such PHI, at no cost to the City.

#### **SECTION 13. Data Practices.**

City and State Fair agree to abide strictly by Chapter 13, Minnesota Government Data Practice Act and, in particular, Minn. Stat. §§ 13.05, subd.6 and 11; and 13.37, subd. 1 (b) and Minn. Stat. §§ 138.17 and 15.17. All of the data created, collected, received,

stored, used, maintained, or disseminated by the City in performing functions under this Agreement is subject to the requirements of the Minnesota Government Data Practices Act and any service provider must comply with those requirements as if it were a governmental entity. The remedies in the Minnesota Statutes apply to the State Fair and the City. If any provision of this Agreement is in conflict with the Minnesota Government Data Practices Act or other Minnesota state laws, state law shall control.

**SECTION 14. Unemployment Insurance and Taxes.**

City shall pay all applicable local, state, and federal withholding taxes and insurance amounts when due, and shall comply with all applicable minimum wage requirements with respect to City and City's employees. City shall accept full and exclusive liability for the payment of any and all taxes and contributions for unemployment insurance, retirement benefits, pensions and annuities which may now or hereafter be imposed by the United States or any state thereof, whether measured by the wages, salaries or remuneration paid to persons employed by Contractor or otherwise, for the work required to be performed hereunder.

**SECTION 15. Signs.**

No signs of any description shall be placed on or about State Fair's premises, except with the written permission of the State Fair.

**SECTION 16. Legal Responsibilities to the Public.**

City shall, while on State Fair property or performing any of the services hereunder, comply with all applicable local, state and federal safety laws and regulations, including, without limitation, laws and regulations under the Occupational Safety and Health Act. Contractor shall protect and indemnify State Fair and its representatives against all claims and liabilities arising from violations committed by City or City's employees. If City should discover any provision in this Agreement that is contrary to or inconsistent with any law, ordinance, regulation, order or decree, City shall immediately report same to State Fair in writing.

**SECTION 17. Access to Financial Records.**

The State Fair may request statements of account regarding income or expenses generated pursuant to this Agreement.

**SECTION 18. Assignment or Transfer of Duties.**

City acknowledges that the services to be rendered by it are unique and personal. Accordingly, City may not assign any of its rights, including the right to receive payments, or delegate any of City's duties or obligations under this Agreement without the prior written consent of State Fair.

**SECTION 19. Harassment and Workplace Violence.**

The State Fair strongly believes in the human dignity of each individual. It therefore condemns, opposes and will not tolerate any behavior on the part of any of the members of its community, which constitutes sexual harassment, offensive behavior or workplace violence.

### ***Sexual Harassment***

Sexual harassment is defined as “unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature” when:

1. such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment, or
2. submission to or rejection of such conduct by an individual-is used as the basis for employment decisions affecting such individuals (quid pro quo), or
3. submission to such conduct is made either explicitly or implicitly, a term or condition of an individual’s employment (quid pro quo).

The use of a position of authority to seek to accomplish any of the above constitutes sexual harassment.

Sexual harassment may take different forms whether it occurs between people of the opposite or same gender. One specific form is the demand for sexual favors. Other forms of harassment may include:

1. Verbal: sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, threats.
2. Non-Verbal: sexually suggestive objects or pictures displayed in areas of common viewing, including electronic media and computer graphics, graphic commentaries, suggestive or insulting sounds, leering, whistling, obscene gestures.
3. Physical: unwanted physical contact, including touching, pinching, brushing by the body, coerced sexual intercourse, assault.

### ***Offensive Behavior***

The State Fair also prohibits non-sexual offensive behavior. This includes words or actions that are offensive to another based on sex, race, age, religion, color, creed, affectional preference, sexual orientation, disability, marital status, or national origin.

The State Fair prohibits any form of workplace violence which includes, but is not limited to words or actions that injure another; unjust use of power; intimidation, or actual use of force, which results or has a high likelihood of causing hurt, fear, injury, suffering or death.

The State Fair also prohibits any City employee, contractor and/or subcontractor from carrying, possessing or using firearms (including, but not limited to, pistols) or other weapons while on State Fair premises, while operating machinery, equipment or vehicles for work-related purposes, or while engaged in State Fair business off the State Fair premises. This policy applies to all contractors and/or subcontractors, including but not limited to those who have a valid permit to carry a firearm. This policy applies to all State Fair premises, except that valid handgun permit holders may carry or possess firearms in the State Fair's parking facilities in accordance with applicable federal and Minnesota law. However, all contractors and/or subcontractors (including but not limited to those who have a valid permit to carry a pistol) are prohibited from carrying or possessing any type of firearm or other weapon in their vehicle at any time while on State Fair business,

whether on or off State Fair premises.

The State Fair reserves the right to search and inspect property and contractors and/or subcontractors while on State Fair premises, while operating machinery, equipment, or vehicles for work-related purposes or while engaged in State Fair business off premises.

City employees, contractors and/or subcontractors agree to be bound by these terms and are solely responsible and liable to State Fair for the acts and omissions of contractors employees, subcontractors and their agents and employees, and other persons performing portions of work directly or indirectly under an Agreement with contractor.

**SECTION 20. Amendments.**

All alternations, amendments, deletions or waivers of the teams of this Agreement shall be valid and enforceable only when they have been agreed upon by both parties and executed by both parties in writing.

**SECTION 21. Statute 37.**

There are no other rights, privileges or conditions, expressed or implied, which are not contained or referenced in this Agreement, and this Agreement shall not be construed as a relinquishment by the State Fair of any of its powers or controls over the State Fairgrounds as vested in it by Minnesota Statutes, Chapter 37.

**SECTION 22. Notices.**

All notices or other written communications required under this Agreement shall be given personally upon delivery, by next-business-day delivery via a nationally recognized overnight carrier or by delivery via certified mail, return receipt requested, upon deposit in a U.S. mail receptacle, postage prepaid addressed as follows:

**To City:**

Saint Paul Fire Department  
Attn: John Swanson  
645 Randolph Avenue  
Saint Paul, MN 55102

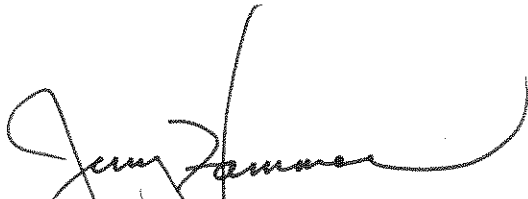
**To**

**Minnesota State Agricultural Society:**

Minnesota State Fair  
Attn: Mary Pittelko, Contract Manager  
1265 Snelling Avenue North  
Saint Paul, MN 55108-3099

IN WITNESS WHEREOF, the respective parties have executed this Agreement, in duplicate, intending to be bound hereby effective the date and year first indicated above.

**For Minnesota State Agricultural Society:**  
aka Minnesota State Fair  
Federal Tax ID #41-1531915



---

Jerry Hammer  
Executive Vice President

**For the City:**  
Federal Tax ID # 41-6005521

*Approved as to Form:*

---

Assistant City Attorney

*Executed:*

---

Director of Financial Services

---

Mayor or Designee

---

Fire Chief

---

Human Rights Director