

HOLD HARMLESS AGREEMENT

THIS AGREEMENT (the “Agreement”) is made and entered into on the 23rd day of MARCH, 2021 (the “Effective Date”), by and between, on the one hand, **The City of Pascagoula, Mississippi** (the “City”), and, on the other hand, **Raphael Malkin** (the “Requestor”). The City and Requestor may be severally referred to as a “Party” or collectively referred to as the “Parties.”

WITNESSETH:

WHEREAS, the City, a political subdivision of the State of Mississippi, is the employer of Darren Versiga (“Versiga”), a police officer;

WHEREAS, Requestor is a French reporter;

WHEREAS, Requestor desires to interview City employees, including, but not limited to, Versiga, and Requestor further desires to shadow City employees, including, but not limited to, Versiga, both off-duty and during his work as a police officer, including participation in “ride alongs” (the “Requested Activity”);

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby mutually enter and agree to this Agreement, each for itself and its successors and assigns, as follows:

Section 1. Hold Harmless.

1.1. Requestor acknowledges, stipulates, and accepts the dangers and risks associated with the Requested Activity.

1.2. Requestor agrees, swears, and affirms to release and hold harmless the City for any and all loss, damage, injury, claim, or liability (including, without limitation, attorneys’ fees) arising from his engagement in the Requested Activity.

Section 2. Defense and Indemnity.

2.1. In consideration of the City’s grant of the Requested Activity, and to the fullest extent permitted by law, the Requestor shall defend, indemnify, and hold harmless the City, its agents, and employees, and any other person or entity that the City is required to defend or indemnify (collectively, the “Indemnities”), from and against any and all demands, claims, causes of action, liens, fines, penalties, losses, damages, costs, and expenses (including legal fees), of every kind and nature, regardless of whether in law or in equity, or whether nominal, actual, direct, indirect, consequential, special, punitive, or otherwise (collectively, the

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“Liabilities”), arising out of, or related to, participation in the Requested Activity by the Requestor.

2.2. Upon notice from any of the Indemnities of any Liabilities covered above, the Requestor shall, at its sole cost, expense, and risk: (1) defend against all Liabilities that may be brought or instituted by any person or entity against any of the Indemnities; (2) pay, satisfy, or otherwise settle all Liabilities, including without limitation, any fine, penalty, award, judgment, or decree that may be rendered against any of the Indemnities; and (3) reimburse each of the Indemnities for all actual legal fees, expenses, costs, and damages, and pay any amounts paid out in satisfying or otherwise settling any Liabilities for which the Requestor has failed to perform its defense and indemnity obligations, regardless of whether incurred in or out of court or arbitration, on appeal, or as part of any regulatory, administrative, bankruptcy, or other dispute resolution proceeding, or in enforcing this defense and indemnity obligation or any other provision of this Agreement. The defense and indemnity obligations contained herein shall survive the expiration of this Agreement.

2.3. If any portion of the foregoing indemnity clause is determined to be in contravention of applicable law or otherwise invalid or unenforceable, that portion shall be deemed severable and the foregoing indemnity clause shall be reformed to provide the maximum enforceable defense and indemnity in favor of the Indemnities permitted by applicable law.

Section 3. Assignment.

3.1. This Agreement, or any interest therein, shall not be assigned, transferred, or otherwise encumbered under any circumstances by Requestor without the prior written consent of the City.

3.2. Subject to the requirements of Section 3.1, and to the extent authorized by law, covenants and conditions herein contained shall apply to and bind the successors and assigns of all the Parties hereto.

Section 4. Severability and Modification.

4.1. In the event any provision of this Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the Parties. One or more waivers by either Party of any breach of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of any subsequent breach.

4.2. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both Parties.

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Section 5. Survival and Remaining Obligations.

5.1. This Agreement and all covenants and warranties contained herein shall survive indefinitely unless agreed otherwise in writing by the Parties.

5.2. Termination of this Agreement, unless expressly provided herein, shall not relieve or release any Party from any rights, liabilities, or obligations that it has accrued prior to the date of such termination and those rights, liabilities, and obligations expressed herein of the Parties upon the termination of this Agreement.

Section 6. Notices.

6.1. Any notice required or permitted to be sent to the City hereunder shall be deemed given when deposited in the United States mail, postage prepaid, certified mail, to the City at the addresses below:

City of Pascagoula
Post Office Drawer 908
Pascagoula, Mississippi 39568

6.2. Any notice required or permitted to be sent to the Requestor hereunder shall be deemed given when emailed to the email address below:

Raphael.Malkin@gmail.com

Section 7. Governing Law and Venue. This Agreement shall be governed and construed in accordance with Mississippi law. In the event any litigation arises between the Parties in connection with this Agreement, venue for such litigation shall lie exclusively in Jackson County, Mississippi, to the exclusion of all other venues. Requestor specifically submits to personal jurisdiction in Jackson County, Mississippi and waives any defenses to personal jurisdiction in Jackson County, Mississippi.

Section 8. Representations and Warranties.

8.1. Each Party represents and warrants to the other Party as of the Effective Date that: (i) it has the full power and authority to make, deliver, enter into, and perform pursuant to the terms and conditions of this Agreement, and (ii) it has taken all necessary action to authorize the execution, delivery, and performance of the terms and conditions of this Agreement.

8.2. Each Party represents and warrants to the other Party that it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based

upon its own judgment, is not relying upon the advice or recommendation of the Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Agreement.

Section 9. Counterparts. This Agreement and any amendment or supplement hereto or any waiver granted in connection herewith may be executed in any number of counterparts and by the different Parties on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have executed and caused this Agreement to be effective as of the Effective Date first written above.

City of Pascagoula, Mississippi

Raphael Malkin

By: _____
Michael Silverman
City Manager

By: 08/03/2021
Raphael Malkin

