



REPORT TO CITY COUNCIL

Approved by:

Dino Lawson, Chief of Police

Arnaldo Rodriguez, City Manager

Council Meeting of: September 2, 2020

Agenda Number: B-5

SUBJECT:

School Resource Officer (SRO) agreement with Madera Unified School District (MUSD)

RECOMMENDATION:

Adopt a minute order approving an SRO agreement between the City and MUSD.

SUMMARY:

The City worked collaboratively with MUSD to provide SRO's to the district campuses for several years. SRO's provide a specific presence during normal school hours and events to prevent and deter criminal activity on and/or near school campuses. SRO's are police officers who are responsible for safety and crime prevention in schools, and have additional duties of mentoring and building positive relationships with our youth. The action considered is an agreement between the City and MUSD to provide SRO services, one school year at a time, for a maximum of four (4) years.

DISCUSSION:

The action contemplated herein is a renewal of previous agreements in which MUSD reimbursed the City the total salary and benefits costs of two (2) sworn police officers assigned to provide law enforcement services at the school sites within MUSD. In year one of this agreement, MUSD will reimburse the City \$264,473. The agreement is valid until the last day of the 2020/21 summer school session with an option to extend for up to three additional terms. If extended, the reimbursement amount will be adjusted in each subsequent year to reflect current costs.

This agreement is essentially identical to the previous agreements with the following modifications:

- The indemnity and hold harmless language in Section F on page 7 of the agreement has been updated to be in compliance with requirements of the City's insurance pool.

- The School District has requested to have the services of the assigned SRO's through the summer school session. In past agreements, the SRO's would complete their assignment on the last day of the regular school year. The additional 4-week commitment will not have a financial or personnel impact on the department, and staff believe it is a reasonable request (section B, subsection 3).
- In previous agreements, the department would provide a "substitute officer" on an overtime rate at the cost to the City in the event an SRO was going to be absent more than four (4) consecutive days. In this agreement, the City would not have to provide a "substitute officer" in the event of scheduled leave time extending past four (4) days such as vacation and compensatory time off.
- MUSD has requested the option of adding a third SRO with the addition of the new high school, Matilda Torres High School. Due to current restrictions placed on in-person teaching as a result of the Covid-19 pandemic, MUSD is not requesting to add the third SRO at this time. The potential to add a third SRO is included in the proposed agreement, to be implemented upon mutual agreement of MUSD and the City.

FINANCIAL IMPACT:

The agreement is cost-neutral to the City as MUSD will reimburse the City the total salary and benefit costs of the assigned SRO's. The City will notify MUSD in writing no later than July 31st, of each year the salary and benefits costs for the subsequent term. The additional cost for the third SRO will be dependent on the officer selected, and the City will notify MUSD in writing of that cost upon selection.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The SRO Agreement supports the Vision Madera 2025 Plan as follows:

- Vision Focus Area: A strong community and great schools

ALTERNATIVES:

Council may decline the agreement or may request additional information.

ATTACHMENTS:

1. Agreement

AGREEMENT BETWEEN

THE MADERA UNIFIED SCHOOL DISTRICT AND THE CITY OF MADERA CONCERNING THE PROVISION OF LAW ENFORCEMENT SERVICES BY THE CITY TO THE DISTRICT

A. Parties

This Agreement is entered into by the City of Madera, (hereinafter referred to as "City"), and the Madera Unified School District, (hereinafter referred to as "District"). Hereinafter, the City and District are collectively referred to as the "Parties".

B. Term of Agreement

1. Initial Term. This Agreement shall be deemed operative immediately after being adopted by the Madera Unified School District School Board and the Madera City Council and executed by the City and District. It will continue in full force through the last day of the 2020-2021 school year on which academic instruction in the District is provided, as determined by the District. This shall constitute the Agreement's "Initial Term."
2. Additional Contract Terms. Following completion of the Initial Term, this Agreement shall be automatically renewed for three (3) additional Contract Term(s), as defined in Paragraph (B) (3), below, unless and until terminated by either Party, pursuant to Section G of this Agreement.
3. "Contract Term" Defined. For purposes of this Agreement, "Contract Term" shall, as set by the District, be the period of time beginning seven calendar days before the first day of academic instruction in the District and ending on the completion of the last day of academic instruction in the District's Summer School session.

C. Provision of Law Enforcement Services

1. Assignment of Designated Officer to District. The City agrees to assign two (2) police officers, with the option of one (1) additional officer for a total of three (3) officers when both parties deem appropriate and such addition is confirmed in writing by the District's Director of Student Services and the City Police Chief, (hereafter "Assigned Officers") to provide law enforcement services to the District for the Initial Term and any subsequent Contract Term. The services contemplated herein shall be provided at all school sites within the Madera Unified School District EXCEPT for the following school sites:

- Dixieland School
- Berenda Elementary School
- Howard School

- La Vina School
 - Eastin Arcola School
2. Selection of Assigned Officers. The Parties agree to work cooperatively to select appropriate officers to fulfill the duties set forth in this Agreement. The Parties agree that the City Police Chief shall retain final authority for the selection of the Assigned Officers to perform under this Agreement, after reasonably appropriate consultation with the District. The Parties further agree that the District shall be able to request the replacement of any Assigned Officer. Such a request shall be made by the Superintendent or his/her designee. The City Police Chief shall honor any such request from the District to replace the Assigned Officer at the earliest opportunity.
 3. Duties and Responsibilities. Duties and responsibilities of the Assigned Officers in the Initial Term and any subsequent Contract Term shall include, but not be limited to, the following:
 - a. Prevention and deterrence of criminal activity on and/or near school campuses;
 - b. Investigation of criminal offenses occurring, in
 - c. Provision of technical and informational assistance to schools and related community agencies and personnel;
 - d. Reporting relevant contacts with pupils, parents, staff and community members to the District on a regular basis; and
 - e. Other law enforcement and public relations duties as reasonably appropriate.
 4. Direction and Supervision by District. The Assigned Officer shall receive only general direction from the District's Executive Director of Student and Family Support Services, or his/her designee, including assignment for coverage of specific school: functions, or specific school sites, at specific times, at any school site within the District.
 5. Assigned Officers' Schedules. The Parties agree to work cooperatively to create and maintain a schedule of work hours for the Assigned Officers.
 - a. Adjustments or modifications to an Assigned Officer's schedule which are necessary to carry out or accommodate various assignments shall be made in advance by at least five (5) business days, with agreement from both the District and City Police Chief not unreasonably withheld.

- b. In order to ensure the minimal response time to engage in law enforcement activities for the safety of the District's personnel and students, the Assigned Officer shall at all times, unless otherwise expressly permitted herein, remain on or near a District site during his or her scheduled time.
6. Absence
- a. Short Duration Absence. It is understood that the City will not provide a substitute officer (hereinafter "Substitute Officer") in the event of a short duration absence of an Assigned Officer resulting from routine training, illness, vacation and other authorized leave. For purposes of this section, a "short duration absence" shall be defined as leave for four (4) or less consecutive days on which District schools are in session. The District is obligated to compensate the City as provided in Section D during absences of a short duration. The Assigned Officer shall provide the District with sufficient notice of a short duration absence in order to facilitate District activities.
 - b. Extended Duration Absence. In the event of an extended duration absence, the City shall provide a Substitute Officer to fulfill the Assigned Officer's duties contemplated by this Agreement for the period of time that the Assigned Officer is unavailable. In the event that sufficient personnel do not permit this assignment, the District shall not be obligated to compensate the City as otherwise provided in Section D. For purposes of this Agreement, "extended duration absence" shall be defined as leave greater than four (4) consecutive days during which District schools are in session. Since the City is now providing the Assigned Officer through the summer school session, the City's ability to deconflict the Assigned Officer's leave time with the school sessions has been hindered. Therefore, the City will not provide a Substitute Officer to cover the Assigned Officer's vacation and compensatory time off which extends past the four (4) consecutive days. The Assigned Officer shall provide the District with sufficient notice of an extended duration absence in order to facilitate District activities.
 - c. Officer Use for Training, Mutual Aide Requirements, and Extraordinary Situations and Emergencies. The District recognizes that the Assigned Officer may occasionally be away from his or her regular assignment due to training requirements or to fulfill law enforcement mutual aide requirements, including for extraordinary situations and emergencies. The Parties agree that the City shall retain the ability to use the services of the Assigned Officer during the school year and at the District's

expense to fulfill these law enforcement mutual aide requirements, for extraordinary situations and emergencies, and for other than normal and routine duties requested by and associated with District business. Additional school year use of the Assigned Officer by the City shall include use during periods of school vacation and for investigative follow-up of criminal cases involving students, District employees and/or cases involving District property and facilities.

7. Compliance with Law and Policies. In all circumstances, the Assigned Officers and any Substitute Officer or Additional Officer(s) as contemplated by this Agreement shall follow all applicable federal, state, and local legal requirements, as well as the policies and procedures of the City and City of Madera Police Department. In order to provide guidelines and consistency of expectations, a document entitled "Law Enforcement Philosophy" has been prepared and is also incorporated into this Agreement as Appendix A. The parties agree that any Assigned Officer, Substitute Officer or Additional Officer contemplated by this Agreement to provide service to the District shall follow the philosophy set forth in this document unless a particular provision is deemed to conflict with federal or state law or the policies of the Madera Police Department. If an Assigned Officer, Substitute Officer or Additional Officer is concerned that any provision of the Law Enforcement Philosophy attached as Appendix A is in conflict with federal, state and local legal requirements, or policies of the Madera Police Department, he or she shall immediately notify the District's Assistant Superintendent for Business who will consider the concern and consult, when necessary, with the City Police Chief.
8. Conditions of Employment. Except as specifically included in this Agreement, the City retains full authority and responsibility for conditions of employment, including but not limited to appropriate disposition of citizen complaints, disciplinary actions and evaluation of performance and agreement of schedules to be worked. All public complaints of inappropriate Assigned Officer, Substitute Officer or additional officer conduct and behavior shall be referred directly to the City Police Chief.
9. District Evaluation of Assigned Officers' Performance. Notwithstanding Paragraph 8 above, the District shall provide the City Police Chief with its own written evaluation of an Assigned Officer's performance prior to the conclusion of each school year. The District shall also immediately report to the City Police Chief any behavior or conduct by an Assigned Officer that appears to violate the terms and conditions, or the spirit and intent, of this Agreement.
10. Use of Additional Officers. In some instances, the District may require one or more additional officer(s) (hereinafter "Additional Officer"), in addition to the

Assigned Officers for planned events and/or activities associated with other District services or events ("Events"). The Parties understand that, should such Events arise, the District shall request the support of an Additional Officer or Officers from the City in a timely manner. The City will provide the Additional Officer(s) so long as such personnel is available at the time of the request. The District agrees to compensate the City in accordance with the provisions outlined in Section D (l) (c) of this Agreement.

D. Compensation and Payment of Costs

1. Payment to City for Costs Associated with Provision of Law Enforcement Services to the District. Pursuant to this Agreement, the District shall pay the City for the following costs associated with the provision of law enforcement services during the Initial Term and each subsequent Contract Term, unless modified in writing and agreed to by both the City and District:
 - a. Salary and Benefits. The District shall pay the City for the Assigned Officer's actual salary and benefits provided by the City to the Assigned Officer as provided by law or incorporated into the Memorandum of Understanding Madera Police Officers' Association (See Attachment A). The total cost to the District for the actual salaries and benefits of the two (2) Assigned Officers for the Initial Term shall be Two Hundred Sixty Four Thousand Four Hundred and Seventy Three Dollars (\$264,473.00). Should the parties agree to add one (1) additional officer in accordance with Section C. 1. of this agreement, the additional cost for the one (1) officer will be dependent on the officer selected, and the City will notify District in writing of that cost upon selection. The City will notify District in writing no later than July 31 of each year the Salary and Benefits cost for the subsequent term.
 - b. The Parties agree that such overtime shall consistent with all provisions existing at the time of overtime earnings which in the Memorandum of Understanding between the City and Madera Police Officers' Association. Overtime hours accrued but not paid to the Assigned Officer shall be reimbursed by the District at such time as the Assigned Officer takes the accrued time as compensation.
 - c. Overtime for Additional Officers. The District shall pay one hundred percent (100%) of all overtime for Additional Officers, as defined in Section C (IO) of this Agreement. Overtime shall be paid consistent with all provisions existing at the time of overtime earnings which are incorporated in the Memorandum of Understanding between the City and Madera Police Officers' Association. Overtime hours accrued but not

paid to an Additional Officer shall be reimbursed by the District at such time as that Additional Officer takes the accrued time as compensation.

- d. Costs Associated with Provision of Marked Patrol Vehicle for District Purposes. The District shall pay fifty percent (50%) of the annual fiscal year costs, as determined by the City, to provide vehicle maintenance for a marked patrol vehicle to be used by the Assigned Officer or Substitute Officer in his/her performance of this Agreement. The District shall also pay fifty percent (50%) of the cost for replacement, excluding equipment, for the marked patrol vehicle to be used by Substitute Officer in his/her duties for the District, as determined by the City and based upon the most recent vehicle purchase price, so long as the City continues to provide the marked patrol vehicle for District purposes. The Parties understand and agree that the District may, at any time, elect to purchase a vehicle for use by the officers contemplated by this Agreement, and if the District so elects, the above-stated payment obligations shall cease as of the date the marked patrol vehicle purchased by the District is available for use.

The Parties further agree to determine how costs associated with maintenance and replacement of the District-purchased marked patrol vehicle shall be distributed between them within thirty (30) business days of the District's purchase of the vehicle. Any such determination will be incorporated as a written amendment to this Agreement and shall replace all provisions or understanding between the Parties with respect to the Parties' obligations concerning maintenance and replacement costs.

2. Accounting of Costs. The City shall provide the District with an accounting of all costs contemplated in Paragraphs D (l) (a)-(d) when assessed, and no less than on a quarterly basis. The District agrees to pay the City for the costs set forth in Paragraphs D (l) (a)-(d) on a quarterly basis and in accordance with its standard billing and payment procedures.
3. Liability for Additional Costs. The District shall not be liable for any expenses or costs incurred by the City except as specifically provided for in this Agreement, unless prior approval for such expenditure(s) is obtained, in writing, from the Associate Superintendent of Business and Operations. Similarly, the City shall not be liable for any expenses or costs incurred by the District and not specifically set forth in this Agreement, unless prior approval for such expenditure(s) is obtained, in writing, from the City Police Chief.

E. Independent Contractor Status

The Parties to this Agreement expressly agree that this Agreement is intended to be an Agreement by and between the District and the City as independent contractors and consequently shall not be construed to create any relationship of employer-employee, agent, servant, partnership, joint venture or any other association between or among the District and the City. Any and all officers performing under this Agreement shall, at all times, exclusively be considered employees of the City. The law enforcement services to be performed by all City officers under this Agreement, including the standards of performance, discipline and control thereof, shall also be the sole responsibility of the City, which shall ensure that its officers provided under this Agreement observe and follow all applicable rules, regulations, policies, practices and standards while performing law enforcement services under this Agreement. All officers performing services under this Agreement shall receive administrative directions and technical support from the City Police Department.

F. Indemnity and Hold Harmless

Indemnity. The District shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and volunteers from and against any and all liability, claims, damage, cost, expenses, awards, fines, judgments, and expenses of litigation (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and cost) of every nature arising out of or in connection with the assigned officer's performance of work or his or her failure to comply with any of its obligations contained in the Agreement, except such loss or damage which was caused by the active negligence by the City, or the gross or willful misconduct of the assigned officer.

The City shall indemnify, defend, and hold harmless the District, its officers, officials, employees, and volunteers from and against any and all liability, claims, damage, cost, expenses, awards, fines, judgments, and expenses of litigation (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and cost) of every nature arising out of the active negligence by the City or the gross or willful misconduct of the assigned officer during the performance of work hereunder.

If the District rejects a tender of defense by the City and/or the assigned officer under this Agreement, and it is later determined that the City and/or the officer breached no duty of care and/or was immune from liability, the District shall reimburse the City and/or officer for any and all litigation expenses (including, without limitation, costs, attorney fees, expert witness fees and prevailing party fees and cost). A duty of care or immunity determination may be made by a jury or a court, including a declaratory relief determination by a court after the City and/or officer settles a liability claim, with or without participation by the District.

The Parties acknowledge that it is not the intent of the Agreement to create a duty of care by the City or its assigned officer that they would not owe in the absence of the

Agreement. The Agreement does not create an affirmative duty of care (including, without limitation, a duty to protect, a duty to deter and/or a duty to intervene) by the City or the assigned officer and the absence of the assigned officer and/or the patrol vehicle is not a material breach of this Agreement. The Parties further acknowledge that by entering into this Agreement neither the City nor its assigned officer intends to waive any immunities to which they would be entitled in the absence of the Agreement.

G. Termination of Contract

Suspension or Termination of Contract

Either Party may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving sixty (60) days prior written notice thereof to the other Party. Upon receipt of such notice, City will immediately discontinue its performance of the Services.

Upon such suspension or termination by either Party, City will be paid for the Services rendered or materials delivered to District in accordance with the Scope of Services on or before the effective date of suspension or termination..

No payment, partial payment, acceptance, or partial acceptance by City will operate as a waiver on the part of City of any of its rights under this Agreement. Any funds advanced by District in excess of operating costs as defined in Section D (2) shall be refunded by City.

H. Integration of Prior Terms and Conditions

This Agreement, including all recitals, constitutes the entire agreement of the Parties. This Agreement may be amended or modified only by the mutual written agreement of the Parties. This Agreement is invalid unless approved by the legislative body of each Party, although it may be executed by an authorized agent of each Party. An authorized agent of the City shall be a person specifically authorized by the legislative body of the City to execute this Agreement, at the level of City Manager or City Attorney or equivalent.

I. Execution of Final Agreement

This Agreement, once fully executed by the President of the Board and the City Mayor as evidenced by the signatures below, shall supersede any and all prior discussions, negotiations, agreements and/or understandings whether oral, or in writing, as to the provision of law enforcement services by the City to the District.

J. Invalidity; Severability

If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

K. Signature in Counterparts

This agreement may be signed in counterparts, each of which shall constitute an original.

IN WITNESS WHEREOF, the Parties hereto have by their dully authorized representatives executed this agreement as follows:

Andrew J. Medellin, City of Madera Mayor

Date

Ruben Mendoza, MUSD Board of Trustees President

Date