



REPORT TO CITY COUNCIL

Approved by:

Gino Chiaramonte

Dino Lawson, Chief of Police

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

Council Meeting of: August 4, 2021

Agenda Number: B-4

SUBJECT:

Law Enforcement services agreement with the Housing Authority of the City of Madera (MHA)

RECOMMENDATION:

Adopt a minute order approving a Law Enforcement Services Agreement between the City and MHA

SUMMARY:

The City has worked collaboratively with MHA to assign a Police Officer to serve as Housing Authority Officer (HAO) to public housing communities for several years. The HAO performs specialized patrols to enforce all state and local MHA rules, and employs a community policing concept in the public housing communities. The action considered is an agreement between the City and MHA to continue to provide HAO services, one fiscal year at a time, for a maximum of three (3) years. MHA will reimburse the City up to \$95,000 each year for the salary and benefits paid to the HAO. MHA will also reimburse the City for overtime costs associated with the HAO or any Additional Officers, as defined in the Agreement.

DISCUSSION:

The action contemplated herein is a continuation of previous agreements in which MHA reimbursed the City the salary and benefits costs of one (1) sworn Police Officer assigned to provide law enforcement services at public housing communities within MHA. The MHA has requested to continue the partnership with the City and has the funds to do so on a year-to-year basis. Differing from prior agreements, the proposed agreement caps the reimbursement annually at \$95,000 for salary and benefits instead of requiring reimbursement of the total salary and benefit costs of the assigned officer. This cap is in recognition of the mutual benefit between the City and MHA of the continuity and relationship developed between the HAO and residents, assisting in maintaining lawful order at MHA units.

The HAO is responsible for policing the MHA units within the City to include all public housing and Section 8 residences. Since the program's inception in 1999, the HAO has successfully improved the quality of life for MHA tenants. Their perception is that crime has been reduced by this officer's visibility and actions. An additional benefit of this program has been the decrease in workload to the Police Department with regard to responding to calls for service to the MHA community. The HAO has assumed these responsibilities and has allowed the Police Department to concentrate its efforts in other geographical areas of the community.

The proposed agreement term is through June 30, 2024, and is comprised of three, one-year periods of July 1 to June 30.

FINANCIAL IMPACT:

Total salary and benefits for the HAO for FY 21/22 are \$142,502, including pension obligations. The agreement would provide General Fund relief of \$95,000 per year for three years beginning in FY 21/22 to offset the salary and benefits of the HAO. In the first year of the contract, the General Fund would be obligated to pay the remaining \$47,502 of salary and benefits not offset by the MHA reimbursement, which equates to approximately 33% of the total salary and benefits. The General Fund liability for years two and three of the contract depends on the officer assigned to the position for that term, their longevity with the City, and their assigned pay rate.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

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

- Strategy 421-First Response Emergency Services: Ensure the safety and protection of Madera and its community members through adequate first response to emergencies. Maintain sufficient resources to expand protection as the community grows.

ALTERNATIVES:

Council may decline the agreement or may request additional information.

ATTACHMENTS:

1. Law Enforcement Services Agreement

**LAW ENFORCEMENT SERVICES AGREEMENT BETWEEN
THE HOUSING AUTHORITY OF THE CITY OF MADERA AND THE CITY OF MADERA**

A. Parties

This Agreement is entered into by the City of Madera, (hereinafter referred to as "City"), and the Housing Authority of the City of Madera, (hereinafter referred to as "Authority"). The City and Authority are collectively referred to as the "Parties".

B. Term of Agreement

This Agreement shall be effective after being adopted by the Board of the Commissioners of the Housing Authority of the City of Madera and the Madera City Council and executed by the City and Authority. The Contract Term shall be July 1, 2021, to June 30, 2024, comprised of three one-year periods of July 1 to June 30. Each one year period is also referenced as "Contract Year" under this Agreement

C. Provision of Law Enforcement Services

1. Assignment of Designated Officer to Authority. The City agrees to assign one (1) police officer (hereafter "Assigned Officer") to provide law enforcement services to the Authority for the Contract Term. City agrees that the services rendered by the Assigned Officer under this contract are in addition to baseline police services provided through City's normal service delivery. City agrees it will not reduce its base-line level of police services to Authority's public housing developments.
2. Selection of Assigned Officers. The Parties agree to work cooperatively to select an appropriate officer 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 Officer to perform under this Agreement, after reasonably appropriate consultation with the Authority. The Parties further agree that the Authority shall be able to request the replacement of any Assigned Officer. Such a request shall be made by the Authority Executive Director. The City Police Chief shall honor any such request from the Authority to replace the Assigned Officer at the earliest opportunity.
3. Duties and Responsibilities. Duties and responsibilities of the Assigned Officers shall include, but not be limited to, the following:
 - a. Prevention and deterrence of criminal activity on and/or near public housing properties;
 - b. Investigation of criminal offenses occurring, in

- c. Provision of technical and informational assistance to Authority and related community agencies and personnel;
 - d. Enforcement of Authority rules and regulations;
 - e. Reporting relevant contacts with tenants, unauthorized visitors, staff and community members to the Authority on a regular basis; and
 - f. Other law enforcement and public relations duties as reasonably appropriate.
4. Direction and Supervision by Authority. The Assigned Officer shall receive only general direction from the Authority Executive Director, or his/her designee, including assignment for coverage of specific Authority property, functions, or specific housing sites, at specific times, at any site within the Authority's jurisdiction.
5. Assigned Officer's Schedule. The Parties agree to work cooperatively to create and maintain a schedule of work hours for the Assigned Officer.
- 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 Authority and City Police Commander not unreasonably withheld.
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. The Authority is obligated to compensate the City as provided in Section D during absences of a short duration. The Assigned Officer shall provide the Authority with sufficient notice of a short duration absence in order to facilitate Authority 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 Authority 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. 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 Authority with sufficient notice of an extended duration absence.

- 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 at the Authority'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 Authority business.
7. Compliance with Law and Policies. In all circumstances, the Assigned Officer and any Substitute Officer 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.
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 or Substitute Officer conduct and behavior shall be referred directly to the City Police Commander.
9. Authority Evaluation of Assigned Officer's Performance. Notwithstanding Paragraph 8 above, the Authority shall provide the City Police Commander with its own written evaluation of an Assigned Officer's performance prior to the conclusion of each contract term. The Authority shall also immediately report to the City Police Commander 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 Authority 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 Authority services or events ("Events"). The Parties understand that, should such Events arise, the Authority 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 Authority 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 Authority. Pursuant to this Agreement, the Authority shall pay the City for the following costs associated with the provision of law enforcement services during the Term and each subsequent Contract Term, unless modified in writing and agreed to by both the City and Authority:
 - a. Salary and Benefits. The Authority 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 through any applicable labor agreement. The total cost to the Authority for the actual salary and benefits of the Assigned Officer for the Term shall be Ninety Five Thousand Dollars (\$95,000.00) for each Contract Year.
 - 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 Authority at such time as the Assigned Officer takes the accrued time as compensation.
 - c. Overtime for Additional Officers. The Authority shall pay one hundred percent (100%) of all overtime for Additional Officers, as defined in Section C (10) 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 Authority at such time as that Additional Officer takes the accrued time as compensation.
2. Accounting of Costs. The City shall provide the Authority with an accounting of all costs contemplated in Paragraphs D (l) (a)-(c) when assessed, and on a monthly basis. The Authority agrees to pay the City for the costs set forth in Paragraphs D (l) (a)-(c) on a monthly basis and in accordance with its standard billing and payment procedures.
3. Liability for Additional Costs. The Authority 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 Authority Executive Director. Similarly, the City shall not be liable for any expenses or costs incurred by the Authority 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 Authority 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 Authority 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 Authority shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and volunteers (hereafter collectively City Personnel) 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 any services provided by the City or any City Personnel or their performance of work or any failure to comply with any of the City's duties contained in the Agreement, except such loss or damage which was caused by the active negligence by City Personnel, or the gross or willful misconduct of City Personnel.

The City shall indemnify, defend, and hold harmless the Authority, 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 City Personnel or the gross or willful misconduct of the City Personnel during the performance of work hereunder.

If the Authority rejects a tender of defense by the City or City Personnel under this Agreement, and it is later determined that the City and City Personnel breached no duty of care and/or was immune from liability, the Authority shall reimburse the City and/or

City Personnel 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 City Personnel settles a liability claim, with or without participation by the Authority.

The Parties acknowledge that it is not the intent of the Agreement to create a duty of care by the City or City Personnel 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 City Personnel and the absence of City Personnel is not a material breach of this Agreement. The Parties further acknowledge that by entering into this Agreement neither the City nor City Personnel intends to waive any immunities to which they would be entitled in the absence of the Agreement.

G. Insurance

It is understood and agreed that City and Authority maintain insurance policies or self-insurance programs to fund their respective liabilities.

H. 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 Authority in accordance with Section C of this Agreement 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 Authority in excess of operating costs as defined in Section D (2) shall be refunded by City.

I. 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.

J. Execution of Final Agreement

This Agreement, once fully executed by the Chairperson 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 Authority.

K. 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.

L. 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:

Santos Garcia, City of Madera Mayor

Date

Steve Montes, Board of Directors HACM Chairperson

Date