

AMENDED SERVICES AGREEMENT
BETWEEN THE CITY OF REEDLEY (CITY) &
KINGS CANYON UNIFIED SCHOOL DISTRICT (DISTRICT)

This shall serve as the amended agreement by and between the CITY and the DISTRICT for policing services for the period of July 1, 2017 through June 30, 2020. The parties, upon mutual written consent, may extend this agreement for up to two additional 12 month periods, through June 30, 2022.

It is understood that, from time to time, the DISTRICT has operational needs to provide policing services to enhance security presence and public safety at DISTRICT events. The need for such services occurs frequently enough that it is not economical or efficient for the CITY and the DISTRICT to provide for the consideration and approval process of a services contract for every engagement.

Upon receiving a written request for policing services from the DISTRICT, the CITY shall, at its sole discretion, provide qualified law enforcement staffing to a DISTRICT event. CITY at its sole discretion shall determine appropriate staffing based upon the occasion, perceived threat level, and other factors, and may be comprised of duly authorized uniformed or plain clothes peace officers and/or civilian police department employees or volunteers.

CITY agrees to provide, at the request of the DISTRICT, a detailed written cost estimate for the policing services prior to the event. Appropriate costs may include fully burdened hourly staff rates, including an appropriate allocation of supervision and overhead costs. The CITY shall bill the DISTRICT for actual costs incurred that ultimately may differ from the cost estimate. The DISTRICT agrees to pay for services within thirty (30) days of receipt of such invoice.

The District 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 the 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 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 City Personnel or the gross or willful misconduct of City Personnel during the providing of services or performance of work hereunder.

If the District 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 were immune from liability, the District 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 District.

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 intend to waive any immunities to which they would be entitled in the absence of the Agreement.

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.

~~The DISTRICT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the DISTRICT, CITY or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of the DISTRICT or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement.~~

~~CITY shall indemnify, hold harmless and defend the DISTRICT and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, the DISTRICT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of CITY or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by CITY of governmental immunities including California Government Code section 810 et seq.~~

~~The DISTRICT agrees that this Agreement shall in no way act to abrogate or waive any immunities available to CITY under the Tort Claims Act of the State of California.~~

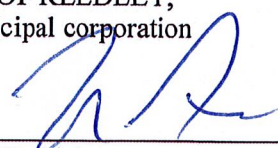
~~In the event of concurrent negligence on the part of the DISTRICT or any of its officers, officials, employees, agents or volunteers, and CITY or any of its officers, officials, employees, agents or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.~~

~~The parties duty to indemnify each other and its officials, officers, employees, agents and volunteers shall apply to all claims and liability regardless of whether any insurance policies are applicable. Insurance policy limits do not act as a limitation upon the Agreement of indemnification to be provided by the parties. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the parties or any of its officers, board members, employees, agents, volunteers, invitees, caterers, concessionaires, suppliers, vendors, consultants, contractors or subcontractors.~~

~~It is mutually understood and agreed that the foregoing constitutes the entire Agreement between the parties. Any modifications or amendments to this Agreement must be in writing signed by an authorized agent of each party.~~

IN WITNESS THEREOF, the parties have caused their authorized agents to execute this Agreement as of the date first set forth below:

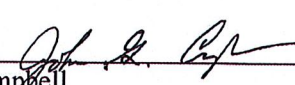
CITY OF REEDLEY,
a municipal corporation



Nicole R. Zieba
City Manager

Date: 4/30/18

KINGS CANYON UNIFIED SCHOOL
DISTRICT



John Campbell
Superintendent

Date: 3/27/18



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 4

DATE: April 24, 2018

TITLE: APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE AMENDED SERVICE AGREEMENTS WITH THE KINGS CANYON UNIFIED SCHOOL DISTRICT FOR SCHOOL RESOURCE OFFICER, NARCOTICS DETECTION AND CONTRACTED POLICING SERVICES

SUBMITTED: Paul A. Melikian, Assistant City Manager 

APPROVED: Nicole R. Zieba, City Manager 

RECOMMENDATION

Staff recommends that the City Council approve and authorize the City Manager to execute amended service agreements with the Kings Canyon Unified School District (KCUSD) for: 1) School Resource Officer; 2) Narcotics Detection; and 3) Contracted Policing Services to reflect updated indemnification language as required by recent actions of the Central San Joaquin Valley Risk Management Authority.

EXECUTIVE SUMMARY

On May 23, 2017, the City Council approved and authorized the City Manager to execute the aforementioned service agreements with the KCUSD. Subsequently, the Central San Joaquin Valley Risk Management Authority (CSJVRMA) Board met in June 2017 and took action to approve substantive changes to the CSJVRMA's Pooled Liability Program Memorandum of Coverage. One of the significant coverage changes was to add an exception to the coverage exclusions for claims arising out of failure to perform, or breach of, any contractual obligation entered into by a member and claims arising out of liability assumed under contract. The exception applies only to agreements/contracts between member cities and third parties with terms of six months or longer involving the use of city police officers and provides breach of contract and contractual liability coverage. In order for the exception to apply, member cities must ensure these types of agreements contain a specific indemnity clause as approved by the CSJVRMA Board.

The new indemnity clause better protects the City in the event there is a liability claim arising out of the City's provision of contractual policing services to the District. To ensure coverage under the Memorandum, member cities (including Reedley) must incorporate the approved indemnity language into their agreements with effective dates on or after July 1, 2018.

The City has been working with the KCUSD to explain the need for the revised indemnification clause and make sure everyone is comfortable with its application. Although not absolutely required by the City's new Memorandum of Coverage, the District went ahead and approved the use of the revised language for the two current year contracts effective through June 30, 2018, and the general policing services agreement effective through June 30, 2022. The new service agreements for School Resource Officer and Narcotics Detection, covering the 2018-19 fiscal/school year, are expected to be taken before the City Council for consideration in May 2018. The third agreement, for general contract policing services, is in effect through June 30, 2022, therefore no additional approvals will be required should this amendment be approved.

FISCAL IMPACT

No fiscal impact.

ATTACHMENTS

Amended Agreements with the KCUSD for School Resource Officer, Narcotics Detection, and Contracted Policing Services