

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: SHERIFF

BOARD AGENDA # *B-8

Urgent ☐

Routine ☒

AGENDA DATE October 30, 2012

CEO Concurs with Recommendation YES ☒ NO ☐
(Information Attached)

4/5 Vote Required YES ☐ NO ☒

SUBJECT:

Approval to Amend the Stanislaus County Drug Enforcement Agency Agreement

STAFF RECOMMENDATIONS:

Authorize the Chief Executive Officer to sign the amended Stanislaus Drug Enforcement Agency (SDEA) Joint Powers Agreement.

FISCAL IMPACT:

The County contributes \$619,202 annually in staffing and operational costs to the Stanislaus County Drug Enforcement Agency (SDEA). These costs have already been included in the Sheriff's Department and District Attorney's Fiscal Year 2012-2013 Final Budget approved by the Board of Supervisors on September 11, 2012.

BOARD ACTION AS FOLLOWS:

No. 2012-533

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) ☒ Approved as recommended

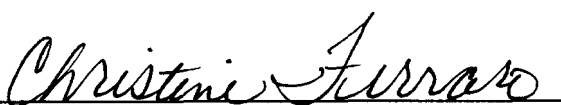
2) ☐ Denied

3) ☐ Approved as amended

4) ☐ Other:

MOTION:

ATTEST:


CHRISTINE FERRARO TALLMAN, Clerk

C-1-B-4, C-2-C-4,
C-3-26, C-4-B-1,
C-5-E-12, C-6-J-7,
C-7-B-6, C-8-B-2,
File No. C-9-B-3

Approval to Amend the Stanislaus County Drug Enforcement Agency Agreement

DISCUSSION:

Stanislaus County and the cities of Modesto, Oakdale, Ceres, Patterson, Turlock, Riverbank, Waterford, Hughson and Newman are the participants in the Stanislaus Drug Enforcement Agency (SDEA). The purpose of the SDEA is to maintain a fully operational and specially trained police unit to assist each of the participating agencies in the enforcement of drug control laws, and to study, plan and set priorities for effective enforcement of such laws throughout Stanislaus County.

The governing body consists of the Sheriff, the District Attorney and Chief Probation Officer of Stanislaus County and the Chief of Police for each participating city. All participants contribute to the funding of the SDEA budget, based on population.

The Board of Supervisors approved the Stanislaus Drug Enforcement Agency (SDEA) Joint Power Agreement in September 1999. The operational and fiscal control of the Agency is retained by the City of Modesto and the Agreement was last presented to the Board of Supervisors on June 24, 2008 with agenda item #2008-475.

Although many minor changes have been made to this agreement over the years, the primary changes in this amendment occur in three areas. Paragraph 10, Liability, states that all costs including attorney's fees shall be borne by the parties to the Agreement in proportion to the percentage of the member's agency's total population as set forth in Paragraph 6 Funding. Currently the County and the City of Modesto bear sole responsibility for liability costs.

Paragraph 11, Investigation and Defense of Civil Liability, addresses that the City Attorney for the City of Modesto shall investigate claims and undertake the defense of civil actions arising from claims and alleged liability arising out of the activities of SDEA. In addition all costs, fees and attorneys' fees associated with the investigation and/or defense shall be borne by the parties to the Agreement in proportion to the percentage of the member's agency's total population as set forth in Paragraph 6 Funding. Currently, the City Attorney and Stanislaus County Counsel share this responsibility base on the date of accrued liability for claims filed.

Paragraph 12, Compromise and Settlement, addresses that the City Attorney for City of Modesto shall provide legal representation for settlement and compromise of all civil claims and actions against SDEA. Currently the City Attorney and County Counsel share this responsibility. No settlement or compromise shall be entered into without consultation and acceptance by the City Attorney of the City of Modesto and the approval of the Board of Directors of SDEA. Each member of the Board of Directors shall first obtain whatever approval is required by their employing entity for the expenditure of entity funds in the amount of that entity's proportionate share of the settlement amount.

Approval to Amend the Stanislaus County Drug Enforcement Agency Agreement

POLICY ISSUES:

Approval of this action supports the Board's priorities of A Safe Community and Effective Partnerships.

STAFFING IMPACT:

There is no change to County staffing provided under this agreement. Currently the Sheriff's Department allocates one Sergeant, one Supervising Legal Clerk I/II and one Deputy Sheriff to this program, and the District Attorney's Office has one Legal Clerk IV in this program.

CONTACT INFORMATION:

Adam Christianson, Sheriff-Coroner, 525-7216.

**AMENDMENT TO STANISLAUS DRUG ENFORCEMENT AGENCY
JOINT POWERS AGREEMENT**

copy

This Amendment to Agreement is made and entered into in the County of Stanislaus, State of California, this ____ day of _____, 2012, pursuant to lawful authority which has been granted to the parties hereto. This Amendment to Agreement is approved and entered into by each of the current member entities in Stanislaus Drug Enforcement Agency, and shall be binding upon them and any member who becomes party to the Agreement subsequent to the enactment of this Amendment.

RECITALS:

This Amendment to Agreement is made with reference to the following recitals:

A. The County of Stanislaus, the City of Modesto, the City of Ceres, the City of Oakdale, the City of Turlock, the City of Hughson, the City of Patterson, the City of Waterford, the City of Riverbank and the City of Newman entered into an Agreement on the 10th day of September 2008, to establish an agency to maintain a fully operational and specially trained police unit to assist each of the parties to this agreement in enforcing drug control and other laws, and to study, plan, and set priorities for effective enforcement of such laws throughout Stanislaus County.

B. The City of Newman has since voluntarily left the Joint Powers Agency.

C. The member entities in the Joint Powers Agency now desire to amend certain provisions of the above-referenced Agreement to redistribute the costs of legal defense and the satisfaction of damage/cost awards and/or settlement amounts incurred in civil litigation arising from acts or omissions done in the execution of this Agreement.

NOW, THEREFORE, the parties to the Agreement mutually agree to amend

paragraphs in the original Agreement as follows:

1. Existing Paragraph 10 in the Agreement between the parties is deleted in its entirety, and the following paragraph substituted in its place:

10. **Liability**

Any award of damages in or agreed upon amount of settlement for the resolution of any personal injury or property damage claim seeking compensation for damages allegedly arising from acts or omissions alleged to have been committed by any party acting pursuant to this Agreement, and all costs, including attorney's fees, assessed in favor of the prevailing party in any such action, shall be borne by the parties to the Agreement in proportion to the contribution formula set forth in paragraph 6.

2. Existing Paragraph 11 in the Agreement between the parties is deleted in its entirety, and the following paragraph substituted in its place:

11. **Investigation and Defense of Civil Liability**

All participating agencies shall provide cooperation in the investigation and defense of SDEA civil liability cases. The City Attorney for the City of Modesto shall investigate claims where it is alleged that liability arises out of the activities of SDEA, its agents and employees.

The City Attorney of the City of Modesto shall undertake the defense of civil actions arising from claims where the alleged

liability arises out of the activities of SDEA, its agents and employees, and may, at the option of the City Attorney, either provide legal services with in-house counsel, or, upon determining that a matter cannot or should not be handled by legal staff of the City Attorney for the City of Modesto, retain the services of outside counsel to conduct the defense of such action under the direction and supervision of the City Attorney of the City of Modesto.

All costs, fees and attorneys' fees associated with the investigation and/or defense of any personal injury or property damage claim seeking compensation for damages allegedly arising from acts or omissions alleged to have been committed by any party acting pursuant to this Agreement shall be borne by the parties to the Agreement in proportion to the contribution formula set forth in paragraph 6.

3. Existing Paragraph 12 in the Agreement between the parties is deleted in its entirety, and the following paragraph substituted in its place:

12. **Compromise and Settlement**

The City Attorney for the City of Modesto shall provide legal representation for settlement and compromise of all civil claims and actions against SDEA. No settlement or compromise shall be entered into without consultation and acceptance by the City Attorney of the City of Modesto and the approval of the Board

of Directors of SDEA.

Prior to voting to approve the settlement and compromise of any civil claim and action against SDEA, each member of the Board of Directors shall first obtain whatever approval is required by his or her employing entity for the expenditure of entity funds in the amount of that entity's proportionate share of the settlement amount. The member entities hereby agree to act on any request for settlement authority pursuant to this paragraph within 30 days of the presentation of the settlement proposal to the Board of Directors of SDEA by the City Attorney of the City of Modesto.

5. The parties to this Agreement further understand and agree that, except as otherwise provided herein, each and every and all of the terms and conditions of the Agreement between the parties dated September 10, 2008, shall continue in full force and effect.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Modesto on the ____ day of _____, 2012.

CITY OF MODESTO, a municipal corporation

By _____
GREG NYHOFF, City Manager

ATTEST:

By _____
STEPHANIE LOPEZ, City Clerk

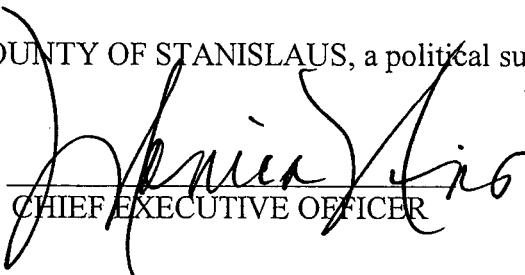
APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By _____
JAMES F. WILSON, Senior Deputy City Attorney

IN WITNESS WHEREOF, the County of Stanislaus, a political subdivision of the State of California, has authorized the execution of this Amendment to Agreement in duplicate by its Chief Executive Officer and attestation by its County Clerk under authority of Resolution No. ²⁰¹²⁻533 adopted by the Board of Supervisors of the County of Stanislaus on the 30th day of October, 2012.

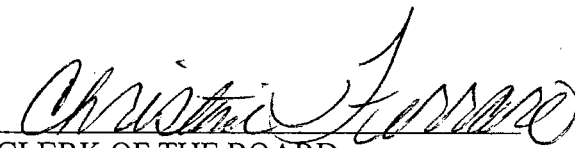
COUNTY OF STANISLAUS, a political subdivision of the State of California

By


CHIEF EXECUTIVE OFFICER

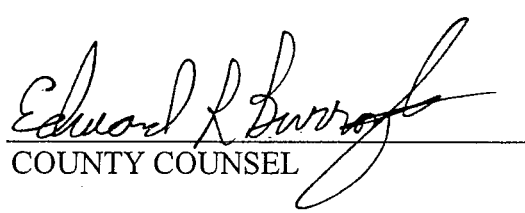
ATTEST:

By


CLERK OF THE BOARD

APPROVED AS TO FORM:

By


COUNTY COUNSEL

IN WITNESS WHEREOF, the City of Oakdale, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Oakdale on the ____ day of _____, 2012.

CITY OF OAKDALE, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY

IN WITNESS WHEREOF, the City of Ceres, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Ceres on the ____ day of _____, 2012.

CITY OF CERES, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY

IN WITNESS WHEREOF, the City of Turlock, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Turlock on the ____ day of _____, 2012.

CITY OF TURLOCK, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY

IN WITNESS WHEREOF, the City of Hughson, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Hughson on the ____ day of _____, 2012.

CITY OF HUGHSON, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY

IN WITNESS WHEREOF, the City of Patterson, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Patterson on the ____ day of _____, 2012.

CITY OF PATTERSON, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY

IN WITNESS WHEREOF, the City of Waterford, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Waterford on the ____ day of _____, 2012.

CITY OF WATERFORD, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY

IN WITNESS WHEREOF, the City of Riverbank, a municipal corporation, has authorized the execution of this Amendment to Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Riverbank on the ____ day of _____, 2012.

CITY OF RIVERBANK, a municipal corporation

By _____
CITY MANAGER

ATTEST:

By _____
CITY CLERK

APPROVED AS TO FORM:

By _____
CITY ATTORNEY