



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

<input type="checkbox"/> INFORMATION ONLY <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> P&F COMMITTEE <input type="checkbox"/> SPW COMMITTEE <input type="checkbox"/> MAIN AGENDA	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) *provide copy of published hearing notice <input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <input type="checkbox"/> Ordinance 1 st Reading
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: Is there a cost associated with this request: <input type="checkbox"/> Yes <input type="checkbox"/> No What is the total cost, with tax and shipping \$ _____ Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No <u>Please Explain:</u>	

SCHOOL RESOURCE OFFICER SERVICES AGREEMENT

This School Resource Officer Services Agreement (“Agreement”) is entered into by and between Independent School District No. 181, Brainerd Public Schools (“District”) and the City of Brainerd (“City”). The District and the City are collectively referred to herein as the “Parties,” and individually as a “Party.”

WHEREAS, the Parties desire to maintain a cooperative and coordinated approach to deterring and addressing criminal activity on school property and at District-sponsored events and activities;

WHEREAS, Minnesota Statutes, section 126C.44 authorizes the District to contract with the City to have peace officers provide school resource services; and

WHEREAS, Minnesota Statutes, section 126C.44 further authorizes the District to levy for an appropriate portion of the costs the City incurs in paying wages, providing benefits, and providing transportation for peace officers who are assigned to perform school resource officer duties in the District;

NOW, THEREFORE, IN CONSIDERATION OF the mutual promises contained in this Agreement and other valuable consideration, the sufficiency and receipt of which is acknowledged, the Parties agree as follows:

1. **Term and Termination.** This Agreement is for a term beginning on September 1, 2021, and ending on June 30, 2023. Either Party may terminate this Agreement, with or without cause, by delivering to the other Party a written notice of termination not less than ninety (90) days prior to the date of termination of this Agreement. All payments due under this Agreement shall be prorated in the event of such termination.
2. **Definitions.** The following definitions apply to this Agreement:
 - a. **“Additional services”** mean services that a peace officer provides, at the District’s request, outside the regular hours of school resource officer (“SRO”) service that are described in the third numbered paragraph of this Agreement. By way of example, but without limitation, a SRO performs additional services if, at the written request of a school administrator or District administrator, the SRO attends a school board meeting, an extracurricular activity, or a community function that is held in the evening.
 - b. **“Exigent circumstances”** mean circumstances under which the courts permit police officers to execute a warrantless search or seizure; circumstances under which a reasonable police officer would believe that a person presents an immediate and substantial risk of harm to self or others; circumstances under which urgent action is reasonably necessary in order to prevent the destruction of evidence of a serious crime; and circumstances in which a police officer is in hot

pursuit of a suspect who is believed to have committed, or to have attempted to commit, a serious crime and is in the process of fleeing.

- c. **“School resource officer”** or **“SRO”** means a licensed peace officer who is employed by the City and is assigned by the City to provide SRO duties and/or additional services pursuant to this Agreement.
- d. **“SRO duties”** are the following law enforcement duties performed by the SRO, as assigned by the City:
- protecting persons who are present on school property or at a school sponsored event or activity;
 - protecting real and personal property;
 - deterring truancy;
 - serving as a role model for students, parents, and community members;
 - conferring with students, parents, and community members for the purpose of deterring or addressing criminal behavior on school property or at a school sponsored event or activity;
 - advising on security vulnerabilities in the District’s schools;
 - visiting and inspecting high delinquency areas on school property;
 - being present and visible on school property;
 - deterring all forms of criminal activity on school property and at school sponsored events and activities;
 - serving as a resource for school officials regarding the prevention of criminal activity on school property and at school sponsored events and activities;
 - serving as a mentor and resource for students;
 - giving presentations to students and staff that are designed to promote safety or to deter, decrease, or otherwise address drug use or other potential criminal activity by students during school hours;
 - investigating and otherwise addressing criminal activity that has occurred, is alleged to have occurred, may have occurred, or is expected to occur on school property or at a school sponsored event or activity;
 - recovering stolen property;
 - enforcing all criminal laws on school property and at school sponsored events and activities;
 - apprehending criminals and suspected criminals;
 - responding to emergencies including, but not limited to, medical emergencies and situations involving a threat of violence or harm to property or to any person who is on school property or is at a school sponsored event or activity;
 - attending trainings provided by the District;
 - meeting and collaborating with school administrators and District administrators to develop and work toward mutually agreed upon goals; and
 - other tasks as assigned by the Brainerd Police Department.

All SRO duties shall be performed in accordance with applicable City, Brainerd Police Department, and District policies and procedures.

- e. **“School day”** means a day on which school is in session for in-person instruction, hybrid instruction, or distance learning, including any make-up days that are scheduled because school was canceled for any reason. School days are identified on the District calendar, which is published on the District’s website. Days on which students attend summer school are not school days.
 - f. **“School property”** means any property owned, leased, or controlled by the District where an elementary school, middle school, secondary school, secondary vocational center, alternative learning program, or other school providing educational services is located or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided.
3. **Assignment of School Resource Officer.** The City will assign one full-time licensed peace officer to perform SRO duties on a full-time basis. SRO services will be provided during each school day. The SRO will provide SRO services at all school property within the City and will be primarily assigned to Brainerd High School.
- a. **Base Services.** The SRO provided by the City will carry out SRO duties for eight (8) hours each school day beginning on the first day of the regular school year through the last day of the regular school year, except for any days in which students are not in attendance due to a school closure or distance learning, for up to one hundred seventy-one (171) days per school year.
 - b. **Absences.** If the regular SRO is absent for more than 10 consecutive school days, the City will undertake reasonable efforts to assign another licensed peace officer to serve as a temporary replacement and perform the regular SRO’s duties during any additional absences.
 - c. **Vehicles, Equipment, and Training.** The City is responsible for providing the SRO with a vehicle and all necessary law enforcement equipment, including any necessary electronic devices. The City is also responsible for providing training and education to all peace officers who are assigned to provide services pursuant to this Agreement.
 - d. **Objections to Personnel.** The City will undertake reasonable efforts to assign peace officers who are acceptable to the District, and will provide the District with an opportunity to provide input before a new SRO is assigned to the District. The District will notify the City’s Chief of Police of any concerns related to the performance of the SRO. Any request for reassignment of the SRO that is based on work-related concerns must be made in writing to the Chief of Police. The City will have thirty (30) calendar days to demonstrate to the District’s satisfaction that the concern has been addressed in accordance with applicable collective bargaining agreements, City policies, and practices.

4. **Base Payment.** The District will pay the City for all SRO services, excluding additional services, as follows:
 - a. **2021-2022 School Year.** The District will pay the City a total of \$84,948. This amount will be paid on June 15, 2022.
 - b. **2022-2023 School Year.** The District will pay the City a total of \$89,454. This amount will be paid in two equal installments on December 15, 2022, and June 15, 2023.
5. **Invoice for Additional Services.** The District's Superintendent, Lead Principals, or Activities Director may request in writing that the City assign one or more peace officers to provide "additional services" as defined in this Agreement. The City will make reasonable efforts to accommodate such requests. When the City assigns an officer to provide additional services, the District will be responsible for paying the officer's wages for the hours worked while providing additional services, any resulting overtime costs, a prorated portion of the officer's benefits for the hours worked while providing additional services, and the officer's transportation costs directly associated with providing additional services. The City will submit an itemized invoice to the District describing the additional services that were provided, the location where the additional services were provided, and the costs the City incurred in providing the additional services.
6. **District Responsibilities.** In addition to making the payments described in this Agreement, the District will provide office space for the SRO in the Brainerd High School. At a minimum, the office space will be furnished with a desk, two or more chairs, and landline telephone. The office will be enclosed, provided with electricity and access to the internet and telephone service, lighted, and climate controlled in the same manner as the other rooms in the Brainerd High School. The SRO will have access to the office during the normal business hours of the Brainerd High School. In the event that the SRO requires access to the office when the Brainerd High School is not open, the City may contact Reid Thiesse, Director of Buildings and Grounds, who shall make arrangements to allow the SRO to access the office. The SRO may print materials and make photocopies at the school where the SRO is stationed if the materials and photocopies relate to SRO duties. Individual schools may elect to provide additional resources, such as a two-way radio, to the SRO. School administrators and District administrators will provide guidance and assistance to each SRO as needed.
7. **Relationship of the Parties.** Nothing in this Agreement may be construed to create a partnership or joint venture between the District and the City. Neither party has any authority or power to take any unilateral action that could legally bind the other party. For purposes of the Minnesota Government Data Practices Act, each party is considered to be an independent contractor relative to the other party. The parties understand and agree that this Agreement does not create any rights or obligations beyond those expressly contained herein, including, but not limited to, any rights or obligations to any third party.

8. **SRO Employment Status.** At all times and for all purpose, the City is and will remain the exclusive employer of all peace officers who perform services pursuant to this Agreement. No SRO may be considered to be an official, employee, agent, educational service provider, or representative of the District, and neither party may make any representation to the contrary. The City maintains full control over the peace officers it employs and is solely responsible for all employment and administrative functions related its employees, including, but not limited to, supervision and evaluation, payroll and deductions, maintenance of all required insurance (e.g. workers' compensation insurance, unemployment insurance, liability insurance), and any labor disputes or grievances.
9. **Liability and Indemnification.** Each party is solely responsible for the act(s) and omission(s) of its own officers, employees, officials, agents, and representatives. To the extent permitted by law, each party agrees to indemnify the other party from any and all damages, liability, judgments, claims, expenses, attorney fees, and costs resulting from any act or omission of any of its officers, employees, officials, agents, or representatives. Each party's liability, if any, is limited under Minnesota Statutes Chapter 466, and nothing this Agreement may be deemed to constitute a waiver of those limits.
10. **Prohibited Actions.** In the absence of exigent circumstances, a peace officer who is employed by the City may not interview a student on school property about criminal activity or potential criminal activity unless: (a) the officer is conducting a maltreatment of minor investigation; (b) the crime has occurred, is alleged to have occurred, may have occurred, is occurring, or is reasonably expected to occur in the near future on school property or at a school sponsored event or activity; or (c) the officer has obtained prior written permission from the building principal and from the student's parent or guardian or the student, if the student is eighteen (18) years of age or older. In addition, the parties understand and agree that a peace officer, including any SRO assigned pursuant to this Agreement, may not participate in recommending or determining student discipline or in investigating incidents of student discipline which do not involve potential criminal activity.
11. **Execution of Arrest Warrants.** When executing an arrest warrant for a student on school property, a peace officer must make reasonable efforts to protect other students and staff members who are present and to avoid undue embarrassment to the student who is being arrested. This paragraph is not intended to prevent an officer from taking immediate action to arrest a student who is fleeing or who presents an imminent and substantial risk of harm to self, others, or property.
12. **Notices.** The District must provide all official notices under this Agreement by electronic mail or U.S. Mail addressed to the City's Chief of Police, Mike Bestul, at mike.bestul@ci.brainerd.mn.us or at 225 E River Road, Brainerd, MN 56401. The City must provide all official notices under this Agreement by electronic mail or U.S. Mail addressed to the District's Superintendent, Laine D. Larson, at laine.larson@isd181.org or Washington Educational Services Building, 804 Oak St., Brainerd, MN 56401. Either party may designate a different addressee or address at any time by giving written notice

to the other party. Notice that is delivered by mail is effective upon mailing. Notice that is delivered by email is effective upon transmission.

13. **Data Practices.** All government data that are collected, created, received, or maintained as a result of this Agreement will be handled in accordance with all applicable federal and state laws, including, but not limited to, the Minnesota Government Data Practices Act (“MGDPA”). The parties recognize that educational data maintained by the District are protected under the MGDPA and under and the Family Educational Rights Privacy Act (“FERPA”), including its implementing regulations at 34 C.F.R. part 99. The parties acknowledge that unless a statutory exception applies, the District may not disclose private educational data to a SRO without the written consent of the student’s parent or guardian (or the written consent of the student if the student is eighteen years of age or older); a lawfully issued subpoena; or a court order. Nothing in this Agreement may be construed to modify the responsibilities of either party under the MGDPA or the District’s responsibilities under FERPA.
14. **Background Checks.** The City must conduct, or have conducted, a criminal background check on all peace officers who provide any service pursuant to this Agreement. The background check must be completed before the peace officer provides any service pursuant to this Agreement.
15. **No Unlawful Discrimination.** The District and the City each agree to provide equal employment opportunities to all employees and applicants for employment in accordance with all applicable federal, state, and local laws. No person may be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program, service, or activity based on race, color, religion, age, sex, disability, marital status, sexual preference, public assistance status, creed, or national origin. In addition, the District and the City each specifically agree not to discriminate unlawfully against any student in any program, service, activity, or decision based on race, color, religion, age, sex, disability, marital status, sexual preference, public assistance status, creed, or national origin.
16. **Waiver and Enforcement.** The failure to insist on compliance with any term, covenant, or condition contained in this Agreement must not be deemed to be a waiver of that term, covenant, or condition, nor will any waiver or relinquishment of any right or power contained in this Agreement at any time be deemed to be a waiver or relinquishment of any right or power at any other time. Each party is be responsible for its own costs, expenses, and any attorneys’ fees associated with this Agreement and any related matters, including enforcement of this Agreement.
17. **Equal Drafting.** In the event that either party asserts that a provision of this Agreement is ambiguous, this Agreement must be construed to have been drafted equally by the Parties.
18. **Choice of Law, Forum and Severability.** This Agreement is governed by the laws of the State of Minnesota, without regard to its conflict of laws provisions. The parties

agree that the Minnesota state and federal courts will have exclusive jurisdiction over any dispute arising out of this Agreement. If a court determines that any part of this Agreement is unlawful or unenforceable, the remaining portions of the Agreement will remain in full force and effect.

19. **Entire Agreement, Changes, and Effect.** This Agreement constitutes the entire agreement between the District and the City regarding the matters contained herein. This Agreement supersedes any inconsistent statements or promises made by either party. This Agreement also supersedes and terminates any prior or existing agreements or contracts regarding the same or any similar subject matter. Neither party has relied upon any statements, promises, agreements, or representations that are not stated in this Agreement. No changes to this Agreement are valid unless they are in writing and signed by both parties. A copy of this Agreement has the same legal effect as the original.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates recorded by their signature. By signing below, each party specifically acknowledges that it has read this Agreement and that it understands and voluntarily agrees to be legally bound by all terms of the Agreement.

CITY OF BRAINERD

Mayor

Date

City Administrator

Date

Chief of Police

Date

INDEPENDENT SCHOOL DISTRICT NO. 181

School Board Chair

Date

School Board Clerk

Date