

Contract #1482-23 City of Fennville and Fennville Public Schools

Allegan County Sheriff's Office Law Enforcement Services Agreement

This Agreement ("Agreement") is made by and between the City of Fennville, 125 S. Maple Street, Fennville, MI 49408 and Fennville Public Schools, 5 Memorial Drive, Fennville, MI 49408 (the "Entities") and the County of Allegan, 3283 – 122nd Avenue, Allegan, MI 49010 (the "County") and the Sheriff of Allegan County, 640 River Road, Allegan, MI 49010 (the "Sheriff") with reference to the following facts and circumstances.

The Sheriff is the chief law enforcement officer of the Allegan County Sheriff's Office (the "Sheriff's Office"); and

The Sheriff and the County, through the Sheriff's Office, provide road patrol and general law enforcement services throughout the County, including the Entities (outlined in Section 1); and

The Entities wishes to purchase additional road patrol and general law enforcement services from the County and the Sheriff (outlined in Section 4); and

The Entities wish to use a County vehicle for the purpose of providing additional law enforcement services (outlined in Section 16).

The parties agree as follows:

1. General Agreement

Subject to all the terms and provisions of this Agreement, the Entities, the County and the Sheriff agree that the County and the Sheriff shall, as independent contractors, provide additional road patrol and general law enforcement services (sometimes referred to collectively herein as "law enforcement services") to the Entities.

2. Facilities, Supplies and Equipment

The Entities shall not be obligated to provide supplies or equipment to the County or the Sheriff relative to the additional road patrol and general law enforcement services rendered to the Entities pursuant to this Agreement except any items identified hereafter in the contract.

3. Independent Contractor

In the performance of all work, duties and obligations pursuant to this Agreement, it is mutually understood and agreed that the County and the Sheriff are, and shall at all times be, acting and performing as independent contractors. The Entities shall neither have, nor exercise, any control or direction over the methods by which the County and the Sheriff perform the work outlined in this Agreement.

The law enforcement officers rendering services to the Entities on behalf of the County and Sheriff pursuant to this Agreement shall be employees of the County and the Sheriff and, as such, the County and the Sheriff shall:

- A. Pay, or cause to be paid, all compensation and fringe benefits of such law enforcement officers;

- B. Withhold, or cause to be withheld, all applicable federal, state and local taxes, including without limitations FICA;
- C. Make, or cause to be made, any and all required payments relating to such law enforcement officers, including any unemployment compensation fund payments;
- D. Maintain, or cause to be maintained, worker's compensation fund insurance as required under Michigan law; and
- E. Pay, or cause to be paid, required costs of continuing or additional education or training to maintain law enforcement officer licensing or certification as required by the Michigan Commission on Law Enforcement Standards.

The County and the Sheriff agree that the law enforcement officers rendering services to the Entities on behalf of the County and the Sheriff pursuant to this Agreement are not employees of the Entities, and accordingly are not eligible to participate in any fringe benefit program, receive any sickness or health insurance benefits, or receive any pension or similar benefits accorded employees of the Entities.

4. Personnel

All persons who provide law enforcement services to the Entities on behalf of the County and the Sheriff pursuant to this Agreement shall be and remain at all times duly qualified and shall also be certified in good standing as required by Michigan Law. Further, all such persons shall be knowledgeable of and able to enforce all applicable State and local ordinances.

The Entities are contracting for the number of law enforcement service position(s) specified in Schedule A. Unless the necessary number of positions are contracted for, the contracted service will not provide 24-hours-a-day, seven-days-a-week coverage. Each contracted position shall maintain a normal schedule consistent with the practices of the Sheriff's Office. In general, the normal schedule for law enforcement officers on road patrol is currently a 14-day tour of duty that averages 84 hours. The normal schedule includes, but is not limited to, work time and time on paid time off or other leave, holidays, training, meetings, call-ins and court appearances. The Entities are responsible for payment for the entire normal schedule consistent with the payment section of this Agreement and the County and the Sheriff are not responsible for providing personnel to "backfill" services during times of leave or other non-work hours unless requested by, and at the sole expense of, the Entities consistent with Section 13 of this Agreement.

Contracted law enforcement service position(s), to the extent they are paid for by the Entities and do not include any portion funded by the County, shall be in addition to the road patrol and general law enforcement services already provided by the Sheriff and the County to the Entities pursuant to their discretion under applicable law. The County-funded portion of the contracted position(s) shall be considered a component of the County-wide road patrol and law enforcement services.

The Entities shall work with the Sheriff's designee to determine the appropriate schedule for services and to identify priorities that may exist for the delivery of law enforcement services. Nothing in this Agreement is intended to supersede or limit the Sheriff's constitutional and statutory rights, powers and/or authority.

5. General Calls for Service

The Entities agree that, commensurate with the County-funded portion of the contracted positions(s), the contracted position(s) shall respond to calls for service in the County outside the Entities' geographic area. At any time, if the Sheriff's Office determines that there are no other available law enforcement personnel who can promptly respond to an emergent call, the Sheriff's Office may direct a law enforcement officer providing law enforcement services pursuant to this Agreement to respond to such calls for service.

6. Indemnification

The Entities agree to defend, indemnify and hold the County, the Sheriff, and their employees, agents and assigns harmless from and against all claims, damages, fines, judgments, penalties, costs, liabilities or losses, including, without limitation, reasonable actual attorney fees, arising out of the acts or omissions (including negligence) of the Entities or their employees, agents, or officers, or arising from or out of the breach by such parties of their obligations under this Agreement. Such responsibility shall not be construed as a liability for damage caused by or resulting from the sole negligence of the County, the Sheriff, or their employees, agents, or officers, or arising from or out of the breach by such parties of their obligations under this Agreement. Such responsibility shall not be construed as a liability for damage caused by or resulting from the sole negligence of the County, the Sheriff, or their employees.

The County agrees to defend, indemnify and hold the Entities and their employees, agents and assigns harmless from and against all claims, damages, fines, judgments, penalties, costs, liabilities or losses, including, without limitation, reasonable actual attorney fees, arising out of the acts or omissions (including negligence) of the County or its employees, agents, or officers, or arising from or out of the breach by such party of its obligations under this Agreement. Such responsibility shall not be construed as a liability for damage caused by or resulting from the sole negligence of the Entities or their employees, agents, or officers, or arising from or out of the breach by such parties of their obligations under this Agreement. Such responsibility shall not be construed as a liability for damage caused by or resulting from the sole negligence of the Entities or their employees.

7. Insurance

During the term of this Agreement, the parties shall maintain the insurances as outlined below and provide proof of certificate prior to performance of any services under this Agreement.

- A. **Commercial General Liability Insurance**: The County and the Entities shall procure and maintain during the life of this contract, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions, if applicable.
- B. **Motor Vehicle Liability**: The County shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Michigan No- Fault Coverages, with limits of liability of not less than \$1,000,000 per occurrence combined single limit, Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-

owned vehicles, and all hired vehicles. The County of Allegan will provide Motor Vehicle Liability Insurance for all County owned vehicles.

- C. **Law Enforcement Liability**: The County shall procure and maintain during the life of this contract Law Enforcement Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence.

The Entities may also procure and maintain during the life of this contract Law Enforcement Liability Insurance as the County will not represent the Entities in any dispute. The Entities should seek guidance from their risk providers.

8. Payment

Payment for services rendered under this Agreement shall be governed by Schedule A and B.

- which shall be updated and provided to the Entities by October 31 of each year.
- which may be amended following the initial term.
- any change in Schedule A and B after December 31, 2024 shall be provided.
- which includes an annual 3% escalator that is subject to adjustment with advance notice after December 31, 2024.

9. Term

The initial term of this Agreement shall be July 1, 2023 through December 31, 2023, and, unless terminated in accordance with Section 10 or 11, shall automatically renew each year for successive one-year terms.

10. Termination by Notice or Mutual Agreement

The County, the Sheriff or the Entities, without cause may terminate this Agreement, at any time, upon ninety (90) days prior written notice to the other parties. In addition, this Agreement may be terminated at any time by the parties hereto on mutual agreement.

11. Termination for Cause

This Agreement may be terminated by the County, the Sheriff, or the Entities, upon thirty (30) days prior written notice to the other parties, in the event one or any of the non-terminating parties fail or refuse to perform any of their duties and responsibilities under this Agreement. However, in the event a failure to perform can be remedied within thirty (30) days after such notice is given, such notice shall be null and void if the failure is in fact remedied within such thirty (30) day period.

12. Effect of Termination

Upon termination or expiration of this Agreement, as provided above, the parties hereto shall have no further obligation hereunder except for obligations occurring prior to the effective date of the termination or expiration. Notwithstanding the foregoing, the County, the Sheriff and the Entities shall be obligated to cooperate with each other whenever any claim is filed against any of them with respect to the services rendered pursuant to this Agreement. All equipment belonging to the County shall revert to the County's possession.

13. Miscellaneous

- A. This Agreement and all rights and obligations hereunder shall be non-assignable unless all parties agree in writing to such assignment. This Agreement shall inure to the benefits of and be binding upon the parties hereto and their respective permitted assignees and successors.
- B. All notices and other documents to be served or transmitted hereunder shall be in writing and addressed to the respective parties hereto at the addresses stated on Page 1 of this Agreement or such other address or addresses as shall be specified by the parties hereto from time to time; further, such notices and documents may be served or transmitted in person or by ordinary or certified mail documents properly addressed with sufficient postage.
- C. This Agreement has been executed in the State of Michigan and shall be governed by Michigan Law. The parties agree that the proper forum and venue for litigation arising out of the Agreement is in Allegan County, Michigan.
- D. The waiver by any party hereto of a breach or violation of any provision of this Agreement shall not be waiver of any subsequent breach or violation of the same or any other provision of this Agreement.
- E. If any section or provision of this Agreement is unenforceable for any reason, the unenforceability thereof shall not impair the remainder of this Agreement, executed in multiple counterparts, all of which together shall be deemed to be one contract.
- F. This Agreement shall not be changed, modified or discharged orally, but only in a written document, signed by the parties, against whom enforcement of the change, modification or discharge is sought. Any schedules now or hereafter attached hereto are incorporated by reference as though fully stated herein.

14. Additional Contracted Hours

The Entities reserve the right to utilize additional contracted hours, as needed and as agreed to by the Entities and the Sheriff. It is agreed that overtime and any other related expenses generated to serve the Entities for special events that occur outside of the normal course of law enforcement activity shall be fully paid for by the Entities. Such additional expenses relating to overtime will be included on the invoice issued by the County during the billing cycle immediately following the accrual of the overtime.

15. Definition

Whenever in this Agreement there is a reference to the employees of the County and / or the Sheriff, such reference shall be deemed to also include all agents and independent contractors thereof.

16. Vehicle

The County hereby agrees to provide a pursuit rated patrol sedan, the suitability of which shall be subject to the approval of the Allegan County Sheriff, for use by the contracted law enforcement officer. The Entities shall provide the logos and labels for the vehicle.

The Entities are contracting for the number of law enforcement service vehicle(s) specified in Schedule B. Unless the necessary number of vehicles are contracted for, the contracted service

will not provide 24-hours-a-day, seven-days-a-week coverage. Each contracted vehicle shall maintain a normal schedule consistent with the practices of the Sheriff's Office.

Contracted law enforcement service vehicle(s), to the extent they are paid for by the Entities and do not include any portion funded by the County, shall be in addition to the road patrol and general law enforcement services already provided by the Sheriff and the County to the Entities pursuant to their discretion under applicable law. The County-funded portion of the contracted vehicle(s) shall be considered a component of the County-wide road patrol and law enforcement services.

17. Entire Agreement

This Agreement, including the attached Schedules represents the entire understandings and agreements between the parties hereto. If the Parties include School Resource Officer responsibilities under this Agreement, the Parties shall enter into a related Memorandum of Agreement ("MOA"), which is therefore attached as Schedule C regarding the provision of a School Resource Officer. The MOA is a requirement of the grant program administered by the Michigan State Police. The Parties hereby cause this Agreement to be executed by their duly authorized representatives.

Entities: _____
Sign: _____
Name: _____
Title: _____
Date: _____

Entities: _____
Sign: Kathryn Beemer
Name: Kathryn Beemer
Title: City Administrator
Date: 06/26/23

County: _____
Sign: _____
Name: Robert J. Sarro
Title: Allegan County Administrator
Date: _____

Sheriff: _____
Sign: _____
Name: Frank Baker
Title: Sheriff of Allegan County
Date: _____