

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS

ACTION AGENDA SUMMARY

DEPT: Sheriff's Department *[Signature]* SHERIFF

BOARD AGENDA # *B-17

Urgent Routine

AGENDA DATE June 24, 2008

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 \$560,753 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 2008-2009 Proposed Budget submittals approved by the Board of Supervisors on June 10, 2008.

BOARD ACTION AS FOLLOWS:

No. 2008-475

On motion of Supervisor Monteith, Seconded by Supervisor Grover

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

[Signature: Christine Ferraro]

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

The Board of Supervisors approved the Stanislaus Drug Enforcement Agency (SDEA) Joint Power Agreement in September 1999. In the past the operational and fiscal control of the Agency has rotated every five years between Stanislaus County and the City of Modesto. The City of Modesto will now retain control indefinitely under this amended agreement.

Although many minor changes have been made to this agreement over the years, the primary changes in this amendment occur in three areas. Section 1, Administering Agency, clarifies the responsibilities of the parties by adding the authority to acquire, construct, manage, maintain or operate any building, works or improvement. Section 3, Additional Parties, details an approval process for other cities who wish to join the JPA. Section 14, Disposition of Assets on Termination, assures that Federal and State grant guidelines will be closely followed should the need arise to dissolve the JPA and dispose of or distribute acquired assets.

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 and one Deputy Sheriff to this program, and the District Attorney's Office has one Legal Clerk IV in this program.

STANISLAUS DRUG ENFORCEMENT AGENCY

JOINT POWERS AGREEMENT

Res: _____

THIS JOINT POWERS AGREEMENT is made with reference to the following facts:

- A. Each party hereto is empowered by law to provide police protection to its residents.
- B. Each party desires strict enforcement of drug control laws in its jurisdiction.
- C. Each party recognizes interjurisdictional cooperation is essential for the effective control of dangerous drugs in Stanislaus County.
- D. Each party desires 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.
- E. The parties, pursuant to the provisions of California Government Code Sections 6500 et seq., are authorized to enter into this Joint Powers Agreement so as to create a separate public entity to enforce the drug control laws of the State of California; and
- F. The parties desire to replace the Joint Powers Agreement between them, which became effective on September 15, 1999.

NOW, THEREFORE, IT IS MUTUALLY AGREED between the parties hereto as follows:

1. **Administering Agency**

There is hereby created the Stanislaus Drug Enforcement Agency (hereafter "SDEA") to administer the drug enforcement unit (hereafter "Unit") and to carry out the purposes

of this agreement. For such purposes, pursuant to Government Code Section 6508, SDEA shall have the authority, in its own name, to do any or all of the following: to make and enter contracts; to employ agents and employees; to acquire, construct, manage, maintain or operate any building, works, or improvement, or to acquire, hold or dispose of property; to incur debts, liabilities or obligations within the limitations provided by paragraph 6H of this agreement, and to perform any other act necessary for the purposes hereof.

2. **Term**

The initial term of this agreement shall commence on _____, and shall continue in full force until _____, and shall automatically renew from year to year thereafter unless the term is amended in writing or the agreement is terminated as herein provided. A party may terminate its participation in this agreement by giving written notice of its intention to do so to all other parties at least thirty (30) calendar days prior to the end of any term. This agreement may be terminated at any time by mutual agreement of all parties hereto.

3. **Additional Parties**

Cities located within Stanislaus County, which are not parties to this agreement, may participate in this agreement by giving written notice of their election to become a SDEA participating agency to the SDEA governing body at least thirty (30) calendar days prior to January 1 or July 1 of any year. A City's election to become a participating member is subject to the approval of the SDEA governing body. Once the City's election to become a SDEA participating agency is approved by the SDEA governing body, the City shall immediately, upon approval, become an SDEA participating agency and be subject to the terms and conditions of the Stanislaus Drug Enforcement Agency Joint Powers Agreement then in effect.

4. **Governing Body**

The governing body of SDEA shall be a committee comprised of the Sheriff of Stanislaus County, the District Attorney of Stanislaus County, the Chief Probation Officer of Stanislaus County and the Chief of Police of each participating City. Each member of the governing committee may appoint from his/her office an alternate member, and such alternate member is authorized to exercise the powers and duties of the regular member and to act at a meeting of the governing committee when the primary member is absent. The Sheriff of Stanislaus County shall be the Chairperson of the committee, but in the absence of the Chairperson or his/her alternate, the committee shall elect a temporary Chairperson from that meeting from among the committee members present. Decisions by the committee shall require an affirmative vote of a simple majority, consisting of one half the members plus one, of the parties to this agreement, with the Chairperson being permitted to cast his vote in the same manner as any other member.

5. **Officers**

The officers of SDEA shall consist of a secretary from the Stanislaus County Sheriff's Department or the Modesto Police Department; the Treasurer of the agency shall be the Director of Finance of the City of Modesto, who serves as the city treasurer; and the Purchasing agent of SDEA shall be the Purchasing Manager of the City of Modesto. The County of Stanislaus and the City of Modesto agree that the performance of duties under this agreement by officers of the County or City, who are covered by bond, shall be an official duty of the County or City so that the bond shall cover such officers when they are performing duties for SDEA. The attorney for all civil matters regarding the SDEA shall be the City Attorney of the City of Modesto, provided that the attorney for SDEA may call upon the County Counsel of the County

of Stanislaus or the City Attorney of any party to this agreement for assistance. The Police Chief of the City of Modesto shall be the Director of Operations for the SDEA and shall be responsible for the day-to-day operation of the Unit in accordance with guidelines and policies set forth by the governing committee.

6. **Funding**

A. Annual contributions by each participating agency shall be calculated based upon the percentage of the member agency's total population multiplied by the total budgeted operating amount to determine each participating agency's contribution for that year. For the purposes of the calculation, the population of the County of Stanislaus shall be the population of only the unincorporated territory of the County. The calculation shall be done using the most recent population figures available from State of California Department of Finance population statistics.

B. Personnel costs for the positions identified in Paragraph 13, shall be funded by the City or County employing the positions, for calculating any additional contribution.

C. The annual budget of SDEA shall be reviewed and approved by each participating agency on an annual basis.

D. Each participating agency shall make a cash contribution to SDEA on the first day of each quarter which begin on the following dates, July 1, October 1, January 1, and April 1, of each year. Each member agency shall pay an amount equal to 25 percent of its annual contribution for that year. Any party contributing services of one of its employees as a regularly assigned member of the SDEA unit, pursuant to paragraph 13 of this agreement shall be entitled to deduct in advance of its annual contribution the value of such in-kind contribution from its quarterly cash contribution. The cost of all other services, supplies, or equipment furnished by

one of the parties hereto shall be claimed pursuant to paragraph 8 of this agreement. The final determination of the value of such services, supplies, or equipment or of any in-kind contribution claimed by a party hereto, shall be made by the governing committee.

E. For the purposes of this agreement, the term fiscal year shall mean the period from July 1 to and including the following June 30.

F. Subject to the provisions of this agreement and any applicable law, the Director of Finance of the City of Modesto, shall receive, have custody of, and disburse agency funds pursuant to the procedures prescribed by paragraph 7 of this agreement.

G. A preliminary annual budget shall be adopted by the governing committee prior to May 1 for the next following fiscal year, which shall commence on the first day of July. The Director of Operations of the SDEA unit shall mail a copy of the annual budget to each party within ten (10) business days after the budget is adopted.

H. The governing committee and every other official or employee of SDEA shall be limited in the making of expenditures and in incurring liabilities to the amount of the appropriations allowed by the budget as adopted pursuant to subparagraph G of this paragraph. Except as otherwise provided by law, liabilities incurred in excess of any budget appropriation shall not be a liability of SDEA and payments shall not be issued to cover such liabilities. Pursuant to Section 6508.1 of the California Government Code, the debts, liabilities and obligations of SDEA shall be those of SDEA and not of the parties to this agreement.

7. **Records and Accounts**

A. SDEA shall be strictly accountable for all funds.

B. The governing committee of SDEA shall cause to be kept proper books or records and accounts in which a complete and detailed entry shall be made of all of its

transactions including all receipts and disbursements. Said books or records and accounts shall be kept in accordance with State law and the rules and regulations of the State Controller and as required by the Director of Finance of the City of Modesto. Said books shall be subject to inspection at any reasonable time by the duly authorized representatives of each of the parties to this agreement.

C. The governing committee of SDEA shall cause to be prepared an annual financial and operational report, including a report of all receipts and disbursements of funds, which shall be available at the office of the Clerk of SDEA, and a copy thereof shall be delivered to each party to this agreement. The report shall be filed within sixty (60) days of the close of each fiscal year following the issuance of a final audit report.

8. **Claims**

All claims against SDEA including but not limited to claims by public entities or public officers and employees for fees, salaries, wages, mileage, in-kind contributions or other expenses, shall be within the time and in the manner specified in Chapter 2 (commencing with Section 910) of Part 3, Division 3.6 of Title 1 of the Government Code or in accordance with claims procedures approved by the Director of Finance of the City of Modesto, and established by the governing committee of SDEA pursuant to Chapter 5 (commencing with section 930) or Chapter 6 (commencing with Section 935) of said Part 3 of the Government Code.

9. **Processing Claims**

A. The processing of all claims for payment to third parties shall be performed in accordance with the existing policies and procedures enacted by the City of Modesto. Said policies and procedures shall include those applicable to the purchasing function of the City of Modesto.

10. **Liability**

Liability insurance to provide coverage for personal injury including death and property damage for SDEA at this time is not available. None of the parties to this agreement waive any of the privileges and immunities set forth in California Government Code Section 6513. The County of Stanislaus, City of Modesto, City of Ceres, City of Oakdale, City of Turlock, City of Hughson, City of Patterson, City of Waterford, the City of Newman and the City of Riverbank agree to the following:

It shall be the sole responsibility of the County of Stanislaus and the City of Modesto in all personal injury and property damage claims to provide a defense for all such lawsuits to pay all costs, fees, and attorney fees associated with that defense, which said costs, fees, and expenses shall be shared equally between the City of Modesto and the County of Stanislaus. The County of Stanislaus and the City of Modesto shall hold harmless and indemnify all other parties to this agreement for each claim filed where the satisfaction of the liability does not exceed \$100,000.

For liability awards in excess of \$100,000, the parties agree to apportion each satisfaction of liability in proportion to the contribution formula of paragraph 6.

In the event that liability coverage becomes available in the future, the parties agree that the governing committee shall authorize the purchase of such liability coverage and payment by each member agency shall be in direct proportion to the annual contribution of each member as set forth in paragraph 6.

Workers' Compensation insurance shall not be provided by SDEA for member agency employees but shall be maintained by the employing jurisdiction.

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

The County Counsel for Stanislaus County and the City Attorney for the City of Modesto may actively participate, and 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 the date of the alleged liability accrues on or after July 1, 2005 and arises out of the activities of SDEA, its agents and employees. All claims where the date of the alleged liability accrues before July 1, 2005, shall be investigated and defended by Stanislaus County and any liability arising therefrom shall be paid pursuant to the provisions as set forth in this Joint Powers Agreement.

The County Counsel for Stanislaus County and the City Attorney for the City of Modesto may actively participate and shall provide cooperation in the investigation and defense of SDEA civil liability cases.

In the event the County Counsel for Stanislaus County or the City Attorney's Office for the City of Modesto agree that a matter cannot or should not be handled by legal staff of the County Counsel for Stanislaus County or City Attorney for the City of Modesto, or that an independent investigator or attorney may be required to investigate and defend SDEA, all costs and expenses of such independent investigator or attorney shall be shared equally by the County of Stanislaus and the City of Modesto.

12. **Compromise and Settlement**

The Stanislaus County Counsel and/or 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 County Counsel and the City Attorney and approval, where required, by the Board of Supervisors and the City Council.

13. **Operational Unit**

The governing body shall create and maintain a drug enforcement unit staffed by qualified peace officers to carry out the purpose of this agreement. Each peace officer assigned to the unit shall be an officer regularly employed by one of the parties to this agreement. All proposed assignments of personnel to the unit shall be subject to prior approval of the governing committee and reassignments to the employing jurisdiction shall be made within thirty (30) days after notice by the governing committee requesting such action.

The position of Unit Commander of the Stanislaus Drug Enforcement Agency shall be a Lieutenant from the City of Modesto Police Department.

The Stanislaus County Sheriff's Department shall provide one unit supervisor. In addition to the unit commander, the City of Modesto Police Department shall provide one unit supervisor, through non-JPA funding. The unit supervisors will rotate in accordance with their respective agency's rotation policy.

Personnel assigned to the unit shall be equivalent to the following:

<u>Unit Title</u>	<u>Jurisdiction Job Title</u>
A. <u>County of Stanislaus</u>	
Unit Supervisor	Sergeant
Office Supervisor	Supervising Legal Clerk I or II
Drug Agent	Deputy Sheriff
Clerk	Legal Clerk IV
B. <u>City of Modesto</u>	
Unit Commander	Lieutenant
Unit Supervisor	Sergeant
Drug Agent	Police Officer
Drug Agent	Police Officer

14. **Disposition of Assets on Termination**

Consistent with Federal and State grant guidelines, any equipment, furniture or supplies already in possession and all property acquired by SDEA, including property coming to SDEA from the federally funded Drug Enforcement Unit, becomes the property of SDEA. So long as SDEA is in existence, the property continues to be assets of SDEA.

At the termination of SDEA, and after all SDEA liabilities to the non-participants have been paid, the assets of SDEA will be distributed as follows:

A. The cash fund balance of SDEA shall be returned to the respective parties of this agreement in the proportion to the contribution each party made to such fund for the fiscal year in which the dissolution of SDEA takes place.

B. In the event the SDEA ceases to operate, the remaining assets shall be distributed as follows:


It is intended that any equipment, furniture, or supplies including property coming to SDEA from the federally funded Drug Enforcement Unit, which can be identified as having been contributed by any party to this agreement without the party receiving an in-kind credit, therefore, shall be transferred to and become the property of the party contributing such equipment, furniture, or supplies. All other property of SDEA shall be converted to cash and distributed among the parties to this agreement, each party to receive the proportion that the amount of money contributed to the agency by such party bears to the total amount of money contributed to SDEA by all parties to this agreement. The governing committee may, in its discretion, sell property to one of the parties to this agreement in order to convert such property to cash.

Nothing in this section shall be construed as to allow any asset acquired with Federal or State grant monies from being disposed of or distributed in violation of the applicable grant guidelines.

15. The Joint Powers Agreement between the parties, which became effective September 15, 1999, is rescinded, save and except as set forth in paragraph 11 and 12 herein. This Joint Powers Agreement supersedes any previous documents entered into by SDEA and participating agencies.

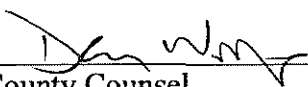
16. The parties hereto, pursuant to resolution of their respective governing bodies, have caused this Joint Powers Agreement to be executed this 10th day of SEPTEMBER, 2008.

COUNTY OF STANISLAUS


By 
Chief Executive Officer

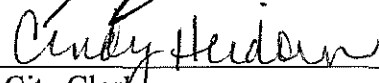
ATTEST: 
Clerk of the Board

APPROVED AS TO FORM:


By 
County Counsel

CITY OF CERES

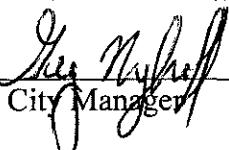
By 
City Manager

ATTEST: 
City Clerk

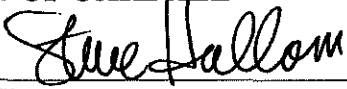
APPROVED AS TO FORM:

By 
City Attorney

CITY OF MODESTO


By 
City Manager

CITY OF OAKDALE

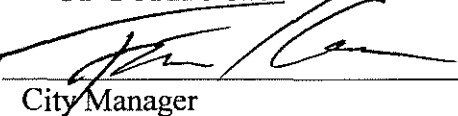
By 
City Manager

ATTEST: 
City Clerk

APPROVED AS TO FORM:

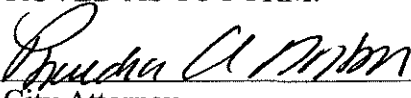
By 
City Attorney

CITY OF TURLOCK

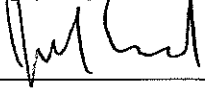
By 
City Manager

ATTEST: 
City Clerk

APPROVED AS TO FORM:

By 
City Attorney

CITY OF HUGHSON

By 
City Manager

ATTEST:

City Clerk

Stephanie Dopy

ATTEST:

City Clerk

Mary Hammerstein

APPROVED AS TO FORM:

By

Theresa A. Nohm for

City Attorney

APPROVED AS TO FORM:

By

John H. Halls

City Attorney

CITY OF PATTERSON

By

M. Blue Man

City Manager

CITY OF NEWMAN

By

[Signature]

City Manager

ATTEST:

City Clerk

[Signature]

ATTEST:

City Clerk

[Signature]

APPROVED AS TO FORM:

By

[Signature]

City Attorney

APPROVED AS TO FORM:

By

[Signature]

City Attorney

CITY OF WATERFORD

By

Charles E. Deschene

City Manager

CITY OF RIVERBANK

By

[Signature]

City Manager

ATTEST:

City Clerk

Lou Martin

ATTEST:

City Clerk

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APPROVED AS TO FORM:

By

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City Attorney

APPROVED AS TO FORM:

By

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City Attorney