

**SOUTH DAYTONA POLICE DEPARTMENT
OFFICE OF THE CHIEF OF POLICE
MEMORANDUM**

TO: James L. Gillis, Jr., City Manager

FROM: Mark J. Cheatham, Chief of Police

DATE: April 18, 2024

SUBJECT: SRO Agreement

The City Council approved an agreement to provide a School Resource Officer (SRO) at South Daytona Elementary School on July 23, 2019. The term of that agreement was five years containing one (1) base year and four (4) one (1) year renewal options. That contract term has expired with the four (4) one-year renewal options being fulfilled. The Volusia County School Board has requested a new agreement for five (5) years, again with one base year and four (4) one (1) year renewal options starting from July 1, 2024, through June 30, 2029. The agreement is not an automatic renewal and will require approval every calendar year.

The SRO program provides a vital link between the South Daytona Police Department, South Daytona Elementary, and the community we serve. As a Police Department, our number one concern is for the safety of our residents and those within our community. South Daytona Elementary has always worked well with the City and understands the safety of its students is a top priority.

Therefore, staff is requesting that the City approve the new School Resource Officer Agreement with the School Board as presented in Exhibit A attached. The cost of the SRO for the base year (July 1, 2024, through June 30, 2025) is based on 1,448 billable hours at a rate of \$52.59 which totals \$76,150.16 when rounded to the nearest dollar amount and is inclusive of officer benefits. If approved, the Volusia County School Board will reimburse the City approximately half of the officer's pay including benefits which totals \$38,075.16 with payment spread out over a 10-month period.

**VOLUSIA COUNTY SCHOOL BOARD AND THE CITY OF SOUTH DAYTONA
SCHOOL RESOURCE OFFICER AGREEMENT**

THIS AGREEMENT is made and entered into between the School Board of Volusia County, hereinafter referred to as “**School Board**” and the City of South Daytona, hereinafter referred to as “**City**”.

RECITALS

WHEREAS, the parties want to enter into an Agreement for the performance of law enforcement functions provided by a School Resource Officer hereinafter described; and

WHEREAS, the City agreeable to provide personnel to perform the duties and responsibilities of a School Resource Officer; as described herein; and

WHEREAS, the School Board agrees to compensate the City for School Resource Officer (SRO) Program costs; and

WHEREAS, the City agrees to receive monies from the School Board and to budget such monies to the City Police Department for services rendered to the School Board; and to budget one (1) School Resource Officer to be split funded by the School Board at fifty percent (50%) and the City at fifty percent (50%); and

WHEREAS, the parties have approved the School Resource Officer Program as a viable program and their approval is not construed as a permanent obligation;

WHEREAS, § 1002.22(2) and § 1002.221, Florida Statutes, provide that education records created, maintained or used by public educational institutions and agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and the implementing regulations issues pursuant thereto; and § 1002.221 permits a public school, center, institution, or other entity that is part of Florida’s education system to release a student’s education records without written consent of the student or parent to parties to an interagency agreement; and

WHEREAS, the Uninterrupted Scholars Act (USA), 20 USC 1221, amending FERPA, permits access to a student’s records by an agency caseworker or other representative of a child, who has the right to access a student’s case plan, when such agency is legally responsible in accordance with state law for the care and protection of the student, provided that the student records or information will not be disclosed by such agency except to address the student’s

education needs in accordance with the law; and

WHEREAS, Title 34 CFR §99.31(a)(5)(i)(B) and §99.38(a) and (b) permit an educational agency or institution to disclose personally identifiable information from an education record of a student without written consent of the parent or eligible student if the disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed pursuant to a state statute adopted after November 19, 1974, and concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released; and

WHEREAS, §985.04(1), F.S., requires the sheriff, chiefs of police and district school superintendent in each county to enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties, to specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, to specify the conditions under which school records are to be made available to appropriate departmental personnel, and to provide for notification to any classroom teacher of assignment to the teacher's classroom of a juvenile who has been placed in a probation or commitment program for a felony offense; and

WHEREAS, §1003.53(6), F.S., addresses the exchange of information and/or coordination of services between school districts, and with social service, law enforcement, prosecutorial and juvenile justice agencies and juvenile assessment centers in the school district; and

WHEREAS, §1006.13 (4)(a), (b) and (c), F.S., requires each district school board to enter into agreements with the county sheriff's office and local police departments specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency, and addressing the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report with a law enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes; while creating zero tolerance policies that do not require the reporting of petty acts of misconduct and misdemeanors to law enforcement agencies;

WHEREAS, pursuant to §768.28, F.S., neither the School Board or the City waive any defense of sovereign immunity or increase of the limits of its liability upon entering into this

Agreement;

NOW THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, the mutual understandings and covenants set forth herein, and other specific considerations, the parties agree as follows:

1. **Term.** The term of this Agreement is for five (5) years with one base year and four (4) one (1) year renewal options starting from July 1, 2024 through June 30, 2029, for a total of five (5) years. The performance period beginning at the date outlined by the parties, unless earlier terminated as provided herein. The Agreement does not contain provisions for automatic renewal; any renewal option must be mutually agreed upon by both parties and approved in writing.
2. **Purpose.** The purpose of this Agreement is to foster better relations between students and law enforcement personnel; to deter crime on or about school premises by the presence of a law enforcement officer; to enforce local, state and federal laws, and to have a School Resource Officer available for presentations to the students, faculty and parents concerning law enforcement and various subjects related to the law. The School Resource Officer shall maintain a highly visible uniformed presence while on duty at the school sites.
3. **Termination.** This Agreement may be terminated by any party at any time, with or without cause, upon not less than sixty (60) days written notice delivered by Certified Mail, Return Receipt Requested, or in person to the other party; or, otherwise terminated upon any other manner approved in writing by both parties to this Agreement.
4. **Services.**
 - A. The City agrees to provide the School Board one (1) full time School Resource Officer, eight (8) hours per day for one hundred eighty-one (181) school contract days, excluding summer school for the compensation described in Paragraph 9 herein. Daily hours for School Resource Officer is primarily 7:30 a.m. to 4:00 p.m. Monday through Friday at the South Daytona Elementary School. The City will make every effort to have the School Resource Officer position filled at the beginning of the school year and throughout the term of this Agreement, dependent upon staffing availability.

B. It is agreed that there are occasions when it is not possible to staff a particular school with a School Resource Officer. This may be due to medical reasons, extended training assignments or termination resulting in a position vacancy. It is also agreed that, whereupon it is determined that filling a temporary School Resource Officer vacancy is critical to maintaining the safe and orderly environment of the school, a School Resource Officer from another location may be reassigned by the City in part or total to fill the vacancy until a replacement can be found.

C. It is agreed that there are occasions when it is necessary for the School Resource Officer to work in excess of their normal duty assignment, such as providing security details for graduation ceremonies. It is agreed by the City that inclusive of this Agreement will be a maximum of twenty (20) hours of overtime hours authorized per School Resource Officer during the term of the Agreement. The decision regarding the accumulation of this overtime allocation will be at the discretion of the School Board representative, the principal of the effected school and the City's Police Chief's representative. Advanced approval from the School Board representative will be required for a School Resource Officer to earn overtime. The overtime allocation described herein shall be applicable and consistent with the School Resource Officer's daily responsibilities and/or for after school activities which by mutual agreement may be outside the scope of the School Resource Officer's daily activities performed at his/her assigned school. Such outside detail activities and any hours in excess of the twenty (20) hours prescribed herein will be billed at the rate of \$53.51 per hour for services provided by the School Resource Officer assigned to South Daytona Elementary School and shall be funded one hundred (100%) by the school.

D. The administration of student discipline, including student code of conduct violations and student misbehavior, is the responsibility of the school administrators, unless the violation or misbehavior involves criminal conduct. The School District encourages the use of Civil Citations for eligible students. The school district utilizes the Incident Command structure with established Emergency

Operations Plans when responding to an all-hazards approach to emergency management.

E. The City shall develop and expand crime prevention efforts for students and shall serve as a liaison between the school and other first responders, investigative units and/or juvenile justice authorities when necessary and consistent with applicable civil rights and privacy laws. The School Resource Officer shall be part of the School Multidiscipline School Safety and Security team and shall assist in school responses to emergency issues to include referring students to professional services both within and outside the School Board.

F. The School Board will share information on an as needed basis to the School Resource Officer to ensure resolution on open investigations being conducted by the School Resource Officer. All Federal privacy laws, including Family Educational Rights and Privacy laws, HIPAA and FERPA, will be followed.

G. The School Resource Officer will follow the City's Police Department's Chain of Command structure or command staff as designated by the City's Chief of Police.

H. The City agrees to ensure that all School Resource Officer(s) assigned under the terms of this Agreement will be available for, and participate in VCS trainings related to the role of law enforcement on campus and working with students with disabilities. VCS required School Safety Officer trainings applicable to School Resource Officer(s) include: "Understanding Autism: SRO/SRD/Guardians" and "Serving Students with Disabilities: SRO/SRD/Guardians" and "Threat Management Training: SROs/SRDs". VCS shall provide at its expense all school-based trainings for serving students with disabilities. School Resource Officers shall participate in said school-based trainings before interacting with students on campus, or in extreme circumstances within 30-days of appointment."

5. **Other Considerations.** The City Commission, its Police Chief and the School Board recognize that opportunities may materialize whereby it is in the best interest of City and County taxpayers to modify this Agreement for considerations outside the scope of the School Resource Officer Program.
6. **Cooperation.**
- (a) It is agreed that the City shall have all reasonable and necessary cooperation and assistance from the School Board, its officers, agents, and employees so as to facilitate the performance of this Agreement.
- (b) It is agreed that the School Board shall have all reasonable and necessary cooperation and assistance from the City, its officers, agents, and employees so as to facilitate the performance of this Agreement.
- (c) Although School Resource Officers have an assigned school site, they are subject to temporary relocation on an as-needed basis with the concurrence of the Board Superintendent or her designee, and the City's Police Chief.
7. **Personnel/Equipment.** It is understood that any personnel assigned to perform the duties under the terms and conditions of this Agreement are functioning at all times as a member of the City of South Daytona Police Department and are subject to City's department supervision and rules and regulation. In addition, all equipment purchased and utilized by the City in performance of this Agreement is and shall remain the property of City of South Daytona unless otherwise specified within this Agreement. The School Board shall provide the School Resource Officer with office space to include a desk, phone, computer, and two-way radio utilized by the school site safety and security team members. Access to programs utilized by the school district shall be provided to ensure the sharing of critical information and comply with all laws, rules, and regulations to include HIPAA and FERPA.
8. **Off Campus Activities.** It is recognized that during the course of the school year, the School Resource Officer may be required to attend meetings and training that support their professional certification and/or the School Resource Officer Program.

Where possible, training will take place when school is not in session. A School Resource Officer may not elect to participate in additional training activities or other non-mandatory events that take them away from the campus without the approval of the school principal and the Police Chief’s representatives. In these cases, the time away from the school will be deducted from the monthly billing.

9. **Compensations and Payment.** The School Board hereby agrees to share to compensate the City at a rate of fifty percent (50%) for all services provided herein at the established rate of \$52.59 per billable hour. The total Agreement price for the specified term shall be \$38,075.16 numerated as follows:

Hourly Rate:	\$52.59
Billable Hours:	1,448
One (1) SRO at 8 hours, 181 days	\$38,075.16
Total Billable	\$76,150.32

Total Agreement Price **\$38,075.16 (50% of total billable)**

- (a) All payments from the School Board to the City provided herein, for the Base Year, and each renewal option year thereafter shall be subject to adjustment, upon written agreement by the parties, dependent upon changes to City’s expenses to provide the services herein.
- (b) Payment shall be made in ten (10) monthly payments by the School Board upon receipt of the City Billing invoice.
- (c) Upon the completion of the agreement year, the City shall reconcile actual costs and remit to the School Board any monies due (i.e. vacancies,) or request an agreement modification to increase compensation if final costs exceed the amount budgeted. Monthly City employee time records will be submitted to the School Board Representative for payment processing. If the School Resource Officer is absent, the monthly billing will reflect the absence and the monthly billing will reflect a deduction of the hours not worked

prior to the billing being sent to the School Board Representative for payment.

10. **Management Reports.** Any reports required under this Agreement shall be discussed and mutually agreed upon by both parties prior to implementation. The City of South Daytona shall be responsible for maintaining records related to training in accordance with HB 1473.

11. **Reporting Crimes and Delinquent Acts.** The School Board and the City Police Department shall adhere to F.S. 1006.12 (School Resource Officer and School Safety Officers) and F.S. 1006.13 (Policy of zero tolerance for crime and victimization). Accordingly, it is agreed by the parties that school personnel will report to the School Resource Officer all delinquent acts and crimes occurring whenever students are under the jurisdiction of the school. If a School Resource Officer is not present or available, a report shall be provided to the appropriate law enforcement agency and a copy of such report shall be provided to the School Resource Officer.

12. **Safeguarding The Confidentiality of Shared Student Records.** The parties acknowledge that Sections 1002.022, 1002.221 and 1002.222, Fla. Stat. and the Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Part 99), protect the privacy rights of students and their parents with respect to information and records created and/or maintained by public schools. The parties further acknowledge that the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) (HIPAA and HITECH Act are collectively referred to herein as “HIPAA”) protect the privacy of students’ individually identifiable health information (“PHI”) and may be applicable to student records in certain circumstances. The student personally identifiable information (“PII”) may be disclosed only in compliance with FERPA as it applies to the Parties and PHI may be disclosed only in compliance with HIPAA, where required by law. Pursuant to FERPA, the information provided by VCS shall be limited to that which is necessary to effectively serve the student.

Each party participating in this Agreement agrees to:

(a) Hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or required by law and that except when the parent of a student provides prior written consent for its release. All shared student records will be disclosed only to employees of the agency who have a need to access the information in order to perform their official duties as authorized by law. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the aforementioned laws.

(b) Safeguard the student records through administrative, physical and technological safety standards to ensure adequate controls are in place to protect the student information in accordance with FERPA's privacy requirements and the students' PHI in accordance with HIPAA's privacy requirements.

(c) Continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Interagency Agreement.

(d) To use the shared information to facilitate the collection and analysis of the data in order to track shared clients, better coordinate individual care, and address barriers and needs across systems to better serve the student. Specifically, by sharing data the parties can identify barriers, leverage existing resources, and coordinate overall care to better serve the student.

(e) Ensure that all employees, appointees or agents of any party who are granted access to shared student records will have successfully completed (1) background screening requirements under Section 435.04, Florida Statutes, under Level 2 screening standards; and (2) A FERPA training webinar, which is available at the U.S. Department of Education, Privacy Technical Assistance Center website: <http://www2.ed.gov/policy/gen/guid/ptac/index.html>, <http://ptac.ed.gov/> including, but not limited to, <http://www2.ed.gov/policy/gen/guid/ptac/pdf/slides.pdf>

(f) Each party agrees to notify the other party immediately upon discovery of a breach of confidentiality of student information and to take all necessary notification steps as may be required by federal and Florida law. A breach of the confidentiality requirements shall constitute grounds for immediate termination of this Agreement without advance notice.

This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such student records are returned to VCS or disposed of in compliance with HIPAA and the applicable Florida Statutes.

13. **Indemnification.** Subject to the limitations contained in Fla. Stat. § 768.28, each party agrees to be responsible, to the extent permitted by law, for its acts of negligence, or its agents' acts of negligence when acting within the scope of their employment and agrees

to be liable for any damages resulting from said negligence. Nothing contained herein shall be construed to extend liability to the other party for any incidental, consequential, special, exemplary, or punitive damages, however caused under any theory of liability, whether in contract, strict liability, or tort including negligence or otherwise for any matter arising from or relating to the Agreement or the service terms provided herein. This section shall survive the termination of all performance or obligations under this Interagency Agreement and shall be fully binding until such time as any proceeding brought on account of this Interagency Agreement is barred by any applicable statute of limitations.

14. **Notice of Arrests and Citations**

A. **Arrest and Citation of Students or School Employees on School Grounds During Hours of School Operation**

When a student or school employee is arrested or receive a citation on school grounds during the time of normal school operation, notification of the arrest or citation will be provided to the building principal or designee on a confidential basis.

B. **Arrest or Citation on Non-Students on School Ground**

When a person other than an enrolled student or school employee is arrested or receives a citation on school property, the building principal or designee will be advised of the circumstances of the offense and the identity of the offender.

C. **Arrests and Citations of Students or School Employee off School Grounds During Operating School Hours**

Where a student or school employee is arrested off of school property during times of normal school operation or under circumstances which would lead the arresting or citing officer to believe that the person arrested is a student or a school employee, and that a school official is responsible for the care or custody of the student at the time of the incident or that the school employee is on duty, the officer shall, as soon as is practicable, provide notification of the incident to the building principal or designee of the school to which the student is enrolled or

the school employee is employed.

D. Confidentiality of Information Provided to Building Principal

In all instances of building principal notifications described in Sections 4.01, 4.02, and 4.033, above, the principal or designee shall not disseminate the information received from the arresting or citing officer.

15. General Conditions

A. No Waiver of Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability subject to the limited waiver as codified in Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Interagency Agreement and shall be fully binding until such time as any proceeding brought on account of this Interagency Agreement is barred by any applicable statute of limitations.

B. Statement of Non-Discrimination. The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Interagency Agreement.

C. Compliance with Laws. Each party shall comply with all applicable federal and state laws, School Board policies, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Interagency Agreement.

D. Governing Law and Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal matters arising out of this Interagency Agreement and any action involving the enforcement or interpretation of any rights hereunder shall

be submitted to the jurisdiction of the State courts of the Seventh Judicial Circuit of Volusia County, Florida.

- E. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- F. **Assignment.** Neither this Agreement nor any interest herein may be assigned, transferred, or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement.
- G. **Captions.** The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way, define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.
- H. **Severability.** In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid, illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.
- I. **Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

- J. **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.
- K. **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

16. **Entire Agreement.**

- (a) It is understood and agreed that the entire Agreement of the parties is contained herein, and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the parties, relating to the subject matter hereof.
- (b) Any alterations, amendments, deletions, or waivers of the provision of the Agreement shall be valid only when expressed in writing and duly signed by the parties.

17. **Notices.** Whenever any party desires to give notice unto the other, notice may be sent to:

For the School Board
School Board of Volusia
County Office of the
Superintendent
Post Office Box
2118 DeLand, FL
32721-2118

With Copy To
The General Counsel
School District of Volusia County
Post Office Box 2118
DeLand, FL 32721-2118

For the City of South Daytona

The City Manager
City of South
Daytona
1672 S Ridgewood Ave
South Daytona, FL 32119

With Copy To

The Police Chief
South Daytona Police Department
1672 S Ridgewood Ave
South Daytona, FL 32119

Any of the parties may change by written notice the addresses or persons for receipt of notice.

1. **Appropriation Contingency.** Notwithstanding any other term or provision of this Agreement, the continuation of this Agreement beyond a single fiscal year is subject to the appropriation and availability of funds in accordance with Chapter 287.0582, Florida Statutes. Anytime funds are not appropriated for the services provided or to be provided under this Agreement, this Agreement shall be caused to automatically terminate as of the first day following the last month so funded.

2. **Agreements With Other Agencies:** If the School Board executes an Agreement between the School Board and another municipality within the school district for the provision of the same or substantially the same services, terms and conditions provided in this Agreement and that Agreement provides more favorable cost share split than that which is set forth in paragraph 9 (a) above, the School Board shall increase the City's percentage split so as to be equal to that which is provided to the other municipality.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have made and executed this instrument in three (3) counterparts for the purpose herein expressed on the dates indicated below.

ATTEST:

THE CITY OF SOUTH DAYTONA

By: _____
Name: Mrs. Rebecca Witte
Title: Deputy City Clerk
Date: _____

By: _____
Name: Mr. James L. Gillis, Jr.
Title: City Manager
Date: _____

By: _____
Name: Mr. Mark J. Cheatham
Title: Chief of Police
Date: _____

ATTEST:

SCHOOL BOARD OF VOLUSIA COUNTY

By: _____
Name: Dr. Carmen J. Balgobin
Title: Superintendent of Schools
Date: _____

By: _____
Name: Ms. Jamie M. Haynes
Title: Chairman
Date: _____

*Reviewed for legal sufficiency for reliance only
by the School Board*

By: _____
Name: Mr. Kevin W. Pendley
Title: General Counsel
Date: _____