

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AUTHORIZING THE POLICE CHIEF TO EXECUTE THE AGREEMENT
WITH THE COUNTY OF SANTA CLARA FOR THE 2014 AVOID THE 13 GRANT PROGRAM**

WHEREAS, the County of Santa Clara is administering the 2014 Avoid the 13 grant program that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Driving Under the Influence (DUI) enforcement. The goals of the program are to apprehend drunk drivers and to reduce the number of people killed or injured in alcohol-related collisions; and

WHEREAS, the City of Milpitas has been approved for a grant of \$8,000.00 to conduct DUI enforcement staffing on an overtime basis in Milpitas in conjunction with the county-wide Avoid the 13 holiday campaigns between October 1, 2013 and September 30, 2014; and

WHEREAS, there has been submitted to the City Council of the City of Milpitas a proposed Agreement to be entered into by and between the City of Milpitas and the County of Santa Clara, a copy of which is attached as Exhibit A and is made a part hereof.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council accepts the Agreement attached as Exhibit A and authorizes the Chief of Police to execute the Agreement for and on behalf of the City of Milpitas.

PASSED AND ADOPTED this _____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE COUNTY OF SANTA CLARA AND
THE CITY OF MILPITAS**

HOLIDAY DRIVING UNDER THE INFLUENCE CAMPAIGN – AVOID THE 13

FUNDED BY

THE STATE OFFICE OF TRAFFIC AND SAFETY

THIS MEMORANDUM OF UNDERSTANDING, entered into this _____ day of _____ 2013 by and between the COUNTY OF SANTA CLARA, hereinafter called "COUNTY" and the CITY OF MILPITAS, hereinafter called "MILPITAS", related to the Holiday Driving Under the Influence Campaign – Avoid the 13 Program hereinafter called "Avoid the 13 Program" funded by the State Office of Traffic Safety, hereinafter called "OTS."

W I T N E S S E T H:

WHEREAS, it is necessary and desirable that City Law Enforcement Agencies hereinafter called "City LEAs" be retained for the purpose of performing professional services for the *Avoid the 13 Program*; and

WHEREAS, MILPITAS is one of the participating City LEAs in the *Avoid the 13 Program*;

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Services to be Performed by MILPITAS.

During the term of **October 1, 2013 through September 30, 2014** the Milpitas Police Department, hereinafter "Milpitas PD", shall provide DUI enforcement staff on an overtime basis as Milpitas PD staffing levels

allow for the *Avoid the 13 Program* during the holiday enforcement periods of October 1, 2013 through September 30, 2014.

MILPITAS commits to participate in the annual campaign as Milpitas PD staffing levels allow and to encourage Milpitas PD officers to emphasize DUI enforcement during all phases of the grant. MILPITAS further agrees to participate in annual sobriety checkpoints as Milpitas PD staffing levels allow.

MILPITAS agrees to adhere to the OTS grant programmatic, financial and statistical reporting and understands that adhering to the requirements is necessary to be reimbursed for DUI enforcement activities conducted during the time periods of October 1, 2013 through September 30, 2014.

2. Payment.

A. Maximum Amount. In full consideration of the services provided during holiday enforcement periods, the amount that COUNTY shall be obligated to pay for services rendered under this Memorandum of Understanding shall not exceed EIGHT THOUSAND DOLLARS (\$8,000.00) to conduct one DUI checkpoint in Santa Clara County for the term of this Memorandum of Understanding. Funds are to be used solely for reimbursement of officer overtime incurred while staffing DUI Enforcement activities in support of the *Avoid the 13 Program* during the time period of October 1, 2013 through September 30, 2014.

B. Rate of Payment. MILPITAS will receive reimbursement for officer overtime through the *Avoid the 13 Program* for a total sum not to exceed Eight Thousand Dollars (\$8,000.00). The maximum reimbursable hourly overtime rate is one hundred and twenty dollars (\$120.00 per hour). The Sheriff or her designee will notify

MILPITAS of the amount of funds available at the start of each fiscal year. The amount MILPITAS will receive will be based on actual staff hours worked on DUI enforcement for the *Avoid the 13 Program* and as invoiced in accordance with Paragraph C, Invoice Requirements, below. Funding is solely for reimbursement of officer overtime incurred during DUI enforcement activities conducted during the *Avoid the 13* enforcement period.

- C. Invoice Requirements. Invoices shall include dates and hours worked, officer's name, officer's overtime salary rate, number of hours worked, and total dollars requested for overtime reimbursement. No benefit costs will be reimbursed. MILPITAS and/or MILPITAS LEA overhead costs are not allowable costs and will not be reimbursed. Invoices shall also include the statistics required by OTS as outlined in Paragraph 3, Statistical Reporting.

- D. Time Limit for Submitting Invoices. MILPITAS shall submit an invoice for services to the Santa Clara County Sheriff's Office, hereinafter "Sheriff's Office" for payment. COUNTY shall not be obligated to pay MILPITAS for the services covered by any invoice if MILPITAS presents the invoice to the Sheriff's Office more than fourteen (14) days after the date MILPITAS renders the services, or more than fourteen (14) days after this Memorandum of Understanding terminates, whichever is earlier.

3. Statistical Reporting

MILPITAS shall collect and report to COUNTY, the number of DUI Checkpoints paid with funds from this MOU. For each checkpoint, the following information must be collected and reported: number of vehicles passing through checkpoint, number of vehicles screened, number of field

sobriety tests conducted, number of DUI arrests, number of criminal arrests, and number of vehicles impounded.

Additionally, MILPITAS shall collect and report the number of DUI arrests made, number of DUI-related traffic collisions resulting in an injury, number of people injured in a DUI-related traffic collision, number of DUI-related fatal collisions, number of fatalities resulting from a DUI-related traffic collision, and the number of DUI warrant arrests made during the enforcement period of October 1, 2013 through September 30, 2014.

4. Availability of Funds.

Payment of all services provided pursuant to this Memorandum of Understanding is contingent upon OTS funding the *Avoid the 13 Grant* with the COUNTY. In the event that OTS does not fund COUNTY's grant, COUNTY shall not be liable for any payment whatsoever. COUNTY may terminate this Memorandum of Understanding for unavailability of OTS funds.

5. Liability.

MILPITAS waives all claims and recourse against the County, including the right of contribution for loss or damage to property and personal injury to MILPITAS (including but not limited to its employees or agents) or third parties and releases the County from any and all liability related to or in any way connected to MILPITAS's activities under this Memorandum of Understanding. MILPITAS agrees to indemnify County and hold it harmless for any loss or damage suffered by County as a result of activities under this Memorandum of Understanding.

6. Alteration of Memorandum of Understanding.

This Memorandum of Understanding is the entire agreement and contains all of the terms and conditions agreed upon by the parties. No alteration or variation shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement shall be binding on the parties hereto.

7. Records.

A. Access. MILPITAS agrees to provide to COUNTY, the Sheriff's Office, to any Federal or State department having monitoring or reviewing authority, to Sheriff's Office authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit all records and documents necessary to determine compliance with relevant Federal, State and local statutes, rules and regulations and this Memorandum of Understanding, and to evaluate the quality, appropriateness and timeliness of services performed, for a period of at least three (3) years from the termination date of this Memorandum of Understanding, or until audit findings are resolved, whichever is greater.

B. Retention. COUNTY shall maintain and preserve in its possession all records relating to this Memorandum of Understanding for a period of at least three (3) years from the termination date of this Memorandum of Understanding, or until audit findings are resolved, whichever is greater.

8. Compliance with Applicable Laws.

All services to be performed by COUNTY and MILPITAS pursuant to this Memorandum of Understanding shall be performed in accordance with all

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
<input checked="" type="checkbox"/> Budget Appropriation	100-3577	\$ 8,000	100-722-4113	\$ 8,000
<input type="checkbox"/> Budget Transfer				

Explain the reason for the budget change:

Background:

The County of Santa Clara is administering the 2014 Avoid the 13 grant program that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Driving Under the Influence (DUI) enforcement. The goals of the program are to apprehend drunk drivers and to reduce the number of people killed or injured in alcohol-related collisions. The City of Milpitas has been approved for a grant of \$8,000.00 to provide DUI enforcement staffing on an overtime basis in Milpitas in conjunction with the countywide Avoid the 13 holiday campaigns between October 1, 2013 and September 30, 2014.

Fiscal Impact: None – The overtime expenditures will be reimbursed by the grant.

Recommendation:

1. Adopt a resolution authorizing the Chief of Police to execute the agreement with the County of Santa Clara for the 2014 Avoid the 13 grant program.
2. Approve a budget appropriation in the amount of \$8,000.00 to the Police Department overtime budget as a result of the 2014 Avoid the 13 grant program.

Check if City Council Approval required.

Meeting Date: March 4, 2014

Requested by:	Department Head: Steve Pangelinan, Chief of Police	Date: January 23, 2014
Reviewed by:	Finance Director: <i>[Signature]</i>	Date: <i>1/23/14</i>
Approved by:	City Manager:	Date:
Date approved by City Council, if required:		Confirmed by: