



CITY OF POMONA COUNCIL REPORT

August 7, 2017

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Paul Capraro, Chief of Police

Subject: **Adoption of a Resolution Approving an Agreement to Provide Police Services for the 2017 Los Angeles County Fair by Setting the Rate of Compensation for Such Police Services and Amending the Police Department's FY 2017-18 Operating Budget by Appropriating an Additional \$139,424**

OVERVIEW

Recommendation – That the City Council adopt a resolution:

- 1) Approving an agreement with the Los Angeles County Fair Association to provide Police services during the 2017 Los Angeles County Fair by setting the rate of compensation for such Police services;
- 2) Amending the Police Department's FY 2017-18 operating budget by appropriating an additional \$139,424 in expenditures and in revenues; and,
- 3) Authorizing the City Manager, or designee, to execute the Police Services Agreement on behalf of the City, subject to review and approval by the City Attorney.

Fiscal Impact – The cost for basic Police services during the 2017 Los Angeles County Fair is estimated to be \$399,600, plus an Administrative Fee of ten percent (10%) totaling \$39,960, for a base contract total of \$439,560. An additional \$39,672, which includes the 10% administrative fee, is being added to the base contract this year as an average of cost overages billed the past (3) years. Moreover, an additional \$60,192, which includes the 10% administrative fee, is also being included for the scheduling of an Emergency Response Team, for a final contract figure of \$539,424. Adopted in the FY 2017-18 budget was a total of \$400,000. As such, an additional appropriation (101-2002-51045-00000) of \$139,424 is needed to cover the total anticipated cost of the 2017 Los Angeles County Fair, which will be offset by additional revenue (101-2002-40177-00000) of \$139,424 in anticipated reimbursement for same. At the conclusion of the Fair, the actual costs for services plus the Administrative Fee

Submitted to City Council: _____

Approved: _____

Continued to: _____

Denied: _____

Agenda Item # _____

Resolution No(s): _____

Ordinance No. _____

will be paid to the City.

Previous Related Action – The City Council approved a Police Services Agreement with the Los Angeles County Fair Association on July 18, 2016.

EXECUTIVE SUMMARY

Action on this item will approve a Police Services Agreement with the Los Angeles County Fair Association to provide Police/law enforcement services during the 2017 Los Angeles County Fair. The 2017 Los Angeles County Fair will run from September 1, 2017 through September 24, 2017.

DISCUSSION

The 2017 Los Angeles County Fair will commence on September 1, 2017 and will conclude on September 24, 2017. Each year, the Fair Association contracts with the City of Pomona Police Department to provide a basic level of Police services during the Fair. The cost for Police services during this year's Fair is estimated at \$539,424, including the Administrative Fee. The estimated cost for services is based on staffing by police personnel at one and one-half time the current rate, plus Worker's Compensation and Federal Medicare Tax when applicable for each contracted employee, and also factors in additional expenditure overages based on the past (3) year expenditure overage average.

When Pomona Police Officers provide police services for events, Pomona City Code section 46-562(b) requires the amount of compensation per Police Officer be set by City Council resolution. The attached resolution sets the rate of compensation for Police personnel to provide Police services during the Fair and an Administrative Fee of ten percent (10%) of the total cost of services.

The Police Department will provide the Los Angeles County Fair Association with a daily accounting of City Police services and equipment provided during the Fair. At the end of the Fair, if the service costs exceed the contract estimate, the Fair shall pay the additional amount due. If the costs for City Police services and equipment are less than the contract amount, the City shall refund the difference to the Fair.

In mid-July, staff was approached by the Fair Association to recommend eliminating or amending indemnity language that has been in the agreement for several years. The attached agreement contains the same indemnity provision that has been in the agreement as in prior years, whereby the Fair Association has agreed to indemnify and defend the City for any claims or lawsuits brought against the City for incidents related to the services being rendered at the Fair. Indemnity provisions are standard contractual terms used to shift liability to protect a party's interests. Here, the intent is for the City to provide Police services being requested while ensuring that the City does not incur additional unknown costs for claims or lawsuits related to events occurring while providing services to the Fair Association. Given that the City does not control events occurring on site (i.e., admission criteria, event scheduling, crowd control, alcohol sales or ticket sales), the City lacks the ability to avoid circumstances that frequently lead to unlawful behavior which require Police assistance. The nature of the Fair is also unique due to the blending of the service of alcohol and large crowds on frequently hot conditions. This annually results in the Police Department being required to make arrests and deal with a diverse set of circumstances.

The Office of the City Attorney reviewed the proposed language and concluded that the proposed language is not in the best interest of the City as it does not fully indemnify the City for activities being conducted on behalf of the Fair Association. Instead, the proposed language puts the responsibility for claims and lawsuits on each party, which the City has not factored into the costs of providing such Police services. In short, agreeing to such provision would put direct costs of security services—i.e., litigation defense and indemnity—related to events occurring during the Fair on the City of Pomona, while the Fair Association would pay only for the hourly rate for such services and supervisor overhead costs. As litigation and defense costs cannot be predicted and the City is not in a position to obtain insurance coverage for activities occurring at the Fair, it is recommended that the City not amend the indemnity provision relating to activities occurring under the agreement and maintain the obligations and costs of Fair security as such have been paid for in the past.

Attachment 1: Resolution