

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: John A. George, Chief of Police 954-693-8320
Prepared by: Angela Rodgers

SUBJECT: Resolution

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND NOVA SOUTHEASTERN UNIVERSITY FOR COMMUNITY ORIENTED POLICE OFFICERS.

REPORT IN BRIEF: Nova Southeastern University has contracted with the Town of Davie Police Department to provide community oriented policing for their main campus. This contract provided officers to patrol the NSU campus providing a variety of law enforcement functions. This contract has allowed the Police Department to effectively patrol the campus and service both NSU and the student community it embodies. Both the Town of Davie Police Department and Nova Southeastern University have been pleased with the agreement and wish to renew this contract. A renewal of this contract will allow for a continuous assignment of the officers who have become very familiar with campus needs and have made their policing assignments more effective.

Per the agreement, Nova Southeastern University will pay a fixed sum to cover the cost of two (2) assigned officers. Each year commencing July 1, 2007, a 4% increase will be included in the agreed amount for services. This agreement is self renewing commencing July 1. Representatives from both entities are able to meet to determine changes, increases in staffing or amendments to the contract sixty days prior to the renewal date of July 1.

PREVIOUS ACTIONS: Community oriented police officers have previously been approved for Nova Southeastern University with resolution R-2001-330.

CONCURRENCES: N/A

FISCAL IMPACT:

Has request been budgeted? yes

If yes, expected cost: \$152,000.00

Account Name: Salaries

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments: Revenues will be received by Nova Southeastern University
During the month of July

RECOMMENDATION(S): Motion to approve resolution

Attachment(s): Resolution, Agreement, Attorney's Comments

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND NOVA SOUTHEASTERN UNIVERSITY FOR COMMUNITY ORIENTED POLICE OFFICERS.

WHEREAS, Town Council has shown support in the past for the community oriented police officers program; and

WHEREAS, Nova Southeastern University has committed to provide as outlined in the attached agreement, funding for the use of two community oriented policing officers; and

WHEREAS, the goals and objectives of Nova Southeastern University are consistent with the Town of Davie Police Department's philosophy to enhance community policing efforts in the Town of Davie; and

WHEREAS, the agreement between the Town of Davie and Nova Southeastern University outlines the responsibilities of each agency regarding this program.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

_____ SECTION 1. The Town Council of the Town of Davie hereby authorizes the Mayor to execute the agreement between the Town of Davie and Nova Southeastern University to utilize community oriented police officers.

_____ SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2006.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK _____

APPROVED THIS _____ DAY OF _____, 2006

AGREEMENT

This Agreement made and entered into this ____ day of _____, 2006, by and between the TOWN OF DAVIE, Florida, a municipal corporation (hereinafter referred to as "TOWN") and NOVA SOUTHEASTERN UNIVERSITY, a not for profit University (hereinafter referred to as "NSU").

Witnesseth:

WHEREAS, NSU Campus is located within the corporate limits of the Town of Davie; and

WHEREAS, NSU desires TOWN to continue to have police officers serve as community police officers within the campus properties , and

WHEREAS, the TOWN and NSU wish to implement the program to be funded by NSU for TOWN to provide two (2) full time police officers providing a variety of law enforcement functions on the NSU Campus properties.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do hereby agree as follows:

Section 1. Duties and Responsibilities of Town.

1.01 TOWN shall continue to provide two (2) police officers, assigned as Community Oriented Police Officers (hereinafter referred to as "COPS") assigned to a schedule defined by the Police Officers' Bargaining Agreement, for a period defined by terms of this Agreement. The officers shall be provided to the NSU Campus in Davie, Florida.

1.02 A) TOWN shall be responsible for the control and direction of all aspects of employment of the police officers assigned to the COPS program, noting that under the terms of this Agreement the two COPS officers' primary duty and responsibility is to provide Community Policing Services for the Town of Davie NSU Campus.

1.02 B) NSU and TOWN (Police Department Supervisory personnel) shall maintain a channel of communications to provide continuous feedback on program effectiveness and officers' performance throughout the term of this Agreement.

1.03 TOWN shall insure that the exercise of the law enforcement powers by the COPS is in compliance with the authority granted by law.

1.04 The COPS shall not function as campus disciplinarian or security officers, or intervene in normal disciplinary actions of the University, or be used to witness any disciplinary procedures at the campus, unless such disciplinary actions involve a violation of local, state, or federal law.

1.05 The COPS shall at all times be expected to act within the scope of authority granted by law.

1.06 The individuals serving as COPS may be changed during the course of this Agreement by TOWN, and shifts and hours worked may be adjusted at the discretion of the Police Department. NSU shall be given five days prior notice of changes in assigned officers, adjusted shifts or hours worked.

1.07 The COPS shall not be required to attend extracurricular activities which are held beyond his/her regular work day or requires the COPS to leave his/her jurisdiction.

1.08 Each officer assigned to NSU, under this Agreement, will work a forty (40) hour week subject to terms and conditions outlined in the officers bargaining union contract.

1.09 The scope of this Agreement, i.e. additional hours, increased staffing, defined by this Agreement can be modified with agreement of both parties and approval by TOWN Council.

Section 2. Duties and Responsibilities of NSU.

2.01 NSU shall pay to TOWN each year of this Agreement the sum of \$152,000 for two officers per year (\$76,000 per officer). This amount of \$152,000 per year, paid by NSU, is supplemental funding to TOWN for the assigned two officers' salaries and benefits.

2.02 The payments shall be made to the TOWN (Finance Department) by NSU during the month of July (which is the beginning of NSU's fiscal year) each year of this Agreement commencing July 2006.

2.03 NSU shall provide working space for each of the officers assigned pursuant to this Agreement and will provide the officers with desk space and telephone access as needed by the officers.

Section 3. Term of Agreement.

3.01 The term of this Agreement shall commence July 1, 2006, after NSU and TOWN execute the contract and it is approved by the Davie Town Council. The Agreement will automatically renew annually, and increase by 4% each year beginning in July 2007.

3.02 Sixty (60) days prior to July 1 of each fiscal year, representatives of the TOWN, and NSU may meet to determine changes or amendments to the Agreement, otherwise the Agreement will renew automatically as indicated in 3.01.

Section 4. Invalid Provision.

4.01 Should any part of this Agreement be declared invalid by a court of law, such decision shall not affect the validity of any remaining portion which shall remain in full force and effect as if the invalid portion was never a part of this Agreement when it was executed. Should the severance of any part of this Agreement materially affect any other rights or obligations of the parties hereunder, the parties hereto shall negotiate in good faith to amend this Agreement in a manner satisfactory to the parties. Failing agreement on such amendment, either party may by notice in writing, terminate this Agreement forthwith.

Section 5. Indemnification.

5.01 NSU agrees to indemnify and save harmless TOWN for any liability whatsoever arising out of the negligent or wrongful acts or admission of NSU's employees or agents in coordinating the COPS officers in the performance of their duties and obligations. TOWN agrees to indemnify and save harmless NSU of any liability whatsoever arising out of the negligent or other wrongful acts or admissions of the COPS officers as it relates to performance under this Agreement. Nothing in this Agreement shall be construed to affect in any way the TOWN or NSU's rights, privileges, and immunities, including sovereign immunity as provided by law as set forth in Florida Statute 768.28.

5.02 During the entire term of this Agreement, TOWN and NSU shall maintain commercial general liability insurance in an amount no less than \$1,000,000 per occurrence, and \$1,000,000 annual aggregate. Each party shall be named as an additional insured on the other party's policy. The policy shall contain a provision that both parties will provide to the other thirty (30) days prior written notice of any cancellation of or reduction in coverage. Each party shall provide a certificate of insurance to the other evidencing this coverage.

Section 6. Independent Contractor.

6.01 TOWN is an independent contractor under this Agreement.

Personnel service provided by TOWN shall be employees of TOWN and supervision by TOWN and not as officers, employees, or agents of NSU. Personnel policies, tax responsibilities, social security and health insurance employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of and paid by TOWN.

Section 7. Assignment

7.01 Neither party to this Agreement shall, directly, assign or purport to assign this Agreement or any of its rights or obligations in whole or in part to any third party without the prior written consent of the other party.

Section 8. No Waiver.

8.01 The failure of either party to enforce at any time any of the provisions, rights, or to exercise any elections provided, shall in no way be considered to be a waiver of such provisions, rights or elections or in any way effect the validity of this Agreement. The failure to exercise by either party any of its rights herein or any of its elections under

the terms or conditions herein contained shall not preclude or prejudice it from exercising the same or any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

Section 9 Complete Agreement.

9.01 This Agreement is the complete Agreement of the parties; may be amended or modified only in writing; and supersedes, cancels and terminates any and all prior Agreements or understandings of the parties, whether written or oral, concerning the subject matter hereof.

Section 10. Choice of Law.

10.01 This Agreement shall be governed by and construed and interpreted according to the laws of the State of Florida.

Section 11. Venue.

11.01 Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.

Section 12. Attorney's Fees.

12.01 If any party obtains a final judgment (after any appeals) against any other party by reason of breach of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, including paralegal costs, at both the trial and appellate levels.

Section 13. Notices.

13.01 All notices or other communications required or permitted by this Agreement shall be in writing and deemed effectively delivered upon receipt if mailed by certified mail, postage prepaid, and return receipt requested, or delivered personally with

a receipt obtained, or two (2) business days after deposit with a nationally recognized overnight delivery service, (i.e., Federal Express) to the following persons and addresses unless otherwise specified herein:

As to TOWN:

John A. George, Chief of Police
Davie Police Department
1230 South Nob Hill Road
Davie, Florida 33324

As to NSU:

Attn: EXECUTIVE VP ADMIN.
3301 College Avenue
Davie, Florida 33314

IN WITNESS WHEREOF, the parties hereto have duly exercised this Agreement on the day and year first above written.

Attest:

TOWN OF DAVIE, a municipal
corporation of the State of Florida

Russell Muniz , Town Clerk

By: _____

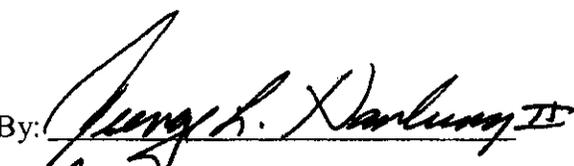
Tom Truex, Mayor

Approved as to form:

Nova Southeastern University, Inc.

By: _____

Monroe Kiar, Town Attorney

By:  _____

Ray Ferrero, Jr., President

MONROE D. KIAR
TOWN ATTORNEY
TOWN OF DAVIE
6191 SW 45th Street, Suite 6151A
Davie, Florida 33314
(954) 584-9770

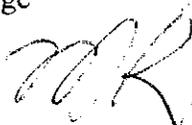
MEMORANDUM

RCVD APR 12 '06

DATE: April 12, 2006

TO: Major Ed Taylor, Administrative Bureau

CC: Mayor and Councilmembers
Ken Cohen, Acting Town Administrator
Chief John George

FROM: Monroe D. Kiar 

RE: Control Number 060403
Agreement Between Town of Davie and Nova Southeast University for the Davie
Police Officers Assigned to Davie Campus

I have reviewed the Agreement with Nova Southeastern University for the Davie Police Officers assigned to their Davie Campus and for the most part, have found same to be in satisfactory legal form for submittal to the Town Council. This office does have concern with Section 3 of the Agreement however. Section 3 entitled "Term of Agreement" appears to automatically renew annually the Agreement with a 4% increase each year beginning in July, 2007. Although Section 3.02 provides "sixty (60) days prior to July 1 of each fiscal year, representatives of the Town and NSU may meet to determine changes or amendments to the Agreement, otherwise the Agreement will renew automatically as indicated in 3.01", there appears to be no definitive provision for either party to terminate this Agreement for convenience or otherwise. Accordingly, it is suggested that unless it is the intent of the Town that this Agreement be of a perpetual duration, that the last sentence of Section 3.01 be amended to read "The Agreement will automatically renew annually, and increase by 4% each year beginning in July, 2007, unless otherwise terminated by either party as provided herein." This is similar language to that which was recommended for the Agreement between the Town of Davie and BCC for Davie Police Officers assigned to their Davie/Central Campus.

To be consistent with the previous recommended changes, it is further suggested that additional language be added to the end of Section 3.02 to read "Should the parties fail to reach agreement as to all changes and/or amendments to this Agreement, either party may then elect prior to the renewal date to terminate the Agreement by providing reasonable written notice to the other party in accordance with the notice requirements set forth in Section 13 of this Agreement."

Additionally, in Section 5 entitled "Indemnification", it is assumed that the word "admission" in the second line should read "omission", and the words "of admissions" in the fifth line should read "or omissions".

Section 5.02 requires the Town to maintain commercial general liability insurance in an amount no less than one million dollars per occurrence and one million dollars annual aggregate. It also requires NSU to be named as an additional insured on the policy. It is noted that there is no similar requirement for NSU to maintain such commercial general liability insurance in the event that it or its employees or agents are somehow negligent in the performance of their duties and obligations. The lack of the inclusion of such provision of course, may be the result of negotiations between the Town and NSU.

Finally, Subsection 14.01 under Section 13 entitled "Notices", should be changed to read as Subsection 13.01.

MDK/gmv

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