

City of Piedmont
COUNCIL AGENDA REPORT

DATE: February 6, 2023

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Consideration of a Resolution to Accept the California Department of Justice Tobacco Grant in the Amount of \$410,117 and Approve a Memorandum of Understanding with the California Department of Justice to Disburse Grant Funds to the City

RECOMMENDATION

Consideration of a Resolution to accept the California Department of Justice Tobacco Grant in the amount of \$410,117 and approve a Memorandum of Understanding with the California Department of Justice to Disburse Grant Funds to the City.

BACKGROUND

In July of 2022, the California Department of Justice, Tobacco Grant Program announced the opening of an application period for entities to submit Requests For Proposals. Chief Jeremy Bowers, with the assistance of Finance Director Mike Szczech, completed and submitted a grant application for funds in support of the Police Department's Juvenile Officer position and to procure vape sensors for use by the Piedmont Unified School District (PUSD) in the amount of \$729,485.

On November 21, 2022, staff was notified by the California Department of Justice, Tobacco Grant Program that the application submitted had been approved for grant funds in the amount of \$410,117 through the 2025-26 fiscal year.

FISCAL CONSIDERATIONS

The award amount details are as follows.

Award Amount				
Category of Expenditure	Budget FY 2022- 2023	Budget FY 2023- 2024	Budget FY 2024- 2025	Budget FY 2025- 2026
Personal Services	\$95,208	\$131,494	\$136,174	\$34,992
Operating Expenses and Equipment	\$12,249	\$0	\$0	\$0
Administrative Costs (Not to Exceed 5%)	\$0	\$0	\$0	\$0
TOTAL AWARD AMOUNT	\$410,117			

The amount of \$729,485, which was originally requested, included full salary and benefits and estimated overtime for the Juvenile Officer position for the 2022-23, 2023-24, 2024-25, and 2025-26 fiscal years. Given that the total award amount is less than applied for, the difference will have to be accounted for through the general fund should the Council continue to approve the Juvenile Officer position in future years. The Juvenile Officer position is critical to Police Department operations and was included in the Fiscal Year 2022-23 Approved Budget as well as planned for in each year of the City's Long Range Plan. The amount allocated for operating expenses and equipment, vape sensor equipment for PUSD, is \$12,249. Should the Council approve the Resolution and enter into the MOU, the City would procure the vape sensor equipment for the Piedmont Unified School District and be reimbursed through the grant reimbursement process.

GRANT REQUIREMENTS

There is no requirement for matching funds associated with the grant. The City will be required to submit quarterly invoices (October 15, January 15, April 15, July 15) to the DOJ for reimbursement.

The attached agreement has been approved by City Attorney as to form and legality.

ATTACHMENTS

#1 – Resolution

#2 – MOU Between the City of Piedmont and the California Department of Justice

By: Jeremy Bowers, Chief of Police

RESOLUTION NO.

A RESOLUTION DESIGNATING AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE APPLICATIONS AND DOCUMENTS FOR THE PURPOSES OF ACCEPTING FUNDS FROM THE CALIFORNIA DEPARTMENT OF JUSTICE TOBACCO GRANT PROGRAM.

WHEREAS, the California Department of Justice Tobacco Grant Program requires that the City Council pass a resolution in order accept grant funding; and

WHEREAS, the City of Piedmont desires to accept the Tobacco Grant Program for grant years 2022, 2023, 2024, 2025, and 2026; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont does hereby resolve, declare, determine, and order as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Administrator is hereby authorized to execute and submit for and on behalf of the City of Piedmont applications and other related documents, including agreements amendments, extensions, and grant award documents, for the purpose of obtaining grant funding from the California Department of Justice Tobacco Grant Program.

SECTION 3. This authorization shall be in effect for the duration of the FY 2022-23, FY 2023-24, FY 2024-25, and FY 2025-26 grant periods.

[END OF RESOLUTION]

MEMORANDUM OF UNDERSTANDING

PURPOSE

This Memorandum of Understanding (“MOU”) is entered into by the Department of Justice (“Department”) and the City of Piedmont Police Department (“Grantee”), for the purpose of disbursing grant funds to Grantee for reimbursement of expenditures in compliance with the California Code of Regulations and the Fiscal Year 2022-23 Grantee Handbook.

Commencing January 1, 2023, the California Code of Regulations, Title 11, Division 1, Chapter 5: Department of Justice Tobacco Grant Program (“TGP Regulations”) shall govern the policies and procedures of the Tobacco Grant Program.

The TGP Regulations, Request for Proposals, Grantee Handbook (dated April 2022), and Summary of Award document are hereby incorporated by reference into this MOU. Grantee will expend funds for the purposes identified in the approved Summary of Award document. Reimbursements are to be funded under the California Healthcare, Research and Prevention Tobacco Tax Act of 2016, approved by the voters as Proposition 56.

COST REIMBURSEMENT

The Department agrees to reimburse Grantee in arrears, for Grantee’s actual expenditures in performing the project or scope of work included in the approved Summary of Award document. Reimbursements will be made upon receipt of invoices from Grantee and approval of the invoices by the Department, in accordance with the reimbursement procedures set forth in the TGP Regulations and Grantee Handbook.

BUDGET CONTINGENCY CLAUSE

It is mutually agreed, if the Budget Act of the current fiscal year and/or any subsequent years covered under the MOU does not appropriate sufficient funds, the MOU shall be of no further force and effect. In the event this situation occurs, the Department shall have no liability to reimburse/pay any funds to Grantee, or to furnish any other considerations under this MOU. As well, Grantee shall not be obligated to continue performing the provisions of this MOU, for which the Grantee would have been reimbursed.

If funding for any fiscal year is reduced or deleted in the Budget Act for purposes of this MOU, the Department shall have the option to either cancel this MOU with no liability occurring to the Department, or offer an addendum to the Grantee to reflect the reduced amount.

PROJECT BREACH-TERMINATION

Failure of a Grantee to comply with this MOU or the TGP Regulations shall be treated by the Department as a breach of contract. If an act of noncompliance occurs, the Department may take actions described within the TGP Regulations, including termination. The Department may terminate this MOU and be relieved of any obligation to disburse grant funds to Grantee should Grantee fail to perform the scope of work at the time and in the manner provided in this MOU.

MISCELLANEOUS PROVISIONS

Addendum – No addendum or variation of the terms of this MOU is valid unless made in writing, and signed by the duly authorized representatives of the parties.

Assignment – This MOU is not assignable by Grantee in whole or in part.

Indemnification – Grantee agrees to indemnify and hold harmless the Department, its officers, agents and employees from all claims, liabilities, or losses in connection with the performance of this MOU.

TERMS

Grant Duration: 1/1/2023 – 6/30/2026

Award Amount				
Category of Expenditure	Budget FY 2022- 2023	Budget FY 2023- 2024	Budget FY 2024- 2025	Budget FY 2025- 2026
Personal Services	\$95,208	\$131,494	\$136,174	\$34,992
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Administrative Costs (Not to Exceed 5%)	\$0	\$0	\$0	\$0
TOTAL AWARD AMOUNT	\$410,117			

The time limit for reimbursements against this award ends 6/30/2026. Requests for reimbursement received after 7/15/2026 cannot be considered by the Department.

GRANTEE CONTACT INFORMATION

Jeremy Bowers, Chief of Police
City of Piedmont Police Department
403 Highland Avenue
Piedmont, CA 94611
(510) 420-3010
jbowers@piedmont.ca.gov

AUTHORIZATION

The Department and Grantee, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU and any future addendums shall be e-mailed to TobaccoGrants@doj.ca.gov, care of the Division of Operations, Local Assistance Unit, Tobacco Grant Program, and will become fully executed upon completion of signatures from all parties.

NAME:

Title:

Agency:

Date_____
NAME:

Title:

Agency:

Date_____
NAME:

Title:

Agency:

Date

SHAYNA RIVERA, Grant Manager
Division of Operations
California Department of Justice

Date

STACY HEINSEN, Administrative Manager
Division of Operations
California Department of Justice

Date

CHRIS RYAN, Chief
Division of Operations
California Department of Justice

Date

Item #3 - Acceptance of Tobacco Grant from State of California
Correspondence received before 3:00 p.m. on Monday, February 6, 2023

PUSD School Board and City Council, with a cc to the PREC Policing Subcommittee and Chief Bowers:

I see that next Monday's City Council [meeting](#) will cover the Acceptance of the California Department of Justice Tobacco Grant in the Amount of \$410,117 (see [related staff report](#)). I'm unable to attend Monday's meeting and so am submitting my questions here.

Once again, we appreciate Chief Bower's ability to secure useful funds for the City. I understand these funds subsidize the salary for our Juvenile Resource Officer, who receives special training to support students and the school system. One would hope that any and all police officers would be appropriately capable of supporting students without any special training, but - alas - that's not where we are as a society.

Some of the concerns we raised in August 2021 (see appended email) and earlier still remain. I'll note that questions about transparency over the circumstances under which the PPD JRO is called into PUSD affairs came up in recent community conversations around the school's communications and handling of challenging student behavior.

In addition, the use of the vaping sensors is a type of surveillance. It should be listed as such under PUSD's surveillance policy (which in turn should be both updated and better publicized) and the list of surveillance tools used/funded by PPD. We should not normalize any type of surveillance. I expect we will also report out on its usage and efficacy.

Lastly, I believe some of the funds from our last round of this grant were used to supplement mental health resources at the High School. As I understand it, this is an area that continues to be underfunded. I hope that we can again divert some funding from this grant to mental health support and more education, which I suspect is more effective than these sensors, as well intended as they are.

Thank you for the consideration.

Kindly,
Susy Struble

----- Forwarded message -----

From: **Susy Struble**

Date: Fri, Aug 13, 2021 at 11:39 AM

Subject: Concerns about the Juvenile Officer grant

To: <schoolboard@piedmont.k12.ca.us>

Cc: Randall Booker <rbooker@piedmont.k12.ca.us>, Cheryl Wozniak
<cwozniak@piedmont.k12.ca.us>

School Board:

With the support of PUSD, the Piedmont Police Department recently submitted a new application under a Tobacco Grant program for a Juvenile Officer (JO) for Piedmont schools. Piedmont should soon learn if the application was approved.

As a community organization working to help Piedmont and its institutions change in order to create the healthy, just and equitable world we want, the Piedmont Racial Equity Campaign (PREC) cannot support continuation of this Juvenile Officer position. The program flies against national, state, and local advocacy criticizing the overreach of policing into our schools and demanding more investment in evidence-based health and wellness approaches to student needs. It also conflicts with PUSD's recently approved racial equity resolution and policy.

We recently spoke with Superintendent Randy Booker and Assistant Superintendent of Educational Services Cheryl Wozniak about the program. It was a productive conversation, but we remain unconvinced of the program's merits. In addition, we are concerned to hear that its management isn't covered by operating procedures to guide teachers and school administrators in working with law enforcement, beyond the few situations in which engaging law enforcement is required by law (e.g. "5150" calls for mental health safety concerns). For example, there are no requirements to publicly report data about calls to police, to report on which instances actually involved direct engagement with students, to periodically survey the student and parent population to learn more about the impact of PUSD's relationship with law enforcement, or any community oversight.

Beyond dire emergencies and legally mandated reporting situations, there is little justification for police in our schools. This is true regardless of training or whether the JO is not physically housed in the school. There is substantial research on school policing that points to the criminalization of certain student behavior, especially for BIPOC students, and suggests that policing does not actually increase student safety.

Should the funding for a Juvenile Officer be granted to Piedmont, we request that PUSD and the School Board ensure the following items are acted upon immediately:

- **Community Engagement:** PUSD and the Police Department should take the time to engage the community to better understand the community's needs and views on the program before the City Council's final vote on the grant. If needed, input from these conversations should also inform the next two actions.
- **Transparency:** Within three months of the grant's approval, PUSD and the Piedmont Police Department (PPD) should publish an MOU outlining their relationship as it pertains to student safety, including under what circumstances PUSD will contact PPD and how PPD will respond, a policy on use of force and de-escalation, and how quantitative and qualitative data will be collected and shared publicly. Community representatives from the Piedmont Anti-Racism and Diversity Committee, Piedmont Racial Equity Campaign, and PRAISE should be included in the creation of this MOU, as well as representatives from the student body.

- **Community Oversight:** Within three months of the grant’s approval, the City and PUSD should establish a community-led task force to review the PUSD and PPD relationship around student safety. The task force’s mandate should be to recommend evidence-based approaches for creating a “Student-Centered Ecosystem,” as noted in the Local Control and Accountability Plan (LCAP) goals, that’s aligned with the district’s commitment to the recently developed racial and equity plan, and should work with *all* stakeholders (e.g. students, faculty, Wellness Center, administrators, parents, police department). This task force should also:
 - Provide a plan to acquire more appropriate resources for the academic year 2022-2023. There are alternative funding sources beyond this grant, and funds from this grant can be applied directly to wellness programs, as was promised in 2019.
 - Establish ongoing community oversight of the program.

Thank you for hearing our position and considering our recommendations. We're available at your convenience to discuss any of this further.

And cheers to the 2021-2022 school year!

Sincerely,
PREC Steering Committee