

AGREEMENT
CITY OF FRESNO, CALIFORNIA
AND CENTRAL UNIFIED SCHOOL DISTRICT

THIS AGREEMENT is made and entered into effective the 1st day of July, 2018, by and between the City of Fresno, a California municipal corporation (CITY), and Central Unified School District (DISTRICT).

RECITALS

WHEREAS, DISTRICT recognizes that the Fresno Police Department's (FPD) assignment of a Student Resource Officer (SRO), whose position is described in **Exhibit A**, at the DISTRICT'S high schools and middle schools to perform regular duty law enforcement services is greatly beneficial to DISTRICT in assisting DISTRICT in providing its pupils with a campus that is safe, secure, and peaceful; and

WHEREAS, DISTRICT desires to contribute monies to CITY to offset 100% CITY'S operational costs for three SROs and a Sergeant position assigned in part, to oversee such SROs and thereby assist FPD in continuation of its practice of assigning a Student Resource Officer at certain DISTRICT high schools and middle schools; and

WHEREAS, CITY is willing to provide three SROs, and a Sergeant position assigned in part, to oversee such SROs to perform regular duty law enforcement services at DISTRICT high schools and middle schools subject to availability of such SROs.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained, to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Law Enforcement Services.

(a) CITY will provide three SROs and a Sergeant position assigned in part, to perform regular duty law enforcement services. One SRO will be assigned to the DISTRICT'S Central High School East Campus, located at 3535 N. Cornelia Avenue. The second SRO will be assigned to Pathway Community Day School, located at 11 S. Teilman, Pershing Continuation High School, located at 855 W. Nielsen, and El Capitan Middle School, located 4443 W. Weldon Ave., in Fresno. The third SRO is assigned to the two of DISTRICT middle schools, Rio Vista Middle School, located at 6240 W. Palo Alto, and Glacier Point Middle School, located at 4055 N. Bryan Ave., in Fresno. Assignment is during the schools' standard school year and normal hours of operation; subject, however, to the "availability" of the SRO. For purposes of this agreement, "availability" shall be in the sole determination of FPD's Chief of Police, or his/her designated representative, taking into consideration any factors including, without limitation, health of officer, shortage of manpower, funding, and duty assignment of officer(s) to higher priority matters. However, in specific instances of the SRO taking personal leave or FPD approved law enforcement training, another available police officer will be assigned temporarily at the schools during such leave or training.

(b) On an as-needed basis and subject to the availability of the SRO, DISTRICT may request such law enforcement services by the assigned officer on an overtime basis immediately after the schools' normal hours of operations and on a call-back basis at school functions later in the evenings and on weekends. For purposes of this Agreement, "availability" shall be the sole determination of FPD's Chief of Police, or his/her designated

representative, taking into consideration any factors including, without limitation, the SRO's personal availability, health of officer, shortage of manpower, funding, and duty assignment of officer to higher priority matters.

(c) In the event DISTRICT requires law enforcement services for school functions in evenings or on weekends in addition to, or due to the unavailability of the assigned SRO, then DISTRICT shall obtain such services under separate agreement with CITY for "Contract Law Enforcement Services" in accordance with Fresno Municipal Code section 2-1517.1, as it may be amended from time to time, and the applicable provisions of the then current Memorandum of Understanding between CITY and Fresno Police Officers Association (Non-Supervisory Police-Unit 4) as it may be amended from time to time.

(d) The parties agree that CITY retains control over assignments, wages, and other terms and conditions of employment by CITY of the officer. DISTRICT acknowledges that the officer is held to the requirements of the law and FPD policy. DISTRICT agrees that it shall not have authority to direct the officer's law enforcement activity. DISTRICT will immediately notify FPD of any concerns regarding such activity.

2. DISTRICT Contribution.

(a) DISTRICT shall offset one hundred percent (100%) of FPD's operational costs at CITY'S then current rates during the one-year term of this Agreement for the regular duty law enforcement services at DISTRICTS high schools and middle schools. District shall pay CITY the "Total Cost for Central Unified School District" for each respective fiscal year (July 1 through June 30). For purposes of this Agreement, "Operational Costs" include, but are not necessarily limited to: (i) the salary and benefits of the SROs and ten percent (10%) of such costs for the Sergeant assigned to supervise the SROs (including, without limitation, Medicare, medical insurance, uniform allowance, unemployment, pension, workers' compensation premium and POST Certificate Premium Pay), (ii) the operation and maintenance of two patrol vehicles, and (iii) administrative fees. Operational Costs for Fiscal Year 2019 are set forth in more detail in **Exhibit B**, which is incorporated by reference herein. By May 31st of each year during the term of this Agreement, or within 30 days after a change in the CITY's operational costs, CITY shall provide to DISTRICT in writing an updated Exhibit B reflecting the Operational Costs that comprise the "Total Cost for Central Unified School District" for the upcoming or affected fiscal year, and the updated Exhibit B shall become part of this Agreement and shall govern the respective fiscal year's payment obligations. DISTRICT shall pay CITY the amount set forth on Exhibit B as the "Total Cost for Central Unified School District" each year in two equal payments, on October 1 and March 1 of each year during the term of this Agreement. For Fiscal Year 2019, DISTRICT shall pay CITY four hundred thirty-three thousand four hundred forty-seven dollars and no cents (\$433,447.00) in two equal payments of two hundred sixteen thousand seven hundred and thirty-five dollars and no cents (\$216,723.50) on October 1, 2018, and March 1, 2019.

(b) DISTRICT shall reimburse CITY on an actual cost basis for any applicable overtime salary and benefits of the SROs. DISTRICT shall reimburse CITY for overtime pay monthly, in arrears, no later than 15 days upon receipt of an invoice from CITY. CITY shall be paid in accordance with the overtime and call-back rates then in effect at the time of performance as governed by the then current Memorandum of Understanding between CITY and Fresno Police Officers Association (Non-Supervisory Police-Unit 4) as may be amended (e.g., upon execution of this Agreement, overtime is paid at one and one-half times the base rate of pay, and call-back rates are a minimum of three hours at the rate of time and one-half).

(c) DISTRICT shall provide office space for the SROs at the following school site addresses: 3535 N. Cornelia, 855 W. Nielsen, 4443 W. Weldon, 6240 W. Palo Alto, and 4055 N. Bryan.

3. Term of Agreement. It is the intent of the parties that the term of this Agreement will begin July 1, 2018, and end on June 30, 2021, unless terminated earlier in accordance with this Agreement.

4. Termination of Agreement.

(a) DISTRICT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs, and damages, (whether in contract, tort, or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, DISTRICT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising directly or indirectly from the negligent or intentional acts omissions of DISTRICT or any of its officers, directors, trustees, employees, agents or volunteers in the performance of this Agreement, provided nothing herein shall constitute a waiver by DISTRICT of governmental immunities, including California Government Code Section 810 et seq.

(b) This Agreement may be terminated immediately by either party upon seven (7) calendar days prior written notice should the other party fail substantially to observe, fulfill, or perform any obligation, covenant, term, or condition in accordance with this Agreement. A party will have failed substantially to observe, fulfill, or perform any obligation, covenant, term, or condition of this Agreement, if such failure is not cured within such seven (7)-calendar day's prior written notice and this shall constitute a material default and breach of this Agreement. The party terminating the Agreement may exercise any right, remedy (in law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law, or proceed by appropriate court action to enforce the terms of the Agreement, or to recover direct, indirect, consequential or incidental damages for the breach of the Agreement.

(c) No remedy or election hereunder shall be deemed exclusive, but shall, wherever possible, be cumulative with all other remedies at law or in equity.

5. Indemnification.

(a) DISTRICT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, DISTRICT or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising directly or indirectly from the negligent or intentional acts or omissions of DISTRICT or any of its officers, directors, trustees, employees, agents, or volunteers in the performance of this Agreement, provided nothing herein shall constitute a waiver by DISTRICT of governmental immunities, including California Government Code Section 810 et seq.

(b) CITY shall indemnify, hold harmless and defend DISTRICT and each of its officers, directors, trustees, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, DISTRICT or any other person, and from any and all claims, demands and actions in law

or equity (including attorney's fees and litigation expenses), arising directly or indirectly from the negligent or intentional acts or omissions of CITY or any of its officers, officials, employees, agents, or volunteers in the performance of this Agreement, provided nothing herein shall constitute a waiver by CITY of governmental immunities, including California Government Code Section 810 et seq.

(c) In the event of concurrent negligence on the part of DISTRICT or any of its officers, directors, trustees, employees, agents, or volunteers, and CITY or any of its officers, officials, employees, agents or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs, and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

(d) This section shall survive expiration or termination of this Agreement.

6. Insurance. It is understood and agreed that DISTRICT and CITY maintain insurance policies or self-insurance programs to fund their respective liabilities. The parties agree that such respective programs or policy coverage for Workers' Compensation shall contain a waiver of subrogation as to the other party and each of its officers, officials, agents, employees, and volunteers. Evidence of Insurance, e.g., Certificates of Insurance or other similar documentation shall not be required of either party under this Agreement.

7. Nondiscrimination. Neither party shall employ discriminatory practices in their respective performance under this Agreement on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era.

8. Independent Contractor and Not a Partnership. For purposes of this Agreement, CITY and DISTRICT shall act in an independent capacity and not as officers or employees or agents of the other. Nothing in this Agreement establishes, constitutes, or will be construed as establishing or constituting a partnership or agency or employment relationship between CITY and DISTRICT. Officers providing services under this Agreement shall remain the employees of CITY, and shall not be employees of DISTRICT.

9. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally or deposited into the United States mail, with postage prepaid, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice.

10. Binding. Once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives.

11. Assignment. Neither party may assign or transfer, by operation of law or otherwise, all or any of its rights or obligations under this Agreement without the prior written consent of the other party.

12. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may

be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

13. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

14. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify, or add to the interpretation or meaning of the provisions of this Agreement.

15. Severability. The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

16. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties, and that should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

17. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

18. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, attached and incorporated into and made a part of this Agreement.

19. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

20. No Third Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

21. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both CITY and DISTRICT.

[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

CENTRAL UNIFIED SCHOOL DISTRICT

By: _____
Jerry P. Dyer, Chief of Police
Fresno Police Department

By: Kelly Porterfield,
Assistant Superintendent, CBO
Central Unified School District

ATTEST:
YVONNE SPENCE, CMC
City Clerk

APPROVED AS TO FORM
DOUGLAS T. SLOAN
City Attorney

By: _____
Deputy Date

By: John Hastrup Date
John Hastrup,
Deputy City Attorney

Addresses:

CITY: Fresno Police Department
Attention: Support Division
Support Division
2323 Mariposa Mall
Fresno, CA 93721

DISTRICT: Central Unified School District
Attention: Kelly Porterfield
Assistant Superintendent, CBO
4605 N. Polk Avenue
Fresno, CA 93722

Attachment:

Exhibit A – Position Description Exhibit B – Cost Breakdown for Police Services

Exhibit A

Position Description Student Resource Officer School Year 2018-2019

The Fresno Police Department Student Resource Officer (SRO) works under the direct supervision of the Fresno Police Department (FPD).

The basic duties of the SRO are to operate as a Peace Officer to assist site staff with crime and safety issues. Guidelines for SRO duties are as follows:

- Be a visible, active, and high profile police officer on a school campus. You are on campus to provide a presence to promote safety and positive relationships. The presence of a uniformed officer on campus gives the environment a feeling of safety and security.
- Provide a link between the school community and the FPD. Get to know the students and teachers. Interaction with staff and students is a high priority. If asked, help the teachers with material to help explain your job and the criminal justice system.
- Children need good role models. As an officer, this should be one of your goals. Help break down barriers between the police and the students.
- Walk the halls and common areas of the campus, particularly during times of high student movement to provide crime prevention and assist with student/staff safety.
- Detect and deter criminal activity, take reports of incidents, and refer matters of law enforcement concern to the appropriate authority. If it is a police matter, it should be referred to police supervision. A matter more closely aligned with school district issues should be referred to school administrative staff.
- Investigate crime and make safety recommendations to site staff. Work with the principal toward making the school safer for both yourself and the people on campus. Fit your activities into the goals of the site administration. Commitment to the goal of safe schools and good law enforcement should be your mission.

Exhibit B

Cost Breakdown of Police Services to the Central Unified School District (Effective July 1, 2018 – June 30, 2019)

FY 19 SRO Sergeant & Officers Costs

Last Name	First Name	Rank	Annual Salary and Fringe*	% Allocated to CUSD	Annualized Straight Time Cost to CUSD	Optional OT Rate**
LUJAN	LEONARD	Sgt	\$155,676	10%	\$15,568	\$ 77.14
FLORES	RON	Officer	\$132,353	100%	\$132,353	\$ 64.00
CHANDLER	SHEILA	Officer	\$132,353	100%	\$132,353	\$ 64.00
New SRO	Effective 08/01/18	Officer	\$132,353	100%	\$121,323	\$ 64.00
Total					\$401,597	

The above schedule provides the total salary and fringe for each Student Resource Officer assigned to the Central Unified School District (CUSD) for Fiscal Year 2019. The amount to be paid by CUSD is based on the percentage of salary and fringe stated for each officer, and the annualized straight time costs for a total of \$401,597.

Also noted is an optional overtime rate for each officer. The total overtime charges to CUSD will be based on the actual number of hours each officer is utilized.

Patrol vehicle lease cost \$10,800 per year, per vehicle. Total charges for three vehicles is 2 X \$10,800 = \$21,600 and one vehicle for eleven months \$9,900. Total \$31,500

Total Salary Costs for Period	\$ 401,597
Total Vehicle Costs for Period	\$ 31,500
Administrative Fee	\$ 350
 Total Cost for Central Unified School District	 \$ 433,447***

**Includes salary and all applicable benefits (including, without limitation, Medicare, health and welfare, uniform, pension, workers' compensation premium and POST Certificate Premium Pay that are actually provided during the respective year of this Agreement)*

*** Includes salary and Medicare*

**** The respective officer and sergeant costs shall be determined by the Fresno Police Department and shall be based upon the straight-time hourly wage rate, overtime hourly rate and vehicle operations and maintenance cost in effect July 1 for the respective year. The Administrative Fee shall remain \$350 for each year. The Fresno Police Department will notify Central Unified School District, in writing, of its determination by May 31st before the respective year.*