

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES (“**Agreement**”), effective as of October 28, 2021 (“**Effective Date**”), is made and entered into by and between POMONA UNIFIED SCHOOL DISTRICT, a public agency of the State of California (the “**District**”), and the CITY OF POMONA, a California charter city and municipal corporation (the “**City**”). The District and the City are referred to together as the “**Parties**” and each on its own as “**Party**.”

RECITALS

- A. The purpose of this Agreement is to establish a Pomona Resource Officer (“**PRO**”) program at the District to enhance the safe and positive learning environment at District schools.
- B. The District prioritizes the social well-being of its students by creating a strong, positive climate including strong relationships among students, parents, and teachers to positively resolve conflicts and enhance the learning environment for all District students.
- C. The Parties therefore desire to establish a procedural and programmatic working relationship between the City and the District for the development and implementation of the PRO program that enhances and prioritizes restorative justice practices as a means to respond to conflict and build relationships in an inclusive, nonpunitive manner, social-emotional curricular programs and other character education and behavior programs.
- D. The City desires to provide to the District, and the governing board of the District (“**Board**”) desires to receive from the City, the full-time services of two (2) PROs pursuant to the terms and conditions of this Agreement and in furtherance of the objectives and goals outlined herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the above recitals and of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Term.** This Agreement shall cover Services (as defined herein) performed during the period (the “**Term**”) from November 1, 2021 through June 30, 2023 (the “**Termination Date**”). This Agreement shall automatically terminate on the Termination Date, unless earlier terminated pursuant to **Section 15** hereof.
2. **Services; On-Site Practices.**
 - 2.1 As directed by the District, the City will provide certain services as required by the District including, without implied limitation, the following: the full-time services of two (2) PROs, as more particularly set forth in **Exhibit “A”** attached hereto and incorporated by reference herein (“**Services**”). In their performance of the Services, the PROs shall adhere to the on-site practices delineated in **Exhibit “B”** attached hereto and incorporated by reference herein (“**On-Site Practices**”).

- 2.2 The City's Chief of Police will determine those individuals best suited for the PRO assignment and advise the District of the eligible candidates. The Chief of Police agrees to consult with, and consider in good faith input from, the District in the selection of the officers to be assigned from the eligible candidates; such input may be comprised of **student and parent representation** as designated by the District in addition to any District administrator or personnel assigned for the selection of PROs.
- 2.3 The City will provide the Services to Superintendent Richard Martinez, or his successor, or his designee for this matter ("**District's Designee**"), who is currently Darren Knowles, Deputy Superintendent, Human Resources/Security Services, or his successor. The City's representative for purposes of this Agreement is the Chief of Police, Michael Ellis, or his successor.
- 2.4 The services performed by PROs under this Agreement are not intended to supplant those provided by existing District security personnel. The PRO program does not supplant or alter the existing District practice of hiring other security or City Police Department personnel for the purpose of policing special events; however, if the District has requested PRO presence at an event, or requested supplemental services to be provided by a PRO, the PRO may be used as one officer hired to police a special event at the PRO's assigned campus. The City is not liable for any claim, including but not limited to an unfair-practice claim, that is brought by District security personnel or their representatives relating to the District's use of the City to provide the Services.
- 2.5 The City will coordinate its efforts in providing the Services with the District's security personnel. The City will not, however, provide the District's security personnel with any training, instruction, tools or equipment in connection with the performance by the District's security personnel of their assigned duties. The District's security personnel will determine the methods, details and means of performing their duties independently of and without direction from the City and the PROs. Except to the extent of the City's negligence or acts or omissions as contributory or causal factors, the City will not be liable for the action or inaction of District security personnel.
- 2.6 Law enforcement personnel do not have a general right to access or receive student records information from the District regarding students, unless an exception applies under the Family Educational Rights and Privacy Act ("**FERPA**") and the California Education Code. However, in order to assist City in performing certain of the Services hereunder, the District may make available to the PROs certain limited student information as provided in, and limited by, **Exhibit "C"** attached hereto and incorporated by reference herein ("**Access to Limited Student Information**").

3. Responsibilities of the City; Training of PROs; Quarterly Reporting.

- 3.1 The PROs are prohibited from involvement in the enforcement of District school administrative rules and handling of other low-level behavior incidents.

- 3.2 During any law enforcement related incident on a District school campus, the PROs shall, to the greatest extent feasible under the particular circumstances as determined by the PRO utilizing his/her best professional judgment, consult the school principal or designee in the law enforcement decisions being made to resolve the incident.
- 3.3 During the Term of this Agreement and throughout the provision of the Services, the PROs assigned pursuant to this Agreement shall receive training from the City and/or the District on topics including restorative justice, trauma-informed practices, de-escalation, juvenile investigations, diversity, inclusion, and equity on an ongoing basis and as referenced in Exhibit “B”
- 3.4 The City shall be responsible for tracking relevant data in the course of the performance of the Services during the Term and provide the District with a quarterly report summarizing the following data and metrics:
- The number and nature of resource referrals made by the PROs for support services and/or school administration;
 - The number and nature of incidents resolved without arrest (e.g., admonishment or reprimand) with the parent or guardian present and those without;
 - The number and nature of arrests made;
 - The number and nature of school presentations and/or community presentations given in furtherance of the goals and objectives outlined in this Agreement;
 - The number and nature of crisis intervention responses; and
 - The number of non-criminal emergency responses (e.g., natural disaster, fire related, and/or medical related).

4. Remuneration.

- 4.1 The District will pay the City at the annual rate of One Hundred Ninety-Four Thousand Four Hundred Thirty-Eight Dollars (\$194,438) per each PRO; provided that, in no event shall the total amount payable pursuant to this Agreement during the Term exceed Six Hundred Forty-Eight Thousand One Hundred Twenty-Six Dollars and Sixty-Seven Cents (\$648,126.67) (“**Services Fee**”) for the Services covering the cost of two PROs. The Services Fee will be payable in twenty (20) equal monthly installments of Thirty-Two Thousand Four Hundred Six Dollars and Thirty-Three Cents (\$32,406.33), for the Term.
- 4.2 The City is not to be entitled to any other compensation or benefit from the District of any kind or type, including, without implied limitation, health insurance, pension, sick leave, or vacation.

- 4.3 The City will bill the District in duplicate for the Services rendered during each preceding month beginning on November 1, 2021, not to exceed Thirty-Two Thousand Four Hundred Six Dollars and Thirty-Three Cents (\$32,406.33) each month; and the District will pay the same upon presentation or within a reasonable time thereafter, but in no event may the period exceed thirty (30) days after presentation. The District Purchasing Department will issue a purchase order for billing purposes to cover this Agreement. The purchase order number must be shown on each invoice. If this Agreement covers more than one fiscal year, a new purchase order will be issued for each fiscal year.

5. Independent Contractor.

- 5.1 In connection with the performance of the Services, the City is an independent contractor to the District and not an officer, agent, or employee of the District. Consequently, the City will pay all personal state and federal taxes that are applicable as an independent contractor. As an independent contractor, the City is not covered under any policy held by the District relating to California workers' compensation, unemployment insurance or other employment-related laws.
- 5.2 The City will maintain the City's own office, facilities, and equipment; hire, fire, direct, and control the City's agents, employees, or other representatives at the City's sole discretion; and may be available to perform services for other school districts and the general public.
- 5.3 The District will not provide the City with any training or instructions (other than job specifications) or tools and equipment (other than occasional use of District facilities and equipment). Should the City require the use of the District's facilities and equipment, the City will coordinate with the District's Designee as to the specific times and uses in order to avoid any conflict of times and uses of such District facilities and equipment.
- 5.4 As an independent contractor performing the Services, the City will determine the methods, details, and means of providing the Services; however, upon request, the City will submit to the District an oral or written summary of the City's methods and detailed means of providing the Services.
- 5.5 The City will assume all ordinary expenses incurred in the performance of this Agreement, including, without implied limitation, document reproduction expenses and telephone charges. Services and expenses that are above the ordinary and may be required are not reimbursable unless previously authorized in writing by the District's Designee and covered by a specific addendum to this Agreement.
- 5.6 The City at all times remains solely responsible for the Services to be provided under this Agreement, regardless of whether the City chooses to employ any agent, employee, or other representative to perform Services; however, because of the City's special expertise and potential contact with students, the City may not subcontract, assign, or otherwise transfer any portion of the Services or this Agreement, or any

interest therein, without the prior written approval of the District's Designee, which is subject to the District's Designee's sole discretion. Any attempt to subcontract, assign, or otherwise transfer any portion of the Services or this Agreement without the District's Designee's prior written approval will be void and of no effect and permits the District to terminate this Agreement immediately.

- 5.7 The City will perform the Services under this Agreement in a skillful and competent manner, consistent with the standard generally recognized as being employed by professionals in the same discipline in the State of California. The City represents and maintains that the City is skilled in the professional calling necessary to perform the Services. The City warrants that all employees have sufficient skill and experience to perform the Services assigned to them. The City represents that the City and the City's employees have all licenses, certifications, permits, qualifications, and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals will be maintained throughout the Term of this Agreement. The City will perform, at its own cost and expense and without reimbursement from the District, any Services necessary to correct errors or omissions that are caused by the City's failure to comply with the standard of care provided for herein, and the City is fully responsible to the District for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from the City's errors and omissions.

6. Criminal Background Check.

- 6.1 The City and all of the City's employees will comply with all requirements related to fingerprinting set forth in California Education Code Section 45125.1 and all District Administrative Regulations related to Fingerprint Background Checks prior to any substantial contact with any students, including, without implied limitation, prior to coming onto the District's school grounds or having any contact with the District's students in locations other than District school grounds.
- 6.2 In accordance with California Education Code Section 45125.1, the City will conduct a criminal background check of its employees, and upon receipt of those criminal background checks, certify in writing to the District the following: "Neither the City nor any of its employees who are required by Section 45125.1 of the California Education Code to submit or have their fingerprints submitted to the California Department of Justice and who may come in contact with District's students have been convicted of a felony as defined in Section 45122.1 of the California Education Code."
- 6.3 Prior to the commencement of Services, the City will register with the California Department of Justice for subsequent offender notification of its employees who provide Services to the District's students. It is the City's responsibility prior to commencing Services and on an ongoing basis through the term of this Agreement, to provide the District with updated information and changes in status on employees in full and complete compliance with California Education Code Section 45125.1.

7. Ownership of Materials; Confidentiality.

- 7.1 All pre-existing data, materials and other intellectual property of the City that is provided to the District by the City in connection with the performance of this Agreement (collectively, “**City’s Pre-Existing Intellectual Property**”) remains the City’s property. The City hereby grants the District a perpetual license to use City’s Pre-Existing Intellectual Property for the District’s own internal use beyond the Term, so that the District will receive the full benefit of the Services provided hereunder and the consideration paid under **Section 3** of this Agreement.
- 7.2 All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, or Documents and Data (defined in **Section 7.4** below) that is either created by or provided to the City in connection with the performance of this Agreement will be held confidential by the City. The City acknowledges that such materials and Documents and Data may be protected by the attorney-client privilege, deliberative-process privilege, or official-information privilege, as well as the work-product doctrine. Except as otherwise provided in **Section 7.6** below, the City shall not use such materials and Documents and Data for any purpose other than the performance of the Services and shall not disclose any such materials or Documents and Data to any person or entity, other than a person or entity performing the Services on behalf of the City at all times subject to the City’s obligations under this **Section 7**, without the prior written consent of the District. Nothing furnished to the City that is otherwise known to the City or is generally known, or has become known, to the related industry is deemed confidential under this provision.
- 7.3 This **Section 7** does not prohibit either Party from disclosing information to the extent that disclosure is required by law, regulation, or court order, as long as the disclosing Party notifies the other Party promptly after becoming aware of such obligations and permits the other Party to seek a protective order or otherwise to challenge or limit such required disclosure before disclosure takes place.
- 7.4 Except as specifically provided above in **Sections 7.1, 7.2** and **7.3** of this Agreement, all plans, specifications, studies, drawings, estimates, data, text, sound recordings, graphics, audiovisual recordings, and other original works of authorship fixed in any tangible medium of expression now known or later developed, including works magnetically, digitally or otherwise recorded, transmitted or stored, that are subject to copyright protection under the Copyright Act of 1976 or otherwise, prepared by or on behalf of the City in the performance of this Agreement (collectively, “**Documents and Data**”), become the property of the District upon the completion of the Term of this Agreement, except that the City may retain copies of all such Documents and Data for its records. The City will maintain all Documents and Data in strict confidence and shall not disclose any Documents or Data, or copies thereof, to any person or entity other than the District’s legal counsel, unless City is required by law to disclose the documents or documents or data are part of a Investigative file. This Agreement creates a non-exclusive and perpetual license for the District to copy, distribute,

perform, display, use, modify, reuse, or sublicense any and all of City's Pre-Existing Intellectual Property embedded in the Documents and Data that are prepared or caused to be prepared under this Agreement (such embedded Pre-Existing Intellectual Property hereinafter referred to, collectively, as "**Licensed Intellectual Property**"). The City represents and warrants that the City has the legal right to license any and all Licensed Intellectual Property under this Agreement. The District may not be limited in any way in its use of the Licensed Intellectual Property at any time, provided that any such use not within the purposes intended by this Agreement is at the District's sole risk.

- 7.5 Except as specifically provided above in this **Section 7**, all ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to the City in connection with the performance of this Agreement must be held in strict confidence by the City. The City acknowledges that such materials and Documents and Data may be subject to the attorney-client privilege, deliberative-process privilege, and official- information privilege, as well as the work-product doctrine. Such materials and Documents and Data may not, without the prior written consent of the District, be used by the City for any purpose other than the performance of the Services. Nor may such materials or Documents and Data be disclosed to any person or entity that is not connected with the performance of the Services. Nothing furnished to the City that is otherwise known to the City or is generally known, or has become known, to the related industry may be deemed confidential.
- 7.6 Notwithstanding any other provision in this Agreement, either Party may disclose information to the extent that disclosure is required by law, regulation, or court order, as long as the disclosing Party notifies the other Party promptly after becoming aware of such obligations and permits the other Party to seek a protective order or otherwise to challenge or limit such required disclosure before disclosure occurs.
- 7.7 The City will not release photographs or films of District pupils or staff or use the District's name or insignia, photographs, or audiovisual recordings of the Services, or any publicity pertaining to the Services, online or in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of the District or unless required by law.
8. **Records.** In accordance with California Government Code Section 8546.7, the City is hereby advised that every contract involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000) is subject to examination and audit by the State Auditor for a period of three years after final payment under the contract as specified in the Government Code. The City will maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records must be clearly identifiable. During normal business hours, the City will allow a representative of the District to examine, audit, and make transcripts or copies of such records and any other documents created under this Agreement, unless such documents are part of an investigative file. The City will allow inspection of all work, data, documents, proceedings, and activities related to this Agreement,

except for documents part of an Investigative file for a period of three years from the date of final payment under this Agreement.

9. Insurance.

- 9.1 The District understands and agrees that the City is currently is self-insured with excess coverage in excess of Six Million Dollars (\$6,000,000). City must name the District as additional covered party, entitling them to recover under such policies for any loss sustained by them, their agents, and employees as a result of the negligent acts or omissions of the City. Neither the District's failure to obtain an additional covered party certificate from the City may be construed as a waiver of any of the required insurance provisions of this **Section 9**.
- 9.2 The workers' compensation insurance, if required by applicable law, must insure the City's obligations and liabilities under the workers' compensation laws of California, including, without implied limitation, employers' liability insurance in the limits required by the laws of California.
- 9.3 The automobile liability must have an each-occurrence limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage. The automobile insurance must be at least as broad as the latest version of the Insurance Office Business Auto Coverage form number CA 001, code 1 (any auto). The automobile liability policy must be endorsed to state that: (A) the District, its board members, superintendent, officers, employees, volunteers, agents and representatives shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the City or for which the City is responsible; and (B) the insurance coverage shall be primary insurance as respects the District, its Board members, superintendent, officers, employees, volunteers, agents, and representatives, or if excess, shall stand in an unbroken chain of coverage excess of the City's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its Board members, superintendent, officers, employees, agents and volunteers shall be excess of the City's insurance and shall not be called upon to contribute with it.
- 9.4 City shall procure and maintain for the duration of this Agreement sexual abuse and molestation liability insurance. Such insurance shall provide for limits of not less than Three Million Dollars (\$3,000,000) per occurrence, Six Million Dollars (\$6,000,000) in the aggregate.

10. Indemnity.

- 10.1 The City will indemnify, defend, and hold free and harmless the District, its elected and appointed Board members, superintendent, employees, volunteers, attorneys and agents from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged act, omission, or willful misconduct of the City, the City's officers, employees, agents and representatives

arising out of or in connection with the performance of the Services or this Agreement, including, without implied limitation, the payment of all consequential damages and attorneys' fees and other related costs and expenses, and notwithstanding any limits on the City's insurance coverage or benefits. The City will defend, at the City's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District, its elected and appointed Board members, superintendent, employees, volunteers, attorneys and agents. The City will pay and satisfy any judgment, award or decree that may be rendered against the District or its elected and appointed Board members, superintendent, employees, volunteers, attorneys and agents, in any such suit, action or other legal proceeding. The City will reimburse the District and its elected and appointed Board members, superintendent, employees, volunteers, attorneys and agents, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The City's obligation to indemnify is not restricted to insurance proceeds, if any, received by the District, its elected and appointed Board members, superintendent, employees, volunteers, attorneys and agents. .10.2 Except to the extent of the City's negligence or acts or omissions as contributory or causal factors, the City is not liable for claims arising from the negligence, willful misconduct, or any other act or omission of the District, and the District will defend, indemnify, and hold free and harmless the City against such claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any negligence, alleged act, omission, or willful misconduct of the District. If judgment is entered against the District and the City by a court of competent jurisdiction because of the concurrent active negligence of the Parties, liability will be apportioned as determined by the court. Neither Party may request a jury apportionment. All references to the City and the District in this paragraph include their respective board or council members, elected and appointed officials, employees, volunteers, attorneys, agents, and contractors.

10.2 The indemnification obligations of this **Section 10** survive the expiration or termination of this Agreement.

11. Delivery of Notices.

11.1 All notices permitted or required under this Agreement must be given to the respective Parties at the following address, or at such other address as the respective Parties provide in writing for this purpose:

CITY:

City of Pomona
 Attn: City Manager
 505 South Garey Avenue
 Pomona, CA 91766

DISTRICT:

Pomona Unified School District
 Attn: Assistant Superintendent/
 Chief Business Officer
 800 South Garey Avenue
 Pomona, CA 91766

City of Pomona
Attn: City Attorney
505 South Garey Avenue
Pomona, CA 91766

City of Pomona
Attn: Chief of Police
505 South Garey Avenue
Pomona, CA 91766

- 11.2 Such notice is deemed made as follows: when personally delivered, immediately; or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice is deemed adequate notice on the date actual notice occurred, regardless of the method of service.
12. **District's Right to Employ Other Providers.** The District reserves the right to employ other service providers in connection with the Services.
13. **Solicitation.** The City represents and warrants that the City has not employed or retained any company or person, other than a bona fide employee working solely for the City, to solicit or secure this Agreement. Further, the City represents and warrants that the City has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for the City, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this representation and warranty, the District may rescind this Agreement without liability.
14. **Conflicts of Interest.** The City may not engage in any activity that conflicts with, or has the appearance of conflicting with, the District. Notwithstanding any other provision contained herein, the District may immediately terminate this Agreement in the event it is determined by the District's Designee or the Superintendent of the District that a real or apparent conflict of interest exists that cannot be resolved. The City agrees to furnish to the District, upon request, a valid copy of a complete and accurate list of City's elected and appointed officials and the members of its management staff, as applicable, and to timely update said information as changes in such governance occur. The City will take reasonable action to avoid any actual or potential conflict of interest on behalf of itself or its employees providing Services hereunder.
15. **Termination.** Except as provided in this Agreement, this Agreement may be terminated by either Party, for any reason, during the Term of this Agreement by giving thirty (30) days' prior written notice to the other Party. Upon the effective date of termination of this Agreement: (i) the City may immediately cease providing Services hereunder; (ii) any and all payment obligations of the District for Services performed under this Agreement as of the date of termination will become due immediately, net thirty (30) days; and (iii) within thirty (30) days of such termination, the City shall refund to the District any advance deposits made by the District and the pro-rata amount of any prepaid fees attributable to the unexpired period of the Agreement or that are otherwise for Services not yet performed.

- 16. Continued Funding.** While it is the intent of the Parties to fulfill the respective requirements of this Agreement throughout the Term irrespective of fiscal years, the City and the District acknowledge that such is contingent on continued availability of funding in fiscal years subsequent to the fiscal year of Agreement execution.
- 17. Non-Discrimination.** The City represents and warrants that the City and the City’s officers, employees, agents and representatives comply with the following:
- 17.1 Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance;
 - 17.2 Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance;
 - 17.3 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap in any program or activity receiving federal financial funding;
 - 17.4 The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance; and
 - 17.5 All regulations, guidelines, and standards lawfully adopted under the above statutes by the United States Department of Education.
- 18. Prevailing Wages.** If the Services are being performed as part of an applicable “public works” or “maintenance” project, the City will keep fully informed of and in compliance with the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. (“**Prevailing Wage Laws**”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects as defined by the Prevailing Wage Laws. If the Services are being performed as part of an applicable “public works” or “maintenance” project, and if the total compensation is One Thousand Dollars (\$1,000) or more, the City will fully comply with the Prevailing Wage Laws. The applicable prevailing rates of per diem wages may be obtained from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations. In the alternative, copies of the prevailing rates of per diem will be on file at the District office. The City will make available to interested parties upon request copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform the Services, and will post copies at the City’s principal place of business and at the project site. The City indemnifies and will defend, with counsel chosen by the District, and hold the District, its Board members, superintendent, employees, volunteers, attorneys and agents and hold them free and harmless from any and all claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

19. **Compliance with Laws.** The City will keep fully informed of and in compliance with all local, state, and federal laws, rules and regulations in any manner affecting the provision of the Services, including all Cal/OSHA requirements, and will give all notices required by law. The City is liable for all violations of such laws and regulations in connection with providing the Services that are the result of its own action or inaction. If the City performs any work knowing it to be contrary to such laws, rules, and regulations and without giving written notice to the District, the City is solely responsible for all costs arising therefrom. The City will defend, indemnify, and hold the District, its Board members, superintendent, employees, volunteers, attorneys, and agents free and harmless, under the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.
20. **Licensing.** The City will, during the Term of this Agreement, obtain and maintain all licenses, certifications, permits, and approvals of whatever nature that are legally required to provide the Services.
21. **Governing Law: Venue.** This Agreement is governed by the laws of the State of California without regard to principles of conflict of laws. Venue for any lawsuit or claim arising out of or related to this Agreement lies exclusively in the County of Los Angeles. This Agreement is not governed by the Uniform Commercial Code. To the extent that there is to be delivery or performance of services under this Agreement, such services are not “goods” within the definition of the Uniform Commercial Code.
22. **Integration.** This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. Neither of the Parties has relied on any oral or written representation or oral or written information given to the Party by any representative of the other Party.
23. **Severability.** If one or more of the provisions of this Agreement are hereafter declared invalid or unenforceable by judicial, legislative or administrative authority of competent jurisdiction, then the Parties hereto agree that the invalidity or unenforceability of any of the provisions does not in any way affect the validity or enforceability of any other provisions of this Agreement, so long as the Agreement so modified preserves the basic intent of the Parties.
24. **Modification.** No change or modification of the terms or provisions of this Agreement may be deemed valid unless set forth in writing and signed by both Parties. If any actual or physical deletions or changes appear on the face of the Agreement, such deletions or changes are void and of no force or effect.
25. **Construction of Agreement.** This Agreement will be liberally construed to effectuate the intention of the Parties with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, neither this Agreement nor any uncertainty or ambiguity herein may be construed or resolved against either Party (including the Party primarily responsible for drafting and preparation of this Agreement), under any rule of construction or otherwise, it being expressly

understood and agreed that the Parties have participated equally or have had equal opportunity to participate in the drafting hereof.

26. **No Third-Party Benefit.** This Agreement, including, but not limited to, the indemnification provisions, and including any addendum hereto executed by the Parties, is for the benefit of the Parties only and does not create, nor is it intended to create, any benefit or liability to third parties.
27. **Public Record.** The Parties understand and acknowledges that under the California Public Records Act (“CPRA”), this Agreement is a public record subject to disclosure under the CPRA, and a Party has no obligation to provide written notification to the other Party prior to disclosure thereof as a result of a CPRA public records request or otherwise.
28. **Waiver.** A waiver of a default does not constitute a waiver of any other default, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party gives the other Party any contractual rights by custom, estoppel, or otherwise.
29. **Headings.** The headings of sections in this Agreement have been inserted for convenience of reference only and do not affect the interpretation of any of the provisions of this Agreement.
30. **Attorneys’ Fees.** In the event of any action or proceeding (including, without implied limitation, any bankruptcy proceeding) to enforce or construe any of the provisions of this Agreement, the prevailing party in any such action or proceeding is entitled to reasonable attorneys’ fees and costs.
31. **Further Assurances.** Each of the Parties hereto will execute and deliver any and all additional papers, documents and other assurances, and do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent and agreements of the Parties hereto.
32. **Assignment.** The City may not assign this Agreement or any interests therein without the prior written approval of the District. Any such attempt to assign or sublet this Agreement without District approval is invalid.
33. **Authority.** Each person signing this Agreement on behalf of a Party warrants that the person has the legal power, right, and authority to make this Agreement and bind that Party.
34. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which is deemed an original, but all of which together constitute the same instrument.
35. **Education Code Section 17604.** In accordance with California Education Code Section 17604, this Agreement is not valid or an enforceable obligation against the District until approved or ratified by motion of the governing board of District duly passed and adopted.

36. **APPROVED SIGNATURE.** THIS AGREEMENT IS NOT VALID OR AN ENFORCEABLE OBLIGATION AGAINST THE DISTRICT UNTIL SIGNED BY THE SUPERINTENDENT OR THE SUPERINTENDENT’S APPROVED DESIGNEE.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF POMONA
a municipal corporation

POMONA UNIFIED SCHOOL DISTRICT
a public agency of the State of California

By: _____
James Makshanoff, City Manager

Sandra Garcia, Assistant Superintendent/
Chief Business Officer

Attest: _____
Rosalia Butler, City Clerk

Approved by Board: _____

Approved as to Form:

Approved as to Form:

Sonia Carvalho, Best Best & Krieger LLP
City Attorney

MUNDELL, ODLUM & HAWS, LLP
General Counsel

Approved by City Council: _____

EXHIBIT "A"**Services**

1. The PROs' primary assignments are to work with District middle and high school communities in cluster school areas to help provide a safe and secure environment for all.
2. PROs will:
 - A. Spend a minimum of seventy-five percent (75%) of their daily shift time allocated to the performance of services under this Agreement in and around the middle and high school campuses or assigned cluster area schools.
 - B. Perform their law enforcement services under the supervision and control of the Pomona Chief of Police.
 - C. Perform services of a type and in a manner designed to promote safety in the learning environment in the District's middle and high school campuses.
 - D. Serve as an enhancement to other partnership efforts with the District, such as school truancy, parenting skills, and after-school youth programs.
 - E. Perform their duties in soft uniform, which will include safety equipment designated for use by sworn field personnel in accordance with Pomona Police Department policies and practice.
 - F. Provide services except when on paid leave or permitted absence, such as vacation or sick leave or as otherwise permitted herein.
 - G. Each provide services in shifts of no less than eight (8) hours, as determined by the City in consultation with the District's personnel in order to meet the District's needs in a particular week.
3. PROs may:
 - A. Conduct routine patrol activity in and around middle and high school campuses in their assigned cluster areas.
 - B. Conduct preliminary and follow-up investigations of crimes that occur on or near the District campuses.
 - C. Conduct all other tasks necessary or appropriate to carry out their assignments as PROs and not contrary to law or District Board policies or administrative regulations.
4. The City will:
 - A. Use its best efforts to ensure that the same person provides Services to the same school site cluster area, except when the person is on paid leave or otherwise absent.

- B. Use its best efforts, subject to provisions of relevant City personnel policies or labor agreement, to schedule PROs so that at least one of the two officers is on duty each day that school is in session and that each officer can be present during special school activities.
- C. Use its best efforts to coordinate the scheduling of PROs and the Cops 4 Kids program to provide the most complete coverage possible for the middle and high school cluster campuses and Cops 4 Kids events and activities.
- D. Establish and maintain a liaison between District personnel, Pomona Police Department personnel, and elements of the juvenile justice system.
- E. Serve as a resource to District employees, including administrators, faculty and security personnel, as well as students and their parents or guardians on all law enforcement-related issues including enhancing safety in and around school campuses, reducing juvenile crime and involvement with drugs and alcohol, gang related policing, crime prevention and investigations.
- F. Complete an evaluation of the PRO program on a bi-annual basis.

EXHIBIT “B”

On-Site Practices

- Prioritize restorative options for minor criminal offenses where appropriate and perform duties consistent with procedural justice.
- Restorative options for minor criminal offenses where appropriate (e.g., diversion program), and perform duties consistent with procedural justice concepts.
- Prioritize youth pre-arrest diversion programs as the primary option instead of the juvenile justice system, when appropriate.
- Foster relationships and mutual respect with students.
- Perform services based on fair and equitable treatment of all individuals carried out utilizing dignity and respect for everyone within our community.
- PROs are not responsible for school discipline matters that are routine in nature (e.g., dress code infractions, code of conduct violations, non-criminal contraband possession, etc.).
- PROs should seek to refer students, parents, and school administrators to experienced professionals who offer services that go beyond general basic advice and guidance the PRO may offer.
- For persons under the age of eighteen (18), PROs will adhere to all required notifications in accordance with state law, including Senate Bill 203 and Welfare and Institutions Code section 625.6. Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth seventeen (17) years of age or younger shall consult with legal counsel in person, by telephone, or by videoconference. The consultation may not be waived.

EXHIBIT “C”**Access to Limited Student Information**

1. Under the Agreement, the PROs provide the District with an assortment of services (“**Services**”) in a variety of roles at the District’s high schools and middle schools, including law enforcement officer, law-related educator, problem-solver, and community liaison, for the purpose of enhancing safety and the school climate in and around District school campuses and reducing juvenile crime and involvement with drugs, alcohol and gangs in the community. In support of student learning at District schools, the PRO program is coordinated with other partnership efforts of the District addressing school truancy, parenting skills, and after-school youth programs.
2. In connection with the PROs’ roles as educator, problem-solver, and community liaison and their cooperation in the District’s efforts regarding school truancy, parenting skills, and after-school youth programs, the District may provide the PROs with limited access solely to students’ school portraits and class schedules in order to assist the PROs in performing certain of the Services under the Agreement for the benefit of District schools and students.
3. Students’ school portraits and class schedules are “**education records**” subject to certain privacy protections under the provisions of the Family Educational Rights and Privacy Act (“**FERPA**”), at 20 U.S.C. 1232g, and accompanying regulations codified at 34 CFR Part 99. In order to ensure that District’s release of students’ school portraits and class schedules (hereinafter, the “**Limited Student Information**”) and the PROs’ use thereof complies with FERPA, the Parties will comply with the following provisions:
4. The District’s Obligations
 - A. The District will make available to each PRO, in electronic or print form, the Limited Student Information for any and all students enrolled at the District school to which the PRO is assigned, but solely for the purposes and subject to the restrictions described in **Section 5** below.
 - B. The District will ensure that the PRO remains at all times under the direct control of the District with respect to the use and maintenance of the Limited Student Information.
5. The City’s Obligations
 - A. The City agrees and warrants that the Limited Student Information provided to the PROs hereunder will be used by the PROs solely in their capacity as educators or school truant officers performing services that would otherwise be provided by District personnel
 - B. The City will ensure that the PROs do not use the Limited Student Information for law enforcement or other non-educational or non-school purposes.

- C. The City will ensure that the Limited Student Information is used solely by the PRO to whom it was provided by the District and is not redisclosed or made available to any other agency or individual, including law enforcement officers or other City personnel.
 - D. The City will ensure that any PRO to whom the District provides Limited Student Information at all times keeps the Limited Student Information on his or her person or in a secure location to prevent access by others to the Limited Student Information.
 - E. Notwithstanding the above, the PROs are entitled to use or disseminate to other law enforcement officers, public agency emergency personnel, or District personnel the Limited Student Information in the event of an emergency, but solely to the extent of and for purposes necessary to effectively respond to the emergency.
 - F. The City acknowledges and agrees that the indemnity provisions of **Section 10** of the Agreement apply to the City's performance of its obligations set forth in this **Exhibit "C"**.
6. Effect of This **Exhibit "C"**. The provisions of this **Exhibit "C"** constitute an integral part of the Agreement to which this exhibit is attached, and in the event of a conflict between the Agreement and this **Exhibit "C"**, the terms of this **Exhibit "C"** control. All other terms and conditions of the Agreement remain in full force and effect, except as modified by this **Exhibit "C"**.