

**MEMORANDUM OF UNDERSTANDING BETWEEN SAN BERNARDINO CITY
UNIFIED SCHOOL DISTRICT AND CERTAIN CHARTER SCHOOLS FOR
POLICE SERVICES**

THIS MEMORANDUM OF UNDERSTANDING (“Agreement”) is approved and entered into as of this first day of July, 2020 (“Effective Date”), by and between the SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT, a California public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California (the “District”) and charter schools in the District (referred to as “Charter School”).

RECITALS

WHEREAS, the Charter School occupies and operates its charter school program at certain real property, as more particularly described in the attached “Addendum”, attached hereto and incorporated herein by this reference (the “School Site”); and

WHEREAS, Charter School desires to use the services of the San Bernardino City Unified School District Police Department (“District Police”); and

WHEREAS, District is willing to grant to Charter School the use of services of the District Police, as defined below, in accordance with the terms and conditions of this Agreement; and

WHEREAS, the parties desire by this Agreement to provide for the terms and conditions for the use of the services of the District Police.

AGREEMENT

NOW, THEREFORE, the parties hereto for the consideration hereinafter expressed, covenant and agree as follows:

Section 1. Services. In consideration of the Service Fee, defined below, District Police shall provide the following services (“Services”) to the Charter School:

- Provide background checks on volunteers within one (1) month of receipt of application;
- Respond to calls from School Site;
- Respond to alarm calls from School Site;
- Provide training and community policing activities from time to time, as mutually agreed upon between the parties.

The aforementioned Services shall be provided in accordance with the Memorandum of Understanding between the District and the City of San Bernardino, dated December 5, 2014, as may be amended (“City MOU”), which is attached hereto as Exhibit “B.”

Section 2. Charter School Obligations. Charter School shall be required to

meet with District Police to review configuration of alarms and phone lines for alarms in order to begin receiving Services. Charter School shall be required to attend an orientation/training meeting with the District Police prior to commencement of Service. Charter School shall remain responsible for ensuring the security of the School Site through security policies and procedures, security systems and devices, including, but not limited to, locks, gates, and a monitored security system. The Charter School is required at all times to maintain the security of the School Site by the proper use of all such policies, procedures, security systems and devices.

Section 3. Service Fee. Charter School shall pay a service fee (“Service Fee”) of Eighty-One Dollars (\$81.00) per enrolled student, per year. Student count shall be based on current California Department of Education official enrollment counts. Charter School will be billed semi-annually with payments due semi-annually on September 1st and March 1st. In the event of any early termination Charter School shall not be entitled to any refund of any prepaid Service Fees. Payments not received by District within ten (10) days of becoming due, shall bear interest on the delinquent amount at the rate of ten percent (10%) per month from the date due until the date paid.

Section 4. Term. The term of this Agreement shall be for one (1) year from the Effective Date (“Term”), unless mutually extended in writing by both parties. This Agreement may be terminated immediately by District if Charter School is in material breach of the Agreement or upon the revocation, suspension or expiration for any reason of Charter School’s Charter.

Section 5. Indemnification. With the exception of any liability, claims, or damages caused by the negligence or willful misconduct of the District, the Charter School shall indemnify, hold harmless, and defend the District, its trustees, officers, employees and agents against and from any and all claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions and costs, including legal costs, attorney’s fees and expert witness fees, whether or not suit is actually filed, and/or any judgment rendered against the District, its trustees, officers, employees and agents, that may be asserted or claimed by any person, firm or entity for any injury, death or damage to any person or property occurring in, on or about the School Site after the Effective Date, arising from, or in connection with, the Charter School’s use of the School Site or from the conduct of its business, including conduct of its board of directors, administrators, employees, agents, representatives, volunteers, subcontractors, invitees, successors and/or assigns or from any activity, work, or other things done, permitted or suffered by Charter School in or about the School Site. Charter School’s obligation to defend the District and the other indemnitees identified herein is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions and/or costs. The provisions of this Section shall survive the termination or expiration of this Agreement.

Section 6. Governing Law. This Agreement shall be governed by the laws of the State of California with venue in San Bernardino County.

Section 7. Attorneys’ Fees. If any legal action is necessary to enforce any

of the terms or conditions of this Agreement, each party shall bear their own attorneys' fees.

Section 8. Entire Agreement; Amendment. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the date hereof. This Agreement may not be changed except in writing executed by both parties.

Section 9. Notices. Any notice, request, information or other document to be given hereunder to any of the parties by any other parties shall be in writing and shall be deemed given and served upon delivery, if delivered personally, or three (3) days after mailing by United States mail as follows:

If to District: San Bernardino City Unified School District
Attention: Ernestine Hopwood
Director of Charter School Operations
777 North F Street
San Bernardino, CA 92410
E-Mail: ernestine.hopwood@sbcusd.k12.ca.us

If to District Police San Bernardino City School Police Department
Attention: Joseph Paulino
Chief of Police
536 W. Baseline Street
San Bernardino, CA 92410

If to Charter School: (See Attached Addendum)
Attention: (See Attached Addendum)

Any party may change the address or persons to which notices are to be sent to it by giving the written notice that such change of address or persons to the other parties in the manner provided for giving notice.

Section 10. Official Representatives. The official representative for District shall be Ernestine Hopwood, Director of Charter School Operations, or her designee. The official representative for Charter School shall be the Director, Principal, CEO or his/her designee.

Section 11. Employees/Independent Contractors.

(a) For purposes of this Agreement, all persons employed by the District in the performance of services and functions with respect to this Agreement shall be deemed

employees of the District and shall not be considered an employee of the Charter School.

(b) Charter School shall have no authority to contract on behalf of District. It is expressly understood and agreed by both parties hereto that Charter School, while engaged in carrying out and complying with any terms of this Agreement, is not acting as an agent, officer, or employee of District.

Section 12. Assignment. Charter School shall not assign this Agreement.

Section 13. Nondiscrimination. In utilizing the Agreement, Charter School shall comply with all applicable non-discrimination laws and shall not discriminate against any person on account of race, color, religion, age, sex, marital status, mental or physical disability, gender, gender identity, gender expression, sexual orientation, genetic information, ethnicity, ethnic group identification, national origin or nationality, ancestry, or a perception that a person has any of these characteristics or that the person is associated with a person who has, or is perceived to have, any of these characteristics.

Section 14. Exhibits. The following appendix which is attached hereto is incorporated herein and made a part of this Agreement:

Exhibit A: Location and Description of School Site
Exhibit B: City MOU

Section 15. Recitals. The Recitals are incorporated into this Agreement as though fully set forth herein.

Section 16. Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other agreement between the District and Charter School. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

Section 17. Ambiguities not to be Construed against Drafting Party. The doctrine that any ambiguity contained in a contract shall be construed against the party whose counsel has drafted the contract is expressly waived by each of the parties hereto with respect to this Agreement.

Section 18. Days/Holidays. All references to days herein shall refer to calendar days unless otherwise noted. When performance of an obligation or satisfaction of a condition set forth in this Agreement is required on or by a date that is a Saturday, Sunday, or legal holiday, such performance or satisfaction shall instead be required on or by the next business day following that Saturday, Sunday, or holiday, notwithstanding any other provisions of this Agreement.

Section 19. Nonliability of Officials. No officer, member, employee, agent, or representative of the parties shall be personally liable for any amounts due hereunder, and

no judgment or execution thereon entered in any action hereon, shall be personally enforced against any such officer, official, member, employee, agent, or representative.

Section 20. Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement.

Section 21. Time of the Essence. Time is of the essence with respect to each of the terms, covenants, and conditions of this Agreement.

Section 22. Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

Section 23. No District Affiliation/Endorsement. Charter School shall not imply, indicate or otherwise suggest that Charter School's use and/or any related activities are connected or affiliated with, or are endorsed, favored or supported by, or are opposed by the District. No signage, flyers or other material may reference the District, any school name, logo or mascot without the District's prior written consent.

Section 24. Board Approval. This Agreement is not valid or an enforceable obligation against the District until approved or ratified by motion of both the District's Board of Trustees and Charter School's Governing Board, duly passed and adopted.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

DISTRICT: **SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**

By: _____

Its:

CHARTER SCHOOL: _____

By: _____

Its:

Exhibit “A”

Description of School Site

Addendum to
Memorandum of Understanding
Between the
San Bernardino City Unified School District
and the
City of San Bernardino

Purpose: To add, in addition to events on or near (generally within 1,000 feet of) school campuses within the City of San Bernardino, to also include the following Charter Schools and their physical addresses:

Ballington Academy
799 East Rialto Ave.
San Bernardino, CA 92408

Entrepreneur High School
26655 Highland Ave.
Highland, CA 92346

iEmpire Academy
2050 Pacific Street
San Bernardino, CA 92404

New Vision Middle School
26655 Highland Ave.
Highland, CA 92346

PAL Charter Academy
2450 Blake Street
San Bernardino, CA 92407

Savant Preparatory Academy
1885 East Lynwood Drive
San Bernardino, CA 92404

SOAR Charter Academy
198 West Mill Street
San Bernardino, CA 92408

No other changes to the existing MOU between the City of San Bernardino and the San Bernardino City Unified School District other than the addition of the above school sites.

Each year, the District will provide the City of San Bernardino an updated list of charter schools that have entered into an MOU with San Bernardino City School District for Police Services.

Eric McBride, Chief of Police
San Bernardino, Police Department

Joseph Paulino, Chief of Police
San Bernardino City Unified School District

Date: _____

Date: _____

Exhibit “B”

City MOU

**Memorandum of Understanding
between the
San Bernardino City Unified School District
and the
City of San Bernardino**

Purpose

To clarify the working relationship and facilitate open lines of communication between the City of San Bernardino (hereafter referred to as "City") and the San Bernardino City Unified School District (hereafter referred to as "District") as well as to acknowledge the District's responsibility regarding events on or near (generally within 1,000 feet of) school campuses within the City of San Bernardino.

Background

By virtue of Education Code Section 39670 and Penal Code Section 830.32, sworn members of the District's Police Department are peace officers with authority/jurisdiction anywhere in the State of California in relation to the duties of their employment. Additionally, the District's Police Department is approved by the California Commission on Peace Officer Standards and Training (POST). The District's Police Department complies with Department of Justice (DOJ) reporting guidelines for those crimes investigated by the Department.

The San Bernardino City Unified School District's Board of Education established the District's Police Department to be the responding agency with respect to incidents/crimes occurring on property belonging to, adjacent to or under the control of the School District at any time of the day or night, as well as:

- Incidents/Crimes committed by or against students of this District, having a nexus to school attendance or activities, occurring within the boundaries of the District during school hours, and
- Incidents/Crimes committed by or against students of this District while those students are directly en route between their residence and their school of attendance or school activities.

Jurisdiction of Investigations

The District's Police Department will normally conduct investigations on all incidents/crimes falling within their jurisdiction, including:

- Processing of routine crime scenes
- Arrest, transport and booking
- Collection, preservation and storing of evidence
- Filing of cases with the District Attorney's office and/or Probation

As the primary law enforcement agency of the City of San Bernardino, the City's Police Department will, upon notification by the District's Police Department, become the primary agency on any incident/crime requiring resources beyond those the District's Police Department is able to provide. Examples include:

- Murder
- Officer-involved shootings
- Crimes against children
- Sexual assault cases

Cooperation on High-Risk Police Operations

Recognizing that the District has year-round classes and evening activities, the City's Police Department will notify the District's Police Department of any high risk operations that may involve or impact a school site. Examples of such incidents include service of warrants, hazardous material spills, stakeouts, barricaded subject scenes, etc. Specifically, City's Police Department and District's Police Department agree to the following:

- Recognizing that District may have a contingent of police officers who could be on a school campus at any hour of the day or night, City's Police Department will make a concerted effort to notify District's Police Department before beginning any tactical operation that may impact a school site or district property at any time.
- City's Police Department will notify District's Police Department as soon as practical when it has a high risk (known or reasonably suspected potential for violence or injury) tactical police operation within a one block radius of a city school campus. Consideration will be given to school children entering the tactical operation area en route to or from school.
- District's Police Department will identify a liaison to coordinate with City's Police Department as needed during the duration of the tactical operation.
- District's Police Department will determine and communicate with City's Police Department regarding what population/activities may be present on impacted school grounds and will assist with securing and safeguarding those sites.
- District's Police Department will be responsible for notifying the appropriate official at the impacted school(s), who will take appropriate action to lessen any potential risk to staff and students.
- District's Police Department or any other school employees/administrators notified of the operation will maintain the confidentiality of the police operation until its completion or until otherwise notified.
- City's Police Department will advise District's Police Department upon completion of the operation or when the potential impact on schools is eliminated.

Mutual Aid / Communication

Officers of both departments will provide mutual aid to the extent practical in all appropriate situations. Both departments agree to exchange reports and any information that may be mutually beneficial to facilitate investigations and other police functions. City's Police Department and District's Police Department will share information as reasonably possible

regarding juvenile suspect/arrest information. An effort will especially be made to share information related to suspects or offenses when such information may help to protect the safety of students, school personnel or school campuses. Each agency will be responsible for internal distribution and confidentiality of any information released to them.


Mutual Indemnification Clause

The City of San Bernardino shall defend, indemnify, and hold harmless the San Bernardino City Unified School District, the District Police Department, its officers, employees and agents from and against any and all liability, loss, expense, attorneys fees, or claims for injuries or damages arising out of the performance of this agreement, but only in proportion to, and to the extent that, such liability, loss, expense, attorneys fees, or claims for injuries or damages are caused by or are the result of the negligent or intentional acts or omissions of the City of San Bernardino, its officers, agents or employees.


The San Bernardino City Unified School District shall defend, indemnify, and hold harmless the City, its elected officials, appointed officials, boards, commissions, officers, employees, and agents from and against any and all liability, loss, expense, attorneys fees, or claims for injuries or damages arising out of the performance of this agreement, but only in proportion to and to the extent that, such liability, loss, expense, attorneys fees, or claims for injuries or damages are caused by or are the result of the negligent or intentional acts or omissions of the San Bernardino City Unified School District, its officers, agents or employees.

Duration and Scope of Agreement

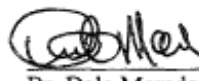
This memorandum of understanding will remain in effect until or unless amended or terminated by either agency. Either party to this MOU may terminate it at any time and for any reason. Written notice of termination shall be provided no less than ten days prior to the effective date of termination. This agreement shall supercede and invalidate any and all preceding agreements between these two agencies.



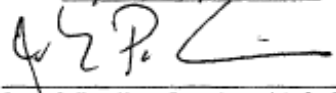
Allen Parker, City Manager
City of San Bernardino
Date: 11/3/14



Jarrod Burguan, Chief of Police
San Bernardino Police Department
Date: 11-25-14



Dr. Dale Marsden, Superintendent
San Bernardino City Unified School District
Date: 12-2-14



Joseph Paulino, Interim Chief of Police
San Bernardino City Unified School District
Police Department
Date: 12/5/14

Approved as to form:



Gary Saenz, San Bernardino City Attorney

