

**AGREEMENT BETWEEN THE CITY OF NEWPORT BEACH
AND THE NEWPORT-MESA UNIFIED SCHOOL DISTRICT
TO PARTICIPATE IN THE SCHOOL RESOURCE OFFICER PROGRAM**

THIS AGREEMENT FOR SCHOOL RESOURCE OFFICER PROGRAM ("Agreement") is made and entered into as of this 1st day of July, 2019 ("Effective Date") by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and NEWPORT-MESA UNIFIED SCHOOL DISTRICT, a political subdivision of the State of California ("District"), whose address is 2985 Bear Street, Costa Mesa, CA 92626 and is made with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California and the Newport Beach City Charter.
- B. District is a political subdivision of the State of California located in Orange County, California, and is organized and exists pursuant to the laws of the State of California.
- C. District is in need of special services available through the School Resource Officer Program (the special services are described in Section 2 and are referred to collectively as the "Services").
- D. District is authorized to enter into this Agreement pursuant to the laws of the State of California.
- E. City employs sworn peace officers specially trained, experienced and competent to provide the Services and City is willing to provide Services to District on the terms and in the manner provided in this Agreement.
- F. This Agreement is not intended to modify any program or service provided by City to District as of the Effective Date except as expressly provided.

AGREEMENT

NOW THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date and shall expire on June 30, 2020 unless extended pursuant by written agreement of the parties or terminated as specified in Section 7.

2. CITY SERVICES

2.1 Services- General. City will provide three (3) full time sworn peace officers with the Newport Beach Police Department to function as School Resource Officers (Officers). The School Resource Officers shall perform services under the supervision and control of the Newport Beach Chief of Police (Chief of Police). The type and manner of performance of the Services should be consistent with the expressed goals and objectives of the District. The Services contemplated by this Agreement are limited to the District schools located within the City, including Newport Harbor High School (“NHHS”), Corona Del Mar High and Middle Schools (“CDMHS/MS”), Ensign Middle School, and any District elementary schools in the City in need of SRO presence.

2.2 Services- Mandatory. City shall perform the following services:

2.2.1 Establish and maintain a liaison between District personnel, Newport Beach Police Department personnel, and elements of the juvenile justice system.

2.2.2 Serve as a resource to District employees such as administrators, faculty and security personnel as well as students and their guardian(s) on all law enforcement-related issues including crime prevention and investigation.

2.2.3 Assign one Officer to NHHS, one Officer to CDMHS/MS, and one Officer to cover the high schools when the designated high school Officer is not on duty. The cover Officer is based at Ensign Middle School and will also serve District elementary schools within the City as needed. These Officer assignments are subject to change in the discretion of the Chief of Police.

2.3 Services- Discretionary. City may, in the sole discretion of the Officers and/or their supervisor, perform the following services:

2.3.1 Conduct patrol activity in and around NHHS, CDMHS/MS, Ensign Middle School, and District elementary school campuses within the City.

2.3.2 Conduct preliminary and follow-up investigations of crimes that occur on or near the NHHS, CDMHS/MS, Ensign Middle School, and District elementary schools within the City.

2.3.3 Spend a minimum of seventy-five percent (75%) of their time allocated in this Agreement in and around their assigned campus, where an Officer is assigned to a particular high school.

2.3.4 Act and work as school officials and assist the Superintendent, principals, faculty, and staff in enforcing the campus code of conduct and other school rules in order to maintain a safe learning environment. When it pertains to preventing a disruption that would, if ignored, place students, faculty, and staff at risk of harm, the Officers will work to resolve the problem to preserve the school climate. In all other cases, disciplining students is a District responsibility, and the Officers will intervene

and take students who violate the code of conduct to the school principal, or designee, where school discipline can be meted out.

2.3.5 To the extent that the District chooses to secure the services of Officers from the Newport Beach Police Department, the Officers are considered designated school officials for student records purposes and shall have access to students' education records when there is a legitimate educational interest in the records. Pursuant to the Federal Educational and Rights and Privacy Act of 1974 (FERPA), the Officers are prohibited from re-disclosing a student's educational record or knowledge learned from the student's educational record to any other outside sources, including the local police department, unless the disclosure meets an exception to FERPA's disclosure/re-disclosure prohibition.

2.4 Services- Security. The Services performed by Officers pursuant to this Agreement are not intended to supplant those provided by existing District security personnel. District may request security services from City pursuant to other provisions of this Agreement.

3. DISTRICT DUTIES

3.1 In addition to other duties specified in this Agreement, District shall do the following:

3.1.1 **Staff Liaison.** District will designate its Director of Student and Community Services, or an alternate as designated by the Superintendent, as a liaison to the NBPD to facilitate communication between District personnel and the Officers as well as to coordinate the Officers' involvement with District activities and events.

3.1.2 **District Personnel - Cooperation.** District personnel shall cooperate with the Officers to facilitate their performance of Services pursuant to this Agreement.

4. OPERATIONAL PROCEDURES

4.1 Uniformed Officers. The Officers will perform their duties in full police uniform. This uniform will include safety equipment designated for use by sworn field personnel pursuant to Newport Beach Police Department policy or practice.

4.2 Services- Timing. City shall provide the three (3) Officers to District four (4) days a week and ten (10) hours each day. City shall use its best efforts to ensure that Services are provided to the same campus by the same person except when he/she is on paid leave or otherwise absent. Subject to provisions of relevant City personnel policies or labor agreement, City shall use its best efforts to schedule the Officers' time off to coincide with weekends/school holidays. City shall also use its best efforts to schedule Officers so that at least one of the three (3) Officers is on duty each day that school is in session and that each Officer can be present during special school activities.

5. FUNDING

5.1 Funding of Personnel. District shall pay City fifty percent (50%) of the total compensation paid to the three (3) Officers by City. The term "total compensation" includes salary and benefits as those exist on the Effective Date and as modified from time to time during the term of this Agreement. The Officers current Employee Benefit Analysis is attached hereto as a reference only as Exhibit A and incorporated herein by reference.

5.2 Funding- Supplemental Services. District may request City provide additional services (services in addition to those performed during the normal four (4) day, ten (10) hour work week) by an Officer during evening or weekend events such as PTA meetings, Back-to-School nights, Open House(s), sporting event(s), dance(s), prom(s) or other District-sponsored events. City shall use its best efforts to provide the requested services by the Officer assigned to the campus at which the event or activity is scheduled. District shall pay City all costs that City incurs in providing additional services as requested by the District representative, with the understanding that City is generally required to pay Officers at least one and one-half (1 ½) times their regular rate of pay for overtime.

5.3 District Payments. District shall pay its share of the total compensation of the three (3) Officers within thirty (30) days of receipt of invoices submitted quarterly (ninety (90) days after the initial invoice). District shall pay for supplemental services within thirty (30) days of receipt of an invoice from City.

6. SPECIAL PROVISIONS

6.1 Selection of Officer. The Chief of Police will determine those individuals best suited for the assignment and advise the District of the eligible candidates. The Chief of Police shall select the Officers to be assigned from the eligible candidates (or from other qualified staff, should no one express an interest), after consideration of any input from the District representative.

6.2 Special Events. The School Resource Officer Program shall not supplant or alter the existing District practice of hiring Newport Beach Police Department personnel for the purpose of policing special events. However, if the District has requested the Officer's presence at an event, or requested supplemental services to be provided by the Officer, he/she may be used as one officer hired to police a special event at his/her assigned campus.

6.3 Grant Administrative Requirements. The City and District will be responsible for their own respective grant monies received, if any, including all administrative duties and responsibilities. This includes receipt and disbursement of funds, financial reporting, and grant management issues.

7. TERMINATION

District or City may terminate this Agreement without cause any time subsequent to one hundred twenty (120) days after the Effective Date, by giving ninety (90) days written notice to the other Party. In the event of termination, District shall compensate City for Services performed to the date of termination. City shall continue to provide Services after notice to terminate and during the ninety (90) day notice period unless District, in the notice, requests City not perform Services. The notice shall be deemed given when personally delivered to the District or City representative or three (3) days after the date the notice is deposited in the United States mail, first-class postage prepaid, and addressed to the appropriate representative as specified in this Agreement.

8. INDEMNIFICATION

8.1 District Obligations. District agrees to defend, indemnify and hold City, its elected and appointed officials, officers, and employees harmless against and from any and all losses, claims, actions, damages, expenses or liabilities, including reasonable attorney's fees, to which City may become subject in connection with District's negligence related to the scope of District's activities pursuant to this Agreement. This Agreement does not, however, extend to claims or actions that result from the negligence of the City, its elected and appointed officials, officers, and employees. District assumes workers' compensation liability for injury or death of its officers, agents, employees and volunteers, and assumes no workers' compensation responsibility for the City.

8.2 City's Obligations. City agrees to defend, indemnify and hold District, its officers, agents, employees and volunteers harmless against and from any and all losses, claims, actions, damages, expenses or liabilities, including reasonable attorney's fees, to which District may become subject in connection with City's negligence related to the scope of City's activities pursuant to this Agreement. This Agreement does not, however, extend to claims or actions that result from the negligence of the District, officers, agents, employees and volunteers. City assumes workers' compensation liability for injury or death of its elected and appointed officials, officers, and employees, and assumes no workers' compensation responsibility for the officers, agents, employees and volunteers of the District.

9. ASSIGNMENT

This Agreement may not be assigned or transferred by either Party without the express written consent of the other Party.

10. NOTICE/REPRESENTATIVES

The City and District have designated the following representatives to receive notices and act in their agency's behalf in the administration of this Agreement:

City:

Chief of Police
Newport Beach Police Department
870 Santa Barbara Drive
Newport Beach, CA 92660

District:

Superintendent of Schools
Newport Mesa Unified School District
2985 Bear Street
Costa Mesa, CA 92626

11. NO THIRD PARTY BENEFICIARY

This Agreement, including, but not limited to, the indemnification provisions, 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.

12. STANDARD PROVISIONS

12.1 Recitals. City and District acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.

12.2 Compliance with all Laws. District shall at its own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted.

12.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

12.4 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

12.5 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and any attachments attached hereto, the terms of this Agreement shall govern.

12.6 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

12.7 Amendments. This Agreement may be modified or amended only by a written document executed by both District and City and approved as to form by the City Attorney.

12.8 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

12.9 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

12.10 Equal Opportunity Employment. District represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, age or any other impermissible basis under law.

12.11 No Attorney's Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorney's fees.

12.12 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

**APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY**
Date: _____

CITY OF NEWPORT BEACH,
A California municipal corporation
Date: _____

By: _____
Aaron C. Harp
City Attorney

By: _____
Diane B. Dixon
Mayor

ATTEST:
Date: _____

DISTRICT: NEWPORT-MESA UNIFIED
SCHOOL DISTRICT, a political
subdivision of the State of California
Date: _____

By: _____
Leilani I. Brown
City Clerk

By: _____
Timothy D. Holcomb
Assistant Superintendent and Chief
Operating Officer

Approved or ratified by the Newport-Mesa
Unified School District Board.

Date: _____

[END OF SIGNATURES]

Attachments: Exhibit A: School Resource Officer Employee Benefit Analysis

Exhibit A

**City Of Newport Beach
School Resource Officer Employee Benefit Analysis
Fiscal Year 2019-20 Budget Projection**

Police Association (PA)^[1]

	Gary Clemente Police Officer 13304			Adam Dudash Police Officer 20031			Sabrina Fabbri Police Officer 20025		
	Annual	Monthly	Hourly	Annual	Monthly	Hourly	Annual	Monthly	Hourly
Salary ^[1]									
Base Salary	119,219	9,935	57.32	113,552	9,463	54.59	107,060	8,922	51.47
Scholastic (% of base salary)	8,941	745	4.30	6,245	520	3.00	5,888	491	2.83
Cert Pay - Advanced POST	6,259	522	3.01	5,961	497	2.87	-	-	-
Holiday (Max 3.7 hrs/pay period)	5,555	463	2.67	5,291	441	2.54	5,039	420	2.42
Total Salary	139,974	11,665	67.30	131,049	10,921	63.00	117,987	9,832	56.72
Fringe Benefits ^[1]									
Cafeteria Allowance	18,288	1,524	8.79	18,288	1,524	8.79	18,288	1,524	8.79
Medical Allowance	1,652	138	0.79	1,652	138	0.79	1,652	138	0.79
Medicare (1.45%)	2,376	198	1.14	2,243	187	1.08	2,050	171	0.99
Retiree Health Savings (RHS)	1,620	135	0.78	-	-	-	-	-	-
Life Insurance	105	9	0.05	105	9	0.05	105	9	0.05
EAP	21	2	0.01	21	2	0.01	21	2	0.01
PA Deferred Comp City Contribution	1,943	162	0.93	1,851	154	0.89	1,745	145	0.84
Compensated Absences (3.5% of base salary)	4,173	348	2.01	3,974	331	1.91	3,747	312	1.80
PERS EE Contribution Safety	12,697	1,058	6.10	11,893	991	5.72	12,389	1,032	5.96
PERS EE Contribution Safety Giveback	(19,186)	(1,599)	(9.22)	(17,972)	(1,498)	(8.64)	(16,046)	(1,337)	(7.71)
PERS ER Safety Retirement	26,791	2,233	12.88	25,096	2,091	12.07	22,407	1,867	10.77
PORAC Retirement Trust	1,200	100	0.58	1,200	100	0.58	1,200	100	0.58
Uniform Allowance (PERSable)	1,100	92	0.53	1,100	92	0.53	1,100	92	0.53
Total Benefits	52,779	4,398	25.37	49,452	4,121	23.77	48,658	4,055	23.39
Total Compensation	192,753	16,063	92.67	180,501	15,042	86.78	166,645	13,887	80.12

Notes:

[1] PERS UAL no longer included in PERS Safety Retirement