

## AGREEMENT FOR CROSSING GUARDS

THIS AGREEMENT entered into on the \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Merced, a California Charter Municipal Corporation, whose address of records of 678 W. 18th Street, Merced, California (hereinafter referred to as "City"), and the Merced City School District, a public school district of the State of California, whose address of records is 444 W. 23rd Street, Merced, California (hereinafter referred to as "District").

### WITNESSETH

WHEREAS, the District and the City recognize the importance of crossing guards to the safety of students walking to and from school; and

WHEREAS, the District is willing to hire, employ and pay Crossing Guards for the provision of such services; and

WHEREAS, the City is willing to reimburse the District for a portion of the Crossing Guard expense; and

WHEREAS, the Crossing Guard program is essential for the safety of students in the Merced area.

NOW THEREFORE, the parties hereto in consideration of the mutual covenants herein cited agree as follows:

SECTION 1. Scope of Services. This Agreement defines the cost reimbursement and specific responsibilities for the School Crossing Guard Program. The funds provided by the City to the District shall be used to provide school crossing guard services at the locations and times determined by the District for the geographic areas described in Attachment A, which is attached hereto and incorporated herein.

SECTION 2. Term. The term of this Agreement shall be from July 1, 2015 through June 30, 2018. This Agreement may be extended annually by mutual agreement between the City and the District.

SECTION 3. Employment. The school crossing guards shall be employees of the District. Except as provided for in Section 4 below, the District shall be solely responsible for the Crossing Guard program, including, but not

limited to the hiring, supervision, scheduling, and day-to-day management of the employees within the Crossing Guard program. The District shall establish the wages, hours and working conditions of said crossing guards. District shall also be responsible for providing appropriate supplies, equipment and uniforms.

SECTION 4. Training. The City and the District shall share responsibility for training Crossing Guards under this program. The City and the District will share responsibility for developing a training plan. Each year, the City and the District shall each provide an employee to facilitate and conduct Annual Crossing Guard Training.

SECTION 5. Payment. The City shall reimburse the District for a portion of the cost of the Crossing Guard Program in the amount not to exceed Twenty-Six Thousand and Twenty Four Dollars (\$26,024) per fiscal year (July 1 to June 30) during the term of this Agreement, unless a different amount is otherwise agreed to in writing and appropriately authorized by the parties hereto.

In each fiscal year, upon receipt of a request for payment and any supporting documentation by the City Finance Department, the City will process the request for payment and endeavor to make such payments within thirty (30) days.

SECTION 6. Indemnification. District agrees to defend, indemnify, protect and hold City and its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries (including death) to any person or property, including injury to District's employees, agents, or officers which arise from or are connected with or are caused or claimed to be caused by the acts or omissions of District and its agents, officers, and employees, in conducting school crossing guard services.

SECTION 7. Assignment. Assignment of this Agreement will only be permitted upon receipt of the express written consent of the City and District.

SECTION 8. Alterations. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

SECTION 9. Notices. All notices required to be sent pursuant to this Agreement shall be delivered by either first class mail, return receipt requested, and properly addressed with the correct postage fully paid thereon, or by personal

delivery to the individuals designated below at the address designated below.

City: City Clerk  
City of Merced  
678 West 18th Street  
Merced, California 95340

District: Greg Spicer, Assistant Superintendent  
Merced City School District  
444 West 23rd Street  
Merced, California 95340

SECTION 10. Interpretation. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in a state court in the County of Merced. The use of the singular herein includes the plural, and the use of the neuter herein includes the masculine and/or feminine, as the context may require. The captions of the Sections and Subsections of this Agreement are for convenience only and shall not be considered nor referred to in resolving questions of interpretation and construction.

SECTION 11. No Presumption Re Drafter. The parties hereto acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties and their attorneys, and this document reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore no presumption for or against validity or as to any interpretations hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this document.

SECTION 12. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and District or their agents, employees or contractors. It is expressly understood that the Crossing Guards are not employees of the City and do not have any contractual relationship with the City. Except as either party may specify in writing, neither party shall have the authority to act as an agent of the other party or to bind the other party to any obligation.

SECTION 13. Non-Liability of Officials. No member, official, employee or agent of City or District shall be personally liable to the other party in the event of any default or breach by City or District or for any amount which may become due to City or District or their successor or on any obligation under the term of this Agreement.

SECTION 14. No Third Party Beneficiaries. The parties hereto intend not to create rights in, or to grant to any third party as a beneficiary of the Agreement.

SECTION 15. Invalidity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

SECTION 16. Entire Agreement. This Agreement is a fully integrated agreement that contains the complete, final, and entire agreement and understanding of the parties hereto. This Agreement supersedes and replaces all negotiations, and all proposed agreements, whether oral or written, between the parties hereto regarding, arising out of, or relating to the subject matter hereof. Each party acknowledges that it has read this Agreement and has signed it freely and voluntarily without reliance on any representations or promises made by any of the other, or their attorneys or its representatives, other than as expressly set forth within this Agreement.

SECTION 17. Waiver. Any waiver by either party of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by either party to take action on any breach or default of the other party or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to either party to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligation under this Agreement. Consent by either party to any act or omission by the other party shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the other party's written consent to future waivers.

SECTION 18. Counterparts. This Agreement may be executed in counterparts and when each party has signed and delivered at least one such counterpart to the other parties hereto, each counterpart shall be deemed an original, and all counterparts taken together will constitute one and the same Agreement, which will be binding and effective as to the City and District. No

counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other party to this Agreement is in the physical possession of the party seeking enforcement thereof.

SECTION 19. Authority to Execute. Each party hereto expressly warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of his/her/their governmental entity and warrants and represents that he/she/they has/have the authority to bind his/her/their entity to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED  
A California Charter Municipal Corporation

BY: \_\_\_\_\_  
City Manager

ATTEST:  
STEVE CARRIGAN, CITY CLERK

BY: \_\_\_\_\_  
Assistant City Clerk

APPROVED AS TO FORM:

BY: Kelly Fincher 3/9/14  
City Attorney Date

ACCOUNT DATA:

*[To be entered by Requesting Department]:*

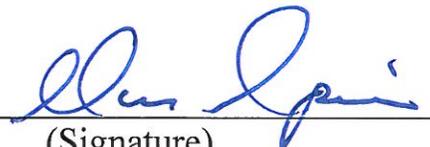
Account No.: 001-1008-522-17-00

Amount: \$26,024.00

VERIFIED:

BY: \_\_\_\_\_  
Finance Officer

“DISTRICT”  
MERCED CITY SCHOOL DISTRICT,  
A public school district

BY:   
(Signature)

\_\_\_\_\_  
Greg Spicer  
Assistant Superintendent  
District Representative

Taxpayer I.D. No. \_\_\_\_\_

ADDRESS: 444 W. 23rd Street  
Merced, California 95340

TELEPHONE: (209) 385-6376

# Merced City School District – Elementary Schools (Boundary Map)

