

# AGREEMENT

THIS AGREEMENT is made and entered into this 29th day of January, 2019, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and FRESNO UNIFIED SCHOOL DISTRICT, whose address is 2309 Tulare Street, Fresno, CA 93721 hereinafter referred to as "SCHOOL." COUNTY and SCHOOL may be collectively referred to herein as "Parties" or in the singular as "Party."

## WITNESSETH:

WHEREAS, SCHOOL desires to secure law enforcement services from the COUNTY, through the Fresno County Sheriff-Coroner-Public Administrator's (SCPA) Office, at Wawona Middle School, located at 4524 N. Thorne Ave., Fresno, CA 93704 (referred to herein as the "Premises"); and

WHEREAS, COUNTY agrees to render such law enforcement services at the Premises on the terms and conditions hereinafter set forth, and SCHOOL agrees to pay COUNTY the cost of performing such services at the Premises at the rates and under the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties hereto agree as follows:

### 1. SERVICES PROVIDED BY COUNTY

A. General Law Enforcement Services: COUNTY agrees its SCPA's Office will provide, within the limitations of this Agreement, law enforcement services consisting of one Deputy Sheriff as set forth in Exhibit A, attached hereto and incorporated herein by this reference, for up to 1,500 hours of services. Duties to be performed by the Deputy Sheriff include intervention, prevention, education, and law enforcement activities at the Premises during normal school hours and operations, between August 13, 2018, and June 30, 2019.

B. Special Events Services: SCHOOL acknowledges, agrees, and represents that SCHOOL events that require law enforcement services which occur or take place outside of normal school operations and hours, which are authorized by permit at the Premises, are not included in the General Law Enforcement Services set forth in 1.A. and are instead "Special Events Service(s)." SCHOOL shall notify SCPA' at least thirty (30) days in advance of the need for any such Special Events

1 Service(s) if and when SCHOOL desires COUNTY to provide law enforcement services at such an  
2 event. In the event COUNTY provides Special Events Service(s), such services may include  
3 intervention, prevention, education, and/or law enforcement activities that are agreeable between  
4 COUNTY and SCHOOL. The Fresno County SCPA or her/his designee, acting on behalf of the  
5 COUNTY, is authorized to agree to provide some or all, to or decline to provide any, of the Special  
6 Events Service(s) requested by SCHOOL. Special Events Service(s) are chargeable to SCHOOL at the  
7 rates identified in Exhibit A.

8 C. The performance of General Law Enforcement Services and Special Event  
9 Services, including the standards of performance, the discipline of officers, and all other matters incident  
10 to the performance of law enforcement services and the control of law enforcement personnel, shall be  
11 the right and responsibility of COUNTY. In the case of dispute between the Parties as to the extent,  
12 duties, or functions to be rendered under this Agreement, or the minimum level or manner of such  
13 performance of such services, the determination made by the COUNTY, through its SCPA, or her/his  
14 designee, shall be final and conclusive.

15 2. TERM

16 This Agreement shall become effective on the 13<sup>th</sup> day of August, 2018 and shall terminate on the  
17 30<sup>th</sup> day of June, 2019.

18 3. TERMINATION

19 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be  
20 provided hereunder, are contingent on the approval of funds by the appropriating government agency.  
21 Should sufficient funds not be allocated, the services provided may be modified, or this Agreement  
22 terminated, at any time by giving the SCHOOL thirty (30) days advance written notice.

23 B. Breach of Contract - The COUNTY may immediately suspend or terminate this  
24 Agreement in whole or in part, where in the determination of the COUNTY there is:

- 25 1) An illegal or improper use of funds;
- 26 2) A failure to comply with any term of this Agreement;
- 27 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 28 4) Improperly performed service.

1 C. Without Cause - Under circumstances other than those set forth above, this  
2 Agreement may be terminated by either party (COUNTY or SCHOOL) upon the giving of thirty (30) days  
3 advance written notice of an intention to terminate to the other party.

4 4. COMPENSATION/INVOICING:

5 A. SCHOOL shall pay COUNTY the cost of performing General Law Enforcement  
6 Services at the Premises, as set forth in Section 1.A, above, at the applicable rate for such services as  
7 delineated in Exhibit A. SCHOOL will compensate COUNTY for a total of 1,500 hours of General Law  
8 Enforcement Services, to be paid over ten (10) payments for one-hundred-fifty (150) hours per payment. In  
9 addition, SCHOOL shall pay COUNTY for Special Events Service(s), as set forth in Section 1.B., above, as  
10 agreed upon by COUNTY and SCHOOL, at the applicable rate for such services as delineated in Exhibit A.

11 B. As indicated in Exhibit A, the hourly rates to be charged by COUNTY, and  
12 subsequently paid by SCHOOL, are the rates set forth in the County's Master Schedule of Fees, Charges,  
13 and Recovered Costs, Section 2609, subdivision (a), for Regular (i.e. General Law Enforcement Services)  
14 and Overtime (i.e. Special Law Enforcement Services) rates, in place at the time the services are provided.  
15 The parties agree that if and when the Master of Schedule of Fees, Charges, and Recovered Costs,  
16 Section 2609, subdivision (a), is amended, changed, or revised, in any way that changes the rates being  
17 charged for the services identified in this Agreement, that the new rates will be charged by COUNTY, and  
18 paid by SCHOOL, for any services provided pursuant to this Agreement, from the date of the amendment,  
19 change, or revision, going forward. The parties further agree that if and when the Master of Schedule of  
20 Fees, Charges and Recovered Costs is amended, changed, or revised, in any way that changes the rates  
21 being charged for the services identified in this Agreement, such amended, changed, or revised rate will  
22 automatically and without any notice to SCHOOL be incorporated into this Agreement, replacing any  
23 contrary or conflicting rate, from the effective date of the amendment, change, or revision in the rate(s), and  
24 will become the new rate to be paid by SCHOOL to COUNTY for services provided, from the effective date  
25 of the rate change forward. The parties acknowledge that the County's Master Schedule of Fees,  
26 Charges, and Recovered Costs is subject to change.

27 C. COUNTY shall submit monthly invoices to SCHOOL and SCHOOL shall pay  
28 COUNTY within thirty (30) calendar days of receipt of any such invoice. At the expiration or termination

1 of this Agreement, COUNTY may, in the discretion of SCPA or her/his designee, submit a final invoice  
2 for all amounts then unpaid, including any remaining, unpaid portion of the 1,500 hours of General Law  
3 Enforcement Services, and SCHOOL shall pay the full amount of this final invoice within thirty (30) days  
4 of receipt thereof. Any payment made more than 30 days after receipt of an invoice may result in  
5 contract termination or service reduction, in the sole discretion of the Fresno County SCPA, without any  
6 penalty or recourse against COUNTY.

7       5.     INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations  
8 assumed by COUNTY under this Agreement, it is mutually understood and agreed that COUNTY, including  
9 any and all of the COUNTY'S officers, agents, and employees will at all times be acting and performing as  
10 an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,  
11 employee, joint venturer, partner, or associate of the SCHOOL. Furthermore, SCHOOL shall have no right  
12 to control or supervise or direct the manner or method by which COUNTY shall perform its work and  
13 function. However, SCHOOL shall retain the right to administer this Agreement so as to verify that  
14 COUNTY is performing its obligations in accordance with the terms and conditions thereof.

15       SCHOOL and COUNTY shall comply with all applicable provisions of law and the rules and  
16 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

17       The Parties shall be solely liable and responsible for providing to, or on behalf of, their employees  
18 all legally-required employee benefits. In addition, Parties shall be solely responsible and save the other  
19 Party harmless from all matters relating to payment of each Party's employees, including compliance with  
20 Social Security withholding and all other regulations governing such matters.

21       6.     MODIFICATION: Any matters of this Agreement may be modified from time to time by the  
22 written consent of all the parties without, in any way, affecting the remainder.

23       7.     NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement nor  
24 their rights or duties under this Agreement without the prior written consent of the other party.

25       8.     HOLD HARMLESS: COUNTY agrees to indemnify, save, hold harmless, and at SCHOOL'S  
26 request, defend the SCHOOL, its officers, agents, and employees from any and all costs and expenses  
27 (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to  
28 SCHOOL in connection with the performance, or failure to perform, by COUNTY, its officers, agents, or

1 employees under this Agreement, and from any and all costs and expenses (including attorney's fees and  
2 costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who  
3 may be injured or damaged by the performance, or failure to perform, of COUNTY, its officers, agents, or  
4 employees under this Agreement.

5 COUNTY agrees to indemnify, save, hold harmless, and at SCHOOL's request, defend the  
6 SCHOOL, its officers, agents and employees from any and all costs and expenses (including attorney's  
7 fees and cost), damages, liabilities, claims, and losses occurring or resulting to SCHOOL in connection with  
8 the performance, or failure to perform by COUNTY, its officers, agent, or employees under this Agreement,  
9 and from any and all costs and expenses (including attorney's fees and cost), damages, liabilities, claims,  
10 and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the  
11 performance, or failure to perform, of COUNTY, its officers, agents, or employees under this Agreement.

12 In the event of concurrent negligence on the part of COUNTY or any of its officers, agents or  
13 employees, and SCHOOL or any of its officers, agents, or employees, the liability for any and all costs and  
14 expenses (including attorney's fees and cost), damages, liabilities, claims, and losses occurring or resulting  
15 shall be apportioned under the State of California's theory of comparative negligence as presently  
16 established or as may be modified hereafter.

17 9. INSURANCE

18 Without limiting either party's right to obtain indemnification from the other or any third parties, each  
19 party, at its sole expense, shall maintain in full force and effect, the following insurance policies or a  
20 program of self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers  
21 Agreement (JPA) throughout the term of the Agreement, as applicable.

22 A. Commercial General Liability

23 Commercial General Liability Insurance with limits of not less than Two Million Dollars  
24 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This  
25 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including  
26 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal  
27 liability or any other liability insurance deemed necessary because of the nature of this Agreement.

1                   B.     Automobile Liability

2                   Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars  
3 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto  
4 used in connection with this Agreement.

5                   C.     Professional Liability

6                   If SCHOOL employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in providing  
7 services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per  
8 occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

9                   D.     Worker's Compensation

10                  A policy of Worker's Compensation insurance as may be required by the California Labor  
11 Code.

12                  E.     Molestation

13                  Sexual abuse / molestation liability insurance (including but not limited to corporal  
14 punishment liability, sexual abuse and molestation liability, and child abduction liability) with limits of not  
15 less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual  
16 aggregate. This policy shall be issued on a per occurrence basis.

17                  Additional Requirements Relating to Insurance

18                  Each party shall obtain endorsements to the Commercial General Liability insurance naming the  
19 other party, its officers, agents, and employees, individually and collectively, as additional insured, but only  
20 insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall  
21 apply as primary insurance and any other insurance, or self-insurance, maintained by the additionally  
22 insured party, its officers, agents and employees shall be excess only and not contributing with the primary  
23 insurance provided herein. Each party's insurance shall not be cancelled or changed without a minimum of  
24 thirty (30) days advance written notice given to the other party.

25                  Each party hereby waives its right to recover from the other party, its officers, agents, and  
26 employees any amounts paid by each party's policy of worker's compensation insurance required by this  
27 Agreement. Each party is solely responsible to obtain any endorsement to such policy that may be  
28 necessary to accomplish such waiver of subrogation, but each party's waiver of subrogation under this

1 paragraph is effective whether or not a party hereto actually obtains such an endorsement.

2        Within Thirty (30) days from the date each respective party signs and executes this Agreement,  
3 each respective party shall provide certificates of insurance and endorsement as stated above for all of the  
4 foregoing policies, as applicable, to the other party at the addresses set forth in Section 11, below, stating  
5 that such insurance coverage have been obtained and are in full force; that each respective party, its  
6 officers, agents and employees will not be responsible for any premiums on the other party's policies; that  
7 such Commercial General Liability insurance names the other party, its officers, agents and employees,  
8 individually and collectively, as additional insured, but only insofar as the operations under this Agreement  
9 are concerned; that such coverage for additional insured shall apply as primary insurance and any other  
10 insurance, or self-insurance, maintained by the additional insured, its officers, agents and employees, shall  
11 be excess only and not contributing with the primary insurance provided herein; and that this insurance  
12 shall not be cancelled or changed without a minimum of thirty (30) days advance, written notice given to the  
13 other party.

14        In the event either party fails to keep in effect at all times insurance coverage as herein provided,  
15 the other party may, in addition to other remedies it may have, suspend or terminate this Agreement upon  
16 the occurrence of such event.

17        All policies shall be issued by admitted insurers licensed to do business in the State of California,  
18 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A  
19 FSC VII or better.

20        10.    AUDITS AND INSPECTIONS: The SCHOOL shall at any time during business hours, and  
21 as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its  
22 records and data with respect to the matters covered by this Agreement. The SCHOOL shall, upon request  
23 by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure  
24 SCHOOL'S compliance with the terms of this Agreement.

25        If this Agreement exceeds ten thousand dollars (\$10,000.00), COUNTY and SCHOOL shall be  
26 subject to the examination and audit of the Auditor General for a period of three (3) years after final  
27 payment under contract (Government Code Section 8546.7).  
28

1           11.    NOTICES: The persons and their addresses having authority to give and receive notices  
2 under this Agreement include the following:

3                    COUNTY

4                    Fresno County Sheriff-Coroner-Public  
5                    Administrator  
6                    2200 Fresno Street  
7                    Fresno, CA 93721  
8                    Attention: Business Office  
9                    FAX No.: 559-488-3348

SCHOOL

                    Fresno Unified School District  
                    2309 Tulare St.  
                    Fresno, CA 93721  
                    Attention: Ruth F. Quinto  
                    Deputy Superintendent/CFO  
                    FAX No.: 559-457-6202

          All notices between the COUNTY and SCHOOL provided for or permitted under this Agreement  
must be in writing and delivered either by personal service, by first-class United States mail, by an overnight  
commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal service  
is effective upon service to the recipient. A notice delivered by first-class United States mail is effective  
three COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the  
recipient. A notice delivered by an overnight commercial courier service is effective one COUNTY business  
day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery  
instructions given for next day delivery, addressed to the recipient. A notice delivered by telephonic  
facsimile is effective when transmission to the recipient is completed (but, if such transmission is completed  
outside of COUNTY business hours, then such delivery shall be deemed to be effective at the next  
beginning of a COUNTY business day), provided that the sender maintains a machine record of the  
completed transmission. For all claims arising out of or related to this Agreement, nothing in this section  
establishes, waives, or modifies any claims presentation requirements or procedures provided by law,  
including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,  
beginning with section 810).

          12.    GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall  
only be in Fresno County, California.

          The rights and obligations of the parties and all interpretation and performance of this Agreement  
shall be governed in all respects by the laws of the State of California.

          13.    DISCLOSURE OF SELF-DEALING TRANSACTIONS

          This provision is only applicable if the SCHOOL is operating as a corporation (a for-profit or non-



1 profit corporation) or if during the term of the agreement, the SCHOOL changes its status to operate as  
2 a corporation.

3       Members of the SCHOOL's Board of Directors shall disclose any self-dealing transactions that  
4 they are a party to while SCHOOL is providing goods or performing services under this agreement. A  
5 self-dealing transaction shall mean a transaction to which the SCHOOL is a party and in which one or  
6 more of its directors has a material financial interest. Members of the Board of Directors shall disclose  
7 any self-dealing transactions that they are a party to by completing and signing a Self-Dealing  
8 Transaction Disclosure Form, attached hereto as Exhibit B and incorporated herein by reference, and  
9 submitting it to the COUNTY prior to commencing with the self-dealing transaction or immediately  
10 thereafter.

11       14.    ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the  
12 SCHOOL and COUNTY with respect to the subject matter hereof and supersedes all previous Agreement  
13 negotiations, proposals, commitments, writings, advertisements, publications, and understanding of any  
14 nature whatsoever unless expressly included in this Agreement.

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year  
2 first hereinabove written.

3  
4 **FRESNO UNIFIED SCHOOL  
DISTRICT**

5   
6 (Authorized Signature)

7  
8 Ruth F. Quinto  
Deputy Superintendent/CFO

9 2309 Tulare St.,  
10 FRESNO, CA 93721

11 Mailing Address

**COUNTY OF FRESNO**

  
Nathan Magsig, Chairman of the Board of  
Supervisors of the County of Fresno

**ATTEST:**

Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

12  
13  
14  
15  
16 By: Susan Bishop  
Deputy

17 **FOR ACCOUNTING USE ONLY:**

18 ORG No.: 31113965  
19 Account No.: 4975  
20 Requisition No.: N/A

21  
22  
23 **APPROVED AS TO FORM**

24   
25 Andrew De La Torre, Executive Director  
26 Benefits & Risk Management  
27  
28

**"Exhibit A"**

**I. General Law Enforcement Services, One Deputy**

SCHOOL agrees to pay COUNTY for providing General Law Enforcement Services under Sections 1.A and 4 of the Agreement, as follows:

COUNTY will provide one Deputy Sheriff, at the then current rate (i.e. the rate listed at the time the service is provided) listed in the Master Schedules of Fees Charges, and Recovered Costs, Section 2609, subdivision (a), for a Deputy Sheriff III at the "Regular" hourly rate. SCHOOL acknowledges that these rates are subject to change, as delineated in the Agreement. The total amount of the General Law Enforcement Services to be provided and paid for, and the manner of invoicing, is depicted in the Agreement.

**II. Special Events Services**

SCHOOL agrees to pay COUNTY for providing Special Event Service(s), under Sections 1.B and 4 of the Agreement, as follows:

At the current rate (i.e. the rate listed at the time the service is provided) in the Master Schedule of Fees, Charges, and Recovered Codes, Section 2609, subdivision (a), a Deputy Sheriff III at the "Overtime" hourly rate, per hour, per Deputy, and SCHOOL acknowledges that these rates are subject to change, as delineated in the Agreement. Invoicing provisions are as per the invoicing provisions in the Agreement.

1 **Exhibit B**

2 **SELF-DEALING TRANSACTION DISCLOSURE FORM**

3 In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of  
4 a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-  
5 dealing transactions that they are a party to while providing goods, performing services, or both for the  
County. A self-dealing transaction is defined below:

6 *"A self-dealing transaction means a transaction to which the corporation is a party and in which one or*  
7 *more of its directors has a material financial interest"*

8 The definition above will be utilized for purposes of completing this disclosure form.

9 **INSTRUCTIONS**

10 (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.

11 (2) Enter the board member's company/agency name and address.

12 (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a  
13 minimum, include a description of the following:

14 a. The name of the agency/company with which the corporation has the transaction; and

15 b. The nature of the material financial interest in the Corporation's transaction that the board  
member has.

16 (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of  
17 the Corporations Code.

18 (5) Form must be signed by the board member that is involved in the self-dealing transaction described  
19 in Sections (3) and (4).

<b>(1) Company Board Member Information:</b>			
<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			
<b>(2) Company/Agency Name and Address:</b>			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):</b>			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):</b>			
<b>(5) Authorized Signature</b>			
<b>Signature:</b>		<b>Date:</b>	