

RESOLUTION NO. 5634-22

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE TIGARD-TUALATIN SCHOOL DISTRICT NO. 23J RELATED TO THE SCHOOL RESOURCE OFFICER PROGRAM.

WHEREAS, the City of Tualatin is an Oregon municipal corporation;

WHEREAS, the Tigard-Tualatin School District, is an Oregon government entity;

WHEREAS, ORS 190 authorizes the City to enter into intergovernmental agreements with other government entities to perform cooperative services, as well as to delegate to each other authority to perform their respective functions as necessary;

WHEREAS, the Tigard-Tualatin School District has requested, and the City has agreed, that the City will provide police officers who will act as school resource officers and;

WHEREAS, School resource officers fulfill a vital role in promoting communication and cooperation between the school district and law enforcement to support safe school communities and contribute to the learning process;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Manager is authorized to execute an Intergovernmental Agreement with the Tigard-Tualatin School District 23J related to the School Resource Officer Program, which is attached as Exhibit 1 and incorporated by reference. The City Manager is further authorized to make administrative amendments to the IGA to fully implement its intent.

Section 2. This resolution is effective upon adoption.

ADOPTED by the City Council this 11th day of July, 2022.

CITY OF TUALATIN, OREGON

BY _____
Mayor

APPROVED AS TO FORM

ATTEST:

BY _____
City Attorney

BY _____
City Recorder

**INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF TUALATIN
AND TIGARD-TUALATIN SCHOOL DISTRICT NO. 23J**

THIS AGREEMENT (this “Agreement”) is entered into and between the City of Tualatin (“City”), an Oregon municipal corporation, and Tigard – Tualatin School District No. 23J (“District”), a public school district in the State of Oregon, collectively referred to as the “Parties” and each a “Party.”

RECITALS

Oregon Revised Statutes (“ORS”) 190.010 confers authority upon local governments to enter into agreements for the performance of any functions and activities that a party to the agreement, its officers or agencies have authority to perform.

The District has requested, and the City has agreed, that the City provide police officers (“Officer”) who will act as school resource officers (“SRO”). SROs fulfill a vital role in promoting communication and cooperation between the school district and law enforcement to support safe school communities and contribute to the learning process.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

TERMS

1. **Term**. This Agreement shall be effective upon execution by both parties, and shall expire on June 30, 2023 unless terminated earlier as provided in this Agreement.
2. **Scope of Work**. The City agrees to provide the services (“Work”) further identified in the Scope of Work and Additional Terms and Conditions, attached hereto as Exhibit A and incorporated herein. Parties will meet prior to the start of each school year to discuss anticipated needs, within the Scope of Work, in the upcoming school year.
3. **Consideration**. The District agrees to pay City, from available and authorized funds, the amount set forth on the schedule attached hereto as Exhibit B for accomplishing the Work required by this Agreement.
4. **Payment**. Unless otherwise specified, the City shall submit monthly invoices for Work performed. The District shall pay the City following the District’s review and approval of the invoice. City shall not submit invoices for, and the District will not pay, any amount in excess of the maximum compensation amount set forth in Exhibit B.

5. Representations and Warranties.

A. District Representations and Warranties. District represents and warrants to City that District has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of District enforceable in accordance with its terms.

B. City Representations and Warranties. City represents and warrants to District that City has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of City enforceable in accordance with its terms.

C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Termination.

A. Either the City or the District may terminate this Agreement at any time upon 90 days' written notice to the other Party.

B. Either the City or the District may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If, in the non-breaching Party's sole discretion, the breaching Party has not entirely cured the breach within 15 days of delivery of the notice to the breaching Party, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination.

C. The City or the District shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.

D. Either Party may terminate this Agreement in the event it fails to receive expenditure authority sufficient to allow the Party, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work to be performed under this Agreement is prohibited or the Party is prohibited from paying for such Work from the planned funding source.

E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

7. Indemnification. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the District, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property arising out of or resulting

from the performance of the Work by the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the District agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the District or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the District controls.

However, neither District nor any attorney engaged by District shall defend the claim in the name of City or any department of City, nor purport to act as legal representative of City or any of its departments, without first receiving from the Tualatin City Attorney's Office authority to act as legal counsel for City, nor shall District settle any claim on behalf of City without the approval of the Tualatin City Attorney's Office. City may, at its election and expense, assume its own defense and settlement.

Similarly, neither City nor any attorney engaged by City shall defend the claim in the name of District or any department of the District, nor purport to act as legal representative of District or any of its departments, without first receiving from the District's legal counsel authority to act as legal counsel for District, nor shall City settle any claim on behalf of District without the approval of the District's legal counsel. District may, at its election and expense, assume its own defense and settlement.

8. Insurance. City shall maintain the following insurance coverage(s) (or equivalent self-insurance coverage), as applicable, for the term of the Agreement:

A. Workers' Compensation. As required by ORS 656.017, subject employers shall provide workers' compensation coverage in accordance with ORS Chapter 656 for all subject workers. City and all subcontractors of City with one or more employees shall have this insurance unless exempt under ORS 656.027. Agencies that are statutory subject employers shall submit a certificate of insurance to District showing proof of coverage.

B. General Liability. City shall maintain general liability insurance coverage of at least \$2,000,000 for each claim, incident, or occurrence, and at least \$3,000,000 annual aggregate coverage.

C. Motor Vehicle Liability. If City is providing services that require City to transport District personnel, students, or property, then in addition to any legally required insurance coverage, City shall maintain motor vehicle liability insurance of at least \$1,000,000 for each claim, incident, or occurrence.

D. Additional Requirements. All insurance coverage shall be provided by an insurance company having an A.M. Best rating of at least A- that is licensed to do business in Oregon. City alone is responsible for paying all deductibles and retentions. A cross-liability clause or separation of insureds condition shall be included in all general liability policies required by this Contract. City's coverage shall be primary in the event of loss.

E. Certificate of Insurance. Upon District request, City shall furnish to District a current certificate of insurance for each of the above coverages within 48 hours of District request. Each certificate must provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without 30 days prior written notice from City or its insurer to District. Each certificate shall also state the relevant deductible or retention level. For general liability coverage, the certificate shall also provide that District, its agents, officers, and employees are additional insureds with respect to City's services provided under this Contract. If requested by District, City shall also provide complete copies of insurance policies to District.

F. Self-Insured Agencies. If City is self-insured in full or in part, City shall submit proof of self-insurance coverage equal to or better than the insurance coverages required in this section.

9. Notices; Contacts. Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received two hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

The City:
City of Tualatin
Attn: Chief of Police
8650 SW Tualatin Rd.
Tualatin, OR 97062

The District:
Tigard-Tualatin School District
Attn: Superintendent
6960 SW Sandburg St.
Tigard, OR 97062
sriekesmith@ttsd.k12.or.us

10. Control of Personnel. The City is the SRO's sole employer. Control of personnel, supervision, standards of performance, discipline, and all other aspects of performance shall be governed entirely by the City. Allegations of misconduct shall be investigated in accordance with City's Policy and Procedures. The City will be responsible for liabilities for salaries, wages, any other compensation or benefits, injury, or sickness arising from performance of the law enforcement services provided by the SRO.

11. General Provisions.

A. Oregon Law and Forum. This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of the City without giving effect to the conflict of law provisions thereof. Any claim between City and District that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Washington County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the City or the District of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

B. Compliance with Applicable Law. Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.

C. Non-Exclusive Rights and Remedies. Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.

D. Access to Records. District and City shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. District and City shall maintain all financial records in accordance with generally accepted accounting principles. The District and the city shall maintain other Records to the extent necessary to reflect actions taken and consistent with the applicable public records retention requirement. Subject to any requirements or limitations as described in Section 11.P of this Agreement, during this record retention period, District shall permit the City’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying. During this record retention period, City shall permit the District’s authorized representatives’ access to the Records at reasonable times and places for purposes of examining and copying.

E. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

F. Severability. If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the

offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

G. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

H. Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

I. Independent Contractor. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture, joint employer or any similar relationship, and each Party hereby specifically disclaims any such relationship.

J. No Third-Party Beneficiary. District and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

K. Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

L. Survival. All provisions in Sections 5, 7, and 11 (A), (C), (D), (E), (F), (G), (I), (J), (L), (Q), and (R) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.

M. Necessary Acts. Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

N. Time Is of the Essence. District agrees that time is of the essence in the performance this Agreement.

O. Force Majeure. Neither District nor City shall be held responsible for delay or default caused by events outside of the District or City's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, District shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

P. FERPA. As required by the 20 USC 1232(g) (Family Educational Rights and Privacy Act, “FERPA”), and ORS 326.565, City shall not disclose any information or records regarding students or their families that City may learn or obtain in the course and scope of its performance of this Agreement. The Parties recognize that the Family Educational Rights and Privacy Act (FERPA) imposes strict penalties for improper disclosure or re-disclosure of confidential student information including but not limited to denial of access to personally identifiable information from education records for at least five years (34 CFR 99.33(e)). Consistent with the requirements of FERPA, personally identifiable information obtained by the Parties in the performance of this Agreement may not be re-disclosed to third parties without written consent of the students’ parent/guardian, and must be used only for the purposes identified in this Agreement.

Q. No Attorney Fees. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorney fees and expenses.

IN WITNESS HEREOF, the Parties have executed this Agreement by as of the dates set forth below.

City of Tualatin

Tigard – Tualatin School District No. 23J

By: _____
Name: _____
Its: _____
Date: _____

By: _____
Name: _____
Its: _____
Date: _____

EXHIBIT A SCOPE OF SERVICES

The purpose of this exhibit is to identify services provided by the City to the District and the responsibilities of each party related to School Resource Officers.

1. The Parties agree as follows:

- a. The Tualatin Police Department's School Resource Officer Program will strive to enhance public safety through community policing within the schools, including crime prevention, enforcement of laws on school grounds, education and role modeling.
- b. The City shall provide a minimum of two (2) School Resource Officers (SRO) to be assigned to service District schools within the city limits of Tualatin. All SROs shall be sworn employees of the Tualatin Police Department.
- c. The Tualatin SRO's primary assignments will be Tualatin High School, Hazelbrook Middle School, Byrom Elementary School, Bridgeport Elementary School, Tualatin Elementary School, and any future District school site that falls within the Tualatin Police Department jurisdiction.
- d. The SRO's schedule will be developed by a Tualatin Police Department supervisor to address the needs of the SRO unit and the schools they serve.
- e. The SRO will work in cooperation with all school personnel students, parents, and community members to accomplish the Tualatin Police Department's mission.
- f. The school principals and the Police supervisor of the SRO unit shall coordinate activities and meetings related to the SROs in the schools. The following priorities will guide the activities of the SRO:
 - i. Police presence, crime prevention and enforcement of laws. To create and maintain a feeling of safety and security for the benefit of all students and staff and to deter crime and violence on all school grounds through police presence and enforcement of the law.
 - ii. Education and positive contact. To create and maintain educational opportunities for all students and staff which in turn creates a positive image of law enforcement.
 - iii. Student and staff assistance. To become and remain a resource for all students and staff. To that end the SRO will be available for special event security as necessary.
- g. The District shall make every effort to provide the SROs with a private work area containing a desk, computer, and telephone within the High School and Middle School.
- h. As part of the ongoing partnership between the City and District, each agrees to allow the other the use of any facilities as available for meetings, training, community events or other use as agreed upon by the parties, subject to each entity's facilities use policies and procedures.
- i. The cost of specialized training shall be shared by mutual agreement between the City and the District on a case-by-case basis.
- j. All equipment supplied by the District shall remain the property of the District; all equipment supplied by the City shall remain the property of the City.
- k. At the direction of District, City will immediately remove any SRO from all District premises where District determines, in its sole discretion that removal of such employee would be in the best interests of District.

New Responsibilities of Each Party Identified during the Community Process

2. District responsibilities.

- a. Include SROs in building level and district level trainings for equity, trauma informed practices, culturally responsive leadership, and restorative practices
- b. Include school resource officers in collaboration efforts around psychological, social emotional well-being and physical health and safety for TTSD students, staff, and families.
- c. Participate in cross organizational training to better partner for school safety
- d. Include SROs in meetings around multi-systems of support and provide data about student outcomes and needs.
- e. Work with Tualatin Police Departments to introduce School Resource Officers (SRO) and help inform their role and the new structure and framework of partnership to staff, students, families, and community members.
 - i. This can be co-constructed with work group members throughout the year.
 - ii. Include community events quarterly at the district level that focuses on listening sessions, information sessions, and questions and answering sessions with broader Tigard-Tualatin Community.
 - iii. Create space for families locally to meet School Resource Officers.
 - iv. Administrators will have a plan to include SROs in certain staff meetings, community events, and conferences and beginning of the year introductions and onboarding events chosen by the district.
 - v. Work to help facilitate opportunities for relationship development across historically underserved communities including staff, students, and families.
 - vi. Facilitate spaces for critical conversations around historical and socio-political context locally and nationally.
 - vii. Include School Resource Officers in Broad Communication to the community.

3. City responsibilities.

- a. Provide information regarding Drug and Alcohol prevention.
- b. Provide information about evolution and reasoning for uniform, gear, and weapons.
- c. Provide information about rights of students and families when faced with legal situations.
- d. Provide summarized data about referrals and arrests and other pertinent information for community to know and understand annually.
- e. Provide information about how SROs keep school communities and local communities safe centered on culturally and community responsiveness stance
- f. Provide services in creating positive relationships with historically underserved communities including but not limited to students of color, students in foster care, and students with varying abilities.
- g. Provide data about prevention efforts including but not limited to data about community relationship development and builders, consultation time for incidence responses, partnership with administrators, special education

- departments, student services department, and equity and inclusion department.
- h. Participate in 1-2 community events monthly directly related to serving, informing, and building relationships with historically underserved communities (i.e. affinity and alliance groups, students navigating housing insecurities, and leadership groups that work to prevent and educate about impacts of drug and alcohol).

4. Joint responsibilities.

- a. The SRO program shall be evaluated annually. As part of the continuous improvement plan as reviewed by an SRO Task Force (representative of stakeholders that will include city partners, student, families, and community partners).
- b. Including staff and student representatives shall be a part of the SRO selection process.
- c. Ongoing training in conjunction with school staff. This would be on relevant subjects such as the anti-racist policy, DEI initiatives.
- d. Work to create a framework for Restorative Justice and Incidence Response to ensure the concerted effort to effectively keep students out of the criminal justice system and foster positive relationships with students with intentional focus on those historically underserved.
- e. Create, develop, and monitor continuous improvement plans centered around District Priorities with an equity lens.
- f. Preserve safe spaces for students and families.

**EXHIBIT B
COMPENSATION**

1. The City shall pay the costs of selection, salary, benefits, vehicle, and equipment for a minimum of two (2) SROs. The District shall provide funding to offset approximately one half of the costs of the most senior SRO including benefits and overtime for nine months of the year. The District's funding shall not exceed \$75,000 for the period July 1, 2022 through June 30, 2023, unless otherwise agreed upon by both Parties.

2. The District shall reimburse the City for 100% of compensation and related payroll costs attributed to overtime paid to uniformed personnel attending District events such as board meeting on an on-call basis, in order to enhance public safety. The City shall itemize the overtime under this Agreement separately on the monthly invoice addressed in Section "4" of the Agreement. Fulfilment of overtime requests from the District are subject to officer availability at the City's discretion.