

MEMORANDUM OF AGREEMENT

This Agreement (this “**Agreement**”) is made as of Nov. 20, 2024 by and between the City of Oneida, with offices located at 109 Main Street, Oneida, NY 13421 (hereinafter referred to as the “**City**”); and the Oneida City School District, with offices located at 565 Sayles Street, Oneida, NY 13421 (hereinafter referred to as the “**School District**”).

WHEREAS, Article 5-G of the New York State’s General Municipal Law (“GML”), provides the authority for municipal corporations to enter into agreements for the performance between themselves, or one for the other, of their respective functions, powers and duties on a cooperative contract basis; and

WHEREAS, the School District and City are both municipal corporations, as that term is defined by GML § 119-n(a); and

WHEREAS, the School District and City have determined that it is in their mutual best interests to enter into this Agreement to provide for the assignment of crossing guards employed by the City to serve as crossing guards at certain locations within the School District;

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. **General Terms and Conditions.**

- a. The City and School District enter into this Agreement for the purpose of placing a Crossing Guard employed by the City on site at the School District’s high school and equalizing the compensation of all Crossing Guards employed by the City who work at other School District locations. The City will assign the Crossing Guard to the School District according to a mutually agreeable schedule, in accordance with the terms set forth herein.
- b. The City agrees that services rendered under this Agreement will be in compliance with applicable Federal and State constitutional requirements, local laws, rules, regulations, including but not limited to, the New York State Worker’s Compensation Law, New York State Civil Service Law, New York State General Municipal Law, and applicable regulations of the Commissioner of Education.
- c. The Crossing Guards shall be subject to all other personnel policies and practices of the City.

2. **Purpose.** The School District hereby agree that the Crossing Guard shall be designated by mutual agreement of the City and the School District to be assigned as follows:

The City agrees to have one (1) Crossing Guard on site at the designated School District’s high school building each day that school is in session during the school year. The Crossing Guard shall be granted all legally required breaks (e.g. lunch when legally required).

3. **Term.** The term of this Agreement commences on September 1, 2024, and expires on June 30, 2025 (the “**Term**”).

This Agreement may be terminated upon thirty (30) days' written notice to the other party at said party's designated address. Any extension or renewal of said agreement shall be authorized by the School District Board of Education and the City.

4. **Payment.**

a. **Crossing Guard Compensation.** The City shall employ all Crossing Guards who perform services at School District locations pursuant to this agreement and agrees to provide and to pay the salary and employment benefits for all in accordance with the City's applicable salary schedules and employment practices.

b. **City Compensation.**

i. **Compensation for Services.** The School District shall pay to the City a total amount of 100% of the annual salary and employment benefits as compensation for services rendered by the Crossing Guard assigned to the School District's high school during the Term, not to exceed \$38,525.57, paid in ten (10) equal monthly installments of \$3,852.55, with the first payment due September 1, 2024, and the final payment due June 1, 2025.

ii. **Invoices.** All payments owed by the School District to the City under the terms of this Agreement shall be made within thirty (30) days following School District's receipt of an invoice from the City.

5. **Absences and Replacements.**

a. **Absences.** In the event a Crossing Guard is to be absent from work, the Crossing Guard shall notify his/her City supervisor at least one (1) hour before his or her scheduled start time. If the Crossing Guard to be absent would have been assigned to one of the School District's elementary schools, the City replace him/her by assigning a replacement person. If the Crossing Guard to be absent would have been assigned to the School District's high school, the City shall notify the Superintendent of Schools, who shall assign a replacement person.

b. **Long term absences.** In the event that a Crossing Guard is absent for more than three (3) consecutive days, representatives of the City and School District shall confer on a plan to replace the Crossing Guard.

6. **Independent Contractor.** The City shall be providing services to the School District as an independent contractor, and any and all services performed by Crossing Guards under this Agreement shall be performed in such capacity. Crossing Guards shall not hold themselves out as, nor claim to be, an officer or employee of the School District, nor make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the School District, including, but not limited to, workers' compensation coverage, unemployment insurance

benefits, social security coverage, disability benefits, or retirement membership or credit. As the Crossing Guards' employer, the City shall comply with all Federal, State, and local laws rules and regulations. The City shall pay any applicable taxes, including income taxes, workers' compensation insurance, unemployment insurance payment, disability insurance payment, and/or any other payments that may be required under the laws, rules, or regulations of any government City having jurisdiction over the City or its relationship with the School District. The City further agrees to indemnify and hold the School District harmless against any claim, cost, penalty, damage, or expense (including attorneys' fees) related to either parties nonpayment and/or underpayment of any such taxes or payments. These provisions shall survive any expiration, termination, or non-renewal of this Agreement. Crossing Guards assigned to the School District are under the direct supervision of the command officers of the City of Oneida Police Department. The School District shall have no ability to control the manner, means, details or methods by which the Crossing Guards, City of Oneida Police Department, or its agents perform services under this Agreement except as provided herein and as required by federal, state, or local laws, rules, and regulations.

7. **Confidentiality.** The parties agree that all information exchanged is considered confidential and will be used only for the purpose outlined in the Agreement, unless otherwise required by law.
8. **Indemnification.**
 - a. Except for any liability, damages, claims, demands, costs, judgments, fees, and attorneys' fees contributed to, caused by or resulting from the negligence or willful misconduct of the City, its officers, employees or agents, the School District shall indemnify and hold harmless the City, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the negligent acts or omissions hereunder by the School District; and the School District shall provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of such acts or omissions and shall bear all other reasonable costs and expenses related thereto.
 - b. Except for any liability, damages, claims, demands, costs, judgments, fees, and attorneys' fees contributed to, caused by or resulting from the negligence or willful misconduct of the School District, its officers, employees or agents, the City shall indemnify and hold harmless the School District, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the negligent acts or omissions hereunder by the City, any Crossing Guard, or third parties under the direction or control of the City; and the City shall provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of such acts or omissions and shall bear all other reasonable costs and expenses related thereto.
9. **Insurance.** The City of Oneida Police Department maintains Excess General Liability and Automobile Liability Insurance with New York Municipal Insurance Reciprocal, at a limit of \$5,000,000 in excess of underlying General Liability (\$1,000,000/\$3,000,000) and Automobile Liability policies with limits of \$1,000,000 per occurrence. The School District and its officers,

employees, and agents shall be named as Additional Insureds on a direct primary basis under the policy issued for these coverages. The City of Oneida Police Department shall provide proof of statutory coverage in compliance with New York State Workers' Compensation Law and a copy of the applicable Additional Insured endorsement form evidencing the coverage outlined herein.

10. **Records Retention.** The parties agree that the City will maintain all records in connection with this Agreement for a period of four (4) years, and make such records available for audit by the New York State Department of Education and New York State Audit and Control upon request. Upon the School District's request for any such records, the City shall provide copies within a reasonable amount of time.
11. **Non-Appropriation.** Should funds become unavailable or should appropriate governing bodies fail to approve sufficient funds for completion of the services or programs set forth in this Agreement, the School District shall have the option to immediately terminate this Agreement upon providing written notice to the other party. In such event, the School District shall be under no further obligation to the City other than payment for cost of services actually provided prior to termination and in no event will the City be responsible for any actual or consequential damages as a result of termination.
12. **Governing Law.** The Agreement shall be construed and interpreted in accordance with the laws of New York State.
13. **Assignment.** This Agreement may not be assigned by either party.
14. **Interpretation.** The language of all parts of this Agreement in all cases shall be construed as a whole, according to its fair meaning, and not strictly for or against any party, regardless of who drafted it.
15. **Waiver.** The failure of any party to insist on the strict performance of any provision of this Agreement or to exercise any right under this Agreement shall not constitute a waiver of such provisions or right. A waiver is effective only if in writing and signed and delivered by the waiving party.
16. **Applicability.** It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof. Any alterations, amendments, deletions, or waivers of the provisions in this Agreement shall be valid only when expressed in writing and duly signed by the parties.
17. **New York Education Law Section 2-d Addenda:** The following addenda attached hereto shall be incorporated into the Agreement, and shall supersede any inconsistent provisions in the Agreement:
 - Addendum A: Parents' Bill of Rights for Data Privacy and Security
 - Addendum B: Parents' Bill of Rights – Supplemental Information Addendum
 - Addendum C: City's Data Security and Privacy Plan

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

CITY




Steven Lowell, Chief of Police

Date Nov. 20, 2024

SEAL

ONEIDA CITY SCHOOL DISTRICT



Superintendent Matthew Carpenter

Date 11/6, 2024

SEAL

Addendum A

DISTRICT'S PARENTS' BILL OF RIGHTS

The Oneida City School District seeks to use current technology, including electronic storage, retrieval, and analysis of information about students' education experience in the district, to enhance the opportunities for learning and to increase the efficiency of our district and school operations.

The Oneida City School District seeks to insure that parents have information about how the District stores, retrieves, and uses information about students, and to meet all legal requirements for maintaining the privacy and security of protected student data and protected principal and teacher data, including Section 2-d of the New York State Education Law.

To further these goals, the Oneida City School District has posted this Parents' Bill of Rights for Data Privacy and Security.

A student's personally identifiable information cannot be sold or released for any commercial purposes.

Parents have the right to inspect and review the complete contents of their child's education record. The procedures for exercising this right can be found in Board Policy 7061. You may access this Policy from the District's website.

State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to, encryption, firewall s, and password protection, must be in place when data is stored or transferred.

A complete list of all student data elements collected by the State is available at <http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx> and a copy may be obtained by writing to the Office of Information & Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234.

Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed in writing to the Chief Privacy Officer, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, New York 12234. __

Addendum B

PARENTS' BILL OF RIGHTS – SUPPLEMENTAL INFORMATION ADDENDUM

1. **EXCLUSIVE PURPOSES FOR DATA USE:** The exclusive purposes for which “student data” or “teacher or principal data” (as those terms are defined in Education Law Section 2-d and collectively referred to as the “Confidential Data”) will be used by the City of Oneida Police Department (the “Contractor”) are limited to the purposes authorized in the contract between the Contractor and the Oneida City School District (the “School District”) commencing September 1, 2022 and expiring on June 30, 2023 (the “Contract”).
2. **SUBCONTRACTOR OVERSIGHT DETAILS:** The Contractor will ensure that any subcontractors, or other authorized persons or entities to whom the Contractor will disclose the Confidential Data, if any, are contractually required to abide by all applicable data protection and security requirements, including but not limited to those outlined in applicable State and Federal laws and regulations (e.g., Family Educational Rights and Privacy Act (“FERPA”); Education Law §2-d; 8 NYCRR Part 121).
3. **CONTRACT PRACTICES:** The Contract commences and expires on the dates set forth in the Contract, unless earlier terminated or renewed pursuant to the terms of the Contract. On or before the date the Contract expires, protected data will be exported to the School District in the format in which it was received and/or destroyed by the Contractor as directed by the School District.
4. **DATA ACCURACY/CORRECTION PRACTICES:** A parent or eligible student can challenge the accuracy of any “education record”, as that term is defined in the FERPA, stored by the School District in a Contractor’s product and/or service by following the School District’s procedure for requesting the amendment of education records under the FERPA. Teachers and principals may be able to challenge the accuracy of APPR data stored by School District in Contractor’s product and/or service by following the appeal procedure in the School District’s APPR Plan. Unless otherwise required by the above or by other applicable law, challenges to the accuracy of the Confidential Data shall not be permitted.
5. **SECURITY PRACTICES:** Confidential Data provided to Contractor by the School District will be stored on Contractor’s services with security measures required by applicable law. The measures that Contractor takes to protect Confidential Data will align with the NIST Cybersecurity Framework including, but not necessarily limited to, disk encryption, file encryption, firewalls, and password protection.
6. **ENCRYPTION PRACTICES:** The Contractor will apply encryption to the Confidential Data while in motion and at rest at least to the extent required by Education Law Section 2-d and other applicable law.

Addendum C
DATA SECURITY AND PRIVACY PLAN

WHEREAS, the Oneida City School District (hereinafter "School District") (hereinafter and _____ the City of Oneida Police Department ("Contractor") entered into an agreement dated _____ (hereinafter "Agreement") for _____ (hereinafter "Services").

WHEREAS, pursuant to the requirements under 8 NYCRR 121, Contractor maintains the data security and privacy plan described herein in connection with the Services provided to the School District.

1. During the term of the Agreement, Contractor will implement all state, federal and local data security and privacy requirements, consistent with the School District's Data Security and Privacy Policy in the following way(s):

[Insert Here]

2. Contractor has in place the following administrative, operational and technical safeguards and practices to protect personally identifiable information that it will receive under the Agreement:

[Insert Here]

3. Contractor shall comply with 8 NYCRR 121 in that it acknowledges that it has reviewed the School District's Parents Bill of Rights for Data Privacy and Security and will comply with same.

- a. Contractor will use the student data or teacher or principal data only for the exclusive purposes defined in the Agreement.
- b. Contractor will ensure that the subcontractor(s) or other authorized persons or entities to whom Contractor will disclose the student data or teacher and principal data, if any, will abide by all applicable data protection and security requirements as described in the "Supplemental Information" appended to the Agreement.
- c. At the end of the term of the Agreement, Contractor will destroy, transition or return, at the direction of the School District, all student data and all teacher and principal data in accordance with the "Supplemental Information" appended to the Agreement.

- d. Student data and teacher and principal data will be stored in accordance with the "Supplemental Information" appended to the Agreement.
- e. Student data and teacher and principal data in motion and at rest will be protected using an encryption method that meets the standards described in 8 NYCRR 121.

4. Prior to receiving access to student data and/or teacher and principal data, officer(s) and employee(s) of Contractor and any assignees who will have access to student data or teacher or principal data shall receive training on the federal and state laws governing confidentiality of such data. Such training shall be provided:

[Insert Here]

5. Subcontractors (choose one and delete the other):

☐ Contractor shall not utilize sub-contractors.

☐ Contractor shall utilize subcontractors. Contractor shall manage the relationships and contracts with such subcontractors in the following ways in order to ensure personally identifiable information is protected:

[Insert Here]

6. Contractor has the following procedures, plans or protocols in place to manage data security and privacy incidents that implicate personally identifiable information: *Procedures, plans or protocols must, at a minimum, specify plans to identify breaches and unauthorized disclosures, and to promptly notify the School District.*

[Insert Here]

7. Termination of Agreement.

Within [Insert Here] days of termination or expiration of the agreement without renewal, Contractor shall delete all personally identifiable information.

8. In the event of a conflict between the terms of this Data Security and Privacy Plan and the terms of the Agreement, the terms of this Data Security and Privacy Plan shall control. All of the defined terms in the Agreement shall have the same definitions in the Data Security and Privacy Plan, unless otherwise defined herein. Except as expressly set forth in this Data

Security and Privacy Plan, the terms and conditions of the Agreement shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the Contractor hereto agrees to all duties and obligations under Addendum A-C.

Signature

Title

Date
