

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MARICOPA AND
SEQUOIA PATHWAY ACADEMY FOR
SCHOOL RESOURCE OFFICER SERVICES**

This Memorandum of Understanding (“MOU”) is entered into this ___ day of _____, 2023, by and between the City of Maricopa, Arizona, an Arizona municipal corporation (the “City”) and Edkey, Inc., an Arizona non-profit corporation doing business as Sequoia Pathway Academy (the “School”), for the provision of School Resource Officer (“SRO” or “SROs”) services. The City and the School are individually referred to herein as “Party” and collectively referred to herein as “Parties.”

RECITALS

WHEREAS, this MOU is intended to repeal and replace any and all previous agreements between the Parties related to SRO Services including, but not limited to, the Memorandum of Understanding 20-05 between the parties dated December 15, 2020; and

WHEREAS, pursuant to A.R.S. §15-154, School may place peace officers in its schools in accordance with an approved School Safety Program (“School Safety Program”) and the School has received funds from the Arizona Department of Education for such purposes; and

WHEREAS, the School was awarded a grant by the Arizona Department of Education (the "School Safety Grant") in the amount of \$111,020.05 for a full-time SRO at School for 10 months; and

WHEREAS, the School will contribute \$333,060.15 over the course of three (3) years for one (1) SRO; and

WHEREAS, the School Safety Grant requires an agreement between the City and School outlining the services to be provided by the SRO; and

WHEREAS, the Parties desire to efficiently utilize available resources in providing necessary SRO school safety services and it is economically efficient for the Parties to provide/acquire these services on this basis; and

WHEREAS, the Parties desire to work in cooperation with one another to further the goals of the approved School Safety Program and the Parties, through this MOU, will respectively assign SROs to perform the services according to applicable laws, policies, and the terms of this MOU.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

I. PURPOSE AND INTENT

The purpose of this MOU is to set forth the responsibilities of the Parties for the provision of SRO services from City to the School, and to address legal and administrative matters among the Parties.

II. SCOPE OF SERVICES

The SRO assigned under this MOU will be selected by the City and will be assigned to the Sequoia Pathway Academy campus.

Unless otherwise provided herein, the roles and responsibilities of the Parties will generally be those established by the Arizona Department of Education in the School Safety Program Guidance Manual (attached hereto as **Exhibit “A”** and publicly available online at:

http://www.ade.az.gov/gme_intranet/fundingprofile/files/813/School%20Safety%20Program%20Guidance%20Manual.pdf).

Under the direction of the City and in cooperation with School administration, each SRO will perform

community-policing functions, enforce applicable laws, investigate violations of law and known or alleged threats to public safety, respond to emergencies, perform public safety services, and provide public-safety-related education.

School, site, or school staff will not unlawfully interfere with the peace officer duties of the SROs. City will not unlawfully interfere with the duties and responsibilities of the School.

City and School will discuss the performance, goals and objectives of each SRO at least once per school year. This meeting will occur within 30 days of the last day of school in May.

III. TERM, TERMINATION AND RENEWAL

- A. This MOU will become effective on ____ July 1 __, 2023 (the “**Effective Date**”) and will terminate on _____ June 30 __, 2026 (the “**Termination Date**”).
- B. Either Party may request a renewal of this MOU, by providing advance notice not less than sixty (60) days prior to the Termination Date, as set forth in **Section X.A** below. Any renewal or modification of this MOU must be mutually agreed upon via a written and signed Amendment to this MOU.
- C. The parties understand and acknowledge that this MOU and the financial obligations of School hereunder are being provided through the School Safety Grant Funding Program administered by the Arizona Department of Education. This MOU will automatically terminate if the School Safety Grant funding is terminated or no longer available to the School.

IV. ACTIONS BY THE PARTIES

A. Under this MOU, City will:

- 1. Assign certified peace officers from the Maricopa Police Department to perform the SRO Services described in this MOU at Sequoia Pathway Academy campus. The City, at its sole and absolute discretion, has the authority to reduce or eliminate SRO services at any time.
- 2. Provide for the training of officer(s) assigned as SROs;
- 3. Furnish the SRO’s uniforms and equipment according to City’s general policies and procedures. This will not preclude City and School from mutually agreeing that School may provide certain pieces of attire and equipment, or from mutually agreeing to the wear and appearance of the SRO’s uniform. Notwithstanding anything to the contrary set forth herein, the Chief of Police shall be the final decision maker regarding SRO uniforms and equipment.
- 4. Create, maintain and/or remit records based upon applicable laws, regulations, and policies governing City records.
- 5. Provide copies of attendant reports and other supporting documentation to School as required or authorized by law. School acknowledges and agrees that the availability of investigative records may vary depending on the circumstances of each investigation.
- 6. Maintain sole and absolute discretion over the supervision of SROs, to include but not limited to, assignment as an SRO, supervision, performance evaluations, discipline, and training.
- 7. Any keys to school facilities currently held by or subsequently provided to the Maricopa Police Department will be returned to the School immediately upon request.

B. Under this MOU, School will:

- 1. Cooperate with City on matters necessary to effectuate the purpose and intent of this MOU. Such cooperation shall include, but is not limited to, facilitating access to the following in relation to any services provided by the SRO as required or authorized by law: (a) School facilities, (b) School records, (c) all School camera systems, (d) any School emergency notifications systems, (e) School staff, contractors or representatives and (f) other relevant

information available to the School.

2. Provide and maintain appropriate office space and administrative equipment and materials and any necessary school-communications equipment for each SRO's use in the performance of each SRO's duties and services.
3. Provide copies of attendant reports and other supporting documentation to City as required or authorized by law and the School Safety Program;
4. Reimburse City for the salary and benefits of the assigned SROs, totaling not more than \$333,060.15 per SRO for the initial term of this MOU;
5. Any overtime hours requested by School (outside of SRO duties listed in **Section IV.C.**) will be administered and paid by the School in accordance with City's Extra Duty Employment policy regarding overtime, which is attached as **Exhibit "B"**. The City does not guarantee that overtime hours will solely be performed by the SROs, but will make reasonable efforts to have an SRO perform the requested overtime;
6. Payment to the City from the School is due within thirty (30) days of the School's receipt of the City's monthly itemized invoice. The City may charge, and the School agrees to pay interest in the amount of ten percent (10%) per annum on any balance that remains unpaid more than fifteen (15) days after the due date. The City and the School understand that any interest due and owing because of a failure to timely make a payment will not be paid from School Safety Grant funds.
7. Provide office space(s) that provides privacy for the SROs to conduct the services to be provided pursuant to this MOU in a confidential environment. The School will provide office(s) that includes necessary equipment for the SROs to perform his or her duties including, but not limited to, telephone, desk, chair, filing cabinet, computer and printer.
8. School acknowledges and agrees that each SRO and the City will provide and perform SRO services according to applicable Arizona laws and regulations and City rules and regulations.
9. Comply with the requirements of the School Safety Program and the School Safety Grant.
10. Immediately notify the Maricopa Police Chief and Deputy City Manager/Chief Public Safety Officer of any issues, concerns, or complaints regarding the performance of the SRO(s).
11. Make reasonable efforts to include each SRO as a club sponsor, coach, or organizer of alternative activities.
12. The site administrator for each campus with an SRO will complete an SRO performance assessment twice a year. The assessment must be shared with the SRO's supervisor.

C. Under City direction and this MOU, SROs will, in good faith:

1. Establish and maintain a professional working relationship with school officials.
2. Provide appropriate police and enforcement services at the assigned school.
3. Work cooperatively with school administrators and parents to identify students exhibiting high truancy rates.
4. Attempt to locate and return to school all students who are identified as absent from school without an acceptable excuse.
5. Contact a parent or guardian of each truant student to advise him or her of the incident and determine the parent's or guardian's awareness of the situation.
6. Investigate all reported child abuse incidents within the school.
7. Contact the parent or guardian of students who have not provided the school with proof of

identification in accordance with A.R.S. § 15-828.

8. Prepare and maintain such records of their activities as are required by the operational needs of the Maricopa Police Department.
9. Make both formal and informal contacts with the students.
10. Fulfill the duties as a sworn law enforcement officer for the State of Arizona and City of Maricopa.
11. Contact at least ninety-five percent (95%) of reported truant students and one hundred percent (100%) of reported abused students during each month that this MOU is in effect.
12. Refer juveniles or their families, or both, to appropriate social service agencies for assistance when a need is determined.
13. Instruct School administrators and faculty members in
 - a) The identification of abused or neglected children,
 - b) the reporting of abuse or neglect, and
 - c) the actions that can be taken to prevent further abuse or neglect.
14. Provide counseling and educational programs in truancy, abuse, or any other topic mutually agreed upon by the Parties in writing.
15. Take appropriate steps, including enforcement and reporting action, consistent with a police officer's duty, upon the discovery of child abuse, drug use, or any other crime.
16. Complete a weekly activity log that tracks Law Related Education ("LRE") instruction hours, teacher and subject, the topic of each LRE lesson, and the time the officer is off their assigned campus during their duty hours, regardless of the reason.
17. When school is in session, SROs will spend a minimum of 80% of their time on the campus of their assigned schools.
18. Provide a minimum of 180 hours of LRE as follows:
 - a) At least 80 hours of LRE classroom instruction to ongoing cohort groups of students
 - b) At least 100 hours of universal LRE instruction
 - 60 hours or more of universal LRE classroom instruction
 - Up to 20 hours for LRE planning and preparation
 - Up to 20 hours for LRE instruction to school staff and school community

D. Grant/Fund Reporting

To the extent necessary to fulfill attendant grant or funding compliance obligations, the Parties agree to cooperate in collecting, recording and reporting data and information to comply with the terms of the grant funding program. During the term of this MOU, either Party may apply for any grant funding available for the SRO position as it becomes available.

V. SUPERVISION, EQUIPMENT AND MATERIALS

- A.** No employee, agent, or servant of a Party will be deemed to be an employee, agent or servant of the other Party. Each Party will be solely and entirely responsible for its acts and the acts of its employees, agents, servants, subcontractors, and volunteers during the performance of this MOU. Except as provided in **Section IV.B.4** above, each Party will have total responsibility for all salaries, wages, bonuses, retirement withholdings, worker's compensation, occupational disease compensation, unemployment compensation, other employment compensation, other employee

benefits, and all employer's taxes and premiums concerning the persons who are supplied by that Party in the performance of this MOU, and each Party agrees to hold the other Party harmless from any liability related thereto.

- B.** City will have sole supervisory authority over City personnel, operations, services, property, facilities and materials. School will have sole supervisory authority over School personnel, operations, services, property, facilities and materials.
- C.** Except as otherwise provided in this MOU, the Parties agree to avoid using the other Party's materials or equipment for purposes not directly associated with the purpose and intent of this MOU without the prior express written consent from the Party to whom the equipment or materials belong or as otherwise provided in a separate agreement between the Parties. However, this provision will not be construed to prohibit any use of materials or equipment of another Party that is merely nominal, incidental, or on an emergency basis.

VI. RECORDS

Each Party acknowledges and agrees that the other Party will respectively administer records in its possession according to applicable laws, regulations, rules and policies. Both Parties will ensure that the dissemination and disposition of educational records complies at all times with the Family Educational Rights and Privacy Act (“**FERPA**”) and any subsequent amendments thereto.

VII. OPEN COMMUNICATIONS

City and School will maintain open communications between each Party's designated point of contact (listed in **Section X.A** below) to ensure the agreed upon performances are provided and maintained throughout the term of this MOU. Parties will maintain open communication regarding needs arising out of the MOU.

VIII. INSURANCE

Each Party acknowledges and affirms that it has appropriate and adequate insurance coverage for its official operations, duties and activities, and that it will maintain such coverage, at its own expense, for the duration of this MOU.

IX. INDEMNIFICATION

To the maximum extent permitted by law, each Party (as “**Indemnitor**”) agrees to indemnify, defend and hold harmless the other Party, its officers, officials, agents, employees, or volunteers from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as “**Claims**”) arising out of actions taken in performance of this MOU to the extent that such Claims are caused by the acts, omissions, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. If a Claim or Claims by third parties becomes subject to this section, the Parties will cooperate to the maximum extent possible.

X. STANDARD TERMS

- A. Notices.** All notices to the other Party required under this MOU will be in writing and sent to the following personnel by first class certified mail, postage prepaid, return receipt requested:

If to School: Sequoia Pathway Academy
Attn: Assistant Superintendent
19265 North Porter Road
Maricopa, AZ 85138

If to City: City of Maricopa
Attn: City Manager
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- B. Waiver of Terms and Conditions.** The failure of City or School to insist in any one or more instances on performance of any of the terms or conditions of this MOU or to exercise any right of privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.
- C. Relationship of the Parties.** Each Party will act in its individual capacity and not as an agent, employee, partner, joint venture, associate, or any other representative capacity of the other Party. Each Party will be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this MOU. This MOU will not be construed to imply authority to perform any tasks, or accept any responsibility, not expressly set forth herein. This MOU will be strictly construed against the creation of a duty or responsibility unless the intention to do so is clearly and unambiguously set forth herein. Nothing contained in this MOU confers any right to any person or entity not a party to this MOU.
- D. Governing Law and Venue.** To the maximum extent possible, terms and conditions of this MOU will be governed by and interpreted in accordance with the laws and regulations of the State of Arizona. Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for in this MOU shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The Parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county.
- E. Interparty Dispute Resolution.** If a dispute between the Parties arises out of or relates to this MOU, and if the dispute cannot be settled through negotiation within sixty (60) days, the Parties agree first to try in good faith to resolve the dispute by non-binding mediation before resorting to litigation. The Parties will mutually agree upon a mediator. Each party agrees to bear its own costs of mediation, and to split the mediator fee.
- F. Non-assignment.** Neither Party will assign its interest in this MOU, in whole or in part, without the prior written consent of the other Party. Neither Party will assign any monies due or to become due to it hereunder without the prior written consent of the other Party.
- G. Entire MOU.** This MOU represents the entire agreement between the Parties and supersedes all prior negotiations, representations or agreements, either expressed or implied, written or oral regarding SROs. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this MOU will be valid unless made in writing and signed by the Parties.
- H. Severability.** If any part, term or provision of this MOU will be held illegal, unenforceable or in conflict with any law, the validity of the remaining portions and provisions hereof will not be affected.
- I. Conflicts of Interest.** The provisions of A.R.S. § 38-511 relating to cancellation of contracts due to conflicts of interest will apply to this MOU.
- J. Other Duties Imposed by Law.** Nothing in this MOU will be construed as relieving the involved public agencies of any obligation or responsibility imposed on it by law.
- K. Compliance with Laws and Policies.** The parties will comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this MOU. Furthermore, the Parties agree to abide by each Party's policies to the extent appropriate and required or permitted by law.
- L. Workers' Compensation.** To the extent applicable by law, each Party will comply with the notice of A.R.S. § 23-1022(E). For purposes of A.R.S. § 23-1022, each Party will be considered the primary employer of all personnel currently or hereafter employed by that Party, irrespective of

the operations of protocol in place, and said Party will have the sole responsibility for the payment of Worker's Compensation benefits or other fringe benefits of said employees.

- M. Non-Discrimination and Compliance with Civil Rights.** To the extent applicable by law, the Parties agree to comply with A.R.S. Title 41, Chapter 9 (Civil Rights), Arizona Executive Order 2009-09 and any other federal or state laws relating to equal opportunity and non-discrimination, including the Americans with Disabilities Act, including flow down of all provisions and requirements to any subcontractors. In the performance of this contract, neither party will discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
- N. E-Verify, Records and Audits.** To the extent applicable under A.R.S. § 41-4401, the Parties and their respective subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under A.R.S. § 23-214(A). A Party's or subcontractor's breach of the above-mentioned warranty will be deemed a material breach of the MOU and may result in the termination of the MOU by either party under the terms of this MOU. The Parties each retain the legal right to randomly inspect the papers and records of each other Party and each other Party's subcontractors who work under this MOU to ensure that the other party and its subcontractors are complying with the above-mentioned warranty. The Parties warrant to keep their respective papers and records open for random inspection during normal business hours by each other Party. The Parties and their respective subcontractors will cooperate with each other Party's random inspections including granting the inspecting Party entry rights onto their respective properties to perform the random inspections and waiving their respective rights to keep such papers and records confidential.
- O. No Joint Venture.** It is not intended by this MOU to, and nothing contained in this MOU will, be construed to, create any partnership, joint venture or employment relationship between the Parties or create any employer-employee relationship between the Parties' employees. Neither Party will be liable for any debts, accounts, obligations or other liabilities whatsoever of the other Party, including, but without limitation, the other Party's obligation to withhold Social Security and income taxes for itself or any of its employees.
- P. No Third-Party Beneficiaries.** Nothing in this MOU is intended to create duties or obligations to or rights in third parties not Parties to this MOU or affect the legal liability of either Party to the MOU by imposing any standard of care with respect to the maintenance of public facilities different from the standard of care imposed by law. Only the Parties may enforce this MOU.
- Q. Headings.** The section headings throughout this MOU will not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.
- R. Non-Appropriation.** Notwithstanding any other provision in this MOU, this MOU may be terminated if for any reason either party does not appropriate sufficient monies for the purpose of maintaining this MOU. In the event of such cancellation, the canceling party will have no further obligation other than for payment for services rendered prior to cancellation.
- S. Uncontrollable Events.** No Party will be considered to be in default of this MOU if failure of performance is due to an uncontrollable event. The term "uncontrollable event" means any cause beyond the control of the Party affected, including but not limited to flood, earthquake, storm, fire, epidemic, war, riot, civil disturbance or disobedience, labor dispute, and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage and restraint by court order or public authority, that by exercise of due diligence and foresight the Party reasonably could not have been expected to avoid and that by exercise of due diligence it will be unable to overcome. A Party that is rendered unable to fulfill any obligation by reason of an uncontrollable event will exercise due diligence to remove such inability with all reasonable dispatch.


T. Counterparts. This MOU may be signed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by the following duly authorized representatives:

For City:

By: _____
Nancy Smith, Mayor
Date: _____

For SCHOOL:

By:  _____
Juan Beltran, CFO
Date: _____

ATTEST:

By: _____
Vanessa Bueras, MMC
City Clerk

ATTEST:

By: _____
Clerk

Approved as to form:

By: _____
Denis M. Fitzgibbons
City Attorney

Approved as to form:

By: _____
Attorney for School

EXHIBIT A
School Safety Program Guidance Manual

EXHIBIT B
Extra Duty Policy

Section 4 – 4: Off Duty Employment

This provision applies to work with non-city contractors only.

- A. Officers who are eligible for Off Duty Employment in accordance with Maricopa Police General order may do so in accordance with that General Order.
- B. Officers may use personal safety equipment, supplied by the department, in the course of those duties. If the City owned equipment is damaged, lost or stolen, the officer is liable for repair and/or replacement.
- C. Department vehicles may be used within the City limits only and in accordance with Maricopa Police Department General Orders.
- D. The rate assessed for an Officer will be at the overtime rate for a topped-out officer.
- E. Effective July 1, 2015, the following minimum fee schedule will be in effect:

<i>Hours</i>	<i>Minimum Hours Charged</i>
0 - 3	3
4 - 6	6
7 - 8	8
9 - 10	10

- F. Overtime jobs will not be scheduled to last more than 10 hours.
- G. Jobs must be canceled with no less than 24-hours' notice.
- H. The contractor will be assessed a three (3) hour minimum fee for jobs that are canceled with less than 24-hours' notice.
- I. Jobs that require four (4) or more Officers will also require staffing of a Maricopa Sworn Supervisor.
- J. Unit Members cannot work for a non-City contractor if the total hours they work in a day will be more than 16 hours. Unit Members working for a non-City contractor must also have a minimum of eight (8) hours between shifts.