

**SECOND AMENDMENT TO AGREEMENT NO. 66987
BETWEEN
THE CITY OF CLEVELAND AND
THE CLEVELAND MUNICIPAL SCHOOL DISTRICT**

THIS SECOND AMENDMENT TO AGREEMENT NO. 66987 ("Second Amendment") is entered into this 30th day of November, 2018, ("Effective Date"), by and between the City of Cleveland ("City"), and the Cleveland Municipal School District ("CMSD"), pursuant to the requisite authority and through its authorized representatives.

WHEREAS, the parties entered into Agreement No. 66987, on January 16, 2007, and a First Amendment on July 9, 2009, ("the Agreement"), pursuant to CMSD's MOU with the Cuyahoga County Sheriff's Department, attached as Exhibit A to the Agreement, to permit CMSD police officers to engage in duties as police officers for the CMSD in certain areas within the City of Cleveland and to establish protocols for the exercise of police powers on and off-campus.

WHEREAS, the City no longer operates jail facilities necessitating changes to provisions of Agreement No. 66987, and other provisions are necessary to confirm areas of police jurisdiction, and address officer and dispatcher training, agency policies, and complaint handling.

WHEREAS, for the public purpose of promoting the public good in the City of Cleveland and to further the goals of constitutional and effective policing, the parties agree to enter into a Second Amendment as set forth below.

THEREFORE, the parties agree as follows:

ARTICLE I. SCOPE OF SECOND AMENDMENT

This Second Amendment does not modify or change in any manner any term or condition not expressly addressed by this Second Amendment. All terms and conditions of Agreement No. 66987 shall remain in full force and effect unless changed or modified by this Second Amendment.

ARTICLE II. TERM

A. Commencing on December 1, 2018, the term of Agreement No. 66987 shall be for a four (4) year period, that is, from December 1, 2018, until its expiration on December 1, 2022. However, either party may terminate Agreement No. 66987, with or without cause, at any time by giving the other party written notice of such termination at least thirty (30) days prior to such termination.

B. No later than sixty (60) days prior to the expiration of the term, CMSD shall notify the City's Chief of Police in writing that CMSD requests an extension to the term of the Agreement. Failure of CMSD to renew the Agreement through written amendment to the Agreement or through a new written agreement with the City, prior to the expiration date of the term shall require CMSD Police, ("CMSDPD"), to immediately cease and desist exercising any police authority obtained from the Agreement.

ARTICLE III. CMSD POLICE GEOGRAPHICAL AREA OF JURISDICTION; AUTHORIZED CMSDPD OFFICERS

A. The geographical territory and CMSD-owned properties in the City of Cleveland within or upon which CMSDPD is authorized to provide police services concurrently with Cleveland Police ("CDP"), and as may be limited in the Agreement, are attached hereto and expressly incorporated herein as Exhibit A and includes a list of applicable CMSD properties, jurisdiction boundary descriptions, and marked maps. Exhibit A shall supersede any prior geographical area of jurisdiction descriptions in Agreement No. 66987.

B. Attached hereto and expressly incorporated herein as Exhibit B are the names, ranks, and badge numbers of CMSDPD officers that are appointed and authorized to carry out powers and duties of police officers under the Agreement. During the term of the Agreement, CMSDPD shall promptly update this list as applicable by giving written notice to the City's Chief of Police with a copy to the City's Chief Assistant Prosecutor.

ARTICLE IV. PROTOCOLS AND POLICY IMPLEMENTATION

A. Within thirty (30) days of the Effective Date of the within Second Amendment, the CMSDPD shall adopt and implement the CDP's use of force and pursuit policies. The policies are attached hereto and expressly incorporated herein as Exhibit C.

B. CDP shall give CMSDPD notice of any amendments to the attached policies, which amendments CMSDPD shall also adopt and implement within forty-five (45) days of such notice.

C. The Protocols attached and expressly incorporated herein as Exhibit D, shall, except as otherwise provided in this Second Amendment, govern the interactions between the CDP and the CMSDPD. However, should provisions of Exhibit D conflict or be inconsistent with the provisions of this Amendment; the provisions of this Amendment shall prevail. CDP may update Exhibit D during the term of the Agreement and shall provide a written copy of such update to the agency's Chief of Police, which update shall supersede the attached Exhibit D.

ARTICLE V. CMSDPD PRISONERS

A. CMSD acknowledges and agrees that the City no longer owns, leases, or operates any jail or other detention facilities and that the City will not accept any CMSDPD prisoners for booking and/or incarceration and will not provide any other prisoner services for CMSDPD.

B. CMSD acknowledges and agrees that City has entered into an agreement, No. 2017-251, with the Cuyahoga County Sheriff's Department, ("County"), for jail services for "City Prisoners" as defined therein, which definition specifically excludes any prisoners taken into custody by other police agencies, including CMSDPD.

C. The parties agree that commencing December 1, 2018, the City will be responsible to the County for CMSDPD prisoners' per diem costs assessed by the County under Agreement No. 2017-251 between the City and County with the following exceptions:

(1) The City will not pay the County or any other entity for CSMDPD prisoners arrested pursuant to state or federal laws;

(2) Any other costs for CMSDPD prisoners not covered by the City's agreement with the County are and will continue to be the sole responsibility of CMSD; and,

(3) CMSDPD shall not ask the County to accept pre-trial or other detainees upon the sole charge of a fourth degree misdemeanor under the Cleveland Codified Ordinances and the City will not pay any pre-trial prisoner costs for those persons. Upon presentment of an invoice by City, CMSD shall promptly reimburse the City for any costs the City pays the County for such prisoners if the County accepted them.

D. Any CMSDPD prisoner costs City is responsible for under this Second Amendment shall be payable only to the County pursuant to Agreement No. 2017-251 and/or other separate written agreement between the City and the County, and with legislative authority if needed. No payments or reimbursement shall be made by City to CMSD.

E. CMSDPD shall take an active and on-going role in expediting and/or reducing the incarceration time of CMSDPD prisoners the County accepts. This includes, but is not limited to, abiding by the Cleveland Municipal Court's goal of holding uncharged detainees for no longer than 36 hours. For CMSDPD prisoners not charged within 36 hours, CMSD, upon presentment of an invoice by City, shall promptly reimburse City for the cost of the additional jail time.

F. For CMSDPD prisoners taken into custody by CMSDPD pursuant to warrants issued by the Cleveland Municipal Court, and who require hospitalization or other healthcare prior to transport to the County for detention:

1. CMSDPD shall provide the initial transport to the hospital/health care providers and continue to guard such prisoners for up to eight (8) hours of the initial duration of treatment or care given the prisoner, or such longer period as CDP's Chief of Police may reasonably require.

2. If CMSDPD's prisoner treatment or care shall exceed eight (8) hours duration, CMSDPD shall contact the CDP to determine if a longer guarding period is required of CMSDPD and, if not, to arrange for CDP to take over the guard duties for the remaining duration of the prisoner's treatment or care. CMSDPD shall continue to guard such prisoners until relieved of duty by CDP and shall endeavor to ensure a smooth transition of guard duties to CDP.

3. CMSD shall be and remain responsible for all costs of medical care and hospitalization costs of CMSDPD prisoners prior to transport to County.

ARTICLE VI. TRAINING

A. CMSDPD agrees that, at minimum, it will provide to its officers and their supervisors, and CMSDPD call-takers and dispatchers and their supervisors, the same or comparable training related to use of force, crisis intervention, bias-free policing, community policing, investigatory stops, and searches and arrests, which the CDP provides to its personnel. CDP's policies and procedures [General Police Orders ("G.P.O.s")] for these areas of training are in Exhibit C, attached hereto.

1. Within sixty (60) days of the Effective Date of this Second Amendment, CMSDPD shall obtain from CDP a list of applicable CDP training that is scheduled or will be scheduled by CDP in 2019, and such other information as CMSDPD may reasonably need to provide the same or comparable training to its personnel. The CDP training list for 2019 will be updated by CDP when necessary. CMSDPD will provide the same or comparable training within a reasonable time within the applicable year.

2. Prior to January 1 of each subsequent year, CMSDPD shall obtain from CDP applicable anticipated training for the year and will provide such training for its applicable personnel within a reasonable time.

3. Upon request by CDP's Chief, CMSDPD will provide CDP with information about the type of training provided by CMSDPD and confirmation of completion of training by applicable CMSDPD personnel. CDP's Chief may determine in his sole discretion that CMSDPD's required training is not the same or comparable to CDP's, and shall notify CMSDPD's Chief in writing of the non-compliance. CMSDPD shall promptly remedy its lack of compliance and shall notify CDP's Chief of the remedy. CMSDPD shall promptly provide CDP's Chief with any supporting information he may reasonably request.

4. Training requirements shall continue to apply after the expiration of the City's May 26, 2015, Settlement Agreement with the U.S. Department of Justice.

B. CMSDPD officers shall participate in annual joint training and other joint initiatives at the request of CDP's Chief of Police.

C. Each party is solely responsible for its own training-related costs and expenses for its personnel. Upon request by CMSDPD, CDP may allow CMSDPD personnel to attend applicable training provided by CDP for its own personnel, but CMSD shall be solely responsible for any applicable costs or expenses, if any, associated with having CMSDPD personnel attend.

ARTICLE VII. COMPLAINT BOARD

A. Within thirty (30) days of the Effective Date of this Second Amendment, CMSD shall establish a complaint board made up of non-CMSDPD persons and the board shall be responsible for reviewing, investigating, hearing, and making findings regarding all civilian complaints about CMSDPD's policies and practices and the conduct of agency's officers and call takers/dispatchers. The board shall determine if a complaint warrants no action, or if disciplinary action against any of the officers and/or call takers/dispatchers is warranted. CMSD shall take appropriate disciplinary action in response to board findings and shall provide timely written notification to the complaining party of the board's determinations and any action taken or if no action was deemed warranted.

B. Upon request of the City's Chief of Police, CMSDPD shall promptly provide any information the Chief may reasonably ask for in order to review the existence and operations of the complaint board.

ARTICLE VIII. EXHIBITS

The following documents are attached to this Second Amendment and are expressly incorporated herein:

Exhibit A: Geographical Area and Locations

Exhibit B: CMSDPD Officer Identifications

Exhibit C: CDP GPOs

Exhibit D: Protocols Governing Interaction between CDP and CMSDPD

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by their authorized representatives.

CITY OF CLEVELAND

By: _____


Michael McGrath, Director
Department of Public Safety

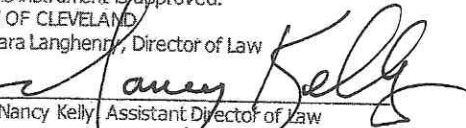
By: 
Calvin Williams, Chief
Division of Police

CLEVELAND MUNICIPAL SCHOOL DISTRICT

By: 
Eric S. Gordon, CEO

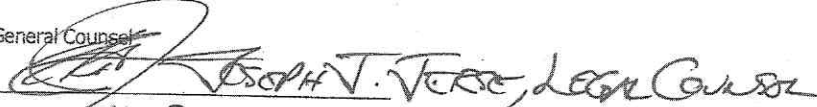
By: , Chief
Lester Fultz, Chief
CMSD Department of Police

The legal form and correctness
of this instrument is approved.
CITY OF CLEVELAND
Barbara Langhenn, Director of Law

By: 
Nancy Kelly, Assistant Director of Law

Date: 11/30/18

CMSD General Counsel

By: , Legal Counsel

Date: 11-30-2018