14-376
10/9/2014

CITY OF FRESNO
City Clerk's Office (Original)

MASTER AGREEMENT
BETWEEN
FRESNO CITY COLLEGE
AND
CITY OF FRESNO
INSTRUCTIONAL SERVICE AGREEMENT

This Agreement is made and entered into this 9th day of October, 2014 by and between Fresno City College (FCC), a college of the State Center Community College District (SCCCD) and the City of Fresno, a municipal corporation (CITY).

WITNESSETH:

WHEREAS, FCC is authorized by the California Education Code (Education Code) and Title 5 of the California Code of Regulations (Title 5), to conduct Contract Instruction, Assessment and Counseling Services to serve community needs; and

WHEREAS, CITY desires to contract with FCC for services as identified herein; and

WHEREAS, the parties intend that this Agreement provide for the mutual cooperation of FCC and CITY in the provision of quality instruction and training to meet community needs.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and promises hereinafter contained to be kept and performed by the respective parties, FCC and CITY mutually agree as follows:

Section 1. RESPONSIBILITIES OF FCC

a. FCC shall offer approved educational courses through its various programs to meet the needs of the CITY's Police Department (FPD).

b. FCC shall provide a coordinator to work with FPD. Said coordinator shall act as the FPD co-director for all FCC affiliated educational courses. Under no circumstances, however, shall the coordinator have authority over the remaining operations of FPD, including but not limited to, personnel issues concerning FPD employees, operational budget, or the use, maintenance, or scheduling of FPD facilities.

c. FCC and FPD will mutually ensure that ancillary and support services are provided for the students. (e.g. Counseling, Guidance, & Placement Assistance)

d. FCC shall assist the FPD in registration and other support services to students in order to adequately manage and control its course offerings.

e. FCC shall approve of the selection of instructors and facilitators and evaluate the quality of instruction to ensure that it meets the needs of the students and the accreditation requirements of FCC. FCC shall have the primary right to control and direct the instructional activities of all instructors.

f. FCC shall ensure that course offerings meet all appropriate requirements of the Education Code and Title 5.

g. FCC shall consult the FPD on any revisions to existing FCC courses designed for the FPD program, initiation of new courses, or any other changes, in order to ensure the quality of educational services and to meet the needs of the FPD.

h. FCC shall provide the use of its facilities and equipment free of charge for use by the FPD, on an as-needed, space available basis for affiliated programs. FCC shall attempt to provide use of said facilities and equipment during normal business hours.

i. FCC shall demonstrate control and direction through such actions as: providing the instructor of record an orientation, instructor's manual, Title 5 course outlines, curriculum materials, testing and grading procedures and any other materials and services it would provide its hourly instructors on campus.

j. FCC shall waive the health fee for all FPD students.

k. By signing this Agreement, FCC certifies that it does not receive full compensation for direct education costs of the course from any public or private agency, individual or group.

Section 2. RESPONSIBILITIES OF FPD

a. FPD shall provide classroom space for use as off-campus sites by FCC, free of charge for affiliated programs. FPD shall attempt to provide use of said facilities during normal business hours.

b. FPD shall provide instructors, facilitators, equipment, materials, day-to-day management support, and all other related overhead necessary to conduct FCC's affiliated educational programs.

c. FPD shall cooperate with FCC to ensure that all personnel, equipment, and materials used in carrying out its responsibilities under this Agreement conform to Education Code and Title 5 mandated standards governing instructional programs, including minimum qualifications for instructors.

d. CITY shall use the money received as compensation for services under this Agreement for educational and training related purposes as they relate to law enforcement training programs.

e. FPD shall assist FCC in collecting all instructional fees associated with the class offerings under this Agreement.

f. Records of student attendance and achievement shall be maintained by FPD. Records will be open for review at all times by officials of the college and submitted on a schedule developed by FCC.

g. By signing this Agreement, CITY certifies the training facility is open to the public and that the instructional activity to be conducted will not be fully funded by other sources.

Section 3. PAYMENT FOR SERVICES

a. In consideration for the services provided herein, FCC shall pay CITY $3.50 per student instructional hour that is eligible for state general apportionment.

b. For fiscal year 2014/2015, (for purposes of this Agreement, "fiscal year" begins July 1 and ends June 30) said hours shall not exceed 52,500 Student Instructional Hours or 100 Full Time Equivalent Students (FTES), unless mutually agreed prior to May 1, 2015. The same limits shall apply in each subsequent fiscal year, unless otherwise agreed in writing by the parties.

c. Any subsequent year's student instructional hour cap shall be determined at lease sixty (60) days prior to the start of the next fiscal year.

d. CITY shall present FCC with a valid invoice of all mutually agreed upon instructional hours presented under this Agreement and FCC shall pay CITY the agreed contract price within 45 days. The registration fees for courses under this contract will be deducted from the total amount of said invoice. FCC shall consider this payment for the registration fees and CITY shall consider the contracted price, minus the registration fees, as payment in full.

e. Instructional hours are defined as those hours that are reported on SCCCD's CCFS-320, California Community Colleges Apportionment

Attendance Reports, and are subject to audit by SCCCD's independent auditor and the California Community Colleges Chancellor's Office.

Section 4. INDEMNIFICATION

a. CITY shall indemnify, hold harmless and defend FCC, and each of its officers, officials, agents, and volunteers from and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CITY, FCC or any other person, and from and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions of CITY or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by CITY of governmental immunities including California Government Code Section 810 et seq.

b. FCC shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the CITY, FCC or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions of FCC or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by FCC of governmental immunities including California Government Code Section 810 et seq.

c. In the event of concurrent negligence on the part of FCC or any of its officers, officials, employees, agents or volunteers, and CITY or any of its officers, officials, employees, agents or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

d. This section shall survive expiration or termination of this Agreement.

Section 5. INSURANCE

a. Each party shall insure its activities in connection with this Agreement and maintain at all times insurance in coverage and limit amounts reasonably

necessary to protect itself against injuries and damages arising from the acts or omissions caused by each party, their respective Boards, officers, employees and agents in the performance of this Agreement. This insurance requirement may be satisfied through a program of self-insurance, or insurance coverage afforded to public entities through a Joint Powers Authority (JPA) risk pool.

Section 6. MISCELLANEOUS

a. If any of the provisions of this Agreement are found to be, or become contrary to State law or regulations, or court decisions, FCC and CITY agree that the Agreement shall be renegotiated as it relates to said provision, but the remainder of the Agreement shall remain in full force and effect.

b. The term of this Agreement shall be retroactive to July 1, 2014, and shall terminate on June 30, 2016. Notwithstanding the foregoing, this Agreement may be terminated at any time, with or without cause, upon written notice given to the other party at least thirty (30) days prior to the end of the term in which classes are currently in session. In the event of such termination, each party shall fully pay and discharge all obligations accruing to the other party up to and including the date of termination. Neither party shall incur any additional liability to the other by reason of such termination.

c. Either party hereto maintains the right to cancel services prior to the beginning of each course at no cost to either party to this Agreement.

d. CITY and FCC will not discriminate in the selection of any student to receive instruction pursuant to this Agreement because of race, creed, color, national origin, sex, disability (physical or mental), religion, age or any other characteristic prohibited by law.

e. The parties agree that no action, at law or equity, including an action for declaratory relief, shall be brought unless the underlying claim and/or cause of action has been submitted to non-binding arbitration before a mutually acceptable arbitrator appointed by the Judicial Arbitration and Mediation Service.

f. FCC has the primary right to control and direct the activities of the person or persons furnished by the CITY during the term of the Agreement.

g. This Agreement supersedes any and all other agreements, oral or written, between the parties hereto with respect to the use of the aforesaid facilities or services and contains all covenants and agreements between the parties with respect hereto. Each party to this Agreement

acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or by anyone acting on behalf of any parties, which are not embodied herein, and that no other agreement, statement, or promise not contained herein shall be valid or binding. Any modification to this Agreement shall be effective only if it is in writing and signed by the CITY and FCC in the form of an amendment to this Agreement.

h. Notice or correspondence required by this Agreement shall be delivered personally or by United States mail as follows:

To FCC	Richard Lindstrom State Center Regional Training Facility 1101 E. University Ave. Fresno, Ca. 93741	To FPD	Lt. Tom Laband Fresno Police Dept. 2326 Fresno Street Fresno, Ca. 93721

i. The specific courses covered under this Agreement are described in Attachments 1 through 29, which are incorporated herein by this reference.

j. In addition to the specific courses noted above, the parties may offer additional courses pursuant to this Agreement, on the same terms and conditions as this Agreement. For each additional course of instruction, written agreement to offer the course is required by CITY's Chief of Police or designee, and the FCC President or designee. The course particulars must be set forth in writing as with the courses listed above, and will become attachments to this Agreement.

IN WITNESS WHEREOF, The parties hereto have executed this Agreement to be effective July 1, 2014.

City of Fresno, a Municipal Corporation	**Fresno City College, a college of the State Center Community College District**
Jerry Dyer, Chief Fresno Police Department	Mr. Edwin Eng Vice Chancellor Finance and Administration
Date: 10/21/14	Date: 12/17/14
APPROVED AS TO LEGAL FORM:	REVIEWED AND RECOMMENDED FOR APPROVAL
Douglas Sloan, Fresno City Attorney	Mr. Tony Cantu, President Fresno City College
Date:	Date: 11/24/14
ATTEST:	APPROVED AS TO LEGAL FORM:
Cindy Bruer, Deputy Yvonne Spence, Fresno City Clerk	23 Dec 2014 Gregory Taylor, District Counsel
Date: October 28, 2014	Date: