



# CITY COUNCIL AGENDA

---

1200  
R=10/09

MEETING DATE: SEPTEMBER 4, 2007  
TO: CITY COUNCIL  
FROM: ADMINISTRATION  
SUBJECT: CITYWIDE ADULT CROSSING GUARDS – MEMORANDUM OF AGREEMENT WITH FULLERTON SCHOOL DISTRICT

Approved for Agenda:

A handwritten signature in black ink, appearing to read "Chris", written over a horizontal line.

City Manager's Office

---

## SUMMARY

The City Council is being asked to consider and approve a Memorandum of Agreement (MOA) by and between the City of Fullerton (City) and the Fullerton School District (FSD) regarding the citywide adult crossing guard program (Program).

## RECOMMENDATION

Consider and approve the MOA.

## PROPOSED COSTS

There are 29 crossing guard locations covered by the Program at a total estimated cost of \$297,000 for the 2007-08 school year (see Attachment 1). Should the proposed MOA be approved by the City Council and FSD Board, one crossing guard location would be deleted from the Program, reducing the overall cost for the 2007-08 school year to approximately \$290,000. Pursuant to the MOA, the City and FSD would equally share the cost of eight (8) crossings; costs for warranted crossings would be paid by the City. The City's estimated share of costs for the Program under the MOA is \$253,000 and funds are available in the approved Police Department budget for FY 2007-08. The City's share of costs may increase during the 2008-09 school year dependent upon the findings of a warrant study proposed to occur in May 2008.

## DISCUSSION

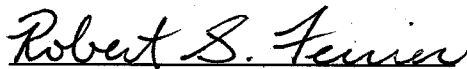
In 1998, the City and FSD entered into an agreement that established a cost sharing ratio for the crossing guard locations. In 2006, FSD notified the City it would no longer be able to fund its portion of the Program due to budget constraints. In response, staff initiated a study to determine how many of the crossing guard locations met warrants. FSD was advised that any crossing(s) no longer meeting warrants would be recommended to the City Council for elimination.

On August 15, 2006, staff presented the results of the study to the City Council and recommended the deletion of 9 locations from the Program (see Attachment 2). After review and consideration of policy options, the City Council directed the City Manager to contact the District Superintendent, reestablish joint support for the Program, and maintain the status quo until such time as negotiations between the City and FSD had been completed on a new crossing guard agreement.

The attached MOA (see attachment 3) memorializes the dealpoints negotiated between the City and FSD. Pertinent points of the MOA include:

- The crossing guard located at Independence Park (Valencia & Woods) is recommended for deletion.
- The remaining eight crossing guards that had previously been recommended for deletion will be kept. Costs associated with these eight locations will be split equally between the City and FSD.
- Costs for warranted crossing guards under the MOA will be paid by the City.
- The City will conduct a study of three crossing locations (Elm/Richman, Harbor/Valencia, and Gilbert/Pioneer) at the end of the 2007-08 school year to determine if they meet warrants.
- City and FSD staff will examine the possibility of upgrading crossing signs to newer color standards or technology.

Should the City Council approve the MOA, FSD staff will present the item to the FSD Board on September 11. Staff will be available to address any questions and/or concerns.



Robert S. Ferrier  
Assistant to the City Manager

Attachments:                    Attachment 1 – Program Cost  
   Attachment 2 – Staff Report (August 15, 2006)  
   Attachment 3 – Memorandum of Agreement



# ALL CITY MANAGEMENT SERVICES

June 1, 2007

Jim Wren  
Fullerton Police Department  
237 Commonwealth Ave.  
Fullerton, CA 92832

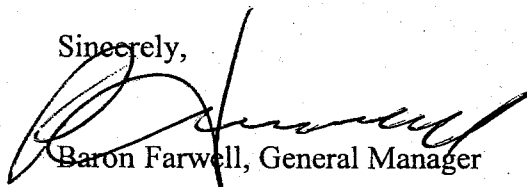
Mr. Wren:

As per your request, the total annual estimated hours for the Fullerton Crossing Guard program are as follows:

115.50 daily hrs x 180 days = 20790 hours  
70 daily summer school hrs x 20 days = 1400 hours  
**22,190.00 estimate annual hours**

Also, as a reminder the new hourly rate for the City of Fullerton is Thirteen Dollars and Thirty-Nine Cents (\$13.39). If you have any further question, please do not hesitate to give me a call (800) 540-9290.

Sincerely,



Baron Farwell, General Manager

*"The Crossing Guard Company"*

NO. 13  
8-15-06

# CITY COUNCIL AGENDA

---

1104-06

MEETING DATE: AUGUST 15, 2006  
TO: CITY COUNCIL/CITY MANAGER  
FROM: ENGINEERING DEPARTMENT  
SUBJECT: CITYWIDE ADULT CROSSING GUARD STUDY

Approved for Agenda:

City Manager's Office

---

## SUMMARY

City Council is being asked to receive and review data pertaining to crosswalks where adult crossing guards are present and provide direction regarding the continued use of this service at various locations.

## RECOMMENDATION

That the City Council direct the removal of 9 adult crossing guards at various locations within the City as identified and shown on Exhibit "A".

## COSTS

The total cost to provide this service at the current 29 locations is in excess of \$248,000 per year. Of the 29 crossing guard locations, the Fullerton Elementary School District (District) shares the cost for only 23, which is approximately \$96,000. The proposed reduction in the number of crossing guards will result in an increase to the City's share of this program from \$152,000 to \$198,000.

## DISCUSSION

Until 1993, the Education Code required cities to reimburse school districts for crossing guards. As such, the City of Fullerton provided crossing guards rather than reimburse the District for its cost. Effective June 30, 1993, cities could opt not to provide the service at all or to arrange for cost-sharing agreements. Fullerton chose the later alternative and developed an agreement with the District, which established a 50/50 cost sharing ratio and other reimbursement criteria.

This contract had been in effect for 12 years; however, last spring, the District unexpectedly informed the City it would no longer be able to fund its portion of the program due to budget constraints.

As a result of this notification, staff initiated a City-wide study to determine how many of the existing 29 crossing guard locations meet current City crossing guard warrants. The District was advised that any crossing(s) no longer meeting warrants would be recommended to the City Council for elimination of funding and service. The District would then be given the opportunity to provide 100% funding for these locations or to delete them from the program.

The City currently provides adult crossing guards at 12 signalized intersections, 12 at uncontrolled crossings, 2 at 4-way stops, 2 at Jr. High schools, and 1 at Independence Park. Until this year, the City and the Fullerton School District each paid one-half of the charges for services at 23 locations. The City pays the entire cost of services for the remaining 6 locations. Of the 6 locations 3 provide service for the Placentia/Yorba Linda School District jurisdiction, but the roadway crossings are located in the City of Fullerton. The Cities of Fullerton and Placentia/Yorba Linda do not have a cost sharing program, but Fullerton has maintained its commitment to provide crossing guards at these warranted locations.

The guidelines for providing this particular service are outlined in the Elementary School Aged Children Guidelines adopted in 1977 by the Fullerton City Council, and the Federal Manual on Traffic Control Devices (MUTCD). Of the two, the City's guidelines are less restrictive and were utilized for the noted evaluation. The warrants include street width, vehicle speeds and volumes, pedestrian volumes, and gaps in traffic stream.

Staff evaluated operations and existing conditions at all elementary school crossings to determine if warrants for adult crossing guards were still satisfied under guidelines by both the MUTCD and the City's criteria. The studies were conducted during the early morning and afternoon peak periods on typical school days prior to the summer vacation. Staff's findings are provided in Exhibit "B". The District has been advised of the results of the study and the pending Council action.

Based on the warrant study and findings, staff recommends the removal of six adult elementary school crossing guards as highlighted in that exhibit. There are four locations listed that do not technically meet MUTCD guidelines; however, based on factors such as excessive student activity, higher vehicle speeds, and/or insufficient gaps to cross, staff recommends that the adult crossing guard locations be retained.

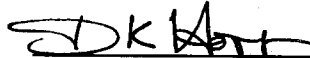
Also, the adult crossing guards at the following locations are paid 100% by the City and have no established or recognized warrants because they are at either a Jr. High school or a park.

Woods & Valencia - Independence Park	Remove
Conejo & Parks - Parks Jr. High School	Remove
Acacia & Wilshire - Acacia Jr. High School	Remove

In these cases it is left to the professional judgment of the City Traffic Engineer to determine and recommend the need at each location. Based on observation and current traffic counts, staff believes that the presence and expense of a crossing guard cannot be justified for any of the three locations and should be eliminated.

Future requests for review from the District must be as a result of development, changes in school boundaries, an increase in student enrollment, or any other change that might result in quantitative warrant revisions. The District will still be responsible for its share of the cost of these studies (\$650) as provided in the California Vehicle Code.

The T&CC voted unanimously to deny staff's recommendation. Copies of the staff report to the T&CC (Attachment #1) and draft minutes of its August 7, 2006 meeting (Attachment #2), are attached for Council's reference.

  
\_\_\_\_\_  
Donald K. Hoppe  
Director of Engineering

DH/DLangstaff/sm  
Attachments

- Attachment #1 – T&CC Staff Report w/ Exhibit "A"
- Exhibit "B" – Study Findings
- Attachment #2 – Draft Copy of T&CC Minutes



## TRANSPORTATION & CIRCULATION COMMISSION AGENDA

---

MEETING DATE: AUGUST 7, 2006  
TO: TRANSPORTATION & CIRCULATION COMMISSION  
FROM: ENGINEERING DEPARTMENT  
SUBJECT: CITYWIDE CROSSING GUARD STUDY

---

### SUMMARY

Receive and review data pertaining to crosswalks where adult crossing guards are present.

The Fullerton School District recently advised the City that it would no longer participate in cost sharing for adult crossing guards at elementary school crossings. Subsequently, staff was asked to evaluate operations and existing conditions at all elementary school crossings to determine if warrants were still satisfied for continued presence under today's guidelines in the Federal Manual on Traffic Control Devices (MUTCD) and Elementary School Aged Children Guidelines adopted in 1977 by the City Council.

### RECOMMENDATION

Recommend to the City Council concurrence with staff's disposition regarding the continued use and/or removal of adult crossing guards at various locations within the City, as listed herein and shown on Exhibit "A".

### DISCUSSION

Currently the City employs adult crossing guards at 29 locations, 12 of which are at signalized intersections, 12 which are at uncontrolled crossings, 2 at 4-way stops, 2 at Jr. High Schools, and 1 at Independence Park. The cost for maintaining these guards is in excess of \$248,000.00 per year. Presently, the City and the Fullerton School District each pay one half of the charges related to the crossing guard services at 23 locations. The City pays the entire cost for the remaining 6 adult crossing guards. Three of the six locations are within Placentia/Yorba Linda School District jurisdiction.

The need for uniform application of school area crossing protection has been recognized by the Federal Highway Administration as evidenced in the MUTCD.

Attachment #1

Page 1 of 3

The MUTCD has developed and published a recommended policy for the assignment of adult crossing guards, and requires that certain warrants be met to justify the use of a crossing guard at any location. The warrants include an appraisal of street width, vehicle speeds and volumes, pedestrian volumes, and gaps in traffic stream. Currently, staff utilizes criteria adopted by Council in 1977, which is less stringent than today's MUTCD warrants.

Staff evaluated operations and existing conditions at all elementary school crossings to determine if warrants for adult crossing guards were still satisfied under guidelines by both the MUTCD and the City's criteria. The studies were conducted during the early morning and afternoon peak periods on typical school days. The following is a summation of staff's findings:

<u>Location</u>	<u>Type of Crossing</u>	<u>City Warrant Satisfied</u>	<u>MUTCD Warrant Satisfied</u>	<u>Action</u>
1. Acacia & Dorothy	4-way	Yes	Yes	Retain
2. Richman & Valencia	4-way	Yes	Yes	Retain
3. Basque/Carhart & Malvern	Signalized	Yes	Yes	Retain
4. Brookhurst & Orangethorpe	Signalized	Yes	Yes	Retain
5. Brookhurst & Roberta	Signalized	Yes	No	Retain
6. Camino Centroloma & Rosecrans	Signalized	No	No	Remove
7. Chapman & Raymond	Signalized	Yes	Yes	Retain
8. Commonwealth & Lillie	Signalized	No	No	Remove
9. Commonwealth & Pritchard	Signalized	No	No	Remove
10. Commonwealth & State College	Signalized	Yes	No	Retain
11. Gilbert & Pioneer	Signalized	No	No	Remove
12. Harbor & Valencia	Signalized	No	No	Remove
13. Lemon & Valencia	Signalized	Yes	Yes	Retain
14. Magnolia & Valencia	Signalized	Yes	Yes	Retain
15. Acacia & Melody	Uncontrolled	Yes	Yes	Retain
16. Basque & Valencia	Uncontrolled	Yes	Yes	Retain
17. Beechwood & Placentia	Uncontrolled	Yes	Yes	Retain
18. Bradford & Topaz	Uncontrolled	Yes	Yes	Retain
19. Coronado & Laguna	Uncontrolled	Yes	No	Retain
20. Eadington & Valencia	Uncontrolled	Yes	Yes	Retain
21. Elm & Highland	Uncontrolled	Yes	No	Retain
22. Elm & Richman	Uncontrolled	No	No	Remove
23. Garnet & Sapphire	Uncontrolled	Yes	Yes	Retain
24. Placentia & Ruby	Uncontrolled	Yes	Yes	Retain
25. Pritchard & Valencia	Uncontrolled	Yes	Yes	Retain
26. Rolling Hills @ R.H. Elem.	Uncontrolled	Yes	Yes	Retain



Based on the warrant study and findings, staff recommends the removal of six (6) adult elementary school crossing guards as highlighted in red above.

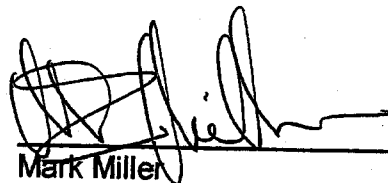
It should also be noted that there are four locations which do not meet MUTCD guidelines; however, based on factors such as excessive student activity, higher vehicle speeds, and/or insufficient gaps to cross, staff recommends that the adult crossing guard locations be retained.

There are also adult crossing guards at the following three (3) locations:

- 27. Woods & Valencia - Independence Park (Cost absorbed by City) Remove
- 28. Conejo & Parks - Parks Jr. High School (Cost absorbed by City) Remove
- 29. Acacia & Wilshire - Acacia Jr. High School (Cost absorbed by City) Remove

In that there are no established warrants recognizing the need for adult crossing guards at either a Jr. High School or a park, it is left to the professional judgment of the City Traffic Engineer to determine and recommend the need at each location. Based on observation and traffic counts, staff believes that the presence and expense of a crossing guard cannot be justified for any of the three mentioned locations and should be eliminated.

Staff would also recommend that the School District's share of the \$650 cost to conduct an adult crossing guard study be waived in the event the School District requests a review of any location recommended for removal for a period of 3 years following Council's decision. Request for review must be as a result of development, changes in school boundaries, and/or an increase in student enrollment, or any other change that might result in quantitative warrant revisions.

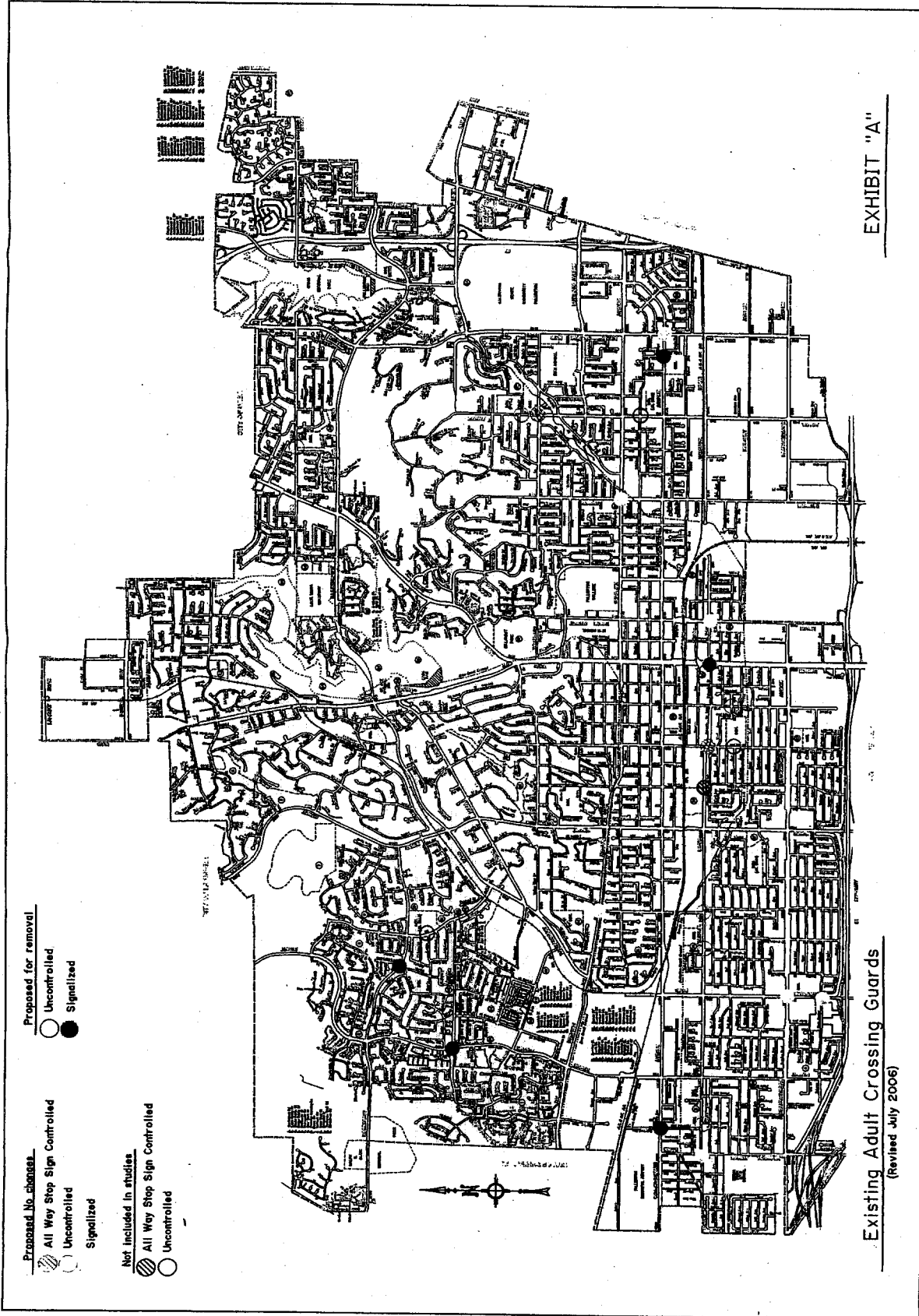


Mark Miller  
City Traffic Engineer

MM/DLangstaff/sm  
Attachment – Exhibit "A"

c: Commissioners  
Police Traffic Bureau

S:\Engineering\TCC\Word\StaffReports\2006\SR 8-7 item 3 Crossing Guard Study.doc



**Proposed No. changes.**

- All Way Stop Sign Controlled
- Uncontrolled
- Signalized

**Proposed for removal**

- Uncontrolled
- Signalized

**Not included in studies**

- All Way Stop Sign Controlled
- Uncontrolled

**Existing Adult Crossing Guards**

(Revised July 2006)

**CROSSING GUARD  
STUDY FINDINGS**

	Location	Type of Crossing	City Warrant Satisfied	MUTCD Warrant Satisfied	Recom. Action
1.	Acacia & Dorothy	4-way	Yes	Yes	Retain
2.	Richman & Valencia	4-way	Yes	Yes	Retain
3.	Basque/Carhart & Malvern	Signalized	Yes	Yes	Retain
4.	Brookhurst & Orangethorpe	Signalized	Yes	Yes	Retain
5.	Brookhurst & Roberta	Signalized	Yes	No	Retain
6.	<b>Camino Centroloma &amp; Rosecrans</b>	<b>Signalized</b>	<b>No</b>	<b>No</b>	<b>Remove</b>
7.	Chapman & Raymond	Signalized	Yes	Yes	Retain
8.	<b>Commonwealth &amp; Lillie</b>	<b>Signalized</b>	<b>No</b>	<b>No</b>	<b>Remove</b>
9.	<b>Commonwealth &amp; Pritchard</b>	<b>Signalized</b>	<b>No</b>	<b>No</b>	<b>Remove</b>
10.	Commonwealth & State College	Signalized	Yes	No	Retain
11.	<b>Gilbert &amp; Pioneer</b>	<b>Signalized</b>	<b>No</b>	<b>No</b>	<b>Remove</b>
12.	<b>Harbor &amp; Valencia</b>	<b>Signalized</b>	<b>No</b>	<b>No</b>	<b>Remove</b>
13.	Lemon & Valencia	Signalized	Yes	Yes	Retain
14.	Magnolia & Valencia	Signalized	Yes	Yes	Retain
15.	Acacia & Melody	Uncontrolled	Yes	Yes	Retain
16.	Basque & Valencia	Uncontrolled	Yes	Yes	Retain
17.	Beechwood & Placentia	Uncontrolled	Yes	Yes	Retain
18.	Bradford & Topaz	Uncontrolled	Yes	Yes	Retain
19.	Coronado & Laguna	Uncontrolled	Yes	No	Retain
20.	Eadington & Valencia	Uncontrolled	Yes	Yes	Retain
21.	Elm & Highland	Uncontrolled	Yes	No	Retain
22.	<b>Elm &amp; Richman</b>	<b>Uncontrolled</b>	<b>No</b>	<b>No</b>	<b>Remove</b>
23.	Garnet & Sapphire	Uncontrolled	Yes	Yes	Retain
24.	Placentia & Ruby	Uncontrolled	Yes	Yes	Retain
25.	Pritchard & Valencia	Uncontrolled	Yes	Yes	Retain
26.	Rolling Hills @ R.H. Elem.	Uncontrolled	Yes	Yes	Retain

EXHIBIT "B"

TRANSPORTATION AND CIRCULATION COMMISSION  
Monday, August 7, 2006 ----- 4:00 p.m.  
City Council Chamber ----- City Hall

COMMISSIONERS PRESENT: J. Michael Cochran, Chairperson  
Angela Lindstrom, Vice Chairperson  
Stephen Hall  
Rosa Nowels  
John Olmsted  
Patrick Robeson

COMMISSIONERS ABSENT: Robert Gonzalez - Resigned

STAFF PRESENT: Mark Miller, Consultant City Traffic Engineer  
Donald K. Hoppe, Director of Engineering  
Lt. , Fullerton Police Department  
Dave Langstaff, Traffic Engineering Analyst  
Susan McGraw, Recording Secretary

3. RECEIVE AND REVIEW DATA PERTAINING TO CROSSWALKS WHERE ADULT CROSSING GUARDS ARE PRESENT.

City Traffic Engineer Miller presented staff's report and study findings. The request to evaluate this issue was made by the City Manager upon notification last spring from the Fullerton Elementary School District (District) of its decision to no longer pay its share of crossing guard expenses due to budget constraints.

Before the school year ended, traffic counts were performed by a service hired by staff to count all the elementary school-age children using crosswalks attended by a crossing guard. There are 26 locations which have adult crossing guards; however, there are 29 locations that utilize adult crossing guards throughout the City. Two locations are adjacent to junior high schools and one is adjacent to Independence Park.

Two warrant analyses were applied to the counts taken, one adopted by the City Council in 1977 and the Federal Manual on Uniform Traffic Control Devices (MUTCD), published last year, which is more restrictive. Mr. Miller applied both warrants to determine if there were any overlaps or differences in the analyses, but advised the T&CC that the Council adopted criteria takes precedent. As shown in the staff report, there are six locations in the vicinity of elementary schools, which do not satisfy either warrant. There are also two crossings adjacent to Jr. High schools and one crossing at Independence Park, all of which are funded entirely by the City. It is recommended that the crossing guards be removed from these nine locations.

Attachment #2  
Page 1 of 2

Mr. Miller stated that the District was notified of this meeting and also was in receipt of the study findings and recommendations to be made. Mr. Miller further remarked that it appears there is no one present from the District to respond to questions. Staff did not notify parents of the recommendations to remove the crossing guards, believing it is the District's responsibility. It is anticipated that calls will be received, but they will be referred directly to the District for response.

Mr. Miller also noted the fact that a crossing guard is NOT a traffic control device. A guard is actually a supplement to existing controls, i.e., stop signs, signals, crosswalks, signing, etc. The City is NOT obligated to provide crossing guards; it is left up to the discretion of each local agency.

Opening to Public Comment, no one came forward to address the Commission. The segment was closed.

Further discussion among the Commissioners confirmed all had serious concerns that the lack of the appearance of parents at this public meeting makes it likely that they were not notified by the District of its decision; that the District 'dropped the ball' by not noticing parents of the obvious ramifications of its decision; and the implication that the City is responsible for the seemingly 'sudden' removal of the crossing guards; and it appears to be a budgetary issue for the District and parents were not given the opportunity to voice their concerns and/or mitigating solutions, i.e., compromise on costs to both the District and the City.

Commissioner Robeson made a motion to deny staff's recommendation to the City Council in light of the possibility that parents were not given the opportunity to decide if this is appropriate action on the part of the District.

Vice Chairman Lindstrom seconded the motion which passed unanimously.

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by and between the City of Fullerton (City) and the Fullerton School District (School District) as a statement of agreement and clarification of intentions relating to the Adult Crossing Guard Program (Program) now in effect. City and School District do hereby agree to the following:

- I. On May 17, 1998, the City and School District had entered into a Crossing Guard Agreement (Agreement) regarding staffing and cost-sharing considerations between the parties, as set forth in Exhibit A.
- II. Pursuant to Section XI of the Agreement, the School District notified the City of its intention to immediately terminate the Agreement, effective April 26, 2007.
- III. City and School District subsequently met and reviewed the status of the Program. As a result, both parties agree to support the Program subject to the following conditions:
  - A. The MOA will be in effect upon approval by the policy-making bodies of both parties (i.e. the Fullerton City Council and the Fullerton School District Board), with an initial term ending June 30, 2008. The MOA shall automatically renew for successive one-year terms beginning July 1, 2008, unless either party terminates the MOA by providing the other party with thirty (30) days written notice.
  - B. City shall provide staff of crossing guards at such hours, days, and locations as mutually agreed upon by the City and School District, as set forth in Exhibit B attached hereto and incorporated herein by reference.
  - C. City and School District shall share the cost of the Program, as more particularly set forth in Exhibit C, attached hereto and incorporated herein by reference.
  - D. City shall conduct a study of the three crossings located at Elm/Richman, Harbor/Valenica, and Gilbert/Pioneer in May 2008 to determine if they meet warrants. For any of these three crossings that do not meet warrants, City and School District will continue to share the cost on a 50/50 basis. Costs for warranted crossings will be paid for by City.
  - E. City shall bill School District on an annual basis for its share of the Program's cost. City shall bill School District in January of each year. Payments shall be received by City no later than thirty (30) days after receipt of billing.

- F. At least sixty (60) days prior to each successive renewal of the MOA, City shall provide School District with a cost estimate for the upcoming school year.
- G. City shall prepare and maintain accurate and complete financial records of its expenses related to the Program. School District or its authorized representative shall have access of any books, documents, and records pertinent to the MOA for the purpose of a financial audit.
- H. City is and shall at all times be deemed to be an independent contractor. Nothing herein shall be construed as creating the relationship of employer and employee of principal and agent between School District and City or any of City's agents or employees. City, its agents and employees shall not be entitled to any rights or privileges of School District employees and shall not be considered in any manner to be School District employees.
- I. School District is and shall at all times be deemed to be an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee or principal and agent between City and School District or any of either School District's agents or employees. School District, its agents and employees shall not be entitled to any rights or privileges of City employees and shall not be considered in any manner to be City employees.
- J. City agrees to indemnify, hold harmless, and defend School District, its officers, agents, subcontractors and employees from and against any and all claims, demands, losses, legal and investigation expenses or liability of any kind or nature, which School District, its officers, agents, subcontractors and employees may sustain or incur, or which may be imposed upon them, or any of them, for injury to or death of persons, or damage as a result of, arising out of, or in any manner connected with the performance of City, its agents, subcontractors or employees, under the terms of this MOA, or with the condition of City's property, excepting only liability arising out of sole negligence of School District.
- K. School District agrees to indemnify, hold harmless, and defend City, its officers, agents, subcontractors and employees from and against any and all claims, demands, losses, legal and investigation expenses or liability of any kind or nature, which City, its officers, agents, subcontractors and employees may sustain or incur, or which may be imposed upon them, or any of them, for injury to or death of persons, or damage as a result of, arising out of, or in any manner connected with the performance of School District, its agents, subcontractors or employees, under the terms of this MOA, or with the condition of School District's property, excepting only liability arising out of sole negligence of City.

- L. City may subcontract for the services to be provided under this MOA without the prior approval of School District.
- M. City and School District will meet and confer to examine the possibility of upgrading crossing signage to newer color standards or technology.

The above contain all the points agreed to by both parties and signatures below affirm the intention to take all necessary steps in fulfilling the duties and obligations described above.

FOR THE CITY

FOR THE SCHOOL DISTRICT

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
President of the Board

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
District Superintendent



**AGREEMENT BETWEEN THE  
CITY OF FULLERTON  
AND THE  
FULLERTON SCHOOL DISTRICT**

THIS AGREEMENT, entered into this 17th day of May, 1998, which date is enumerated for purposes of reference only, by and between the CITY OF FULLERTON, a municipal corporation, hereinafter referred to as "CITY," and FULLERTON SCHOOL DISTRICT, hereinafter referred to as "SCHOOL DISTRICT."

WITNESSETH:

WHEREAS, SCHOOL DISTRICT wishes to contract with CITY for the staffing of crossing guards; and

WHEREAS, CITY is agreeable to the rendering of such services on the terms and conditions hereinafter set forth; and

WHEREAS, the parties agree that they are committed to the crossing guard program resulting from this Agreement. CITY, realizing the importance thereof, agrees to use all reasonable efforts to secure the appropriation of monies to pay CITY's share of the crossing guard program for each annual budget for which this Agreement remains in effect.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I. TERM:

This Agreement shall be for one (1) year beginning July 1, 1997, and ending June 30, 1998. This Agreement shall automatically renew for successive one-year terms unless earlier terminated by either party in the manner set forth herein.

Nothing in this section entitled "TERM" shall be construed as affecting the termination rights of any of the parties as set forth in Section XI of this Agreement entitled "OPTIONAL TERMINATION." The expiration of this Agreement, or its earlier termination, shall not affect the obligations of CITY which would extend beyond the term of this Agreement, including, but not limited to, obligations with respect to indemnification, if any such obligations exist.

Any obligations of CITY under this Agreement are contingent upon inclusion of sufficient funding for the services hereunder in the annual budget approved by the City Council on or about July 1st of each year this Agreement is in effect.

## II. SERVICES BY CITY:

CITY shall provide staffing of crossing guards at such hours, days, and locations as mutually agreed upon by the CITY and SCHOOL DISTRICT, as set forth in Exhibit A attached hereto and incorporated herein by reference.

The parties agree to review the staffing requirements and locations upon request of either party and may amend the same from time to time, upon mutual agreement of the parties. If staffing is reduced or locations abandoned, the payment required herein from DISTRICT will be adjusted accordingly.

## III. PAYMENT:

A. CITY and SCHOOL DISTRICT shall share the cost of the crossing guard program, as more particularly set forth in Exhibit B attached hereto and incorporated herein by reference. The SCHOOL DISTRICT's share shall not be increased over that stated in this Agreement unless agreed to in writing by the SCHOOL DISTRICT. Notwithstanding any other provision contained in this Agreement, the SCHOOL DISTRICT's share of the crossing guard program shall not exceed Seventy Six Thousand Dollars (\$76,000) for any one-year term of this Agreement unless approved in advance by the governing board of the SCHOOL DISTRICT. SCHOOL DISTRICT expressly agrees that if its share of the costs for the crossing guard program exceeds the Seventy Six Thousand Dollar (\$76,000) limit for any one year due to an increase in costs to CITY or an increase in the hours, days, or locations requiring crossing guards, and SCHOOL DISTRICT does not agree to pay its share of the increased costs, CITY reserves the right to limit or reduce the hours, days, and/or locations of service so as not to exceed the SCHOOL DISTRICT's Seventy Six Thousand Dollar (\$76,000) limit.

B. In addition to the cost for services set forth above, SCHOOL DISTRICT shall pay, or reimburse the CITY, for all costs incurred by CITY and/or its subcontractors for the fingerprinting and submission of the fingerprint applications to the Department of Justice. CITY shall bill SCHOOL DISTRICT for the costs of the fingerprinting and SCHOOL DISTRICT shall pay said invoice within thirty (30) days of receipt.

C. At least ninety (90) days prior to each renewal term of this Agreement, CITY shall provide SCHOOL DISTRICT with a cost estimate for the upcoming year.

D. CITY shall bill SCHOOL DISTRICT on an annual basis for the estimated cost of the crossing guard program. CITY shall bill SCHOOL DISTRICT in January of each year. Payments to CITY shall be received by CITY no later than thirty (30) days after receipt of the billing.

E. CITY's billing shall be for estimated costs for services rendered in the contract year. CITY's billing shall provide such information as is reasonable that is required by SCHOOL DISTRICT.

F. If, pursuant to the SCHOOL DISTRICT's request, an additional crossing guard(s) is provided to the SCHOOL DISTRICT, the SCHOOL DISTRICT agrees to pay its share of any

additional costs incurred by CITY for providing the additional crossing guard(s). CITY shall bill SCHOOL DISTRICT for its share of the additional cost, if any, within a reasonable time of CITY's determination of said additional cost. SCHOOL DISTRICT agrees to pay CITY within thirty (30) days from receipt of the bill.

G. CITY shall not claim reimbursement for services provided beyond the expiration and/or termination of this Agreement, except as may otherwise be provided under this Agreement.

H. Not later than August 1st of each year, CITY shall provide to SCHOOL DISTRICT an invoice which itemizes any adjustments to the amount(s) paid by SCHOOL DISTRICT pursuant to paragraphs C or E of this section for the just completed annual term. The invoice shall reflect any increase or decrease in the actual cost of providing the crossing guard program during that period. Any required reimbursement by CITY or additional payment by SCHOOL DISTRICT resulting from said increase or decrease, as applicable, shall be paid within thirty days from the receipt of invoice.

#### IV. NOTICES:

A. All notices and written communications sent by one party to the other shall be personally delivered or sent by registered or certified U.S. mail, postage prepaid, return receipt requested, to the following addresses indicated below:

CITY: FULLERTON POLICE DEPARTMENT  
353 W. Commonwealth Avenue  
Fullerton, CA 92832  
ATTN: Traffic Lieutenant

Copy to: FULLERTON CITY CLERK  
303 W. Commonwealth Avenue  
Fullerton, CA 92832

SCHOOL DISTRICT: FULLERTON SCHOOL DISTRICT  
1401 W. Valencia Drive  
Fullerton, CA 92833  
ATTN: Business Office

The effective date of any notice or written communication sent by one party to the other shall be the date received if by personal service, or 48 hours after deposit in the U.S. mail as reflected by the official U.S. postmark.

Either party may change its address by giving notice in writing to the other party.

#### V. FINANCIAL RECORDS:

CITY shall prepare and maintain accurate and complete financial records of its operating expenses. These records shall include: source documents, financial statements and ledgers.

## VI. AUDITS

A. SCHOOL DISTRICT or any authorized representative of SCHOOL DISTRICT shall have access to any books, documents and records of CITY pertinent to this Agreement for the purpose of a financial audit.

B. Pursuant to Government Code Section 8546.7, or any amendments thereto, all books, records and files of SCHOOL DISTRICT, CITY, or any subcontractor connected with the performance of this Agreement, involving the expenditure of public funds in excess of Ten Thousand dollars (\$10,000), shall be subject to the examination and audit of the State Auditor of the State of California for a period of three (3) years after final payment is made under this Agreement, except that any such books, records and files pertaining to any audit then in progress, or any claim or litigation, shall be retained beyond said three-year period until final resolution of said audit, claim or litigation.

## VII. NON-DISCRIMINATION IN SERVICE:

CITY shall not discriminate in the provision of services on the basis of color, race, religion, national origin, sex, age, physical or mental handicap.

## VIII. INDEPENDENT CONTRACTOR:

A. CITY is and shall at all times be deemed to be an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee or principal and agent between SCHOOL DISTRICT and CITY or any of CITY's agents or employees. CITY, its agents and employees shall not be entitled to any rights or privileges of SCHOOL DISTRICT employees and shall not be considered in any manner to be SCHOOL DISTRICT employees.

B. SCHOOL DISTRICT is and shall at all times be deemed to be an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee or principal and agent between CITY and SCHOOL DISTRICT or any of SCHOOL DISTRICT's agents or employees. SCHOOL DISTRICT, its agents and employees shall not be entitled to any rights or privileges of CITY employees and shall not be considered in any manner to be CITY employees.

## IX. INDEMNIFICATION:

SCHOOL DISTRICT agrees to indemnify, hold harmless, and defend CITY, its officers, agents, subcontractors and employees from and against any and all claims, demands, losses, legal and investigation expenses, or liability of any kind or nature, which CITY, its officers, agents, subcontractors and employees may sustain or incur, or which may be imposed upon them or any of them, for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the performance of SCHOOL DISTRICT, its agents, subcontractors or employees, under the terms of this Agreement, or with the condition of SCHOOL DISTRICT's

property, excepting only liability arising out of sole negligence of CITY. Transmittal to SCHOOL DISTRICT by CITY of any pleadings served shall be deemed to be a request by CITY for SCHOOL DISTRICT to defend CITY in the action so served.

CITY agrees to indemnify, hold harmless, and defend SCHOOL DISTRICT, its officers, agents, subcontractors and employees from and against any and all claims, demands, losses, legal and investigation expenses, or liability of any kind or nature, which SCHOOL DISTRICT, its officers, agents, subcontractors and employees may sustain or incur, or which may be imposed upon them, or any of them, for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the performance of CITY, its agents, subcontractors or employees, under the terms of this Agreement, or with the condition of CITY's property, excepting only liability arising out of sole negligence of SCHOOL DISTRICT. Transmittal to CITY by SCHOOL DISTRICT of any pleadings served shall be deemed to be a request by SCHOOL DISTRICT for CITY to defend SCHOOL DISTRICT in the action so served.

**X. INSURANCE:**

A. Without limiting CITY's indemnification, CITY shall maintain in force, at all times during the term of this Agreement, the following policy or policies of insurance covering its operations:

<u>Coverage</u>	<u>Minimum Limits</u>
Workers' Compensation and Employer's Liability	Self-Insured - \$500,000 per occurrence
Professional Liability	Self-Insured
Comprehensive General Liability	Self-Insured to \$2,000,000 – excess to \$20,000,000
Comprehensive Automobile Liability covering the owned, non-owned hired automobile hazards, including any SCHOOL DISTRICT loaned vehicles	Self-Insured to \$2,000,000 – excess to \$20,000,000

B. CITY will provide certificates of self-insurance evidencing that CITY will indemnify and defend SCHOOL DISTRICT through CITY's self-insurance programs to the extent agreed upon herein.

C. In addition to any other requirements of this Agreement, CITY shall notify SCHOOL DISTRICT of any modification, termination or cancellation of any contract of insurance secured by CITY or third-party vendor, pursuant to this Agreement, as soon as CITY learns of the potential for, or existence of, whichever is earlier, any such modification, termination or cancellation.

**XI. OPTIONAL TERMINATION:**

A. CITY or SCHOOL DISTRICT may terminate this Agreement without cause only if written notice is provided to the other party at least sixty (60) days prior to the commencement of a renewal term hereunder.

B. This Agreement may be terminated, effective immediately, at the option of either party, on the occurrence of any of the following events:

1. The continued incapability of CITY to perform its duties as required under this Agreement.
2. The loss of CITY of legal capacity to provide the services herein enumerated.
3. The habitual neglect by any employee or agent of CITY of any duty required, pursuant to this Agreement.
4. Unethical conduct by any person providing services pursuant to this Agreement.
5. The inability of either party to secure the necessary appropriations to pay its share of the contractual costs provided for herein.

C. Either party may terminate this Agreement for cause upon ten (10) days written notice to the other party, provided the allegedly breaching party has been given written notice of the alleged breach and has failed to cure the alleged breach within thirty (30) days. For cause shall mean the failure of a party to perform any of the terms of this Agreement.

D. The rights and remedies of CITY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

E. Notice of termination shall be given in the manner set out in Section IV of this Agreement, entitled "NOTICES."

**XII. WAIVER OF DEFAULT:**

Waiver of any default shall not be deemed to be a waiver of any subsequent default(s). Waiver of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement, unless stated to be such in writing.

**XIII. DELEGATION AND ASSIGNMENT:**

The parties to this Agreement may not delegate or assign their obligations hereunder, either in whole or in part, without prior written consent of the other party.

**XIV. MERGER:**

This Agreement fully expresses all understandings between the CITY and SCHOOL DISTRICT with respect to the subject matter of this Agreement and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

**XV. SUBCONTRACTORS**


CITY may subcontract for the services to be provided under this Agreement without the prior approval of SCHOOL DISTRICT.

Any such subcontracts shall contain a provision that requires subcontractors' employees, who may have contact with the pupils of SCHOOL DISTRICT, to comply with the fingerprinting requirements set forth in California Education Code §45125.1. SCHOOL DISTRICT agrees to bear the entire cost incurred by either the City and/or its subcontractors for compliance with these fingerprinting requirements as set forth in paragraph III.B. hereinabove.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date written below.

Dated: 5/7/98

**CITY OF FULLERTON**

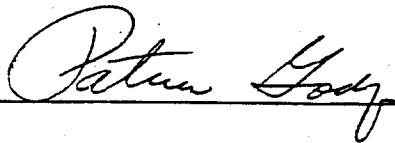
  
\_\_\_\_\_  
James L. Armstrong, City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Richard D. Jones, Fullerton City Attorney

**FULLERTON SCHOOL DISTRICT**

Dated: 5-17-98

  
\_\_\_\_\_  
By:

**APPROVED AS TO FORM:**

\_\_\_\_\_  
By:

EXHIBIT B  
 ADULT CROSSING GUARD MOA - SEPTEMBER 2007  
 CITY OF FULLERTON AND FULLERTON SCHOOL DISTRICT  
 CROSSING GUARD LOCATIONS

<u>SITE</u>	<u>SCHOOL</u>	<u>INTERSECTION</u>	<u>DAILY HOURS</u>
1	Beechwood	Beechwood/Puente	3.00
2	Commonwealth	Commonwealth/State College	3.00
3	Commonwealth	Commonwealth/Lillie	3.75
4	Fern Drive	Basque/Malvern	5.50
5	Ladera Vista, Jr.	Acacia/Wilshire	3.00
6	Laguna Road	Coronado/Laguana Road	3.00
7	Maple	Lemon/Valencia	5.25
8	Maple	Harbor/Valencia	5.25
9	Orangethorpe	Brookhurst/Roberta	3.00
10	Orangethorpe	Brookhurst/Orangethorpe	3.00
11	Pacific Drive	Eadington/Valencia	5.00
12	Pacific Drive	Basque/Valencia	5.00
13	Parks, Jr.	Conejo/Parks	3.00
14	Raymond	Chapman/Raymond	4.50
15	Richman	Elm/Highland	4.50
16	Richman	Richman/Valencia	4.50
17	Richman	Elm/Richman	4.50
18	Rolling Hills	Rolling Hills/Woodbine	3.75
19	St. Juliana's/Acacia	Acacia/Dorothy	5.00
20	St. Juliana's/Acacia	Acacia/Melody	5.00
21	Sunset Lane	Gilbert/Pioneer	3.00
22	Sunset Lane	Camino Centroloma/Rosecrans	3.00
23	Valencia Park	Pritchard/Valencia	5.00
24	Valencia Park	Magnolia/Valencia	5.00
25	Valencia Park	Commonwealth/Pritchard	5.00
26*	Ruby Drive	Placentia/Ruby	3.00
27*	Topaz	Bradford/Topaz	3.00
28*	Topaz	Garnet/Sapphire	3.00

\* = Crossings are located in Fullerton, but serve the Placentia/Yorba Linda School District



EXHIBIT C  
ADULT CROSSING GUARD MOA – SEPTEMBER 2007  
CITY OF FULLERTON AND FULLERTON SCHOOL DISTRICT  
COST SHARING BETWEEN PARTIES

As described in the MOA, the City and School District agree to the following points:

- The eight (8) crossings that had been recommended for deletion last summer will be retained and the costs will be shared between the City and School District on a 50/50 basis.
- Costs for warranted crossing guards under the MOA will be paid for by the City.
- City will conduct a study of the crossings at Elm/Richman, Harbor/Valencia, and Gilbert/Pioneer in May 2008 to determine if they meet warrants. If, at that time, any or all of these crossings meet warrants, then the City will be responsible for 100% of Program costs associated with these crossings.
- City shall bill School District on an annual basis in January for its share of the Program's cost.
- Payments from School District shall be received by City no later than sixty (60) days after receipt of billing.
- At least sixty (60) days prior to annual renewal of the MOA, City shall provide School District with a cost estimate for the upcoming school year.
- City shall prepare and maintain accurate and complete financial records of its expenses related to the Program. School District or its authorized representative shall have access of any books, documents, and records pertinent to the MOA for the purpose of a financial audit.