

RESOLUTION 2018-057

PASSED: MAY 14, 2018

**APPROVING AN INTERGOVERNMENTAL AGREEMENT
WITH DEKALB COMMUNITY UNIT SCHOOL DISTRICT
NO. 428.**

WHEREAS, the City of DeKalb is a home-rule Illinois Municipal Corporation with powers and authority pursuant to the Illinois Constitution of 1970 and the applicable provisions of the Illinois Municipal Code and the Intergovernmental Cooperation Act; and,

WHEREAS, the City has negotiated an Intergovernmental Agreement with the DeKalb Community Unit School District No. 428 ("the District"), and the City Council finds that said agreement is necessary and advantageous to the City, and protects the health, welfare and morals of the City's residents and students within the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

Section 1: The Intergovernmental Agreement with the District is approved in the format attached hereto, subject to such minor changes as shall be acceptable to the Mayor with the recommendation of the City staff. Further, City staff is authorized and directed to take all actions contemplated therein, including but not limited to actions relating to the coordination of School Resource Officer activity, approval of agreements pertaining to shared video access, approval of final specifications on elevated water storage tank logo placement and related matters. In addition, the Mayor is authorized to execute an assignment of the City's present crossing guard intergovernmental agreement, assigning the City's rights and interests in such agreement to the District, upon request of the District, on terms acceptable to him with the recommendation of City staff.

Section 2: That the City Clerk of the City of DeKalb, Illinois is authorized and directed to attest the Mayor's signature.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 14th day of May, 2018, and approved by me as Mayor on the same day. Passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: none.

ATTEST:


RUTH A. SCOTT, Deputy City Clerk


JERRY SMITH, Mayor



Intergovernmental Agreement for School and Municipal Cooperation

This Intergovernmental Agreement for School and Municipal Cooperation ("Agreement") is entered into as of the date set forth below by and between the City of DeKalb ("City"), an Illinois municipal corporation, and the DeKalb Community Unit School District No. 428 ("District", with the City and District referred to hereafter as "the Parties").

The Parties regularly cooperate on a wide variety of issues, and through this Agreement, seek to memorialize the terms of cooperation relating to School Resource Officers, Reciprocal Reporting Obligations and Crossing Guards. This Agreement has been entered into pursuant to the approval of the City Council of the City and the School Board of the District, following approval by each public body during open session in a properly convened public meeting. This Agreement is entered into pursuant to the Illinois Municipal Code, the Illinois School Code, the home rule authority of the City of DeKalb, the applicable provisions of the Illinois Constitution, and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et. seq.*

In consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the Parties agree as follows:

1) School Resource Officers:

A) The City shall assign two (2) full-time police officers to the District as school resource officers ("SRO"). The duties of the SROs shall include, but not be limited to: investigations of violations of the law, classroom presentations, protection of students, school personnel and school property, participation in the development and administration of school security policies and practices, training for school staff and security personnel and such other duties as may be assigned by the Chief of Police. However, from time to time, the Superintendent of the District may request from the Chief certain modifications to the duties and responsibilities of the SROs as needed by the District. The Chief shall have the sole discretion to accommodate or deny the Superintendent's request. The assignment of specific officers to SRO duties shall be performed by the City, at the sole discretion of the Chief, provided that all such officers assigned shall be certified SROs or actively in training to obtain such certification. The Chief shall review any request by the District with regard to SRO selection, SRO assignment or changes in SRO assignment.

B) The Parties acknowledge that the location of assignments of the SROs may be in any of the schools of the District, but shall be primarily located in DeKalb High School, Clinton-Rosette Middle School and Huntley Middle School, depending upon the necessity for their services. The SROs shall have as their primary location DeKalb High School. School assignments on any given day will be determined by security concerns, as related by District personnel, and the calls for service at any school facility. The SROs may also be requested to attend after school activities outside of normal school hours. Such requests may be made by the principals of the High School and Middle Schools.

1) While on duty at any school, the SRO shall be supervised by a designee of the Chief and functional supervision shall lie with the principal of the building in question. When the District is not in session, the officers shall be assigned to such police activities as the City shall deem appropriate.

2) The City shall attempt to schedule the respective SRO's vacation time concurrently with the vacation time of the District. In the event that such scheduling is not possible, the City will not be obligated to provide the services of another officer as a substitute for the vacationing officer. In the event of an extended absence, consisting of an absence of more than three (3) weeks duration, the City shall provide the services of another officer as a substitute for the SRO. The City shall take all reasonable steps to assure that a back-up officer is assigned whenever possible for replacement duty, acknowledging that a series of replacements is disruptive to the school environment and challenging to the relationships necessary for effective SRO intervention.

C) The exigencies and emergencies of the City may force the short-term recall of either or both SROs to their duties as police officers or for training on behalf of the City. For the purposes of this section, "short term recall" shall mean for a period no greater than two (2) working school days at a time. The Chief shall provide the District with as much advance notice of such recall as may be possible under the circumstances. No credit shall be given to the District for the short-term recall time.

D) The District shall reimburse the City for a percentage of the financial obligation for both of the SROs' salary and benefits, including overtime pay directly arising from the District's activities, as may be increased by the City from time to time. The SRO's salary cost, benefits cost and District-related overtime cost shall be deemed the "Total SRO Cost". The District shall pay the City an amount equal to seventy-five percent (75%) of the combined Total SRO Cost on an annual basis. The City shall keep District reasonably informed as to any changes in its approved collective bargaining agreement to allow the District to plan for any increased expenses.

1) The SROs salaries shall be consistent with the salary of other City police officers of a similar rank, considering all relevant factors, as set forth in the then-current labor agreement between the City and its police collective bargaining unit. The District agrees that it shall budget and appropriate adequate funds to cover such expenses, and in the event that it determines to not budget and appropriate for this purpose, it shall notify the City not less than ninety (90) days prior to the start of the school year.

2) In the event that an SRO is injured in the course and scope of his employment as an SRO ("SRO Duties"), the District shall continue to pay the Total SRO Cost to the City provided that the City shall provide a replacement officer who is, to the extent possible of like or similar rank and experience to resume the injured officer's duties. If the cost of the replacement officer is greater than that of the assigned SRO, the District shall pay such greater cost.

In the event that an SRO is injured in the performance of SRO Duties, the District shall also reimburse the City for all workers compensation, Public Safety Employee Benefits Act benefits, Public Employee Disability Act benefits, temporary total disability payments, payments for medical services, and permanent partial disability payments that may be made to or on behalf of the SRO (collectively, "Workers Compensation Costs").

3) In the event that an SRO is injured in the course and scope of his employment as a police officer of the City and unrelated to his duties as an SRO, the District shall continue to pay the Total SRO Cost to the City provided that the City shall provide a replacement officer to resume the injured officer's duties. If the cost of the replacement officer is greater than that of the assigned SRO, the District shall pay such greater cost. In the event that an SRO is injured in a fashion not relating to SRO Duties, the District shall have no responsibility for Workers Compensation Costs.

4) The City shall invoice the District for the sums due hereunder in two (2) equal installments, one at the end of each school semester in that year's billing cycle. The District shall reimburse the City within thirty (30) days of such billing.

E) Pursuant to the provisions of 105 ILCS 5/10-22.34, 10-22.34a and 10-22.34b, the SROs shall be considered to be noncertificated personnel with specialized knowledge and experience, under the direct supervision of the principal of the building(s) in which they are located.

1) With regard to any claims arising out of or relating to SRO Duties, The District agrees to defend and hold harmless the City and its officers, employees, elected and appointed officials from any claims arising out of or related to policing, security and other activities of the SROs for the District and any negligent or intentional actions that may be taken by any of them, in furtherance of the police, security and school resource-related activities taken by them while on duty for the District. The obligation to defend and indemnify hereunder also extends to any claims, causes of action, suits, demands or proceedings, whether in law or in equity, to determine the liability of the SROs or the District. In fulfilling the District's obligations to defend and indemnify the City, the District shall, with the approval of the City, employ competent and skilled legal counsel, reasonably acceptable to the City Attorney, in defending any such claim. If the District fails or refuses to employ legal counsel as contemplated hereunder, the City shall, after providing the District with reasonable notice, be permitted to retain legal counsel and all costs incurred by the City in doing so shall be paid by the District. Nothing in this Agreement shall be construed to prohibit the District from purchasing liability insurance which shall satisfy the requirements of this paragraph, pursuant to 105 ILCS 5/10-22.3.t.

2) With regard to any claims *not* arising out of or relating to SRO Duties, The City agrees to defend and hold harmless the District and its officers,

employees, elected and appointed officials from any claims arising out of or related to policing, security and other activities of the SROs for the City and any negligent or intentional actions that may be taken by any of them, in furtherance of the police and security related activities taken by them while not on duty for the District. The obligation to defend and indemnify hereunder also extends to any claims, causes of action, suits, demands or proceedings, whether in law or in equity, to determine the liability of the SROs or the City. In fulfilling the City's obligations to defend and indemnify the District, the City shall, with the approval of the District, employ competent and skilled legal counsel, reasonably acceptable to the District's Attorney, in defending any such claim. If the City fails or refuses to employ legal counsel as contemplated hereunder, the District shall, after providing the City with reasonable notice, be permitted to retain legal counsel and all costs incurred by the District in doing so shall be paid by the City. Nothing in this Agreement shall be construed to prohibit the City from purchasing liability insurance in form and content acceptable to it.

F) The Chief (with the consent of the City Manager) and Superintendent are authorized to enter into additional sub agreements from time to time regarding the assignment and duties of the SROs, pursuant to the terms of this Agreement.

2) **Reciprocal Reporting Obligations:**

A) Pursuant to 105 ILCS 5/10-20.14(b), parent-teacher advisory committees in cooperation with local law enforcement agencies shall develop, with school boards, policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students.

B) Pursuant to 105 ILCS 5/22-20, all courts and law enforcement agencies of the State of Illinois and its political subdivisions **shall report** to the principal of any school within the School District whenever a child enrolled therein is detained for proceedings under the Juvenile Court Act of 1987, as amended, or for any criminal offense or any violation of a municipal or county ordinance. The report shall include the basis for detaining the child, circumstances surrounding the events which led to the child's detention, and status of proceedings. The report shall be updated as appropriate to notify the principal of developments and the disposition of the matter. The reported information shall be kept separate from and shall not become a part of the official school record of such child and shall not be public record. The reported information shall be used solely by the appropriate school official(s) whom they school has determined to have a legitimate educational or safety interest to aid in the proper rehabilitation of the child and to protect the safety of the students and employees in the school.

C) Pursuant to 705 ILCS 405/1-7 A(8), local law enforcement agencies **may transmit certain records** to an appropriate school official pursuant to this agreement, regarding any minor enrolled in a school within the school district who

has been arrested or taken into custody ONLY if the agency or officer believes there is an imminent threat of physical harm to students, school personnel, or others who are present in the school or on school grounds, for any of the following offenses:

- 1) any violation of Article 24 of the Criminal Code;
- 2) a violation of the Illinois Controlled Substances Act;
- 3) a violation of the Cannabis Control Act;
- 4) a forcible felony as defined in Section 2-8 of the Criminal Code;
- 5) a violation of the Methamphetamine Control and Community Protection Act;
- 6) a violation of §1-2 of the Harassing and Obscene Communications Act;
- 7) a violation of the Hazing Act;
- 8) a violation of §§12-1 (Assault); 12-2 (Aggravated Assault); 12-3 (Battery); 12-3.05 (Aggravated battery); 12-3.1 (Battery of an unborn child; aggravated battery of an unborn child); 12-3.2 (Domestic battery); 12-3.4 (Violation of an order of protection); 12-3.5 (Interfering with the reporting of domestic violence); 12-7.3 (Stalking); 12-7.4 (Aggravated stalking); 12-7.5 (Cyberstalking); 25-1 (Mob action); or 25-5 (Unlawful contact with street gang members) of the Criminal Code; or,
- 9) a similar violation of the then-current Criminal Code of the State of Illinois, as amended.

D) Pursuant to 705 ILCS 405/1-8(F), following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3, 24-3.1 or 24-5 of the Criminal Code, if the State's Attorney determines that the minor is enrolled in a school within the district, the State's Attorney, or his designee, is required to provide a copy of the dispositional order to the principal or chief administrative officer of the school. Access to such records are limited to the principal or chief administrative officer of the school and any guidance counselor designated by him or her.

E. The Parties agree, to the extent allowable by law, to share any relevant lawful information regarding any student enrolled in the School District, and who has been arrested or taken into custody for a violation of any criminal laws of the State of Illinois. The law enforcement agency that made the arrest shall be primarily responsible for supplying the aforementioned reports and information regarding a student's arrest. Any law enforcement information or records subject to disclosure

under this Agreement shall not be disclosed or made available in any form to any person or agency other than as set forth in this Agreement or as authorized by law.

F. The Parties shall each name a designee for purposes of carrying out the responsibilities assigned under this Agreement. The designees for each of the Parties, or so many of them that may agree, shall meet as needed for the purposes of carrying out the responsibilities under this Agreement, including the sharing of any relevant and lawful information regarding students.

G. Each of the Parties agrees to indemnify, defend and hold harmless the other of the Parties, its members, directors, officers, employees and agents, for any injury, liability, cost, expense, claim, demand, judgment or attorneys' fees arising out of the disclosure and/or provision of law enforcement records or criminal activity information by the party disclosing and/or providing such law enforcement records or criminal activity information not in accordance with applicable law. Nothing contained herein shall be construed as prohibiting the City and the School District, their members, commissioners, officers, agents, or their employees from defending through the selection and use of their own agents, attorneys, and experts, any claims, actions or suits brought against them.

H. The Parties shall each utilize their best efforts to provide the information to be reported under this Agreement, but in no event, shall either party be liable for the failure to provide such information, whether through inadvertence or otherwise. Any records which are permissible to disclose to any police officer working in a capacity of School Resource Officer for the School District may be further disclosed to any other police officer or law enforcement personnel for official investigative or prosecutorial purposes, subject to any applicable legal limitations.

3) Crossing Guards:

A. The Parties agree and acknowledge that in the past, the City has provided crossing guard services either through part-time employees or through the utilization of sworn peace officers. The Parties further acknowledge that for the 2017-18 school year, the City hired the services of an independent contractor to provide said services.

B. The District acknowledges that the City shall terminate the provision of crossing guard services at the end of the 2017-18 school year, in June of 2018. Thereafter, the District agrees that it shall determine an appropriate resource level to allocate to crossing guards, and shall provide any such crossing guard services at its sole expense. For the 2018-19 school year and all subsequent school years, the District agrees that it shall have sole discretion over the level of crossing guard services to provide and such services shall not be provided by or through the City. At the District's request (and if permitted by contract), the City shall transfer its current contract for crossing guard services to the District or otherwise assist the District in the procurement of crossing guard services.

4) Water Tower:

A) The Parties acknowledge that in the vicinity of the DeKalb High School, the City maintains an elevated water storage tank (EWST) utilized in its potable water system. The District has, in the past, provided funding to enable the District's logos to be placed upon the EWST in a location visible from the High School. The Parties acknowledge that based upon the age of the EWST and the coating system thereupon, and the City's need to properly maintain the EWST, it is necessary to recoat the EWST which will necessarily result in the removal of the District's logo.

B) The City agrees that, based upon the consideration contemplated in this Agreement, the City shall bear the costs of having a logo relating to the District, in form and content mutually acceptable to the City and the District in consultation with one another, installed on the EWST following the recoating of the EWST. The logo shall be installed in an orientation that permits its viewing from the High School, and shall be similar in orientation and size to the current logo installation. The City's obligation to install the logo shall be a one-time, non-recurring obligation. The City agrees to consult with the District regarding the frequency of recoating of the EWST, provided that the City shall have the sole discretion to determine when recoating occurs.

5) Security Camera Access:

A) The Parties acknowledge that the District maintains a comprehensive set of security cameras used to monitor and maintain the security and integrity of District property. The Parties further agree that in the event of a public safety emergency at the District or one of its schools, providing access to the City such that the City and its first responders would have 'live' viewing of the security camera footage could dramatically increase public safety and the efficacy of public safety responses to an emergency.

B) Accordingly, the Parties agree that the District shall utilize its best efforts to provide the City with access to its security cameras in an electronic format accessible to the City. The Superintendent and Chief of Police (with the consent of the City Manager) shall be authorized to enter into a separate agreement providing the mechanism, terms and conditions of such access. Under no circumstances shall the access agreement or the availability of the security camera feed to the City be interpreted to create an obligation of the City to monitor such security cameras, it being acknowledged by the Parties that the City lacks the resources to actively monitor the security cameras at all times. At the time of undertaking a separate agreement, the City and District shall determine appropriate use restrictions for such system to enhance the safety of the District's facilities without engaging in unnecessary monitoring or review.

6) General Provisions

A) Term and Termination: This Agreement shall have a term of ten (10) years from the date of execution, and may be extended by the mutual, written agreement of the Parties. The provisions relating to the SROs may be terminated only upon the provision of notice in accordance with Section (1) above. The balance of this Agreement may be terminated by either party upon the provision of not less than ninety (90) days written notice to the other party, provided however that the termination of this Agreement shall not generate an obligation of the City to provide or continue providing crossing guard services. Any provisions relating to indemnification, defense or hold-harmless obligations shall survive the termination of this Agreement and shall have a term of not less than two years following the expiration of the last of any possible statutes of limitation for claims that are subject to indemnification or defense.

B) Designees: References to the Chief of Police or Superintendent shall be deemed to reflect such persons and/or the authorized designees thereof.

C) Jurisdiction, Venue: Jurisdiction and venue for any dispute arising out of or relating to this Agreement shall be exclusively fixed in the Twenty-Third Judicial Circuit Court of DeKalb County, Illinois.

D) Disclaimers:

1) There are no intended or implied third-party beneficiaries of this Agreement.

2) Nothing in this Agreement shall be intended, nor shall it be interpreted, to waive any and all statutory or common law privileges and/or immunities of either of the Parties.

3) Except as otherwise provided herein, this Agreement may be amended only by mutual written consent of the City and District as authorized by an Ordinance, Resolution, or other action of each of the parties hereto.

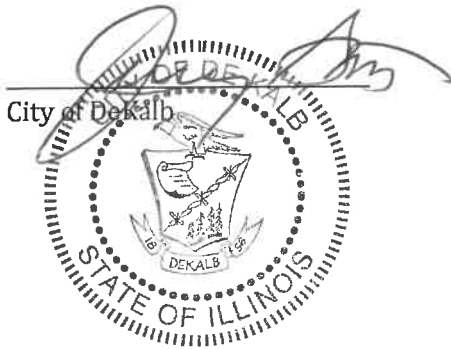
4) If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements and portions of this Agreement, and to that end, all provisions, covenants, agreements and portions of the Agreement are declared to be severable. The Parties shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement; to aid and assist each other in carrying out the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms, including the taking of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement.

5) This Agreement sets forth all agreements, undertakings, and covenants between and among the Parties. This Agreement supersedes all prior agreements, negotiations, and understandings, written and oral, and is a full integration of the entire agreement of the Parties. In the event of any conflict between two or more components of this Agreement providing standards, guidelines, or requirements for District to act upon in or around the Property, construction or related activities for the Property, the more restrictive provision shall apply unless the City agrees otherwise.

6) This Agreement shall inure to the benefit of, and be binding upon the District and its successors, grantees, lessees, and assigns, and upon the City and successor corporate authorities of the City and successor municipalities, and shall constitute a covenant running with the land provided that such successors and assigns are public entities.

7) Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified mail, return receipt requested, or personally delivered, to the Parties at their official address. Notices shall be deemed given on the third (3rd) business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt, if personally delivered.

Entered into as of the 17 day of April, 2018, by and between the City of DeKalb and the DeKalb Community Unit School District No. 428.



City of DeKalb

DeKalb Community Unit
School District No. 428



DEKALB COMMUNITY UNIT SCHOOL DISTRICT #428
Serving the Cortland, DeKalb and Malta Communities



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April 18, 2018

Chief Lowery
DeKalb Police Department
700 West Lincoln Highway
DeKalb, IL 60115

Dear Chief Lowery:

Enclosed please find two copies of the intergovernmental agreement for School and Municipal Cooperation approved and signed by our Board of Education on April 17, 2018. Please obtain the proper signature on each copy from a representative from the City of DeKalb once approved, and return one of the signed originals to my attention at the DeKalb CUSD 428 Education Center.

Thank you for your assistance.

Sincerely,

Melissa Smith
Administrative Assistant to the Superintendent
(815) 754-2292
melissa.smith@d428.org