

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF GETTYSBURG, AUTHORIZING THE BOROUGH OF GETTYSBURG, ADAMS COUNTY, PENNSYLVANIA, TO ENTER INTO AN INTERGOVERNMENTAL COOPERATION AGREEMENT FOR SCHOOL RESOURCE OFFICER WITH CUMBERLAND TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA, FOR THE PURPOSE OF DELEGATING AND CONFERRING UPON THE SCHOOL RESOURCE OFFICER THE POWERS AND AUTHORITY OF A SWORN MUNICIPAL POLICE OFFICER WITHIN THE TERRITORIAL LIMITS OF THE BOROUGH OF GETTYSBURG.

WHEREAS, by statute, a municipality may, by entry into a joint agreement adopted by ordinance, cooperate with any local government or delegate any function, power or responsibility to another local government (53 Pa. C.S. § 2301 et seq.); and

WHEREAS, subsection 1202(24) of the Borough Code (8 Pa. C.S.A. § 1202(24)), as amended, authorizes the entry into agreements with other political subdivisions in performing governmental powers, duties and functions and carrying into effect provisions relating to subjects which are common to such political subdivisions; and

WHEREAS, the Gettysburg Area School District (hereinafter the "School District") and the Township of Cumberland (hereinafter the "Township") have entered into a written Agreement for School Resource Officer dated February 2, 2015 (hereinafter the "SRO Agreement"), as authorized by section 617 of the Public School Code of 1949 (24 P.S. § 6-617) and by section 1904 (53 P.S. § 66904) and section 1507 (53 P.S. § 66507) of the Second Class Township Code, as amended; and

WHEREAS, the SRO Agreement provides that the School Resource Officer (hereinafter the "SRO"), a sworn municipal police officer of the Township, shall have the power and authority to enforce the laws of the Commonwealth of Pennsylvania and to otherwise perform the functions of the SRO on School District property, including School District property within the jurisdiction and territorial limits of the Borough of Gettysburg (hereinafter the "Borough"); and

WHEREAS, in order for the SRO to execute his or her duties when present at a School District property located within the Borough, it is necessary that the Borough grant and confer concurrent jurisdiction and authority for the SRO to act as a sworn municipal police officer; and

WHEREAS, the Constitution of the Commonwealth of Pennsylvania provides in Article 9, Section 5, for intergovernmental cooperation, including the delegation or transfer of power or responsibility to another municipality; and



WHEREAS, the Borough Council of the Borough of Gettysburg desires to enact, adopt and ordain an ordinance authorizing its entry into an Intergovernmental Cooperation Agreement for School Resource Officer with the Township for the purposes of delegating and conferring authority upon the SRO to operate as a municipal police officer within the territorial limits of the Borough.

NOW, THEREFORE, the Borough Council of the Borough of Gettysburg, Adams County, Pennsylvania, hereby enacts, adopts and ordains as follows:

SECTION 1: The Borough of Gettysburg is hereby authorized to enter into an Intergovernmental Cooperation Agreement for School Resource Officer (hereinafter the "Cooperation Agreement") with the Township pursuant to which the Borough shall delegate and confer upon the SRO the powers and authority of a sworn municipal police officer to provide police services to the School District on School District property within the territorial limits of the Borough on the terms and conditions set forth in the Cooperation Agreement, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by reference. It is the intent and purpose of the Borough Council of the Borough of Gettysburg in its enactment of this ordinance and in its entry into the Cooperation Agreement with the Township that the Gettysburg Borough Police shall retain primary jurisdiction within and throughout the Borough; however, provided that the SRO shall have concurrent jurisdiction for any incidents occurring on School District property within the territorial limits of the Borough.

SECTION 2: A copy of the Cooperation Agreement shall be filed with the minutes of the meeting at which this ordinance was enacted and Michael J. Birkner, President of Borough Council and Sara L. Stull, Borough Secretary are hereby directed and authorized to execute and deliver the Cooperation Agreement on behalf of the Borough of Gettysburg with the intent and effect that the Borough shall be legally bound by the Cooperation Agreement.

SECTION 3: All other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4: The provisions of this ordinance are severable, and if any section, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Borough Council that this ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 5: This ordinance shall take effect upon enactment.

THIS ORDINANCE DULY ENACTED, ADOPTED AND ORDAINED according to law on this 11th day of May, 2015, at a duly advertised general monthly business meeting of the Borough Council of the Borough of Gettysburg.

BOROUGH OF GETTYSBURG

By: _____
Michael J. Birkner
President of Borough Council

Attest:

Sara L. Stull, Secretary

APPROVED this ____ day of May, 2015.

William E. Troxell, Mayor

Exhibit "A"

INTERGOVERNMENTAL COOPERATION AGREEMENT FOR
SCHOOL RESOURCE OFFICER

THIS AGREEMENT is made this ____ day of _____ 2015, by and between **THE TOWNSHIP OF CUMBERLAND**, a municipal corporation existing by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office at 1370 Fairfield Road, Gettysburg, Pennsylvania (hereinafter “Township”) – **AND – THE BOROUGH OF GETTYSBURG**, a municipal corporation existing by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office at 59 East High Street, Gettysburg, Pennsylvania (hereinafter “Borough”).

WITNESSETH

WHEREAS, the Township has a Police Department which provides full-time law enforcement through a staff of full-time and part-time officers (“Township Police Department”);

WHEREAS, the Borough has a Police Department which provides full-time law enforcement through a staff of full-time and part-time officers (hereinafter “Borough Police Department”);

WHEREAS, the Gettysburg Area School District (hereinafter “School District”) owns and operates: the Gettysburg Area High School in Straban Township; the Gettysburg Area Middle School in Gettysburg Borough and partly in Cumberland Township; the Lincoln Elementary School in Gettysburg Borough; the James Gettys Elementary School in Cumberland Township; and the Franklin Township Elementary School in Franklin Township;

WHEREAS, the Public School Code of 1949, as amended, at Section 617 (24 P.S. §6-617) grants authority to a school district to enter into agreements with other political subdivisions to provide for the safety and security of its students and to

secure the services of school resource officers, who may be employees of other political subdivisions;

WHEREAS, section 1904 of the Second Class Township Code, 53 P.S. §66904, provides in pertinent part that “Any township may contract with any municipal corporation to provide police services within the other municipal corporation. When a contract is made, the township police shall have all powers and authority conferred by law on police in the municipal corporation which has contracted to secure police service”;

WHEREAS, the School District and the Township have entered into a written Agreement for School Resource Officer dated February 2, 2015, (the “SRO Agreement”) wherein the Township and the School District have agreed that *inter alia* (1) the Township shall employ a sworn municipal police officer who shall have the power and authority to enforce the laws of the Commonwealth of Pennsylvania and to otherwise perform the functions of that office and shall assign that officer to the duties of a School Resource Officer (hereinafter “SRO”) as those duties are defined in the Agreement; (2) the SRO shall be assigned from time to time in the several buildings of the School District, including those which lie within the jurisdiction of the Borough; and (3) the SRO shall have the power and authority of a sworn municipal police officer of the Township;

WHEREAS, in order for the SRO to execute his or her duties when present at a school located within the Borough, it is necessary that the Borough grant and confer jurisdiction for the SRO to act as a sworn municipal police officer;

WHEREAS, the Constitution of the Commonwealth of Pennsylvania provides in Article 9, Section 5, for intergovernmental cooperation, including the delegation or transfer of power or responsibility to another municipality;

WHEREAS, by statute, a municipality may, by entry into a joint agreement adopted by ordinance, cooperate with any local government or delegate any function, power or responsibility to another local government (53 Pa. C.S.A. §2301 *et seq.*);

WHEREAS, in addition to 53 Pa.C.S.A. §2301 et. seq., the Borough, pursuant to 8 Pa.C.S.A. §1202(24) , and the Township, pursuant to 53 P.S. §66507, have the authority to enter into agreements with each other, in accordance with existing laws, in performing governmental powers, duties and functions and carrying into effect provisions relating to subjects which are common to such political subdivisions;

WHEREAS, the Borough desires to facilitate the School District's requests to have a Township police officer perform the duties of SRO;

WHEREAS, Township and the School District desire that the Borough delegate and confer upon the SRO the powers and authority of a sworn municipal police officer within the territorial limits of the Borough on the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto, intending to be legally bound thereby, hereby agree as follows:

1. **Recital Incorporated.** The above recital is incorporated herein and made a part of this Agreement;
2. **Township Responsibilities.** When a police officer employed by the Cumberland Township Police Department has been assigned to the duties of SRO for the School District in accordance with the SRO Agreement, the Chief of Police of the Township Police Department, or his designee, shall promptly notify in writing the Chief of Police of the Borough Police Department by providing the name and rank of the SRO. Similarly, the Chief of Police of the Township Police Department, or his designee, shall provide prompt notification to the Chief of Police of the Borough Police Department of any substantial or material change in status or assignment regarding the SRO.
3. **Power/Authority as Officer.** The Borough hereby authorizes the Township to provide police services to the School District on School District property within the Borough, subject to the terms and conditions of the SRO Agreement, with the School District bearing full financial responsibility for

the SRO's services in accordance with the SRO Agreement. When the SRO is on duty as a police officer and the SRO is physically present within the jurisdiction of the Borough, the Borough does hereby delegate and confer upon the designated SRO all of the powers and authority of a sworn municipal police officer while the SRO is in the territorial limits of the Borough, as if the SRO were a sworn municipal police officer of the Borough.

4. ***SRO Employee of Township.*** The SRO shall at all times and for all purposes be the employee and a municipal police officer of the Township and shall remain subject to the direct supervision and control of the Township. The SRO shall not be considered to be the employee or municipal police officer of the Borough for any purpose.
5. ***Borough Responsibilities.*** The Borough shall have no duties or responsibilities with regard to the SRO, whatsoever.
6. ***Policies and Procedure.*** The Township shall provide to the Borough Police Department and its Chief of Police all policies and procedures developed and adopted for the execution of the duties of the SRO while in the territorial limits of the Borough. The Township and the Borough shall cooperate with the School District in the development and adoption of any policies and procedures designed specifically for school safety and security of the Gettysburg Area Middle School and the Lincoln Elementary School involving the concurrent jurisdiction of the SRO and the Borough.
7. ***Indemnity.*** Each party, for itself and on behalf of its successors and assigns, does hereby agree to indemnify, defend and save and hold harmless, the other party, its elected and appointed officials to include, but not limited to its supervisors, council members, mayor and chief of police, its police officers, employees, agents, successors and assigns, from and against any and all claims, demands, causes of action (including first party and third party claims), losses, damages, liabilities, judgments, costs and

expenses of defense (including reasonable attorney's fees, expert fees, and expenses, court costs and costs of appeals) asserted against or incurred by the other party, its elected and appointed officials to include, but not limited to its supervisors, council members, mayor and chief of police, its police officers employees, agents, successors and assigns, by reason of or arising out of the alleged misfeasance, malfeasance, nonfeasance or negligence of that party or its employees related to and/or arising from, directly and/or indirectly, the subject matter of this Agreement only to the extent that such liabilities arise from an action which can be properly brought against that party as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 *et. seq.* and in accordance such limits of liability as set forth in said Act. The Borough and the Township do not in any manner waive its respective rights and immunities as provided by applicable law and/or regulation by entering into this Agreement.

8. ***Insurance.*** The Township shall provide liability insurance coverage for the SRO through the Township's insurance carrier, covering the Township, and the Borough as an additional insured on a primary, noncontributory basis on its general liability, law enforcement operations, automobile liability and wrongful acts policies with the same coverage limits maintained by the Township. The Township shall provide the Borough with current and updated certificates of insurance as proof of insurance in order to confirm that such insurance coverages are and remain in place during the term of this Agreement.
9. ***Assistance.*** In recognition of the fact that the SRO will be an individual line officer under the command of the Township Police Department, it is contemplated and expected that when physically in the Borough's jurisdiction the SRO will, in most circumstances, perform his or her duties individually. In those instances when it is necessary for the SRO to request

assistance, when practical he or she shall call upon the Borough Police Department for assistance, and otherwise follow the protocols in place between and among the law enforcement agencies in Adams County.

10. ***Command and Control.*** In the event that the SRO is not performing duties on School District Property not located in the Borough and an incident occurs on School District Property located in the Borough that requires an emergency police response, the Borough Police and SRO shall be jointly dispatched to respond to the incident. In any large scale incident/investigation requiring a multi-officer response, the Borough Police shall have command and control over such incident unless otherwise provided for by law and the SRO shall work in conjunction with the Borough Police to provide any needed services as identified in the SRO Agreement.
11. ***Borough Police Retain Primary Jurisdiction.*** It is the intent and purpose of the parties hereto that the Borough Police shall retain primary jurisdiction throughout the Borough; provided however, the SRO shall have concurrent jurisdiction on any incidents on School District Property situated and lying within the Borough.
12. ***Ordinance.*** This Agreement shall not be binding on either party unless and until each party adopts and enacts an ordinance specifically authorizing and adopting this Agreement.
13. ***Notices.*** Any and all notices or other communication herein required or permitted shall be deemed to have been given when deposited in the United States Postal Service regular mail, postage prepaid, and addressed as follows:

***Chief of Police
Cumberland Township Police Department
1370 Fairfield Road
Gettysburg, PA 17325***

**Chief of Police
Gettysburg Borough Police Department
59 East High Street
Gettysburg, PA 17325**

14. **Amendment.** This Agreement may not be amended unless such amendment is written and executed by the parties.
15. **Headings.** The headings for each paragraph are merely there for convenience and are not to be considered as a part of the Agreement.
16. **Integration and Enforceability.** This Agreement and all of its terms and conditions shall inure to the benefit of and be enforceable by the parties hereto and any permitted assigns. This Agreement constitutes the final written expression of all of the terms of this Agreement and it is a complete and exclusive statement of those terms.
17. **Effective Date and Termination Date.** This Agreement shall become effective when signed by the Township and the Borough and upon the effective date of its enacting ordinance and shall be deemed as automatically renewed on a calendar basis unless the Township provides notice that the SRO Agreement is or will be terminated, or the Borough provides ninety (90) day written notice of its intent to terminate this Agreement. This Agreement shall automatically terminate upon the termination of the SRO Agreement as amended from time to time.
18. **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.
19. **Interpretation.** The parties hereto have been represented by their own legal counsel and therefore, this Agreement shall not be construed against either party as the drafter of said Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, and intending to be legally bound thereby, each party hereto has caused its authorized officers to execute and deliver this Agreement on the date first written above.

Attest:

TOWNSHIP OF CUMBERLAND

By: _____

Attest:

THE BOROUGH OF GETTYSBURG

Sara L. Stull, Secretary

By: _____
Michael J. Birkner, President