

MEMORANDUM OF UNDERSTANDING
REGARDING SCHOOL RESOURCE OFFICERS (SROs)

This Memorandum of Understanding (MOU") is made and entered into this ____ day of July, 2020, by and between the Newport Independent School District (School) and the City of Newport, Kentucky via its Police Department, (City), being the parties hereto.

WITNESSETH:

WHEREAS, pursuant to the provisions of KRS 158.4414(2), by virtue of utilizing School Resource Officers (SROs) employed by the City, the School and City are required to enter into this MOU specifically stating the purpose of the SRO program and clearly defining the roles and expectations of the parties to the program; and,

WHEREAS, the School is a body politic and corporate entity pursuant to statute, with legal authority to enter into such agreements; and,

WHEREAS, the City is a municipal corporate entity of the home rule class with the capacity to enter into such agreements pursuant to KRS Chapters 81 and 83; and,

WHEREAS, the City possesses authority over the Newport Police Department, which, by Ordinance, was created as a department and agency of City government; and,

WHEREAS, it is the intent and desire of the City and School to provide for the services of SROs, as set forth herein and as authorized pursuant to KRS 158.440 et. seq. and KRS 65.210, et. seq.;

NOW THEREFORE, in consideration of the foregoing and as set forth herein, IT IS HEREBY AGREED by and between the School and the City, as follows:

ARTICLE I

Overview

The purpose of this MOU is to provide for the safety and security of children attending the school operated by the School. It is the intent of this MOU to provide for the services of SROs from the City with such services to be rendered during the times that regular school is in session at such

schools more fully described in Article II(B)(1) below, for an initial three (3) year term for the first SRO commencing and retroactive back to July 1, 2020 and expiring on June 30, 2023. The term of years for any additional SROs to be employed as funding and qualified personnel shall become available shall be determined at such time.

Either party may, at its sole option and discretion, terminate this MOU by providing written notice to the other no later than June 1 for the following school year or by providing at least thirty (30) days advance written notice of its intent to terminate. Any such notice shall be furnished as provided in Article VIII herein below.

ARTICLE II

Rights and Duties of the City

The City shall provide SROs with such services as follows:

(A) Training

Each SRO shall be a sworn law enforcement officer employed by the City. Prior to the assignment of the law enforcement officer to serve as an SRO, the City shall certify in writing to the School that the officer is eligible to meet the training requirements established in KRS 158.4414 and that the City is or has enrolled the law enforcement officer in such training.

(B) Assignment of School Resource Officers

(1) Pursuant to KRS 158.4414(1) the City shall be required to assign at least one (1) regularly employed law enforcement officer to serve as SRO at each campus where one (1) or more school buildings is located. As such the assigned SRO's shall serve the following schools: Newport Primary School, Newport Intermediate School and Newport High School, each pursuant to a schedule to be determined by the City as requested by the principals of each of the named schools. To commence the initial SRO shall be assigned to Newport High School as the SRO's primary location

with the remaining schools to be assigned SRO's as the funds and qualified personnel become available as set forth in the statute.

(2) The SROs shall report directly to the Chief of Police office within the City's Police Department, who, as the SROs Supervisor, will communicate with the administration of the School to ensure the rendition of SRO services as outlined herein.

(C) Regular Duty Hours of School Resource Officers

Esch SRO shall perform a regular work week of hours with such hours and pay to be based on the SROs pay grade set forth in the most current FOP Union contract or the SROs rehire contract with the City, whichever shall be applicable. Such hours shall be 7:30 a.m. to 3:30 p.m. with lunch breaks as dictated by City policy as discussed between the SROs Supervisor and the School administration. It is agreed and understood that pursuant to clause (D)(2)(d) below, the Principal may request the SROs, from time to time, attend meetings of parents/faculty and school functions, when necessary, in a law enforcement capacity. The SROs shall always be permitted to assist the City Police Department in the event of an emergency situation (e.g., officer down, active shooter).

(D) Duties of School Resource Officers

(1) It is understood that the SROs are law enforcement officers of the City and are not employees or agents of the School. The SROs duties and functions while assigned and operating hereunder are for law enforcement purposes even while the SROs are participating in meetings or interacting with parents, students, staff, and/or visitors to any school.

(2) Each SRO shall make an effort to become familiar with all community agencies that offer assistance to youths and their families, such as mental health clinics, drug treatment centers, etc.

(3) Should it become necessary to conduct formal police interviews with students, each SRO shall adhere to Newport Police Department Policy, the Kentucky Revised Statutes and any other applicable legal requirements.

(4) The SROs may, by way of the exercise of their discretion as sworn law enforcement officers, take the necessary action they may deem necessary and appropriate. Actions undertaken by any SRO may or may not involve arrest and the SROs discretion and decision-making shall be governed by and subject to the policies, procedures, and training of the Newport Police Department, and the laws of the United States and Commonwealth of Kentucky governing law enforcement officers. As soon as practicable and where legally permitted, each SRO shall, in writing, make the Principal of any school aware of such action taken on school grounds.

(5) Each SRO shall take appropriate law enforcement action under the authority of law against intruders and unwanted guests who may appear at any of the schools or their related school functions.

(6) Each SRO may provide assistance to other law enforcement officers in matters regarding his/her school assignment, whenever necessary.

(7) Each SRO may, when requested, participate in and/or attend school functions or meetings in the SROs capacity as a law enforcement officer.

(8) As mandated by KRS 158.4114(2), any SRO shall not be responsible for School discipline matters nor act as a school disciplinarian as disciplining students is a School responsibility. It is understood that the Principal and appropriate School staff shall be responsible for investigating and determining, in their sole discretion, whether a student has violated School disciplinary codes or standards and the appropriate administrative action to be taken.

(9) Each SRO may share information with School administration/staff regarding issues or potential School violations which the SRO may obtain during the course of their duties.

(10) The Principal, School Administration, or staff may advise any SRO of incidents or activities possibly giving rise to criminal or juvenile violations and such SRO shall determine whether law enforcement action is appropriate. With respect to those activities occurring on School property,

within School facilities and/or at School sponsored functions that a Principal is directed by law to report to the "appropriate law enforcement agency" under KRS 158.154 ("assault resulting in serious physical injury, a sexual offense, kidnapping, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a controlled substance in violation of the law, or damage to the property"), and those activities which a School Administrator, member of staff, teacher or other employee is directed to report to the "local police department, sheriff, or Kentucky State police" under KRS 158.155 (such activities consisting of conduct occurring on school premises or school-sponsored events which is believed to constitute a misdemeanor or violation of offense relating to deadly weapons, use, possession, or sale of controlled substances, or a felony offense), it is understood that any SRO is authorized to receive and appropriately act on any of such reports and the reporting School personnel may satisfy reporting requirements by advising any SRO of activities believed to fall within the statutory directives.

(11) The School shall not request any SRO assist in regularly assigned lunchroom duties, act as a hall monitor or be utilized for any other monitoring duties. If a problem arises in such areas that, in the discretion of any SRO, requires law enforcement intervention, any SRO may assist the School until the problem is resolved. However, nothing in this section shall prohibit any SRO from taking their lunch in the school cafeteria with the students.

(12) Any records generated by any SRO in the course of their official duties with the School, including, but not limited to, reports; bodycam footage; notes; interviews; etc., are deemed as official records of the Newport Police Department. School officials seeking any records generated by any SRO shall request such records through the custodian of records of the City, the same as required of any other person seeking such records.

ARTICLE III

Rights and Duties of the School

The School shall provide each SRO the following materials and office facilities at each school deemed necessary for the performance of the SRO's duties:

- (A) Access to an air-conditioned and properly lighted private office which shall contain a telephone which may be used for general business purposes.
- (B) A location for files and records which can be properly locked and secured.
- (C) A desk with drawers, chair, work table, filing cabinet and office supplies.
- (D) Access to a typewriter and computer.
- (E) Internet access.

ARTICLE IV

Financial Arrangements of the SRO Program

The financing of the first SRO serving Newport High School will be as follows for the initial three (3) year term hereof:

Each year the School shall pay the City the amount equal to one half (1/2) of the annual total cost to the City of the SRO, minus \$8,000.00*, plus \$42.54, per hour, for each hour worked by the SRO over forty (40) hours, per week (i.e. overtime). Said sum shall be paid in one (1) annual installment by the School to the City upon invoice being provided by the City to the School for the total amount due on or before June 1st of each year, payable by the School to the City by the end of the fiscal year being June 30th. Any amounts owing for overtime work shall be included in the invoice and the City shall provide the School with a breakdown indicating the overtime hours worked by the SRO therewith.

(*By way of illustration, for the first year the City shall pay the total cost for the SRO of \$63,357.62, 1/2 of which equals \$31,678.81 minus \$8,000.00 = \$23,678.81 due and payable by the School for 2020-2021.)

The City shall pay and be responsible for the balance of expenses to include the SRO's salary, benefits, vehicle and equipment.

As for the two (2) additional required SROs (reference Article II (B)(1) hereof), as funding becomes available to both parties,, the City shall hire additional law enforcement officers who shall be qualified to act solely in this capacity and the School agrees to pay the City the annual costs to the City of these SRO's, including overtime at the same rate and under the same payment terms and conditions as set forth in the first paragraph of this Section above.

Funding responsibilities for subsequent years beyond the initial three (3) year term shall be negotiated between the School and the City subject to the right of either to provide notice of termination of this MOU as set forth in Article I above.

The City and the School hereby acknowledge and agree that the financial arrangements underlying this MOU during this initial three (3) year term may be affected by certain contingencies. In particular, the parties acknowledge that the staffing plan for this MOU is premised upon the availability of a law enforcement officer who has served as the SRO for the parties for past years. The parties further agree that, should this (first) SRO become unavailable for service during any portion of the term hereof due to retirement, voluntary or involuntary separation from employment, or health reasons, the parties shall have a duty to negotiate in good faith with respect to the payment amount specified in this Article. The parties further acknowledge that the City's required CERS pension contribution for any SRO may be affected by circumstances that cannot be fully anticipated, including future legislation passed by the Kentucky General Assembly, changes to the City's required pension contribution rate, and/or new administrative regulations by the Kentucky Retirement Systems. The parties agree that, should the City's required pension contribution for any SRO increase significantly during the term hereof, the parties shall have a duty to negotiate in good faith with respect to the payment amount specified in this Article.

ARTICLE V

Employment Status of the SROs

As previously indicated, each SRO shall be solely an employee of the City and shall not be an employee of the School. The School and the City acknowledge that each SRO shall remain responsive to the chain of command of the Newport Police Department.

ARTICLE VI

Appointment of the SROs

(A) The City Manager, upon consultation with the Chief of Police, shall assign and appoint a law enforcement officer who is qualified to be an SRO. The School shall approve or disapprove of any such law enforcement officer by giving written notice in either event to the City. However, if the School disapproves of an appointed law enforcement officer to act as an SRO, the School shall set forth the reasons for such disapproval in the notice to the City.

(B) All appointed SROs must meet the following requirements:

(1) The appointed SRO must be a volunteer for the position.

(2) The appointed SRO must be a full-time, certified and sworn law enforcement officer with a minimum of three (3) years of law enforcement experience.

(3) The appointed SRO must have the training outlined in Article II(A) above.

(C) Among additional criteria for consideration of the appointed the SRO are job knowledge, experience, training, education, appearance, attitude and communication skills.

ARTICLE VII

Dismissal of SROs and Replacement of Officer

(A) In the event a Principal of any school to which an SRO is assigned determines that such SRO is not effectively performing his/her duties and responsibilities, the Principal shall recommend to the Superintendent (or his/her designee) that such SROs assignment in the program

with the School be reviewed and shall state the reasons therefore in writing. Within five (5) working days of receiving the recommendation from the Principal, the Superintendent (or his/her designee) shall advise the City of the Principal's request. If the City so desires, the Superintendent and Chief of Police (or their designees) shall meet with such SRO to mediate or resolve any problems which may exist. At such meeting, specified members of the staff of the school to which such SRO is assigned may be required to be present. If, within the five (5) working days referenced above, the problem cannot be resolved or mediated, or in the event mediation is not sought by the Chief of Police, such SRO shall be removed from the program at the school and his/her responsibilities as the SRO and the Newport Police Department shall make every effort to identify a replacement following the process set out in Article VI hereof.

(B) The City Manager or the Chief of Police may dismiss or reassign any SRO based upon Department Rules, Regulations and/or General Orders, as well as City Personnel Policies.

(C) In the event of the resignation, dismissal or reassignment of any SRO, the City Manager and the Chief of Police shall make every reasonable effort to identify a replacement for the SRO within thirty (30) calendar days of receiving written notice of such absence, dismissal, resignation or reassignment, provided however that any such replacement shall have the required training and qualifications as outlined in Article II(A) and Article VI(B), hereof.

ARTICLE VIII

Notices

Any and all Notices or any other communication herein required or permitted shall be deemed to have been given when deposited in the United States Postal Service as regular mail, postage prepaid and addressed as follows:

For the City: City of Newport

Attn.: City Manager

998 Monmouth Street

Newport, KY 41071

For the School: Newport independent School District

Attn.: Administrator

30 West 8th Street

Newport, KY 41071

ARTICLE IX

Good Faith

The School, the City and their agents and employees agree to cooperate in good faith in fulfilling the terms of this MOU. Unforeseen difficulties or questions will be resolved by negotiation between the Superintendent and the City Manager (or their designees).

ARTICLE X

Modification

This document constitutes the full understanding of the parties and constitutes the entirety of their agreement. No terms, conditions, understandings or agreements purporting to modify or vary the terms of this document shall be binding unless hereafter made in writing and signed by the parties.

ARTICLE XI

Nonassignment

This MOU, and each and every covenant herein, shall not be capable of assignment unless with the express written consent of the School and the City is obtained.

ARTICLE XII

Merger

This MOU constitutes a final written expression and is a complete and exclusive statement of the terms thereof.

ARTICLE XIII

Insurance/Hold Harmless Clause

It is agreed and understood that during the initial term of this MOU and any renewal hereof, the City shall purchase and maintain or make a part of the existing coverage, errors and omissions and general liability insurance at a minimum of One Million Dollars (\$1,000,000), per policy, naming the School, and its officers and employees, as additional insureds and providing insurance coverage for all negligent acts, omissions and services performed by any SRO as described in this MOU, including insurance coverage for claims, suits, damages, fees or expenses (including cost of defense) arising out of any such negligent acts, omissions and services. Further, the City shall provide written proof of said coverage prior to execution of this MOU and any time thereafter on request of the School. The insurance provided by the City shall be deemed primary coverage relating to the acts of any SRO and not excess.

ARTICLE XIV

Severability

The invalidity or unenforceability of any provisions of this MOU shall not affect the validity or enforceability of any other provision hereof.

IN WITNESS WHEREOF, the parties hereto have caused duplicate originals of this MOU to be signed by their duly authorized representatives, as attested.

NEWPORT INDEPENDENT SCHOOL DISTRICT

By: _____

Title: _____

ATTEST:

By: _____

CITY OF NEWPORT, KENTUCKY

By: _____

Title: _____

ATTEST:

By: _____