



CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Tad J. Miller, City Clerk

From: John F. Spirk, Jr., Esq., City Solicitor

Re: Intergovernmental Cooperation Agreement with Bethlehem Area School District
Enforcement of Violations Captured Using the BusPatrol System

Date: June 12, 2024

Attached for Council's consideration is a proposed Resolution and associated Intergovernmental Cooperation Agreement titled "Intergovernmental Agreement" between the Bethlehem Area School District and the City of Bethlehem Police Department.

Please place this matter on City Council's agenda for review and appropriate action.

John F. Spirk, Jr.

John F. Spirk, Jr., Esq., Solicitor

Cc: J. William Reynolds, Mayor
Chief Michelle Kott, Police Department

RESOLUTION 2024-_____

**AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL COOPERATION AGREEMENT
PURSUANT TO 53 Pa. C.S.A. §2307, SAID AGREEMENT
TITLED “INTERGOVERNMENTAL AGREEMENT”
BETWEEN BETHLEHEM AREA SCHOOL DISTRICT AND
CITY OF BETHLEHEM POLICE DEPARTMENT.**

WHEREAS, the CITY OF BETHLEHEM, is a municipal corporation being a City of the Third-Class, subject to the Optional Third-Class City Charter Law, organized and existing under the laws of the Commonwealth of Pennsylvania, its constituent parts being split by law between Northampton County and Lehigh County, Pennsylvania with principal administrative offices at City Hall, 10 E. Church Street, Bethlehem, PA 18018 (hereinafter referred to as “City”); and

WHEREAS, the Bethlehem Area School District (the “District”) has entered into an Agreement with BusPatrol America, LLC (“BusPatrol”) to provide a stop arm signal arm enforcement system on each District school bus (the “BusPatrol Agreement”) pursuant to 75 Pa.C.S.A. § 3345.1(g) for the purpose of enforcing violations of 75 Pa.C.S.A. § 3345, which prohibits the driver of a vehicle from meeting or overtaking any school bus stopped on a highway or trafficway flashing its red signal lights; and

WHEREAS, the City of Bethlehem Police Department (hereinafter referred to as “BPD”) has jurisdiction to enforce violations of 75 Pa.C.S.A. § 3345 that occur within the boundaries of the City of Bethlehem; and

WHEREAS, 75 Pa.C.S.A. § 3345.1(g)(3) authorizes the District to enter into an intergovernmental agreement with law enforcement agencies to enforce violations of 75 Pa.C.S.A. § 3345 captured using an automated stop signal arm enforcement system (the “BusPatrol System”) through the issuance of a civil penalty; and

WHEREAS, the District and City, by and through the BPD, mutually desire to enter into such an intergovernmental agreement; and

WHEREAS, the District and City, by and through the BPD, shall be subject to all the terms and conditions specified and set forth in the Intergovernmental Agreement attached hereto (the “Agreement”), regarding the enforcement of violations of 75 Pa.C.S.A. § 3345 captured using the BusPatrol System; said terms and conditions include, but are not limited to, authorizing enforcement of violations captured by the BusPatrol System within the boundaries of the City of Bethlehem and setting forth the responsibilities of the BPD, and the District; and

WHEREAS, the Agreement does not provide for the expenditure of public funds by District or City; and

WHEREAS, the duration of the Agreement shall remain in effect so long as the BusPatrol Agreement with the District remains in effect, and shall automatically terminate upon the termination of the BusPatrol Agreement.

NOW THEREFORE BE IT RESOLVED, on this ____ day of _____, 2024, that the City Council of the City of Bethlehem, approves and ratifies the Intergovernmental Cooperation Agreement titled "Intergovernmental Agreement" attached hereto and that the Mayor and the Controller and/or such other City officials as deemed appropriate by the City Solicitor, are hereby authorized to execute the same on behalf of the City of Bethlehem.

Sponsored by _____

ADOPTED by Council this ____ day of _____, 2024.

President of Council

ATTEST:

City Clerk

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is entered into by and between the **BETHLEHEM AREA SCHOOL DISTRICT**, with its principle offices located at 1516 Sycamore Street, Bethlehem, PA 18017, hereinafter referred to as the “District”,

AND

The **BETHLEHEM POLICE DEPARTMENT**, with its principle offices located at 10 East Church Street, Bethlehem Pennsylvania, hereinafter referred to as the “Law Enforcement Agency.”

District and Law Enforcement Agencies may collectively be referred to herein as the “Parties”.

WHEREAS, at its regularly scheduled meeting held on June 21, 2021, the District’s Board of School Directors approved an agreement with BusPatrol America, LLC to provide a stop arm signal arm enforcement system on each District school bus pursuant to 75 Pa.C.S.A. § 3345.1(g) for the purpose of enforcing violations of 75 Pa.C.S.A. § 3345, which prohibits the driver of a vehicle from meeting or overtaking any school bus stopped on a highway or trafficway flashing its red signal lights. This agreement is referred to hereinafter as the “BusPatrol Agreement”, and is attached hereto, made a part hereof and marked Exhibit “A”; and

WHEREAS, 75 Pa.C.S.A. § 3345.1(g)(3) further authorizes the District to enter an intergovernmental agreement with the Law Enforcement Agencies to enforce violations of 75 Pa.C.S.A. §3345 captured using an automated stop signal arm enforcement system (“the BusPatrol System”) through the issuance of a civil penalty; and

WHEREAS, the District and Law Enforcement Agencies mutually desire to enter into such an intergovernmental agreement pursuant to 75 Pa.C.S.A. § 3345.1(g)(3).

NOW THEREFORE, in consideration of the terms and conditions set forth herein, and intending to be legally bound hereby, the Parties agree as follows:

1. Authority/Jurisdiction to Enforce Violations

- A. For any violation of 75 Pa.C.S.A. § 3345 captured by the BusPatrol System that occurs within the boundaries of the Bethlehem Police Department shall have primary authority/jurisdiction to enforce the violation and the Pennsylvania State Police shall have secondary authority/jurisdiction.
- B. For any violation of 75 Pa.C.S.A. § 3345 captured by the BusPatrol System that occurs in any area that does not have its own local police department, the District, itself or through delegation to its stop arm signal arm enforcement system vendor, may request the Pennsylvania State Police to review the evidence package and enforce the violation. The Pennsylvania State Police shall also have the authority/jurisdiction to enforce a violation that is witnessed by an officer of the Pennsylvania State Police.
- C. Northampton County Sheriff's Department only has the authority/jurisdiction to enforce a violation of 75 Pa.C.S.A. § 3345 if the Sheriff or a Sheriff's Deputy witnesses the violation.

2. Responsibilities of Law Enforcement Agencies

The Law Enforcement Agency enforcing a civil violation of 75 Pa.C.S.A. § 3345 captured by the BusPatrol System shall adhere to the requirements of 75 Pa.C.S.A. § 3345.1, as well as any other applicable laws or rules of procedure. As part of its responsibilities, the Law Enforcement Agency enforcing the violation shall:

- A. Prepare and file the evidence certificate and package identified in 75 Pa.C.S.A. §3345.1(d).
- B. Adhere to all relevant sections of 75 Pa.C.S.A. § 3345.1 regarding the use and disclosure of information relating to violations.
- C. Pursuant to 75 Pa.C.S.A. § 3345.1(h.2):
 - i. Review submitted evidence to determine if a violation under this section occurred and electronically certify the notice of violation.
 - ii. Notify the school entity, or the system administrator on the school entity's behalf, of the electronic certification of the notice of violation related to the primary police department's capacity to view and authorize the notice.

- iii. Restrict the review of submitted evidence under paragraph (1) to an individual who is a police officer.
- D. Comply with the “notice of violations, fines, and contests” provisions stated in 75 Pa.C.S.A. § 3345.1(i.2(3)).
- E. Appear as needed at all court proceedings held before a Magisterial District Judge or any other court regarding a violation and ensure that the law enforcement receives its \$25 share of the civil penalty.
- F. Adhere to the requirements of 75 Pa.C.S.A. § 3345.1(c)(4) that the civil violation shall not
 - i. be deemed a criminal conviction;
 - ii. be made part of the operating record of the individual upon whom the penalty is imposed under section 1535 (relating to schedule of convictions and points);
 - iii. be the subject of merit rating for insurance purposes; or
 - iv. authorize imposition of surcharge points in the provision of motor vehicle insurance coverage.
- G. Adhere to the provisions in the BusPatrol Agreement that pertain to the responsibilities of Law Enforcement Agencies including, but not limited to Sections 4.1.9 and 5.2.
- H. Ensure that any payments for violations pursuant to 75 Pa.C.S.A. § 3345.1(i.1) shall be paid through BusPatrol’s AlertBus webportal only, and not accepted by the Law Enforcement Agency itself. Should any payments incorrectly be paid through a mechanism other than BusPatrol’s AlertBus web portal, the relevant Law Enforcement Agency shall ensure that such payment is transferred immediately to BusPatrol for deposit.

3. Responsibilities of the District

The District shall work with BusPatrol to meet all requirements imposed on the District and BusPatrol pursuant to 75 Pa.C.S.A. § 3345.1. As part of its responsibilities, the District shall:

- A. Coordinate with BusPatrol to provide the Law Enforcement Agency enforcing the violation with written documentation that the side stop signal arm enforcement system

was operating correctly at the time of the alleged violation and a copy of any video evidence of the alleged violation.

- B. Pursuant to 75 Pa.C.S.A. § 3345.1(h), coordinate with Bus Patrol to provide the following to the Law Enforcement Agency enforcing the violation:
- i. A copy of the recorded image showing the vehicle.
 - ii. The license plate number and state of issuance of the motor vehicle.
 - iii. The date, time and place of the alleged violation.

4. Criminal Proceedings

75 Pa.C.S.A. §3345.1(a.1(2)) provides that the vehicle operator shall not be liable for the civil penalty if the operator is also criminally convicted of the same violation under 75 Pa.C.S.A. §3345. Therefore, the Law Enforcement Agencies agree that a vehicle operator's first offenses for a violation of 75 Pa.C.S.A. §3345 shall be enforced as a civil penalty only pursuant to 75 Pa.C.S.A. §3345.1. Any subsequent offenses by the same operator may, at law enforcement's discretion, be enforced through a civil penalty or through criminal proceedings.

5. Miscellaneous

- A. The Parties shall each comply with all relevant provisions of governing local, state, and federal law in implementing the terms and conditions of this Agreement.
- B. This Agreement will be interpreted under the laws of the Commonwealth of Pennsylvania.
- C. Nothing in this Agreement shall be construed to waive or reduce the immunities from civil liability granted by or to enlarge the limitations on immunity imposed by the Political Subdivisions Tort Claims Act.
- D. The parties executing this Agreement represent and warrant to each other that they have the full right, power, capacity and authority to execute and deliver this Agreement, and that they have duly and properly performed all acts required to authorize them to carry out this Agreement and the transactions contemplated by it.
- E. This Agreement shall remain in effect so long as the BusPatrol Agreement remains in effect and shall automatically terminate upon the termination of the BusPatrol

Agreement. Termination shall not affect any of the rights and/or obligations accruing hereunder prior to the effective date of termination.

- F. This Agreement may be amended and/or modified only by written agreement signed by all of the Parties hereto.
- G. This Agreement sets forth the entire agreement and understanding among the Parties and supersedes any prior agreement or understanding, written or oral, relating to the subject matter of this Agreement.
- H. Each of the Parties hereto covenant and agree that where applicable respectively, they shall not discriminate against any person for any reason by reason of gender, gender identity or expression, sex, race, creed, religion, color, sexual preference or orientation, national or ethnic origin, genetic information, disability, ancestry, marital or familial status, veteran status or age.
- I. All notices required or sought to be given under this Agreement shall be in writing and shall be deemed to have been made if (i) delivered personally, (ii) sent by certified or registered mail, postage prepaid, or (iii) sent by nationally recognized overnight courier, addressed as shown on the first page of this Agreement. Unless otherwise stated in this Agreement, notices, consents or other communications will be deemed received (a) on the date delivered, if delivered personally; (b) on the next business day after mailing or deposit with an overnight air courier; or (c) three business days after being sent, if sent by registered or certified mail. Any party may at any time, in the manner set forth for giving notices to the other parties, designate a different name and/or address to which notices to it shall be sent.
- J. The failure to enforce or require the performance at any time of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions and shall not affect either the validity of this Agreement or any part hereof, or the right of any party thereafter to enforce each and every provision in accordance with the terms of this Agreement.
- K. All agreements and covenants contained in this Agreement are severable, and in the event any of them are held to be invalid by any competent court, this Agreement will

be interpreted as if invalid agreements or covenants were not contained in this Agreement.

- L. It is understood and agreed by the Parties hereto that the Law Enforcement Agencies, including each Law Enforcement Agency's respective officers, employees, agents, and/or representatives, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, are independent contractors and are not officers, agents, or employees of the District.
- M. Each party hereto binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Agreement.

Bethlehem Area School District

ATTEST:

Arutyun Aristakesian

Name: Arutyun Aristakesian
Title: CFO

March 28, 2024
Date

Name:
Title:

Bethlehem Police Department

Name:
Title:

Date

Name:
Title: