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MEMORANDUM

To: Mayor and City Council
From: Billy Grogan, Chief of Police
Thru: Warren Hutmacher, City Manager
Date: July 23, 2012
Subject: DeKalb County School District & City of Dunwoody Mutual Aid Agreement

ITEM DESCRIPTION

Currently, the City of Dunwoody does not have a mutual aid agreement signed between the DeKalb County School District and the City of Dunwoody in case of a local emergency or for extraterritorial assistance as outlined by Georgia Code 36-69-1.

BACKGROUND

It is important that the City of Dunwoody have a mechanism in place to request police assistance from the DeKalb County School District Police should the need arise. It is also important to have this mechanism in place should the DeKalb County School District Police need our assistance as well. Georgia Code 36-69-1 outlines the standards of this agreement. We have a similar agreement in place with Georgia Perimeter College. This agreement has been reviewed by our City Attorney as well.

FUNDING

There is no cost to implement this agreement.

RECOMMENDED ACTION

I recommend the City of Dunwoody sign the attached Mutual Aid Agreement with the DeKalb County School District.

MUTUAL AID AGREEMENT FOR EXTRATERRITORIAL ASSISTANCE
BETWEEN DEKALB COUNTY SCHOOL DISTRICT
AND THE CITY OF DUNWOODY

This AGREEMENT, by and between the DEKALB COUNTY SCHOOL DISTRICT (hereinafter referred to as “DCSD”) AND the CITY OF DUNWOODY, a political subdivision of the State of Georgia, acting by and through its duly elected Mayor and City Council. Throughout this Agreement DCSD and City of Dunwoody may be referred to individually as a “Party” or jointly as the “Parties.”

WITNESSETH:

WHEREAS, DCSD and the City of Dunwoody each maintain and staff a law enforcement department for the purpose of prevention or detection of violations of the law; and

WHEREAS, DCSD and the City of Dunwoody have determined that it is to the mutual advantage and benefit of each of the Parties hereto that they render extra-territorial assistance for the prevention or detection of violations of the law, in the apprehension or arrest of any person who violates a criminal law of the State of Georgia, in any criminal case, or in a local emergency. A “Local Emergency” is defined by O.C.G.A. § 36-69-2 as:

The existence of conditions of extreme peril to the safety of persons and property within the territorial limits of a political subdivision of the state or on a campus of a school within the DCSD caused by natural disasters, riots, civil disturbances, or other situations presenting major law enforcement and other public safety problems, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of that political subdivision of the state and which require the combined forces of other political subdivisions of the state to combat (hereinafter referred to as “Local Emergency”).

WHEREAS, the City’s police department has agreed to participate in Community School Policing and to visit schools in the patrol area and team with DCSD School Resource Officers to become familiar with staff and students in area schools. When possible, attend school events, such as the following: community meetings, PTA/PTO meetings, and other school functions that are held in patrolled area schools.

WHEREAS, each police municipality has agreed, in time of a school crisis of major disruption, to provide assistance to the school or if available, substitute for an area School Resource Officer to assist with the transporting of students for detention/lock-up when School Resource Officers are overwhelmed with requests, to share vital information to assist with investigating criminal cases, and to share common or special training with DCSD Public Safety.

WHEREAS, it is the desire of the Parties represented by the signatories hereto to enter into this Agreement for mutual aid pursuant to the Georgia Mutual Aid Act, O.C.G.A. § 36-69-1, et seq., adopted pursuant to the 1983 Constitution of the State of Georgia, Article IX, Section II, paragraph 3.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the Parties hereto agree as follows:

1. MUTUAL AID.

- (a) The generally available level of mutual aid under this Agreement shall be as agreed upon by DCSD's Chief of Police and Dunwoody's Chief of Police. The Party furnishing aid shall determine the actual amount of equipment and staff it will make available in each instance of an emergency based on the available personnel and equipment and the local conditions at the time of the Local Emergency.
- (b) Aid actually furnished may be recalled at the discretion of the Police Chief or designee of the furnishing jurisdiction.
- (c) The Parties will participate in joint training exercises to promote a basic standardization of operations and philosophy to the extent necessary as determined and agreed upon by the Police Chiefs of each jurisdiction.

2. SUPERVISION.

- (a) The Parties shall create an agreed upon Incident Command System ("ICS"), which shall direct the handling of all incidents. The furnishing and receiving jurisdictions shall each designate and dispatch a Chief Officer. That Chief Officer shall coordinate the resources of the furnishing jurisdiction and shall report to the Chief Officer of the receiving jurisdiction.
- (b) When the furnishing jurisdiction's Chief Officer arrives before the Chief Officer of the receiving jurisdiction that the furnishing jurisdiction's officer shall coordinate and give general directions as to the work to be done. The Chief Officer of the furnishing jurisdiction will be in command until properly relieved by the Chief Officer of the jurisdiction receiving aid.
- (c) Personnel from the furnishing jurisdiction will work under their own supervisors and with their own equipment except as provided in Paragraph 2 (a) above.
- (d) The appropriate officers of the receiving jurisdiction will give direction regarding work to the Chief Officer of the furnishing jurisdiction except as provided in Paragraph 2 (a) above.

3. LIABILITY.

- (a) There shall be no liability imposed on any Party or its personnel for failure to respond to assistance and emergency calls pursuant to this Agreement, as reflected in O.C.G.A. § 36-69-8 (a).

- (b) Nothing in this Agreement shall be construed as creating a duty on the part of the responding agency to stay at the scene of an emergency for any set length of time. Responding personnel and equipment may be removed at any time from the scene at the discretion of the senior officer from the responding agency, as reflected in O.C.G.A. § 36-69-8 (b).
- (c) No employee of a Party shall be deemed to be an employee or agent of the other Party because of any action or incident arising pursuant to this Agreement.
- (d) All damages or repairs to any equipment or apparatus shall be the responsibility of the owner of such equipment or apparatus.
- (e) The provisions of this Agreement shall not be construed as creating a duty or any liability on the part of either Party to respond to an emergency within the other jurisdiction. The Police Chief furnishing aid shall have the sole discretion to determine if such aid shall be furnished to the other jurisdiction.
- (f) Neither Party will be liable to the Other Party for any injury or property damage caused by negligent or other wrongful act(s) or omission(s) of its employees. However, each Party shall indemnify and hold harmless the other party against any claims for bodily injury or property damages, including attorney's fees, either Party may incur due to the actions or negligence of the other Party.

4. CONSIDERATION AND COMPENSATION.

- (a) No party is required to pay any compensation to the other party for services rendered pursuant to this agreement.
- (b) The mutual advantage and protection afforded by this Agreement is adequate consideration to both Parties.
- (c) Each Party to this Agreement shall comply with workers compensation laws of the State of Georgia without any cost to the other Party.
- (d) Each Party shall pay its own personnel without cost to the other Party.

5. RELEASE OF CLAIMS.

Each Party agrees to release the other Party from any and all liability, claims, judgments, costs, or demands for damage to its own property or for personal injury to any personnel or other persons on the property, whether directly arising or indirectly arising out of the use of any vehicle, equipment, or apparatus by the other Party during the provision of service pursuant to this Agreement

6. **THIRD-PARTY BENEFICIARIES.**

This Agreement shall not be construed as or deemed to be an Agreement for the benefit to any third-party or parties, and no third-parties shall have any right of action hereunder for any cause whatsoever.

7. **TERM OF AGREEMENT.**

- (a) Unless otherwise extended or shortened in writing by all parties, this Agreement shall expire two (2) years from July 1, 2012. In no event shall this agreement extend for more than fifty (50) years from the effective date of this Agreement.
- (b) Nothing in this Article shall preclude termination pursuant to Paragraph 10.

8. **STANDBY OF EQUIPMENT - MUTUAL MD.**

- (a) Each Party agrees and acknowledges that it will be the responsibility of each Party to provide the back-up equipment necessary for its own department.
- (b) In the event that a receiving jurisdiction has dedicated a major amount of specialized equipment on an incident, the receiving jurisdiction may request aid to cover vacant areas by locating personnel or equipment of the furnishing jurisdiction in the receiving jurisdiction.

9. **ENTIRE AGREEMENT.**

- (a) This Agreement shall constitute the entire Agreement between the Parties with respect to the matters set forth herein and supersedes all prior, contemporaneous, written or oral negotiations, agreements, or understandings between the Parties regarding such matters. This Agreement may not be changed, modified, amended or altered except in a written agreement signed by the Parties.
- (b) This Agreement shall be the sole instrument for the provision of emergency police service mutual aid between the Parties.

10. **TERMINATION.**

Either party to this Agreement may terminate the Agreement by giving not less than thirty (30) days written notice to the other Party.

11. **SEVERABILITY OF TERMS.**

In the event any part or provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby and shall continue in full force and effect

12. **GOVERNING LAW.**

This Agreement shall be governed in all respects by the laws of the State of Georgia.

13. **CONSTRUCTION.**

Nothing in this Agreement is intended to or shall be construed as modifying the respective rights and obligations of the Parties under a mutual aid agreement as specifically provided by the Georgia Mutual Aid Act.

14. **NO VIOLATION.**

The Parties represent and warrant that the execution of, and performance under, this Agreement will not be a breach of, violation of, or conflict with any other contract or agreement to which it is a party or subject.

15. **VENUE**

The exclusive venue for any action arising out of or related to this Agreement shall be in the federal, superior, or state courts of DeKalb County, Georgia.

16. **WAIVER**

No failure or delay by either Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of either Party hereunder are cumulative and are not exclusive of any rights or remedies which it would otherwise have hereunder.

17. **HEADINGS.**

The headings contained in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. The Parties agree that this Agreement was fairly negotiated at arm's length, and neither Party shall be

considered to have been the drafter of the Agreement for purposes of any rules of construction.

18. **COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all counterparts so executed shall constitute one agreement binding upon all the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in three counterparts, each to be considered as an original by their authorized representative, on this _____ day of _____, 2012.

DeKalb County School District

Dunwoody, Georgia

Dr. Cheryl L. H. Atkinson
Superintendent

Michael G. Davis
Mayor

ATTEST:

ATTEST:

Director Jeannette J. James

Sharon Lowery
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

County Attorney Signature

City Attorney Signature

County Attorney Name (type or print)

City Attorney Name (type or print)