



MEMORANDUM

To: Mayor and City Council
From: Billy Grogan, Chief of Police
Date: April 23, 2018

Subject: Mutual Aid and Assistance Agreement with the City of Brookhaven, Georgia

DESCRIPTION

A Mutual Aid and Assistance Agreement is a document that can be executed by two governments to provide police assistance during both emergency and non-emergency circumstances.

BACKGROUND

The City of Dunwoody continues to develop strong partnerships with surrounding jurisdictions. The goal of implementing the Mutual Aid and Assistance Agreement with the City of Brookhaven ("Agreement") is to enhance law enforcement services to adequately respond to intensive situations including, but not limited to, local emergencies and continuing, multijurisdictional law enforcement problems, so as to provide better protection to the public.

This Agreement is designed to be mutually beneficial to Dunwoody and Brookhaven and their citizens by providing greater assurances that in the event responses to law enforcement, emergency or special circumstances/events may exceed the immediate resources, skill, and equipment capacities of either City, the other City may request assistance in providing such resources. This would include dealing with civil disturbances, large protest demonstrations, aircraft disasters, fires, natural or manmade disasters, sporting events, concerts, parades, escapes from detention facilities, and incidents requiring utilization of specialized units or equipment.

Under the Agreement, one City may also request assistance from the other in dealing with any violation of Georgia statutes to include, but not be limited to, investigating homicides, sex offenses, robberies, assaults, burglaries, larcenies, gambling, motor vehicle thefts, drug violations, accidents involving motor vehicles, and violations of the Georgia Uniform Traffic



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Law, providing backup services during patrol activities and participating in inter-agency task forces and/or joint investigations.

The Agreement establishes policies and procedures to be followed when a request for assistance is made by either City for either emergency or non-emergency situations. In the event of a request, the Chief of the City receiving the request will assess resources and will provide personnel, equipment and specialized units to the extent possible without jeopardizing primary services to its own community. The requesting City will establish an incident command system, and the incident commander will be in charge of the emergency or situation requiring mutual aid.

Each City is responsible for its own employees' compensation and benefits for services rendered in a mutual aid situation. There is no liability imposed on either City for failure to respond for the purposes stated in the Agreement. Injuries to personnel in a mutual aid situation are the responsibility of the City employing the personnel. The term of the Agreement initially is from date of execution to December 31, 2018. Thereafter, the Agreement renews annually unless either City provides at least 90 days' notice of termination or intent not to renew.

RECOMMENDATION

Staff recommends that City Council adopt the Mutual Aid Agreement between the City of Dunwoody, Georgia and the City of Brookhaven, Georgia. This agreement has been reviewed by our City Attorney.

Denis Shortal Mayor
Eric Linton, ICMA-CM City Manager
Sharon Lowery, CMC City Clerk

Pam Tallmadge City Council Post 1
Jim Riticher City Council Post 2
Tom Lambert City Council Post 3

Terry Nall City Council Post 4
Lynn Deutsch City Council Post 5
John Heneghan City Council Post 6

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**MUTUAL AID AND ASSISTANCE AGREEMENT
BY AND BETWEEN THE CITY OF DUNWOODY, GEORGIA, AND
THE CITY OF BROOKHAVEN, GEORGIA**

THIS MUTUAL AID AND ASSISTANCE AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2018, by and between **CITY OF DUNWOODY, GEORGIA** (“Dunwoody”), and the **CITY OF BROOKHAVEN, GEORGIA** (“Brookhaven”) (Dunwoody and Brookhaven are hereinafter referred to individually as "Party" or collectively as "Parties"). This Agreement incorporates by reference standards contained in O.C.G.A. § 36-69-1, et seq. (“Mutual Aid Act”), including subsequent amendments thereto.

WHEREAS, the jurisdictions of the Parties are so located in relation to each other that it is advantageous to each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to: (1) intensive situations including, but not limited to, local emergencies as defined in the Mutual Aid Act; and (2) continuing, multi-jurisdictional law enforcement problems, so as to protect the public peace and safety and preserve the lives and property of the people; and

WHEREAS, in the event responses to law enforcement, emergency or special circumstances/events may exceed the immediate resources, skill, and equipment capacities of the law enforcement agencies of a Party, such Party may request that the other Party provide assistance in providing such law enforcement services; and

WHEREAS, the Parties have determined that it is to their mutual advantage and benefit to render supplemental law enforcement services to the other as provided in the Mutual Aid Act; and

WHEREAS, it is the desire of the Parties hereto to enter into this Agreement for mutual aid pursuant to the 1983 Constitution of the State of Georgia, Article IX, Section 11, Paragraph 3 and the Georgia Mutual Aid Act;

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

ARTICLE I – DEFINITIONS

The following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent:

“*Agency*” means any local law enforcement agency, including the law enforcement agencies of the Parties.

“*Chief*” means the Chief of Police of a Party or his/her designee.

“*Emergency Situation*” or “*Local Emergency*” exists when there are 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 an institution within the University System of Georgia 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 subdivision of the State to combat.

“*Incident Command System*” means a set of personnel, policies, procedures, facilities, and equipment, integrated into a common organizational structure designed to improve emergency response operations of all types and complexities

“*Incident Commander*” means the person responsible for all aspects of an emergency response, including quickly developing incident objectives, managing all incident operations, application of resources as well as responsibility for all persons involved.

“O.C.G.A.” means the Official Code of Georgia Annotated.

“*Requesting Agency*” means the agency requesting assistance pursuant to this Agreement.

“*Responding Agency*” means the agency responding to a request for assistance pursuant to this Agreement.

ARTICLE II – SCOPE OF AGREEMENT

Section 1. Provisions for Operational Assistance.

Each of the Parties to this Agreement hereby approves and enters into this Agreement whereby each Party may request and render law enforcement assistance to the other, to include but not necessarily be limited to dealing with civil disturbances, large protest demonstrations, aircraft disasters, fires, natural or manmade disasters, sporting events, concerts, parades, escapes from detention facilities, and incidents requiring utilization of specialized units or equipment.

Section 2. Provisions for Voluntary Cooperation.

In addition, each of the Parties to this Agreement hereby approves and enters into this Agreement whereby each Party may request and render law enforcement assistance to the other in dealing with any violation of Georgia statutes to include, but not be limited to, investigating homicides, sex offenses, robberies, assaults, burglaries, larcenies, gambling, motor vehicle thefts, drug violations, accidents involving motor vehicles, and violations of the Georgia Uniform Traffic Law, providing backup services during patrol activities and participating in inter-agency task forces and/or joint investigations.

ARTICLE III – POLICY AND PROCEDURE

The following policies and procedures shall be followed with regard to a request for assistance pursuant to this Agreement:

- A. If a Party to this Agreement needs assistance as set forth above, it shall notify the Chief of the agency from which such assistance is required, as provided hereinafter. The Chief of the Responding Agency shall evaluate the situation and the Responding Agency’s available resources, consult with his or her supervisors if necessary and respond in a manner deemed appropriate. Under the terms of this Agreement, the Responding Agency shall provide personnel, equipment, and specialized units to the Requesting Party to the extent possible without jeopardizing primary services to its respective community. The decision of the Responding Agency’s Chief in this regard shall be final.

Any resources or facilities that are assigned by the Responding Agency shall be under the immediate command of a supervising officer designated by the Responding Agency's Chief. Such supervising officer shall be under the direct supervision and command of the Chief of the Requesting Agency.

- B. The Requesting Agency shall establish an Incident Command System.
- C. The Incident Commander or his/her designee shall establish a staging area when necessary.
- D. All radio communications shall be coordinated through the Incident Commander.
- E. In order to maintain the efficient implementation of this Agreement, the Chief of each agency shall have the following responsibilities:
 - 1. Utilize the Incident Command System at an incident;
 - 2. Provide data to a participating agency concerning available personnel per shift, special equipment, and specialized units;
 - 3. Timely negotiate amendments to or renewal of the Agreement;
 - 4. Assist in coordinating Incident Command System training for agency supervisors.

ARTICLE IV – REQUESTS FOR ASSISTANCE

Section 1. General.

Requests for assistance in this section relate to those times that go beyond the normal day-to-day operations. Nothing in this section shall preclude the sharing of resources or the normal and customary requests for assistance required in day-to-day operations.

Section 2. Non-Emergency Situations.

In non-emergency situations, requests for mutual assistance shall be made with the Chief in a timely fashion through the agency's chain of command.

Section 3. Emergency Situations.

- A. In the event that a Party to this Agreement requires assistance in an emergency situation, the commanding supervisor in charge at the scene of the emergency shall contact emergency communications and/or request that the Chief be advised of the situation. The supervisor in charge shall provide communications and/or advise the Chief directly with regard to the following:
 - 1. The nature of the emergency;
 - 2. A safe approach to the emergency scene or staging for the responding units;

3. The estimated amount of personnel, specialized units, and/or equipment needed to bring the emergency situation under control.
- B. The Chief of each agency, or his/her designee, is the sole designated official permitted to request or authorize emergency assistance, subject to the following conditions:
1. The request for emergency assistance may be made by telephone or in writing or, in extreme emergencies, by radio and is subject to confirmation;
 2. The Requesting Agency is responsible for providing the Responding Agency with the information necessary to determine the levels of assistance required;
 3. The Responding Agency is only committed to provide assistance to the extent that it does not endanger primary operations, and may withdraw loaned personnel or equipment where circumstances require re-deployment in its jurisdiction.
- C. The Responding Agency shall comply with the following requirements upon dispatch of assistance to the Requesting Agency:
1. Make an incident in the records management system for assistance to another agency; and
 2. Document the names of Responding Agency personnel dispatched to the Requesting Agency for assistance.
- D. The designated Incident Commander of the Requesting Agency shall be in charge of the emergency or situation requiring mutual aid.
- E. All loaned personnel shall follow the Incident Commander's or designee's lawful orders; however, where the provided mutual assistance involves the loan of specialized units including, but not limited to, tactical response, hostage negotiation, bomb disposal, or K-9, the supervisor of the specialized unit shall be responsible for the proper implementation of their specific task, as determined by the designated Incident Commander.
- F. When taking law enforcement actions at the emergency site, including use of force, officers shall adhere to their agency policies and procedures. They shall use only those weapons and tactics for which they are qualified and authorized to use by the host agency.
- G. Designated officers on loan from other agencies responding to an emergency situation shall regularly update emergency communications and the Chief concerning the continued status of the emergency, line-of-duty injuries or the need for relief by telephone, whenever possible, when dealing with sensitive issues.

ARTICLE V – AUTHORITY, PRIVILEGES, IMMUNITIES

All provisions and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, workers' compensation, salary, death, and other benefits which apply to the activity of such officers, agents, or employees of any agency subject to this Agreement when performing their respective functions within the territorial limits of their respective agency shall apply to them to the same degree, manner, and extent while engaged in the

performance of any of their functions and duties extraterritorially under the provisions of this Agreement. The provisions of this section shall apply with equal effect to paid, volunteer, and reserve employees.

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that this Agreement is a valid and legal agreement binding on such Party, enforceable in accordance with its terms. Each Party hereby further represents that the person signing this Agreement on behalf of the Party is duly authorized to execute this Agreement and warrants that no consent, approval or authorization, other than that taken by such Party, is required to be made in connection with the execution, delivery or performance by the Party of this Agreement or the consummation by the Party of the transactions contemplated hereby.

ARTICLE VI – COMPENSATION AND EQUIPMENT COSTS

Section 1. Compensation.

No Party to this Agreement shall be required to pay any compensation to the other Party for services rendered pursuant to this Agreement. The mutual advantage and protection afforded by this Agreement is considered adequate compensation to both Parties. Each Party to this Agreement shall comply with Workers' Compensation laws of the State of Georgia without any cost to the other Party. Each Party shall pay its own personnel, including the costs of wages and benefits, without cost to the other Party, during the time assistance is rendered pursuant to this Agreement.

Section 2. Other Costs.

Expenditures, if any, shall be borne by the Requesting Agency to compensate for the use of the Responding Agency's resources.

ARTICLE VII – LIABILITY

There shall be no liability imposed on any Party or its personnel for failure to respond for the purposes stated in this Agreement. Every employee shall be deemed to be the employee and agent of his regular employer, and under no circumstances shall any employee be deemed to be an employee or agent of any entity other than his regular employer. All repairs of damages to any equipment or apparatus shall be done by the owner jurisdiction.

ARTICLE VIII – RELEASE OF CLAIMS

Each of the Parties to this Agreement agrees to release the other Party from any and all liabilities, claims, judgments, costs or demands for damage to that Party's property, whether directly existing or indirectly arising out of the use of any vehicle, equipment, or apparatus being used by the other Party during the provision of services pursuant to this Agreement.

ARTICLE IX – INJURIES TO PERSONNEL

Any damage or other compensation which is duty to be paid to any employee by reason of an injury occurring while such employee's services are being utilized pursuant to this Agreement shall be the sole liability and responsibility of the Party regularly employing that person. This

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

ARTICLE X – TERM OF AGREEMENT

This Agreement shall be effective on the date set forth above and shall continue until December 31, 2018. This Agreement shall automatically be renewed by the Parties on January 1 and each year thereafter on January 1 unless and until such time as written notice of termination or modification is received by either Party within ninety (90) days of the expiration of the term of this Agreement. Nothing in this section shall preclude termination pursuant to Article XI.

ARTICLE XI – TERMINATION

Any Party to this Agreement may terminate the Agreement by giving not less than ninety (90) days' written notice to the other Parties and upon the running of ninety (90) days from such written notice, this Agreement shall be terminated.

ARTICLE XII – ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the Parties hereto and no modification shall be binding upon the Parties unless evidenced by a subsequent written agreement executed by the Parties, acting by and through their governing bodies.

ARTICLE XIII – MODIFICATION OR AMENDMENT

Either Party may initiate a request for modification or amendment of this Agreement in writing. Any such modification or amendment shall become a part of the Agreement. All amendments shall either revise specific provisions of the Agreement or shall provide for new provisions to become a part of the Agreement. All other provisions of the Agreement not otherwise affected shall remain in effect and unchanged.

ARTICLE XIV – SEVERABILITY OF TERMS

If any part or provision of this Agreement is determined to be invalid or unenforceable, the remaining parts or provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable and in full force and effect.

ARTICLE XV – CONSTRUCTION OF LAW

- A. This Agreement shall not be construed as creating a duty on the part of either Party to respond to a request from the other Party, as authorized in O.C.G.A. § 36-69-3 of the Mutual Aid Act.
- B. Notwithstanding the provisions of subsection (e) of O.C.G.A. § 36-69-3, the provisions of the Mutual Aid Act shall not be construed as creating a duty on the part of a Responding Agency to stay at the scene of a local emergency for any length of time. Such Responding Agency may depart the scene of a local emergency at any time at the discretion of the officer in command of the Responding Agency at the scene of the local emergency.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their hands and affixed their seals the date and year above set forth.

CITY OF DUNWOODY, GEORGIA

By: _____
Denis L. Shortal, Mayor

Attest:

Sharon Lowery, City Clerk

CITY OF BROOKHAVEN, GEORGIA

By: _____
John Ernst, Mayor

Attest:

Susan Hiott, City Clerk