

RESOLUTION NO. 5 , 2019

A RESOLUTION AUTHORIZING THE HAMILTON COUNTY, OHIO AMENDED AND RESTATED MUTUAL AID AGREEMENT FOR LAW ENFORCEMENT

WHEREAS, R.C. § 737.04 authorizes the City to enter into agreements with other municipal corporations, townships, the county, and authorized law enforcement agencies to provide reciprocal police service across jurisdictional lines; and

WHEREAS, the City has participated in a Mutual Aid Agreement for law enforcement for many years throughout the county; and

WHEREAS, the participating agencies administering the contract have recommended updated revisions to the Mutual Aid Agreement to clarify what activities are governed by the Mutual Aid Agreement and to reaffirm insurance coverage requirements for participating agencies; and

WHEREAS, the administering agency has requested all participating jurisdictions to reaffirm their participation in the Agreement; and

WHEREAS, the Police Department and Administration recommend that Council accept the revised Mutual Aid Agreement, a copy of which is attached hereto.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. The City Manager is hereby authorized to accept and execute the attached *Hamilton County, Ohio Amended and Restated Mutual Aid Agreement for Law Enforcement* for and on behalf of the City. Further, the City Manager is authorized to execute any and all additional documentation as necessary to implement this revised Agreement.

SECTION 2. This Resolution shall be in full force and effect from and after

its passage.

PASSED: February 6, 2019

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Christopher P. Dobrozsi
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon
Terrence M. Donnellon, Law Director

HAMILTON COUNTY, OHIO
AMENDED AND RESTATED MUTUAL AID AGREEMENT FOR LAW
ENFORCEMENT

This agreement ("Agreement") is made and entered into by the undersigned parties as follows:

WHEREAS, Revised Code Section 737.04 allows the legislative authority of any municipal corporation to enter into contracts with one or more municipal corporations, townships, township police districts, joint police districts, county sheriffs, park districts, port authorities, or contiguous municipal corporations in an adjoining state, for the purpose of obtaining police protection or additional police protection, or to allow its police officers to work in multi-jurisdictional drug, gang, or career criminal task forces, upon any terms that are agreed for services of police departments, the use of police equipment, or the interchange of services of police departments or police equipment within the territories of the political subdivisions; and

WHEREAS, further authority for the participation of townships is set forth in Revised Code Sections 505.43 and 505.431, further authority for the participation of park districts is set forth in Revised Code Sections 511.235 and 1545.131, and further authority for the participation of universities is set forth in Revised Code Section 3345.041 and 1713.50; and

WHEREAS, the undersigned parties intend to provide reciprocal police services across jurisdictional lines, consistent with the foregoing statutes, to enhance the capabilities of law enforcement for the protection of citizens and property throughout Hamilton County; and

WHEREAS, the undersigned parties intend to provide and exchange the full array of police services with any or all other parties without limitation, but generally in accord with the following guidelines; and

WHEREAS, the undersigned parties (individually, "Agency" and collectively, "Agencies") include the following participating jurisdictions: Hamilton County, Ohio; the City of Cincinnati; the Village of Addyston; the Village of Amberley Village; the City of Blue Ash; the City of Cheviot; the Village of Cleves; the City of Deer Park; the Village of Elmwood Place; the Village of Evendale; the Village of Fairfax; the City of Forest Park; the Village of Glendale; the Village of Golf Manor; the Village of Greenhills; the City of Harrison; the City of the Village of Indian Hill; the Village of Lockland; the City of Loveland; the City of Madeira; the Village of Mariemont; the City of Milford; the City of Montgomery; the City of Mt. Healthy; the Village of Newtown; the City of North College Hill; the City of Norwood; the City of Reading; the City of Sharonville; the Village of St. Bernard; the City of Springdale; the Village of Terrace Park; the Village of Woodlawn; the City of Wyoming; Anderson Township; Colerain Township; Columbia Township; Crosby Township; Delhi Township; Green Township; Harrison Township; Miami Township; Springfield Township; Sycamore Township; Symmes Township; Whitewater Township; Great Parks of Hamilton County; Cincinnati State Technical and Community College; Mt. St. Joseph University; the University of Cincinnati; Xavier University; and Summit Behavioral Police.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

I. COOPERATIVE LAW ENFORCEMENT WITHOUT REQUEST

The Agencies recognize that criminal activities routinely occur across jurisdictional lines, and that cooperation between Agencies can increase the effectiveness of law enforcement throughout Hamilton County. Any Agency may proceed without request from a cooperating Agency generally according to the following guidelines:

A. In-Progress Crime Assistance Without Request

1. Whenever an on-duty law enforcement officer from one jurisdiction views or otherwise has probable cause to believe a criminal offense has occurred outside the officer's home jurisdiction but within the jurisdiction of a cooperating Agency, the officer may make arrests according to law and take any measures necessary to preserve the crime scene. Control of any arrested persons, evidence and the crime scene shall be relinquished to the first available officer from the jurisdiction within which the crime took place. The arresting officer may transport or relocate any arrested persons or evidence if the officer determines that remaining at the crime scene could endanger the officer or others or threaten the preservation of evidence.

2. Whenever an on-duty law enforcement officer from one jurisdiction views or otherwise has probable cause to believe that a "serious traffic offense" has occurred within the jurisdiction of another cooperating Agency, the law enforcement officer may stop, arrest or cite the suspected violator according to law. Under this Agreement, a "serious traffic offense" is one that jeopardizes public safety and/or constitutes a misdemeanor of the fourth degree or a higher offense. The traffic violator shall be turned over to the first available officer from the cooperating Agency for completion of all necessary processing. The initiating officer shall provide any further assistance to the extent necessary for subsequent court proceedings.

B. Investigations Outside Original Jurisdiction

On-duty officers from one Agency may, without request or prior notice, continue to conduct investigations that originate within their home jurisdiction into the jurisdiction of any cooperating Agency. If enforcement action is anticipated, the location and nature of the investigation shall be reported to the appropriate cooperating Agency as soon as practicable. Subsequent arrests, search warrant service or similar police actions shall be coordinated between affected Agencies.

C. Independent Police Action

The police department of any cooperating Agency may provide temporary police service to any cooperating Agency without request.

II. COOPERATIVE LAW ENFORCEMENT UPON REQUEST

The Agencies recognize that special public safety incidents occasionally require the services of additional law enforcement personnel. Such additional services may be provided by or to any cooperating Agency generally according to the following guidelines:

A. Dangerous Criminal Activity

Whenever one Agency reports criminal activity, and that Agency is unable to provide the immediate response necessary to prevent death, serious physical harm or substantial property loss as a result of such criminal activity, the Agency may request police services of any nature from any other Agency.

B. Searches for Fugitive or Wanted Person

Whenever one Agency conducts a search for a fugitive person whose presence is reasonably believed to be within the Agency jurisdiction, and immediate police assistance is reasonably necessary to apprehend or prevent the escape of the fugitive or to protect the safety of persons and property from imminent danger related to the fugitive, the Agency may request police services from any other Agency.

C. Traffic Control Assistance

1. Whenever a traffic accident involving suspected injuries, operating a vehicle while impaired (“OVI”) or other serious traffic offense is reported to the jurisdiction in which the accident occurred, and the Agency is unable to provide the immediate response necessary to render aid to the injured, prevent further injury, prevent serious property loss, or arrest a suspected OVI violator, the Agency may request assistance from any other Agency. The cooperative effort may include

necessary first aid, traffic control, accident scene protection, property protection, and detention of any suspected OVI or serious traffic violator.

2. Hazardous Traffic Conditions Assistance

- a. Whenever automated traffic control devices located within the jurisdictional boundaries of one Agency have malfunctioned and there is substantial or other serious risk of a traffic accident unless control is re-established, assistance from another cooperating Agency may be provided upon request of the affected jurisdiction.
- b. Whenever an incident occurs on or near a roadway creating substantial or other serious risk of a traffic accident, assistance from a cooperating Agency may be provided upon request of the affected jurisdiction.

D. General Police Service

1. Any incident may form the basis for the request of police services from one or more cooperating Agencies when police assistance is reasonably necessary to protect the safety of persons and/or property.
2. Police services, including but not limited to routine patrol services, may be requested and supplied by cooperating Agencies for limited-time special events or for extended time periods based on need. Such services may include the facilitation of personnel by their employing Agency for the provision of police protection to a requesting Agency for voluntary, special event details performed while such personnel are not on duty for the employing Agency ("Off-Duty Details"). No Agency is required to facilitate or otherwise provide volunteer personnel for Off-Duty Details. Moreover,

any Agency may prohibit its personnel from engaging in such Off-Duty Details to the extent allowed by law.

III. GENERAL TERMS AND PROCEDURES

A. A request for police services may be made by the commander of the law enforcement Agency, or his designee. The designee must be of supervisory rank or the senior shift officer when no supervisor is present.

B. A cooperating Agency will respond to the extent the requested personnel and equipment are not required for the adequate protection of that Agency's jurisdiction. The commander of the law enforcement Agency, or his designee, shall have the sole authority to determine the amount of personnel and equipment, if any, available for assistance.

C. Whenever employees of one cooperating Agency provide police services in or to another cooperating Agency pursuant to the authority set forth in this Agreement, other legislative authority, or state law, such employees shall have the same powers, duties, rights and immunities as if taking action within the territory of their employing Agency. Revised Code Chapter 2744 shall apply to the extent specified in Revised Code Section 737.04 or as otherwise provided by law. Moreover, participation in any indemnity fund established by the employer, and all rights under Revised Code Chapter 4123, shall apply to the extent set forth in Revised Code Sections 505.431 and 737.04, or as otherwise provided by law. Revised Code Chapter 2743 shall apply as provided by law.

D. Whenever employees of one cooperating Agency provide police services to another cooperating Agency, they shall be under the lawful direction and authority of the commanding law enforcement officer of the Agency to which they are rendering assistance, provided, however, that

Officers shall be subject to the code of ethics, policies, and rules and regulations of their employing Agency at all times.

E. Police services may be initiated by any on-duty officer who has probable cause to believe a crime is in progress. Such police services may also be initiated by any on-duty officer who becomes aware of a traffic accident, the need for traffic control, a suspected OVI, a serious traffic violator or other circumstance requiring law enforcement intervention in another cooperating Agency jurisdiction. The officer must, as soon as practicable, contact his immediate supervisor to enable that supervisor to authorize and direct actions taken by the employee.

F. An on-duty officer initiating police services shall notify a law enforcement officer from the affected cooperating Agency as soon as possible. As appropriate, the assisted cooperating Agency shall relieve the officer as soon as possible.

G. All wage and disability payments, pension, worker's compensation claims, medical expenses or other employment benefits for employees performing pursuant to this Agreement shall be the responsibility of the employing Agency to the same extent as if the employee were providing service for the employing agency. Additionally, unless otherwise provided in this Agreement, each Agency shall be responsible for the negligence or wrongdoing of its employees to the extent provided by law. Unless otherwise specifically provided herein, nothing in this Agreement shall impose any greater duty or obligation on an employing agency than provided by law, including as to Off-Duty Details.

H. Each cooperating Agency shall be responsible for any of its own costs arising from or out of its response to a call for assistance, unless the requesting Agency is reimbursed for such costs by a third-party source. Further, in the event of loss of or damage to the Agency's equipment or property while providing police assistance services within the jurisdiction of any other cooperating

Agency, the assisting Agency shall not seek to hold the requesting Agency accountable for such loss or damage solely on the basis of the request for services having been made, but may do so if any other actions of the requesting Agency or its employees caused the loss or damage.

IV. SPECIALIZED LAW ENFORCEMENT OPERATIONS

A. In addition to the law enforcement services described above, parties to this Agreement may request Specialized Law Enforcement Operations, defined as a Special Weapons and Tactics Team ("SWAT"), Underwater Search and Recovery operations, Mobile Field Force Team, or any other operation involving a task force, multi-jurisdictional team, or substantially similar operation of a specialized or unique nature.

B. As used in this Section IV, "Initiating Agency" means the political subdivision requesting Specialized Law Enforcement Operations, and "Assisting Agency" means any political subdivision furnishing Specialized Law Enforcement Operations (including participating personnel) at the request of an Initiating Agency.

C. An Assisting Agency will respond to the extent the requested Specialized Law Enforcement Operations as appropriate under the circumstances, and to the extent the requested Specialized Law Enforcement Operations are available and not required for other use.

D. The Initiating Agency shall be in control of the scene, but, as to tactical or operational execution, all Specialized Law Enforcement Operations personnel shall be directed by their operational commander according to the procedures set forth by the responding Specialized Law Enforcement Operation.

E. Notwithstanding any other provision of this Agreement, and only as to Specialized Law Enforcement Operations, to the extent that any third party asserts a claim of any kind against

any Assisting Agency or its participating personnel, whether under Ohio Revised Code Chapter 2744, common law, or any other state or federal statute, the following shall apply:

1. The Initiating Agency shall, to the extent of its liability insurance (including but not limited to any self-insurance or risk pool participation), defend and indemnify any Assisting Agency and its personnel against any claim, loss, damage, expense, cost, attorney fees, or other liability asserted by any third party arising out of the conduct, acts or omissions of personnel engaged in Specialized Law Enforcement Operations. The minimum amount of indemnification provided pursuant to this Paragraph shall be three million dollars (\$3,000,000), regardless of the actual liability insurance limits of the Initiating Agency. The Initiating Agency, however, shall not have any obligation to defend or indemnify the Assisting Agency or its personnel to the extent they act outside the scope of lawful orders issued by the Initiating Agency or its designee, or to the extent that the Assisting Agency or its personnel willfully and maliciously cause injury or damage to person or property.
2. For purposes of Paragraph IV.E.1, the conduct, acts, or omissions for which the Initiating Agency assumes the obligation to defend and indemnify the Assisting Agency or its personnel are the conduct, acts, or omissions that occur from the time the applicable Specialized Law Enforcement Operations personnel arrive at the requested location and report to the Initiating Agency's Chief of Police or other Officer-in-Charge (collectively, "OIC"), until the time the personnel are dismissed by the Initiating Agency's OIC.

3. Before requesting Specialized Law Enforcement Operations, an Initiating Agency must have in full force and effect liability insurance sufficient to defend and indemnify any Assisting Agency and its personnel under this Agreement in an amount no less than three million dollars (\$3,000,000) per occurrence, regardless of any aggregate limit, or self-insurance.
4. As a condition of the obligations set forth in Paragraph IV.B.1 above, the Assisting Agency must provide prompt written notice to the Initiating Agency of any threatened or asserted third-party claim, including any lawsuit served, so that a timely answer may be filed.
5. In the event of any third-party claim against an Assisting Agency or its personnel, the Assisting Agency and its personnel shall, as a condition of receiving defense and indemnification provide their full cooperation to any Initiating Agency or its insurer assuming the defense of such claim or action.

V. ADDITIONAL PROVISIONS

A. This Agreement shall be in continuous effect for each participating Agency from the date of that Agency's execution of the Agreement. Any Agency may terminate its participation in this Agreement upon sixty (60) days written notice sent care of the Reading Police Department. Upon receipt of such notice, the Reading Police Department will notify the remaining participants, or cause them to be notified, of such termination.

B. This Agreement is solely intended to set forth certain arrangements for the provision of mutual aid where practicable. Therefore, the parties do not intend for any third party to rely on the provisions of this Agreement, and specifically disclaim intent to create any third-party beneficiary with rights under the Agreement. Moreover, there shall be no liability whatsoever upon

any Agency arising out of this Agreement, whether to other Agencies, third parties, or otherwise, for the Agency's failure to fully or partially respond to a call for assistance, whether due to the Agency's equipment and/or employees being otherwise engaged, exigent circumstances, or for any other reason.

C. This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

D. This Agreement contains the entire agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this agreement shall be of no force and effect.

E. This Agreement shall be severable, if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

F. The Reading Police Department shall serve as the depository for this Agreement unless otherwise agreed by the parties in writing or by custom and practice.

G. Parties may be added or deleted from this Agreement, and other terms may be modified, by written addendum without restating the entire Agreement.

H. This Agreement may be executed in counterparts.

I. This Agreement supersedes and replaces all prior versions of the Hamilton County, Ohio Mutual Aid Agreement for Law Enforcement (including as amended and restated), which are hereby terminated; provided, however that as to any incident that occurred during the term of the March 1, 2014 agreement, and that arose out of Specialized Law Enforcement Operations, the provisions of the former Section IV.E.1 through 5 shall apply to that incident only.

Only signatures to follow.

Executing Agency: City of Montgomery, Ohio
By: B-K Riblet
Printed Name: Brian K. Riblet
Its: City Manager
Date: 2/2/19

**CERTIFICATE OF MAINTENANCE OF INSURANCE IN AMOUNTS SUFFICIENT
TO FUND INDEMNIFICATION REQUIRED BY THIS AGREEMENT**

I certify that the City of Montgomery, Ohio currently holds in full force and effect and will maintain general liability insurance in amounts equal to or exceeding Three Million Dollars (\$3,000,000.00) per occurrence, regardless of any aggregate limit or self-insurance, which amount will fund the indemnification requirements of this Agreement.

Katie Smiddy
Katie Smiddy, Fiscal Officer

APPROVED AS TO FORM:

Terrence M. Donnellon
Terrence M. Donnellon,
Director of Law