Attachment D

POLICE MUTUAL AID AGREEMENT
BETWEEN
MONTGOMERY COUNTY, MARYLAND
AND
THE CITY OF ROCKVILLE, MARYLAND

Under the authority of Section 2-105, subsections (b) and (e) of the Criminal Procedure Article of the Maryland Annotated Code, the governing bodies of Montgomery County, Maryland (the "County"), and the City of Rockville, Maryland (the "City") hereby enter into this reciprocal Police Mutual Aid Agreement ("Agreement"). This Agreement shall become effective on the date set out below.

EXPLANATORY STATEMENT

The Rockville City Police Department (the "City Police") and the Montgomery County Department of Police (the "County Police") are charged by law with providing police services to the residents within their respective jurisdictions. It is in the interests of the residents of the City and the County that the City Police and the County Police cooperate to the fullest extent possible, and coordinate their respective law enforcement activities, in order to provide prompt, effective, and professional police services.

The County Police shares with the City Police concurrent general police jurisdiction within the geographical boundaries of the City of Rockville.

It is the mutual desire of the City Police and the County Police to foster, maintain and enhance the already excellent working relationship existing between them, in order to provide, within the City, and in certain areas adjacent to the City, the maximum level of professional police service that can be marshaled, utilizing the police personnel of both agencies.

Section 2-105 (e) of the Criminal Procedure Article of the Maryland Annotated Code authorizes the City and the County to enter into a reciprocal Mutual Aid Agreement.

Section 35-13 of the Montgomery County Code authorizes the County Executive to enter into a police mutual aid agreement with a municipal corporation, subject to the County Council's approval of such an agreement.

The parties expressly desire to authorize the City Police to exercise concurrent law enforcement jurisdiction, to enforce the Maryland Vehicle Law, in a certain specified area adjacent to the City, and within the County, under the circumstances described in this Agreement. The parties further desire to establish the conditions under which the City Police may render mutual aid, beyond the City's boundaries, and within the County, in the special patrol area created by this Agreement. And the parties desire to make provision for the eventuality that the City may ask the County to provide law enforcement aid to the City in a jurisdiction beyond the boundaries of the County.

NOW, THEREFORE, the City and the County agree as follows:

ARTICLE 1 – SCOPE OF AGREEMENT

1.1 The principal purposes of this Agreement are to delineate and describe the responsibilities of the two police agencies within the City's boundaries, and to establish the basis and proper exercise of City Police authority beyond the City's boundaries, within areas adjacent to, or near, the City, under the circumstances and conditions presented in this Agreement. Nothing contained in this Agreement is intended to cede, relinquish or limit the respective legal authority or jurisdiction of either the City Police or the County Police under circumstances not addressed by this Agreement. The County Police and City Police, respectively, expressly reserve all such authority and jurisdiction to the fullest extent otherwise provided under the Maryland Code, the laws of the County or the ordinances of the City, the common law of Maryland, or any other applicable law or regulation enacted or promulgated under these general authorities. For example, and without limiting the generality of the foregoing, it is understood that nothing provided in this Agreement shall limit or otherwise impair the authority of any officer of the County Police or City Police to make an arrest as authorized by the provisions of Section 2-102, or Sections 2-202 through 2-206 of the Criminal Procedure Article of the Maryland Code, as amended from time to time.

ARTICLE 2 – SPECIAL PATROL AREA ESTABLISHED FOR THE CITY POLICE

2.1. Special, Limited Jurisdiction Conferred. The County agrees to authorize the City Police to exercise concurrent law enforcement jurisdiction and police powers outside the geographical boundaries of the City, and the City agrees to provide such aid, for the specific, limited purpose of enforcing the provisions of the Maryland Vehicle Law within the following specific, geographic "Special Patrol Area" that is located within the geographical boundaries of the County: The roadway of Darnestown Road (identified as Montgomery County Road 7009), including curbs and medians, and the adjacent "right of way" of/for Darnestown Road (to the extent that the "right of way" for this segment of Darnestown Road is not already situated within the boundaries of the City), beginning at the point where Darnestown Road crosses the City's boundary (and leaves the City), which is at or about the intersection of Darnestown Road and Hiwood Drive, which point is also identified as the location at or about Maryland State Highway Administration log-mile 1.88 on Darnestown Road (.03 miles west of the intersection of Darnestown Road and West Montgomery Avenue (Maryland Route 28)), and continuing west on Darnestown Road, without interruption, to a terminus at Maryland State Highway Administration log-mile 1.09 on Darnestown Road, which is situated at the eastern edge of the intersection of Darnestown Road and Shady Grove Road (identified as Montgomery County Road 212). This Special Patrol Area is adjacent and contiguous to the jurisdictional boundary of the City. Under the authorization of this Mutual Aid Agreement, City Police officers have, and

may exercise, concurrent authority and responsibility for the enforcement of all provisions of the Maryland Vehicle Law, within the geographic boundaries of the above-described "Special Patrol Area." The law enforcement authority conferred upon City Police officers by this Mutual Aid Agreement for exercise within the "Special Patrol Area" shall be known and referred to as "Special Patrol Jurisdiction," and will be subject to the limitations stated in the following subsections of Article 2 of this Agreement.

2.1.1. Special Jurisdiction to be Exercised only Within the "Special Patrol Area". Activities undertaken by the City Police under the Special Patrol Jurisdiction shall be confined to the Special Patrol Area. Provided, however, that this limitation on the Special Patrol Jurisdiction is not intended to limit the authority of the City Police to engage in fresh pursuit, as authorized by Section 2-301 of the Criminal Procedure Article of the Maryland Code, regarding violations of the Maryland Vehicle Law committed within the Special Patrol Area.

2.1.2. Special Patrol Jurisdiction will Generally be Exercised by Uniformed Officers. Patrol activities undertaken by the City Police under the Special Patrol Jurisdiction shall be limited to: (a) routine and/or scheduled patrol by sworn uniformed officers of the City Police directed at enforcement of the Maryland Vehicle Law; and (b), other law enforcement activities that arise out of and are reasonably related to engaging in traffic enforcement activities within the Special Patrol Area.

2.1.3. Investigation of Crime. The City Police officers on patrol in the Special Patrol Area shall not initiate investigations of crimes occurring within the Special Patrol Area, other than violations of the Maryland Vehicle Law.

2.1.4. Shared Responsibility for the Enforcement of Traffic Laws. Within the geographic boundaries of the Special Patrol Area, the City Police and the County Police will share responsibility for the enforcement of the Maryland Vehicle Law, and, to the extent possible, coordinate their traffic enforcement activities. The County Police will engage in their normal level and extent of traffic enforcement activities (the same traffic enforcement activities that they perform in other areas of the County) within the Special Patrol Area.

2.2. Command. Except and unless expressly waived at the sole option of the County Police with respect to a particular incident, the County Police shall have the discretionary authority to assume full charge and responsibility for on-the-scene command of any City Police officer assigned to exercise Special Patrol Jurisdiction at any time. Provided, however, that the City Police may, in its sole discretion, withdraw any such City Police officer from the Special Patrol Area and Special Patrol Jurisdiction, and from such on-the-scene command, in the event any need for the redeployment of officers arises, as determined by the City Police.

2.3. The City Police Agree to Observe Certain Procedures. For the purpose of ensuring the orderly exercise of Special Patrol Jurisdiction and the conduct of patrols within the Special Patrol Area, the City Police agree to observe the following practices and procedures when operating within the Special Patrol Area:

2.3.1. Communication Protocol. Incidents (other than non-incarcerable traffic violations) observed by the City Police and arrests made by the City Police in the exercise of its Special Patrol Jurisdiction shall be reported promptly to the County Police Emergency Communications Center by means of radio or telephone transmission.

2.3.2. Arrests. In the exercise of its Special Patrol Jurisdiction conferred under this Agreement, subject only to the command authority of the County Police (when that authority is exercised), the City Police shall have full and complete authority to make arrests for violations of the Maryland Vehicle Law within the Special Patrol Area, and to issue citations for violations of the Maryland Vehicle Law. Additionally, if a non-traffic criminal offense, such as resisting arrest, or assault on a police officer, arises out of a traffic enforcement action, the Special Patrol Jurisdiction conferred under this Agreement can be exercised by the City Police to charge and arrest persons for the commission of such crimes related to the City Police Officers' efforts to enforce the Maryland Vehicle Law within the Special Patrol Area.

2.3.3. Incident Reports. The City Police shall file with the County Police a report regarding any arrest or other incident reportable according to County Police regulation or directive, or upon special request made pursuant to County Police incident command. Incident reports made by the City Police under this subsection shall be made in whatever form, and shall include whatever content, is required by applicable written directives or procedures which the County Police may from time to time reasonably promulgate. It is understood that incident reports filed under this Section 2.3.3. shall be completed as soon as practicable following the close of the reporting officer's tour of duty, but not later than 24 hours thereafter.

2.4. Prompt Assistance. For the purpose of ensuring the orderly exercise of Special Patrol Jurisdiction and the conduct of such patrols, the County Police agrees to render prompt assistance to the City Police in the event of a request for such assistance in connection with any reported traffic enforcement incident, traffic enforcement-related arrest, or other law enforcement activities that arise out of and are reasonably related to engaging in traffic enforcement activities within the Special Patrol Area.

ARTICLE 3 – THE COUNTY'S AGREEMENT TO PROVIDE AID TO THE CITY

3.1. The County Agrees to Consider Aiding the City, Beyond the Boundaries of the County. The County and the City acknowledge that an eventuality may arise, in the future, where the City asks the County to provide law enforcement aid to the City in a location/jurisdiction that is beyond the boundaries of the County. If the City requests law enforcement aid from the County under circumstances in which the County would be sending its law enforcement officers beyond the boundaries of the County to provide such aid, the County agrees to give reasonable consideration to such a future request for aid. A request by the City Police that the County Police send County Police officers, equipment or other resources beyond the boundaries of the County for the purpose of providing law enforcement aid to the City will be evaluated by the County Police Chief, or designee, based on the circumstances of the request, the capability of the County Police to provide the requested aid, and the authority of County Police officers to conduct law enforcement actions of the nature requested by the City in that jurisdiction (beyond the boundaries of the County) where the City is requesting that aid be extended. The County covenants that it will give reasonable consideration to the City's request for law enforcement aid to be provided beyond the boundaries of the County, and that the County will engage in good faith efforts to accommodate a reasonable request for such aid. In such circumstances, the County authorizes its Police Chief to provide such aid to the City as the Police Chief deems reasonable and feasible to extend.

ARTICLE 4 – RECIPROCAL WAIVERS OF CLAIMS, AND MUTUAL INDEMNIFICATION

4.1. Maryland Law Requires Waivers of Claims and Indemnification Clauses. Section 2-105 (e) (2) of the Criminal Procedure Article of the Maryland Annotated Code states that a reciprocal mutual aid agreement, such as this Agreement, must include the following waiver of claims, and indemnification provisions.

4.2. Reciprocal Waivers of Claims. The City and the County hereby agree that each shall waive any and all claims that they may have against the other party to the Agreement that may arise out of each party's activities outside their respective jurisdictions, which activities are engaged in under the terms of this Agreement. The parties further agree that, except when the indemnification provisions of Article 4.3, below, apply, they will be responsible for the negligent or wrongful acts or omissions of their own (respective) employees.

4.3. Mutual Indemnification. The City and the County hereby agree that each shall indemnify and hold harmless the other party from all claims by third parties that are for property damage or personal injury that arise out of the activities of the other party engaged in outside the other party's jurisdiction, which activities are undertaken in accordance with this Agreement. Specifically, the County agrees to indemnify and hold harmless the City for property damage and personal injury claims by third parties arising out of the City's exercise of the Special Patrol Jurisdiction conferred by Article 2 of this Agreement. And the City agrees to indemnify and hold harmless the County for property damage and personal injury claims by third parties arising out of the County's provision of aid to the City in a jurisdiction beyond the boundaries of the County, when such aid is extended under the provisions of Article 3 of this Agreement.

ARTICLE 5 – GENERAL ADMINISTRATIVE PROVISIONS

5.1. This Document is the Entire Agreement. This Agreement constitutes and contains the entire, integrated agreement of the Parties with respect to the subject matter covered by this Agreement, and shall supersede any and all prior negotiations, correspondence, understandings and agreements between the parties, respecting the subject matters of the coordination of cooperative law enforcement activities and the provision of police mutual aid. Any proposed changes or additions to this Agreement shall not become binding upon any party unless and until reduced to writing and accepted by both parties.

5.2. This Agreement is not Intended to Create Private Rights in Third Persons. The failure of either party to comply with any of the requirements of this Agreement may only be enforced by the parties under Section 5.5 of this Agreement, and shall have no effect on the authority of the County Police or the City Police to exercise the police powers of this State, it being expressly understood that this Agreement does not create, and shall have no, third-party beneficiaries intended or implied. Furthermore, the parties do not intend for this Agreement to create any private right of action in any third person.

5.3. Effective Date. This Agreement shall become effective on the day after the last of the two parties to legislatively ratify the Agreement has completed such action, "as in the regular routine for legislative enactment" (the manner prescribed by Section 2-105 (b) of the Criminal Procedure Article), to fully authorize participation in this Agreement.

5.4. Term (Duration) of the Agreement. Section 2-105 (e) (1) states that the County and the City may determine the period during which this Police Mutual Aid Agreement will remain in effect. Therefore, the parties agree that this Agreement shall remain in effect until terminated by the act of one or both parties.

5.5. Termination. This Agreement can be terminated upon thirty (30) days advance notice, by either the Mayor or the County Executive, upon written notice from one party to the other. A party's notification of intent to terminate the Agreement must be presented to the other party at least 30 days prior to the effective date of termination. Notice of intent to terminate should be sent to the County Executive of Montgomery County, or to the Mayor of the City of Rockville, as the case may be. The Agreement will then terminate at the end of the notice period.

5.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

5.7. Agreement Authorized by County Law. This Agreement is executed by the County Executive of Montgomery County under the authority granted by Section 35-13 of the Montgomery County Code.

5.8. The City Manager is Authorized to Enter into this Agreement. The City Manager of the City of Rockville is authorized to execute this Agreement on behalf of the City.

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IN WITNESS WHEREOF, the authorized Officers of the Parties hereby execute this Police Mutual Aid Agreement.

MONTGOMERY COUNTY, MARYLAND

By: _____
Isiah Leggett
County Executive

Date signed: July 29, 2014

CITY OF ROCKVILLE, MARYLAND

By: _____
Barbara Matthews
City Manager

Date signed: 06-06-14

APPROVED:

MONTGOMERY COUNTY
DEPARTMENT OF POLICE

By: _____
J. Thomas Manger
Chief of Police

Date signed: 6/26/14

APPROVED:

ROCKVILLE CITY
POLICE DEPARTMENT

By: _____
T.N. Treschuk
Chief of Police

Date signed: 6-10-14

APPROVED AS TO FORM AND LEGALITY:

David Stevenson
David E. Stevenson
Assistant County Attorney

Date signed: June 18, 2014

APPROVED AS TO FORM AND LEGALITY:

_____
Payman Tehrani
Assistant City Attorney

Date signed: 6/4/14

Attachment D

Resolution No.: 17-1243
Introduced: September 16, 2014
Adopted: October 14, 2014

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Approval of a police Mutual Aid Agreement between Montgomery County and the City of Rockville

Background

1. Maryland Code, Criminal Procedure Article, § 2-105 (b) empowers the County to authorize its police officers, together with all necessary equipment, to go beyond the boundaries of the County, to any place within or outside the State.

2. Maryland Code, Criminal Procedure Article, § 2-105 (e) authorizes the County to enter into a reciprocal Mutual Aid Agreement with the City of Rockville, Maryland, to provide the extraterritorial police assistance allowed by Criminal Procedure Article, § 2-105 (b).

3. Maryland Code, Criminal Procedure Article, § 2-102 (b) (2) states that a police officer is not authorized to enforce the Maryland Vehicle Law beyond the police officer's sworn jurisdiction, unless the officer is acting under a mutual aid agreement authorized under § 2-105 of the Criminal Procedure Article.

4. Montgomery County Code, 2004, Section 35-13 authorizes the County Executive to enter into a police mutual aid agreement subject to the approval of the County Council, and subject to the approval of the County Attorney as to form and legality.

5. Rockville City Police Officers cannot now enforce the Maryland Vehicle Law on the .79-mile section of Darnestown Road lying between the City boundary and Shady Grove Road, which stretch of highway is abutted on both sides by extensive geographical tracts that are within the boundaries of the City of Rockville.

6. A police Mutual Aid Agreement to address this issue has been executed by the City Manager and Police Chief of the City of Rockville, and signed by County Police Chief Manger and the County Executive.

7. Adoption of the Mutual Aid Agreement between Montgomery County and the City of Rockville will authorize on-duty Rockville City Police Officers to exercise jurisdiction to enforce the Maryland Vehicle Law, concurrent with the jurisdiction of County Police Officers, on the .79-mile segment of Darnestown Road that stretches for the City boundary to Shady Grove Road.

8. The County Executive recommends Council approval of the attached Mutual Aid Agreement, which the Department of Police believes to be sound, desirable, practicable, and beneficial to the County.

9. The County Attorney has approved the attached Mutual Aid Agreement, for form and legality.

Action

The County Council for Montgomery County, Maryland, based on the reasons presented above, approves the following resolution:

The Council approves the attached police Mutual Aid Agreement between Montgomery County and the City of Rockville, which Agreement is made a part of this resolution.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council