

# Decision Paper

September 12, 2017

**Written By:** Kenneth Hofmann, Chief of Police

1. **SUBJECT:** Mutual Aid Agreement with Horry County Police Department
2. **FOR:** Request TOSB Council to enter into Mutual Aid Agreement with Horry County Council to allow mutual cooperation between HCPD and SBPD.
3. **PURPOSE:** To allow SBPD to provide HCPD with law enforcement services pursuant to state law and as necessary in non-emergency situations.
4. **ASSUMPTIONS:**
  - a. It is assumed that HCPD will, on occasion, request assistance from SBPD in areas close to the Town limits and that responding to those requests ensures ongoing mutual cooperation between these agencies.
  - b. Mutual cooperation with HCPD serves to increase public safety in Surfside Beach by reducing crime and victimization in the unincorporated areas surrounding the Town.
5. **FACTS:**
  - a. TOSB does not currently have a valid MOU with Horry County Government.
  - b. State law allows SBPD Officers to assist HCPD Officers only in instances of duress without a valid MOU.
  - c. Due to the fact that TOSB is surrounded by HCPD jurisdiction, SBPD occasionally receives non-emergency requests for law enforcement assistance, such as:
    - i. Police K9 deployments for narcotics detections, searches, and man-tracking
    - ii. To stabilize volatile calls for service until an HCPD Officer arrives
    - iii. To provide additional manpower at calls for service such as traffic stops, building searches, traffic control, etc.
  - d. HCPD likewise occasionally provides similar support to SBPD to include manpower, specialized and tactical support.
  - e. The MOU was prepared by the Horry County Government.
  - f. The Agreement has been vetted and approved by the Town attorney who feels the agreement is in the best interests of public safety in the Town.
  - g. This agreement does not obligate SBPD to provide resources when providing said resources would unnecessarily affect public safety in the town limits.
  - h. SBPD retains sole discretion as to whether resources will be allocated if a request for assistance is made.
6. **IMPACT OF SUCCESS OR FAILURE:** Successful approval of the MAA will ensure a cooperative relationship with Horry County government and HCPD that provides additional public safety support to the citizens of both communities. Failure to approve the MAA will prohibit SBPD Officers from assisting HCPD Officers in non-emergency situations and create an atmosphere on non-cooperation.
7. **RECOMMENDATION:** Council approval of the Mutual Aid Agreement as delivered by Horry County.



increased investigation and prevention of narcotics and related offenses in the parties' respective jurisdictions. Any other agreement for reimbursement between the parties must be written and executed in the same manner as this Agreement.

Records. The requesting law enforcement agency shall be primarily responsible to maintain records relating to the incident for which assistance has been requested. However, each law enforcement agency shall maintain records of activities of its personnel that would generate records in its own jurisdiction including, but not limited to, incident reports, records of application or execution of an arrest or search warrant, incident reports for arrests made by personnel, uniform traffic tickets issued, handling of evidence, and use of force forms. Each party shall make these records available to the other party upon request and without cost.

Duration, Modification, and Termination. This Agreement will continue in effect for a period of ten (10) years from the date of effectiveness. This Agreement shall not be modified, amended or changed in any manner except upon the express written consent of the parties hereto. This Agreement may be terminated by either party for any reason by providing the other party at least six (6) months prior written notice. This Agreement may also be terminated upon failure by a party in the performance or breach of any other covenant, obligation or duty imposed by this Agreement, and the continuance of such failure in the performance or breach for a period of thirty (30) days after the non-defaulting party has given the defaulting party written notice of such failure in the performance or breach.

Legal Contingencies. The parties shall be solely responsible for the acts and omissions of their respective employees, officers and officials, arising from the provided services, and any and all resulting claims or legal actions. No right of Indemnification is created by this Agreement and the parties expressly disclaim such right. Neither party shall be responsible for defending any legal action brought against the other party or its employees arising out of circumstances in which assistance was requested or provided, nor shall it be responsible to pay any fees, costs, damages or verdicts incurred by the other party in such legal action. The provisions of this Agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any person or entity not a party to this Agreement.

Control Over Personnel. Except as otherwise agreed to by the parties, each party shall maintain control over its personnel. The personnel temporarily transferred or assigned by the providing agency shall report to their respective Chains of Command and Officer-in-Charge and shall be subject to orders and commands of that official. The provided law enforcement officers shall exert their best efforts to cooperate with and aid the requesting law enforcement agency. The law enforcement officers temporarily transferred or assigned shall be released by the Officer-in-Charge when their services are no longer required or when they are needed to respond to a situation within the geographical boundaries of their own jurisdiction; provided, however, the provided law enforcement officers shall use their best efforts to complete the requested service prior to being released.

Equipment and Facilities. Each party shall supply its own equipment for its respective law enforcement officers, shall be responsible for the maintenance thereof, and shall bear the risk of

its damage or loss; provided, however, that if the equipment is damaged by the acts or omissions of employees of the other party, then the other party shall reimburse the damaged party for its loss. The requesting agency will provide the facilities for law enforcement operations and will designate their location at the time assistance is requested.

Freedom of Information Act ("FOIA") Requests. The requesting law enforcement agency shall be primarily responsible for responding to FOIA requests relating to the incident/matter for which assistance has been requested. However, each law enforcement agency shall maintain records as set forth above, assist the requesting law enforcement agency in responding to FOIA requests, and respond to requests to it pursuant to the FOIA.

Primary Responsibility. It is agreed and understood that the primary responsibility of the parties hereto is to provide law enforcement services within the geographical boundaries of their respective jurisdictions. Therefore, it is agreed that the law enforcement agency whose assistance is requested shall be the sole judge as to whether or not it can respond and to what extent it can comply with the request for assistance.

Request. A request for assistance shall only be made by the chief law enforcement official of the requesting agency or his/her designee, if available, or otherwise by the senior duty officer of that agency. If the request is granted, the requesting agency shall be informed immediately of the number of law enforcement officers to be furnished.

Reply. A reply to any request for assistance shall only be made by the chief law enforcement official of the providing agency or his/her designee, if available, or otherwise by the senior duty officer of that agency. If the request is granted, the requesting agency shall be immediately informed of the number of law enforcement officers to be furnished.

Vesting of Authority and Jurisdiction. To the fullest extent permitted by the Constitution and statutes of this State, officers assigned under this Agreement shall be vested with all authority, jurisdiction, rights, immunities and privileges within the requesting jurisdiction for the purposes of investigation, arrest, or any other activity related to the purpose for which they were requested. Local ordinances adopted by a providing agency shall not be deemed extended into areas which are outside the territorial limits of the providing jurisdiction.

Radio Communications. Radio communications between the requesting law enforcement agency and the law enforcement provider shall be maintained by use of the State regional radio channel system, unless a radio channel that is mutually shared by the parties hereto is otherwise available.

Insurance and Bonding. It is agreed and understood that the parties hereto shall be solely responsible to maintain such insurance protection and workers compensation coverage on its respective employees as may be required by law or deemed advisable by the party. Any bond for any officers operating under this Agreement shall include coverage for their activity in the other jurisdiction covered by this Agreement in the same manner and to the same extent provided by the bonds of regularly employed officers of that jurisdiction.

Employment Status. Nothing herein contained shall be construed or interpreted to imply that the law enforcement officers temporarily transferred or assigned in accordance with this Agreement are employees of the law enforcement agency requesting such assistance.

Other Agreements and Investigations. Unless specifically conflicting therewith, this Agreement shall not repeal or supersede any existing Agreements between the parties hereto nor does it restrict in any way normal cooperation between law enforcement agencies concerning ongoing criminal investigations.

Severability. Should any part of this Agreement be found to be invalid or unenforceable by any court or other competent authority, then the rest shall remain in full force and effect.

Successors. The parties agree that this Agreement shall be binding upon the parties hereto, and their successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the dates shown below.

Approved by Horry County

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

Date approved by Governing Body: \_\_\_\_\_

Approved by Town of Surfside Beach

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

Date approved by Governing Body: \_\_\_\_\_