

December 8, 2008

**INTERGOVERNMENTAL AGREEMENT  
FOR THE PROVISION OF POLICE SERVICES  
Between  
DEKALB COUNTY, GEORGIA and  
THE CITY OF DUNWOODY, GEORGIA**

**THIS INTERGOVERNMENTAL AGREEMENT is entered into by and between DeKalb County, Georgia (“County”) and the City of Dunwoody, Georgia (“City”).**

WHEREAS, DeKalb County, Georgia is a constitutionally created political subdivision of the State of Georgia; and

WHEREAS, the City is a municipality created by the 2008 Georgia General Assembly pursuant to Senate Bill 82 (hereinafter referred to as “SB 82”); and

WHEREAS, SB 82 provides that the City begins operations December 1, 2008 and Section 6.03(c) requires the County to “...provide within the territorial limits of the City all government services and functions which DeKalb County provided in 2008”; and

WHEREAS, the residents of Dunwoody have paid the same taxes as paid by residents of unincorporated DeKalb County for 2008 and the payment of those county taxes entitles the City and its residents to be provided with the 2008 county governmental services and functions until December 31, 2008 without any further compensation from the City or its residents to the County; and

WHEREAS, this intergovernmental agreement therefore only becomes effective on the date that the City will begin paying for services as set forth in this Agreement; and

WHEREAS, the County and City desire to enter into an Intergovernmental Agreement to provide police services within the boundaries of Dunwoody for a period of six months beginning January 1, 2009; and

WHEREAS, the County and the City wish to establish the cost of police services to be provided by the County to the City pursuant to this Agreement; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

**NOW THEREFORE, in consideration of the following mutual obligations, the County and City agree as follows:**

**ARTICLE 1  
PURPOSE AND INTENT**

The purpose of this Agreement is to sustain public safety and protect life and property within the City through enforcement of local, state and federal laws through the use of County

police services for a period of six months, commencing January 1, 2009 at 0000 hours and concluding at 2400 hours on June 30, 2009.

## **ARTICLE 2 DEFINITIONS**

For the purposes of this Agreement, the following terms shall be defined as:

2.1 *Chief of Police* means the DeKalb County police chief or designee.

2.2 *City Police Chief* means a Chief of Police appointed by the City of Dunwoody who is not a part of the DeKalb County Police Department chain of command.

2.3 *Police Services* means those diverse activities directed toward the attainment of the objectives of enforcing the law, preventing and deterring crime, arresting criminal offenders, maintaining public order, and providing service to the community. Such activities include, but are not limited to: (1) conducting criminal investigations of incidents of crime in order to arrest responsible persons for prosecution; (2) directing and enforcing laws, (3) responding to emergency and non-emergency calls for service, (4) conducting field interviews, (5) arresting criminal offenders, (6) directing and controlling traffic, and (7) issuing citations, appearing in court. These activities constitute the comprehensive police services provided each day of the year, on a 24-hour per day basis within the jurisdictional boundaries of the City.

## **ARTICLE 3 TERM OF AGREEMENT**

The term of this Agreement is for six months, commencing January 1, 2009 at 0000 hours and concluding at 2400 hours on March 31, 2009. This Agreement shall automatically renew without further action by the City or the County on the first of each succeeding month for three (3) additional one (1) month terms unless previously terminated in accordance with the termination provisions of this Agreement. At the conclusion of this term, the City will be solely responsible for providing all police services within its boundaries, unless extended by mutual Agreement approved by both governing bodies. The parties agree that, as of that date, the County's obligation (pursuant to O.C.G.A. 36-31-8 and Section 6.03 of SB 82) to provide police services shall terminate, and that this provision constitutes the agreement for the assumption of these police services by the City as contemplated by O.C.G.A. 36-31-8 and Section 6.03 of SB 82.

## **ARTICLE 4 COMPENSATION AND CONSIDERATION**

For the police services to be rendered pursuant to this Agreement, the City shall pay to the County a monthly amount of \$ four hundred and thirty thousand dollars (\$430,000.00) which shall be remitted to the County on or before the fifteenth calendar day of each month of the term of this Agreement. This amount is due in full each month and represents the costs of all police services provided by the County to the City.

**ARTICLE 5  
CHIEF OF POLICE**

The Chief of Police will direct and manage the daily police operations in the City and supervise the delivery of police services contracted for in this Agreement.

**ARTICLE 6  
SERVICES**

6.1 During the term of this agreement, the County shall provide the same police services to the City that are provided to unincorporated DeKalb County in 2009. Such police services shall equal or exceed the police services provided by the County in 2008 within the area that comprises the territorial limits of the City. The County shall provide police services on a continual 24-hour per day basis. The County and the City intend to enter into mutual aid agreements, which shall govern the parties in case of emergencies requiring assistance from neighboring law enforcement departments.

6.2 Response times in the City shall remain consistent with those response times in unincorporated DeKalb County. County-wide response reports will be provided by the Chief of Police if requested by the City Manager.

6.3 The parties acknowledge that, in the event that the City of Dunwoody appoints a City Police Chief, such official is not in the chain of command of any DeKalb County Police Department Employee and does not have the authority to direct the activities of any employee of the DeKalb County Police Department. The City Police Chief will contact the DeKalb County Chief of Police to resolve any concerns regarding the scope of work contemplated under this Agreement.

**ARTICLE 7  
EQUIPMENT**

The County agrees to provide DeKalb County police personnel assigned to work within the City with all necessary equipment and motor vehicles in connection with this Agreement in order to perform the agreed upon police services, in accordance with DeKalb County Police policies and procedures. The County agrees to maintain said equipment and vehicles and to provide replacements as necessary during the term of the Agreement. All DeKalb County Police Officers assigned hereunder shall wear the uniform and insignia as issued and ordered by the DeKalb County Police Department.

**ARTICLE 8  
AUTHORITY TO ENFORCE THE LAW IN DUNWOODY**

8.1 Sworn police officers assigned to the City, shall take an oath administered by an official authorized by the City of Dunwoody to administer oaths, as prescribed by O.C.G.A. §§ 45-3-1 and 45-3-10.1 prior to undertaking law enforcement duties pursuant to this Agreement to enforce the ordinances of the City of Dunwoody.

8.2 Every sworn police officer of the County assigned to the City shall still be deemed to be a sworn officer of the County while performing the services, duties and responsibilities hereunder and is vested with the police powers of the County that are necessary to provide the police services within the scope of this Agreement.

8.3 Sworn police officers shall be and hereby are vested with the additional power to enforce the applicable ordinances of the City or the County, to make arrests or issue citations incident to the enforcement of the applicable County and City ordinances, and to perform other tasks as are reasonable and necessary in the exercise of their powers. This vesting of additional powers to enforce the applicable ordinances of the City and the County is made for the sole and limited purpose of giving official and lawful status to the performance of law enforcement services provided by sworn officers within the City of Dunwoody.

8.4 Sworn police officers shall enforce applicable City and County ordinances and violations of City traffic ordinances and shall appear in the Municipal Court of the City of Dunwoody as necessary to prosecute cases made therein. The City agrees to compensate off duty officers for their appearance in the Municipal Court pursuant to state law. The City further agrees to provide, at its own expense, citation books containing the printed Municipal Court information to the uniform patrol officers working within the City.

**ARTICLE 9  
EMPLOYMENT STATUS**

9.1 All sworn officers, as well as any other County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

9.2 All sworn officers as well as any other sworn personnel assigned under this Agreement are and will continue to be part of the DeKalb County police department command structure. Police department personnel are under the supervision of the Chief of Police.

**ARTICLE 10  
RECORDKEEPING AND REPORTING**

10.1 The County Police Department Records Section is the central repository for all departmental records and makes available public records as defined by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.* During the term of this Agreement, the County will

continue to maintain Initial Incident Reports, Supplemental Reports and other reports relating to police department activity in the City.

10.2 During the term of this Agreement, the County will continue to compile, maintain and submit all law enforcement data for the City, including UCR statistics, to state and federal authorities in the form and manner required of police agencies in Georgia. The City shall be responsible for creation of any necessary User Agreements with the Georgia Crime Information Center ("GCIC") and the establishment of a unique *ORI* in order for the County to comply with this paragraph. In addition, the City shall be responsible for any costs incurred with the County's software vendor if software modifications are necessary in order to comply with this paragraph. Otherwise, the DeKalb County Police Department will continue to report the required crime statistics to the State and Federal governments as a part of unincorporated DeKalb County for the duration of this Agreement.

10.3 Except as limited by any provision of state or federal law, the City may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

## **ARTICLE 11 CITY-COUNTY RELATIONS**

11.1 The DeKalb County Chief of Police will notify the City Manager or the City Chief of Police (if applicable) in the event of a significant criminal occurrence or emergency situation within the City. The DeKalb County Chief of Police and City Manager shall designate what they consider "significant" by a memorandum. In the event a Chief of Police is appointed by the City of Dunwoody, that Chief may participate in the discussion related to the definition of such events.

11.2 The County shall be the sole provider of services that require sworn law enforcement personnel within the City during the term of this Agreement.

## **ARTICLE 12 TRANSITION**

12.1 The County and City agree that thirty (30) days prior to the end of this Agreement, the City Manager and the Executive Assistant will meet and confer to effect a smooth transition.

## **ARTICLE 13 TERMINATION AND REMEDIES**

13.1 The City may terminate this Agreement with or without cause by giving thirty (30) days prior written notice to the County. If the City intends to terminate this Agreement for cause prior to the expiration of the term of this Agreement, the City must notify the County in writing, specify the basis for the termination and advise the County that the issue(s) must be cured to the City's reasonable satisfaction within a 30-day period.

13.2 The County may only terminate this agreement and withdraw police services if the City does not make timely payments for police services as required by and set forth in Article 4. In order for the County to terminate this agreement prior to its expiration , the County shall give the City thirty (30) days prior written notice of such failure to pay and the potential of termination and withdrawal of service. In the event the City makes the required payment for police services required by and set forth in Article 4 prior to the effective date of termination in the thirty three(33) day prior written notice, then the County shall not be entitled to terminate this agreement or withdraw service for the City's failure to pay on that occasion.

13.3 The parties reserve all available remedies afforded by law to enforce any term of condition of this Agreement.

#### **ARTICLE 14 NOTICES**

All required notices shall be given by first class mail, except that any notice of termination shall be mailed via U.S. Mail, return receipt requested. The parties agree to give each other non binding duplicate facsimile notice. Notices shall be addressed to the parties at the following addresses:

If to the County:

Richard Stogner, Executive Assistant  
1300 Commerce Drive 6<sup>th</sup> Floor  
Decatur, Georgia 30030  
404-371-2883, Office number  
404-371-2116, Facsimile number

With a copy to:

William J. Linkous, III County Attorney  
1300 Commerce Drive, 5<sup>th</sup> Floor  
Decatur, Georgia 30030  
404-371-3011 Office number  
404-371-3024 Facsimile number

If to the City:

Warren Hutmacher, City Manager  
City of Dunwoody  
400 Northridge Road  
Suite 1250  
Dunwoody, Georgia 30350  
678-382-6708, Office number  
678-382-6701, Facsimile number

With a copy to:

Brian Anderson, City Attorney  
City of Dunwoody  
400 Northridge Road  
Suite 1250  
Dunwoody, Georgia 30350

678-382-6708, Office number  
678-382-6701, Facsimile number

**ARTICLE 15  
EXTENSION OF AGREEMENT**

This Agreement may be extended at any time during the term by mutual consent of both parties so long as such extension is approved by official action of the City Council and approved by official action of the County governing authority.

**ARTICLE 16  
NON-ASSIGNABILITY**

Neither party shall assign any of the obligations or benefits of this Agreement.

**ARTICLE 17  
ENTIRE AGREEMENT**

The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

**ARTICLE 18  
SEVERABILITY, VENUE AND ENFORCEABILITY**

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of DeKalb County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

**ARTICLE 19  
BINDING EFFECT**

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

**ARTICLE 20  
INDEMNITY**

20.1 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the City defend, indemnify and hold harmless the County and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City, its employees, officers and agents. The County shall promptly notify the City of each claim, cooperate with the City in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City's participation.

20.2 It is the intent of the parties to be covered under the auspices of any applicable immunity granted by law. Only to the extent permitted by law, shall the County defend, indemnify and hold harmless the City and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the City or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the County, its employees, officers, and agents. The City shall promptly notify the County of each claim, cooperate with the County in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the County participation.

20.3 The indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of the Agreement provided the claims are based upon actions that occurred during the term of this Agreement.

**ARTICLE 21  
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF, the City and County have executed this Agreement through their duly authorized officers on the day and year first above written.**

**SIGNATURES APPEAR ON THE FOLLOWING PAGES**



December 8, 2008

**DEKALB COUNTY, GEORGIA**

By: \_\_\_\_\_ (SEAL)

Vernon Jones  
Chief Executive Officer  
DeKalb County, Georgia

ATTEST:

\_\_\_\_\_  
Michael Bell  
Ex Officio Clerk of the  
Board of Commissioners of  
DeKalb County, Georgia

APPROVED AS TO FORM:

\_\_\_\_\_  
William J. Linkous, III  
County Attorney

APPROVED AS TO SUBSTANCE:

\_\_\_\_\_  
Richard Stogner  
Executive Assistant

**SIGNATURES APPEAR ON THE FOLLOWING PAGE**

December 8, 2008

**CITY OF DUNWOODY, GEORGIA**

\_\_\_\_\_  
Ken Wright  
Mayor

\_\_\_\_\_  
Municipal Clerk (SEAL)

Approved as to Form:

Approved as to Substance:

\_\_\_\_\_  
Brian Anderson  
City Attorney

\_\_\_\_\_  
Warren Hutmacher  
City Manager