

RESOLUTION R-2019-50

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL POLICE SERVICE ASSISTANCE AGREEMENT TO JOIN THE DUPAGE METROPOLITAN EMERGENCY RESPONSE AND INVESTIGATION TEAM (MERIT)

WHEREAS, the City of Wheaton ("City"), DuPage County, of the State of Illinois is a duly constituted public agency of the State of Illinois; and

WHEREAS, the City, as a public agency of the State of Illinois, is authorized and empowered by the Constitution of the State of Illinois (Ill. Const. Art. VII, § 10) and the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) to enter into intergovernmental agreements with other public agencies on matters of mutual concern and interest such as the provision of adequate law enforcement personnel and resources for the protection of residents and property falling within the jurisdiction of the City; and

WHEREAS, the City recognizes that certain natural or man-made occurrences may result in emergencies or disasters that exceed the resources, equipment and/or law enforcement personnel of a single given public agency; and

WHEREAS, a given public agency can, by entering into an Intergovernmental Police Service Assistance Agreement for law enforcement services and resources, effectively provide a broader range and more plentiful amount of law enforcement capability for the citizenry which it serves, and

WHEREAS, in order to have an effective Intergovernmental Police Service Assistance Agreement for law enforcement resources and services, the City recognizes it must be prepared to come to the aid of other public agencies in their respective times of need due to emergencies or disasters; and

WHEREAS, the City recognizes the need to develop an effective Intergovernmental Police Service Assistance Agreement for law enforcement services and resources upon which it may call upon in its time of need and is prepared to enter into an Intergovernmental Police Service Assistance Agreement for law enforcement services and resources with other like-minded public agencies; and

WHEREAS, the City also recognizes the need for the existence of a public agency, formed by an Intergovernmental Police Service Assistance Agreement between two or more public agencies, which can serve to coordinate and facilitate the provision of law enforcement mutual aid between signatory public agencies to an Intergovernmental Police Service Assistance Agreement for law enforcement services and resources; and

WHEREAS, the City has been provided with a certain "Intergovernmental Police Service Assistance Agreement" which has been reviewed by the elected officials of the City, and which other public agencies in the County of DuPage, State of Illinois are prepared to execute, in conjunction with the City, in order to provide and receive law enforcement mutual aid services, as set forth in the "Intergovernmental Police Service Assistance Agreement;" and

WHEREAS, it is the anticipation and intention of the City that this "Intergovernmental Police Service Assistance Agreement" will be executed in counterparts as other public agencies choose to enter into the "Intergovernmental Police Service Assistance Agreement" and strengthen the number of signatory public agencies and resources available from those public agencies; and

WHEREAS, it is the anticipation and intent of the City that the "Intergovernmental Police Service Assistance Agreement" will continue to garner support and acceptance from other currently unidentified public agencies who will enter into the "Intergovernmental Police Service Assistance Agreement" over time, and be considered as if all signatory public agencies to the "Intergovernmental Police Service Assistance Agreement" had executed the "Intergovernmental Police Service Assistance Agreement" at the same time.

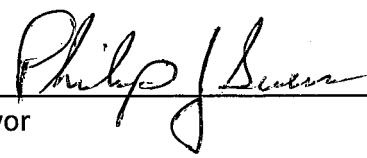
NOW THEREFORE, be it resolved by the Mayor and City Council of the City of Wheaton, County of DuPage, State of Illinois, as follows:

SECTION 1: This Resolution shall be known as, and may hereafter be referred to as, the Resolution Authorizing the Execution of an Intergovernmental Police Service Assistance Agreement and the Existence and Formation of the DuPage Metropolitan Emergency Response and Investigation Team (MERIT) by Intergovernmental Cooperation.

SECTION 2: The Resolution Authorizing the Execution of an Intergovernmental Police Service Assistance agreement and the Existence and Formation of the DuPage Metropolitan Emergency Response and Investigation Team (MERIT) by Intergovernmental Cooperation shall be, and hereby is, enacted as follows:

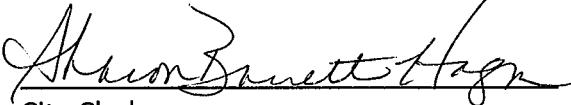
- a. Authorization to enter into a Certain Agreement. The City Manager of the City of Wheaton is hereby authorized to sign, execute, and deliver the agreement known as the "Intergovernmental Police Service Assistance Agreement," and thereby enter into an intergovernmental agreement with such other public agencies of the County of DuPage, State of Illinois as are likewise willing to enter into said "Intergovernmental Police Service Assistance Agreement," and recognize the existence and formation of the DuPage Metropolitan Emergency Response and Investigation Team, as set forth in the "Intergovernmental Police Service Assistance Agreement."
- b. Effective Date. This Resolution shall be in full force and effect from and after its passage, approval and publication as provided by law.

ADOPTED this 3rd day of June 2019.


Philip J. Suess

Mayor

ATTEST:


Aaron Bennett Hagan
City Clerk

Roll Call Vote:

Ayes: Councilwoman Fitch
Mayor Suess
Councilman Rutledge
Councilman Scalzo
Councilman Barbier
Councilwoman Bray-Parker

Nays: None

Absent: None

Motion Carried Unanimously

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**METROPOLITAIN EMERGENCY RESPONSE & INVESTIGATION
TEAM (MERIT) OF DUPAGE COUNTY**

INTERGOVERNMENTAL POLICE SERVICE ASSISTANCE AGREEMENT

Recitals

This Intergovernmental Police Service Assistance (IPSA) Agreement is executed, in multiple counterparts, by the public agency shown upon last page hereof on the date that is set forth on the last page of this (IPSA) for the uses and purposes set forth herein.

Whereas, the undersigned public agency of the state of Illinois does hereby declare that it is in the best interest of the signatory public agency to make provision for law enforcement mutual aid in the event the undersigned public agency should need law enforcement mutual aid, and;

Whereas, the undersigned public agency of the State of Illinois recognizes that law enforcement mutual aid is most effective if those public agencies who could potentially benefit from law enforcement mutual aid are willing to provide law enforcement mutual aid to other public agencies who are willing to enter into a mutual aid agreement such as this Intergovernmental Police Service Assistance (IPSA) Agreement, and;

Whereas, in the State of Illinois, there exist constitutional and statutory provisions enabling and supporting the formation of intergovernmental agreements on matters such as law enforcement mutual aid, to wit, the Constitution of the State of Illinois (Ill. Const. Art. VII, § 10), the Illinois Intergovernmental Cooperation Act (5 ILCS 2020/1 et seq.), the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/7-101 et seq.) and the Illinois Municipal Code (65 ILCS 5/11-1-2.1), and;

Whereas, in order to have an effective law enforcement mutual aid system, it is reasonable and desirable to have a third party entity that can support, centralize, coordinate and organize the provision of law enforcement mutual aid by and among signatory public agencies to the Intergovernmental Police Service Assistance (IPSA) Agreement, and;

Whereas, this IPSA is made in recognition of the fact that natural or man-made occurrences may result in emergencies or disasters that exceed the resources, equipment and/or law enforcement personnel of a given public agency; each public agency which signs a copy of this IPSA intends to aid and assist the other participating public agencies during an emergency or disaster by temporarily assigning some of the responding public agencies resources, equipment and/or law enforcement personnel to the requesting public agency as circumstances permit and in accordance with the terms of this IPSA; the specific intent of this IPSA being to safeguard the lives, persons and property of citizens of the County of DuPage and the State of Illinois during an emergency, law enforcement need, or disaster by enabling other public agencies to provide additional resources, equipment and/or law enforcement personnel as needed and;

Whereas, the establishment of MERIT, as described below, eliminates the need for and will combine existing IPSA organizations, FIAT and the MCTF under MERIT'S authority enhancing intergovernmental law enforcement capacity and communication while further promoting efficient operational structure to enhance positive public safety outcomes for the citizens of its members in a cost effective manner.

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Whereas all units of local government signing this Agreement shall be referred to herein as Participating Agencies.

Now, therefore, the undersigned public agency does hereby enter into this IPSA with each and every other public agency which signs a counterpart copy of this IPSA and agrees and contracts as follows:

Section 1. Incorporation of Recitals.

The foregoing Recitals are incorporated herein and shall constitute material elements of this IPSA Agreement.

Section 2. Purpose.

Participating Agencies recognize that in certain situations the lawful use of law enforcement personnel and equipment to perform law enforcement duties outside of the territorial limits or jurisdiction of that unit of local government is desirable and reasonable in order to promote the preservation and protection of the health, safety and welfare of the public.

Section 3. Power and Authority.

A. Rendering and Requesting Aid. Each Participating Agency agrees that all other Participating Agencies and their employees rendering aid or assistance under this agreement shall be vested with the same jurisdictional powers and authority as the Participating Agency and its employees to which they are rendering aid or assistance, even should that unit of local government's boundaries extend beyond the geographic boundaries of DuPage County. Each "Participating Agency" approving this IPSA Agreement agrees to render and request mutual law enforcement personnel, equipment, resources and facilities ("Resources") to and from other Participating Agencies to the extent such Resources not required for adequate protection of the Participating Agency. The discretionary judgment of each Participating Agency, by its police chief, director of public safety or his/her designee, as to the amount of its resources available to render aid shall be final.

B. Command and Employment. Law enforcement personnel of a Participating Agency commanded by their superior authority to perform duties under this IPSA Agreement within the jurisdiction of a requesting Participating Agency shall be under the direction and authority of the chief law enforcement officer, or his or her designee, of the requesting Participating Agency. However, at all times such law enforcement personnel from a responding Participating Agency shall remain employees of the responding Participating Agency and such Agency shall be solely responsible for all compensation, benefits, and insurance coverages owed such employees.

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C. Reimbursement. Except as otherwise agreed to in writing between a requesting and responding Participating Agency, all Resources provided under this IPSA Agreement shall be provided without reimbursement to the responding Participating Agency from the requesting Participating Agency.

D. Withdrawal or Termination: Any Participating Agency may withdraw or terminate its participation in this Agreement upon sixty (60) day written notice to The MERIT board's chairperson. All annual fees payable to MERIT shall be paid prior to the effective date of withdrawal or termination and shall not be refunded or prorated: the obligation being annual regardless of the date of withdrawal or termination.

E. MERIT Member Termination. The chairperson may terminate a Participating Members membership in Merit upon 60 days written notice to the Participating Member of its failure or refusal to pay its annual fees. If a Participating Agency becomes a Requesting Participating Agency before the expiration of the 60 days it shall be obligated to pay MERIT the full annual fee for that year.

F. Dissolution. The Executive Board may vote to dissolve the MERIT Organization in accordance with the provisions stated herein. Dissolution may be considered at a regular meeting or special meeting called for consideration of the dissolution. A quorum of all directors of the MERIT Organization must be in attendance at any regular or special meeting at which dissolution is considered. Dissolution must be approved by a two-thirds vote of the directors in attendance. All participating agencies shall be given fourteen days' notice of the meeting date where the dissolution vote is on the agenda. Dissolution will not become effective until 90 days from the date the Resolution of Dissolution is adopted. The chairperson will immediately notify all members of the MERIT Organization of the dissolution. The Chairperson shall be authorized to effect the dissolution of the MERIT Organization upon adoption of a Resolution of Dissolution and shall be responsible for winding up the affairs of the MERIT Organization.

Section 4. Insurance and Indemnification.

A. Insurance. Each Participating Agency shall procure and maintain, at its sole and exclusive expense, insurance coverages which cover the Participating Agency, its Resources, and any liability for providing such Resources to a requesting Participating Agency in no less than the minimum amounts as follows:

1. Commercial General Liability (Including contractual liability coverage): \$1,000,000 combined single limit per occurrence for bodily injury, and property damage and \$1,000,000 per occurrence for personal injury. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000 or a project/contract specific aggregate of \$1,000,000.
2. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.

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3. Workers' Compensation and Employers' Liability: Workers' Compensation coverage with statutory limits and Employers' Liability limits of \$500,000 per accident.
4. Each Agency shall bear the responsibility for its own insurance even in the event of inadequate, nonexistent or exhausted coverage.
5. The above listed minimum amounts of coverage shall not apply to self-insured Agencies.

B. Indemnification. Each Participating Agency agrees that it shall be responsible for defending itself and indemnifying its own officers or employees in any action or dispute arising in connection with, or as a result of, this IPSA Agreement bought by non-party's to the Agreement. The requesting Participating Agency also agrees that this IPSA Agreement shall not give rise to any liability or responsibility for the failure of any other Participating Agency to respond to any request for assistance.

C. Reciprocal waiver and release. Except as provided in subsection D of this Section 4, each Participating Agency hereby waives, releases, and discharges all other Participating Agency's from any and all claims, actions, causes of action, injuries, deaths, costs or expenses resulting from any actionable error or omission of that Participating Agency in its performance of this Agreement at the request of a requesting Participating Agency.

D. Defense. In the event that DuPage Metropolitan Emergency Response and Investigation Team (MERIT) is named as a party to a lawsuit, claim or action as a separate party, either individually or in addition to other Participating Agencies, the Participating Agency requesting aid shall be responsible, at its sole cost, for the defense of MERIT in such lawsuit, claim or action.

Section 5. DuPage Metropolitan Emergency Response and Investigation Team

A. Authority. The DuPage Metropolitan Emergency Response and Investigation Team (MERIT) shall carry out the mutual aid roles and responsibilities of the Participating Agencies and is not a separate, independent public agency under 5 ILCS 220/2. All Participating Agencies shall be members of The DuPage Metropolitan Emergency Response and Investigation Team. The DuPage Metropolitan Emergency Response and Investigation Team shall be governed by an Executive Board that shall be responsible for developing bylaws, rules, and regulations to carry out the terms and conditions of this IPSA Agreement provided such rules and regulations are not inconsistent with the terms of this IPSA Agreement. Participating Agencies agree to abide by all rules and regulations properly adopted and approved by The DuPage Metropolitan Emergency Response and Investigation Team Executive Board. Each Participating Agency agrees not to hold itself out as an agent of The DuPage Metropolitan Emergency Response and

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Investigation Team and will instruct each of its employees that they are not to hold themselves out as employees or agents of The DuPage Metropolitan Emergency Response and Investigation Team.

- B. A copy of MERIT's initial by-laws are attached hereto and incorporated herein as if fully set forth a group exhibit 1. The by-laws may be amended by MERIT's executive board, without amendment of this Agreement in accordance with the terms of those by laws, except that amendments to the by-laws which increase MERIT's budget and result in a request to a Participating Agency for an increased payment shall not become effective until approved in the sole discretion of the corporate authorities of the Participating Member. If the Corporate Authorities of a Participating Member refuse or fail to pay a budget obligation to MERIT, the Chairperson shall proceed with termination as Set forth in Section 3 E.
- C. Executive Board. The MERIT Executive Board shall consist of twelve (12) persons comprised of the following:
 - a. The MERIT Coordinator and three Deputy Coordinators.
 - b. The DuPage County Sheriff
 - c. Five (5) Chief Executive Officers from Participating Agencies.
 - d. A current Executive Board member of the DuPage County Chiefs of Police Association.
 - e. DuPage County States Attorney Designee (non-voting member).

Section 6. Effective Date and Term. This IPSA Agreement shall become effective upon its adoption by ordinance by at least two units of local government. Upon adoption of an ordinance approving this IPSA Agreement, a unit of local government shall be deemed a Participating Agency. Additional units of local government may become Participating Agencies upon prior approval of the MERIT Executive Board which approval shall not be unreasonably withheld.

Section 7. General Conditions.

- A. Amendment. No amendment or modification to this IPSA Agreement shall be effective unless and until the amendment or modification is in writing and properly approved by each Participating Agency.
- B. Binding Effect and Assignment. The rights and obligations in this IPSA Agreement bind the Participating Agencies and may not be assigned or transferred.
- C. Third Party Beneficiary. There are no third person beneficiaries of this Agreement for any purpose whatsoever. Nothing in this Agreement shall be interpreted or deemed to constitute a waiver or compromise of any and all statutory or common law immunities or privileges available to Participating members, their employees,

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agents and assigns, which are asserted by all Participating Members to the full extent allowed by law.

- D. **Governing Laws and Venue.** This IPSA Agreement will be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois. The exclusive venue for the enforcement of the provisions of this IPSA Agreement or its construction or interpretation shall be in a court of law located in DuPage County, Illinois.
- E. **Entire Agreement.** This IPSA Agreement constitutes the entire agreement between the Participating Agencies and supersedes all prior agreements and negotiations between them, whether written or oral relating to the subject matter of this IPSA Agreement.
- F. **Waiver.** The failure of a Participating Agency to exercise at any time any rights under this IPSA Agreement shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect a Participating Agency's right to enforce such rights or any other rights.

SIGNATURE PAGES ATTACHED

**METROPOLITAIN EMERGENCY RESPONSE & INVESTIGATION
TEAM (MERIT) OF DUPAGE COUNTY**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year above written.

CITY OF WHEATON

By:

Philip J. Suess
Philip J. Suess
Mayor

6/4/19
Date

Attest:

Sharon Barrett-Hagen
Sharon Barrett-Hagen
Village Clerk

6/4/19
Date

METROPOLITAIN EMERGENCY RESPONSE & INVESTIGATION TEAM (MERIT)

By:

Chairperson of the MERIT Executive Board

Date

By:

Vice Chairperson of the MERIT Executive Board

Date