

8. Resolution 2024-12, authorizing the City Manager and the Police Chief to execute a Concurrent Enforcement Zone Interlocal/Mutual Aid Agreement with the City of Melbourne.



LEGISLATIVE MEMORANDUM

TO: Honorable Mayor and Members of the City Council

FROM: Suzanne Sherman, City Manager

THRU: Mariano Augello, Chief of Police

DATE: April 4, 2024

RE: Resolution 2024-12, authorizing the City Manager and the Police Chief to execute a Concurrent Enforcement Zone Interlocal/Mutual Aid Agreement with the City of Melbourne.

SUMMARY:

Attached is the 2024 Interlocal Agreement for Law Enforcement Services between the City of Palm Bay and the City of Melbourne with respect to law enforcement activity for the bordering paved roadways of Florida Ave, Palm Bay Rd, and Babcock St. Pursuant to the power and authority of their respective Charters and Home Rule powers pursuant to Article VIII, Section 2, Florida Constitution of 1968, and implemented by Section 166.021, Florida Statutes, and Section 166.0495, Florida Statutes, both parties enter into this agreement which outlines areas the entities will serve as the primary or secondary jurisdiction, as well as the financial responsibilities of the cities based upon this agreement. This is a five-year agreement which will be effective from April 4, 2024, with the expiration date of April 4, 2029.

REQUESTING DEPARTMENTS:

Police

FISCAL IMPACT:

There is no fiscal impact. Both parties shall bear the risk of their employees, agents, representatives and officers regarding any action or inaction taken as it relates to the duties, rights, responsibilities and operations as contemplated in this agreement. Both parties are required to provide insurance for their employees which is an annual budget expenditure for the City of Palm Bay. Provisions are also provided in the agreement for the City of Palm Bay to recuperate funds for expenses related to traffic homicide investigations that occur within areas primarily assigned to the City of Melbourne.

Honorable Mayor and Members of the City Council

Legislative Memorandum

Page | 2

STAFF RECOMMENDATION:

Motion to approve and authorize the City Manager to execute the 2024 Interlocal Agreement for Law Enforcement Services with the City of Melbourne.

ATTACHMENTS:

1. 2024 Interlocal Agreement for Law Enforcement Services with the City of Melbourne for Florida Ave, Palm Bay Rd, and Babcock St.
2. Resolution



City of Palm Bay and City of Melbourne Mutual Aid Concurrent Enforcement Zone



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Please return to:

Kevin McKeown, City Clerk
City of Melbourne, Florida
900 East Strawbridge Ave.
Melbourne, FL 32901

Prepared by:

Manny Anon, Jr.
City Attorney
City of Melbourne, Florida
900 East Strawbridge Ave.
Melbourne, FL 32901

**CONCURRENT ENFORCEMENT ZONE
INTERLOCAL/MUTUAL AID AGREEMENT
BETWEEN THE CITY OF PALM BAY AND THE CITY OF MELBOURNE**

THIS AGREEMENT made this _____ day of _____ 2024, by and between the CITY OF MELBOURNE, a Florida Municipal Corporation (hereinafter "Melbourne"), and the CITY OF PALM BAY, a Florida Municipal Corporation (hereinafter referred to as "Palm Bay").
Melbourne and Palm Bay will be collectively referred to as "the parties."

WHEREAS, Sections 23.12 through 23.127, 163.01, and 166.0495, Florida Statutes authorizes municipalities to enter into interlocal and mutual aid agreements to provide law enforcement services within the boundaries of adjoining municipalities within the same county;

WHEREAS, Melbourne and Palm Bay have adjoining, adjacent and abutting jurisdictional boundaries and are situated entirely within Brevard County, Florida;

WHEREAS, for more than two decades narcotics and violent persons crimes have been specifically identified as occurring in a Designated Area that encompasses both Melbourne and Palm Bay, within and adjacent to the North border of Palm Bay and South border of Melbourne;

WHEREAS, Command, Investigative and Uniform staff of both agencies have statistical evidence of an unusually high rate of victimization of violent crime, including crimes involving the use of firearms and the homicides of juveniles and young adults, over a period of decades within the Designated Area ;

WHEREAS, Melbourne and Palm Bay have determined that the Designated Area be bounded on the North by the ordinary high water mark along the Northern bank of the waterway (located South of U.S 192) known as Crane Creek extending from the West bank at the mean high water mark of Indian River to the East right-of-way line of Dairy Road in Melbourne, on the West by the East right-of-way line of Dairy Road in Melbourne, on the South by the South right-of-way line of Palm Bay Road, N.E. in Palm Bay, and on the East by the West bank at the

mean high water mark of the Indian River in both Melbourne and Palm Bay (herein: the "Designated Area");

WHEREAS, both agencies have, jointly and separately, attempted to reduce the crime in said Designated Area through numerous and various methods, tactics, operations and investigations, at great expense to the taxpayer;

WHEREAS, the law-abiding citizens within the Designated Area have regularly and consistently hosted and held community meetings with residents, and community leaders from the Designated Area have met with law enforcement at all levels requesting and demanding effective police action to reduce the incidence of violent crime and narcotics violations;

WHEREAS, criminals in the Designated Area are familiar with the jurisdictional boundaries and the limitations of law enforcement under Florida Statutes to take action for offenses occurring outside an officer's employing jurisdiction;

WHEREAS, jurisdictional questions have created problems in Court when enforcement action has been taken;

WHEREAS, on many occasions the determination of the proper authority to exercise police powers has been mistakenly made;

WHEREAS, the parties to this Agreement desire to resolve the confusion and problems created by the above stated conditions;

WHEREAS, the parties to this Agreement recognize the benefits to the citizens of their respective political subdivisions by this Agreement;

WHEREAS, Melbourne and Palm Bay enter into this Agreement pursuant to the power and authority of their respective Charters and Home Rule powers pursuant to Article VIII, Section 2, Florida Constitution, as implemented by Section 166.021, Florida Statutes, and pursuant to the authority of Sections 23.12 through 23.127, 163.01, and 166.0495, Florida Statutes;

WHEREAS, on JAN - 9, 2024, the City Council of the City of Melbourne considered this Agreement and approved the same in public session, by adoption of Resolution No. 4226; and,

WHEREAS, on _____, 2024, the City Council of the City of Palm Bay considered this Agreement and approved the same in public session, by adoption of Resolution No. _____.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Melbourne and Palm Bay agree as follows:

1. **Recitals:** The above recitals are true and correct and are hereby adopted, incorporated and made an integral part of this Agreement.
2. **Definitions:** For purposes of this Agreement, unless the context clearly demonstrates to the contrary, the following terms are defined to mean:

"Concurrent Jurisdiction" means jurisdiction simultaneously exercised by two municipal police departments over a given geographic area with regard to enforcement of Florida law.

"Original Jurisdiction" means that a particular party's police department has jurisdiction to enforce Florida law before any other party's police department may enforce Florida law. The police department having Original Jurisdiction is the police department that is a part of the municipality within which the Original Jurisdiction is being asserted. For example, the Palm Bay Police Department would have Original Jurisdiction within the corporate limits of the City of Palm Bay. The Melbourne Police Department would have Original Jurisdiction within the corporate limits of the City of Melbourne.

"Primary Jurisdiction" means the same as Original Jurisdiction.

"Secondary Jurisdiction" means the law enforcement organization that initiates law enforcement responsibility within the "Primary Jurisdiction" of the other party.

3. **Establishing Concurrent Jurisdiction Authority:** Commencing on the Effective Date of this Agreement, and for five (5) years thereafter, the parties hereto agree that all sworn police officers from each other's jurisdiction have Concurrent Jurisdiction to enforce all Florida Statutes and State Laws, including those of the Florida Uniform Traffic Control Act, Chapter 316, Florida Statutes, enforcement of criminal statutes, and enforcement of offenses and matters under other Florida Statutes within the Designated Area. This Concurrent Jurisdiction shall not apply to the enforcement of municipal ordinances. Concurrent Jurisdiction shall occur within the Designated Area. In the event of a conflict between the map of the Designated Area, attached and incorporated herein as **Exhibit "A"** to this agreement, the description of the Designated Area in this Agreement shall prevail. (5 years = 1,826 days)
4. **Patrol.** Uniformed officers from either law enforcement agency are authorized to patrol and enforce Florida law within the entire Designated Area. The Primary Jurisdiction will have supervisory and command responsibility for either party's officers while located in that jurisdiction's corporate municipal limits.
5. **Special enforcement units.** Tactical enforcement units shall have operational plans for all operations in the Concurrent Jurisdiction approved and signed by a designee of each of the parties prior to enforcement operations where it is anticipated that police activity will extend into Secondary Jurisdiction.

- take action*
6. **Communications.** Officers will utilize their primary radio channel during normal enforcement operations. During joint enforcement operations communications will be designated and assigned by communication supervisors of the Primary Jurisdiction. Any time an officer acts in the Designated Area that is his Secondary Jurisdiction, he shall notify the Primary Jurisdiction communications center.
 7. **Crime Reporting.** Except for traffic citations and warnings, all reports of crimes occurring in an officer's Secondary Jurisdiction shall require the officer to complete a report classified as "ASSIST OTHER AGENCY-CONCURRENT JURISDICTION". An officer from the Primary Jurisdiction shall document the incident in his agency's computer aided dispatch system as "ASSIST OTHER AGENCY" and refer to the primary officer's case number.
 8. **Evidence.** If the arresting officer is not from the municipality within which the arrest occurs, evidence of criminal offenses in the jurisdiction in which the arrest occurs shall be taken into custody by the arresting officer and retained per the Primary Jurisdiction's written directives.
 9. **Investigation.** Except as stated above, officers, detectives and agents shall not conduct independent follow up investigations of the following offenses occurring in the Secondary Jurisdiction for any of the following: any homicide, attempted murder, manslaughter, kidnapping, false imprisonment, sexual battery, lewd & lascivious acts, robbery, or home invasion, or any other forcible felony crime, as defined in Section 776.08, Florida Statutes.
 10. **Forfeiture.** In the event an agency seizes any real property, vessel, motor vehicle, aircraft, currency or other property pursuant to the Florida Contraband Forfeiture Act during the performance of this agreement, the seizing agency shall be responsible for maintaining any forfeiture action and shall have the exclusive right to control and the responsibility to maintain the property in accordance with chapter 932, Florida Statutes, to include, but not be limited to, the complete discretion to bring the action or dismiss the action. All proceeds from forfeited property seized as a result of or in accordance with this agreement shall be retained by the seizing agency, unless otherwise agreed in writing.
requesting *equal*
 11. **Term:** Unless otherwise provided by the terms of this Agreement, or unless otherwise agreed to by the parties, this Agreement shall terminate five (5) years from the Effective Date of this Agreement. During the term of this Agreement, any party to this Agreement may at any time determine that further participation in this Agreement is not in the public interest and may unilaterally terminate its further participation in, responsibility for, or receipt of benefit(s) with regard to this Agreement by giving notice to the other party and recording in the Official Public Records Book of the Public Records of Brevard County, Florida, a resolution of the City Council terminating, effective on a date certain, its participation in this Agreement. The termination of participation shall not become effective for at least ten (10) days after the adoption of said resolution. However, either of the parties hereto may request that the terms of this Agreement be reconsidered and

renegotiated at any time during the term of this Agreement. Should any party to this Agreement desire to reconsider or renegotiate any of the terms herein, it shall inform each of the other Parties hereto of their desire to enter into discussions to do so and arrange a meeting for such purposes. All parties concerned shall then **negotiate in good faith**.

re-negotiate

12. **Insurance and Costs.** Each of the parties hereto shall bear the risk and cost of their employees, agents, representatives and officers regarding any action or inaction taken as it relates to the duties, rights, responsibilities and operations as contemplated in this Agreement. Pursuant to Section 23.127(2), Florida Statutes, "a political subdivision that furnishes equipment pursuant to this part must bear the cost of loss or damage to that equipment and must pay any expense incurred in the operation and maintenance of that equipment unless otherwise provided in the written agreement entered under this part."

The municipality furnishing aid pursuant to this Agreement shall compensate its employees during the time of the rendering of aid in the other party's jurisdiction and shall defray the actual travel and maintenance expenses of its employees while they are rendering aid, including any amounts paid or due for compensation for personal injury or death while its employees are rendering aid. There shall be no reimbursement of costs or expenses to either party upon its services within a Secondary Jurisdiction.

13. **Indemnification.** To the extent permitted by law, each party to this Agreement shall indemnify the other party executing this Agreement but only to the extent of the indemnifying party's own negligence and only to the extent of a claim or judgment in an amount not exceeding \$200,000 per person or \$300,000 in the aggregate (unless otherwise provided by act of the Legislature) arising out of the same incident or occurrence, all as provided in Section 768.28, Florida Statutes. The indemnification as provided for herein provides that the indemnifying party shall indemnify and hold all other parties harmless for all losses, damages or claims, including, without limitation, attorneys' fees and suit costs incurred for trial and appeal, arising from the acts or omissions of its officers, agents, employees, or representatives (hereinafter agents) while they are engaged in activities outside their corporate limits or when responding on behalf or at the request of another party within the corporate limits of the indemnifying party and as a result of the indemnifying party's own negligence. In the event that any injury or loss is caused by the negligence of the indemnifying party, in part, by the agents, representatives, officials, employees and volunteers of one jurisdiction executing this agreement and, in part, by the agent of another jurisdiction executing this Agreement, while any agents are acting outside of their jurisdiction, then each jurisdiction shall bear responsibility based on the percentage of its liability as determined by settlement or as finally adjudicated in a court of law. Notwithstanding the foregoing, Section 13 shall not be construed or interpreted as a waiver of the PARTIES' sovereign immunity and the limits established in Section 768.28, Florida Statutes. This section shall survive the expiration or earlier termination of this Agreement.

14. **Independent Contractor Status:** MELBOURNE and PALM BAY are Independent Contractors of one another. It is specifically understood and agreed to by and between the PARTIES hereto that a material provision in this Agreement is that the relationship

between MELBOURNE and PALM BAY is one in which PALM BAY and its police officers are independent contractors of MELBOURNE and not agents, employees, joint venturers, or other partners of MELBOURNE, and, MELBOURNE and its police officers are independent contractors of PALM BAY and not agents, employees, joint venturers, or other partners of PALM BAY. Nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute either party to this Agreement or police officers, or any of said party's respective agents, volunteers, or employees to be the agent, employee, partner, joint venturer, or representative of any other party executing this Agreement.

15. **Severability:** If any section or portion of this Agreement is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Agreement.
16. **Period:** This Agreement shall not become effective until executed by all parties, and pursuant to Section 163.01, Florida Statutes, recorded in the Public Records of Brevard County, Florida. The cost of recording shall be shared equally by both parties to this Agreement. Pursuant to Section 23.1225(4), Florida Statutes, a copy of this Agreement must be filed with the Florida Department of Law Enforcement in Tallahassee within fourteen (14) days after it is executed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

CITY OF PALM BAY, FLORIDA,
a Florida Municipal Corporation

By: _____
Suzanne Sherman, its City Manager

ATTEST:

Terese Jones, City Clerk

(CITY SEAL)

Mario Augello, Chief of Police
Palm Bay Police Department

Date: _____

CITY OF MELBOURNE, FLORIDA,
a Florida Municipal Corporation

By: _____
Jenni Lamb, City Manager

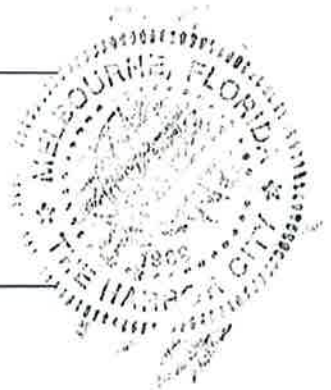
ATTEST:

Kevin McKeown, City Clerk

(CITY SEAL)

David Gillespie, Chief of Police
Melbourne Police Department

Date: 2/5/24



RESOLUTION 2024-12

A RESOLUTION OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, AUTHORIZING THE CITY MANAGER AND POLICE CHIEF TO EXECUTE A CONCURRENT ENFORCEMENT ZONE INTERLOCAL/MUTUAL AID AGREEMENT WITH THE CITY OF MELBOURNE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sections 23.12 through 23.127, 163.01, and 166.0495, Florida Statutes, authorizes municipalities to enter into inter-local and mutual aid agreements to provide law enforcement services within the boundaries of adjoining municipalities within the same county, and

WHEREAS, Melbourne and Palm Bay have adjoining, adjacent, and abutting jurisdictional boundaries and are situated entirely within Brevard County, Florida, and

WHEREAS, for more than two (2) decades narcotics and violent persons crimes have plagued a specifically identified area that encompasses both Melbourne and Palm Bay, occurred along, within and at the north border of Palm Bay and south border of Melbourne, and

WHEREAS, there is statistical evidence of an unusually high rate of victimization of violent crime, to include the use of firearms and homicides of juveniles and young adults, over a period of decades within a designated area, and

WHEREAS, Melbourne and Palm Bay have determined that the designated area is bordered on the north by the ordinary high water mark along the northern bank of the waterway south of U.S. 192, known as Crane Creek, extending from the west bank at the mean high water mark of Indian River to the east right-of-way line of Dairy Road in Melbourne, on the south by the south right-of-way line of Palm Bay Road, Northeast in Palm Bay, and on the east by the west bank at the mean high water mark of the Indian River Lagoon in both Melbourne and Palm Bay, and

WHEREAS, both agencies have, jointly and separately, attempted to reduce the crime in said “designated area” through numerous and various methods, tactics, operations, and investigations, at great expense to the taxpayer, and

WHEREAS, the law-abiding citizens within the designated area have regularly and consistently hosted and held community meetings with residents and community leaders from the designated area and have met with law enforcement at all levels requesting and demanding effective police action to reduce the incidence of violent crime and narcotics violations, and

WHEREAS, criminals in the designated area are familiar with the jurisdictional boundaries and the limitations of law enforcement under Florida Statutes to take action for offenses occurring outside an officer’s employing jurisdiction, and

WHEREAS, jurisdictional questions have created problems in Court when enforcement action has been taken, and

WHEREAS, during the five-year period that the previous Interlocal/Mutual Aid Agreement was in effect, the agreement produced significant benefits for the community in the reduction of violent incidents and narcotics crimes, and improved law enforcement efficiency, and

WHEREAS, the City of Palm Bay desires to continue the cooperative relationship between the City of Palm Bay and the City of Melbourne regarding concurrent enforcement for an additional five (5) years.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this resolution.

SECTION 2. The Palm Bay City Council hereby authorizes the City Manager and Police Chief to execute the Concurrent Enforcement Zone Interlocal/Mutual Aid Agreement.

SECTION 3. This resolution shall take effect immediately upon the enactment date.

This resolution was duly enacted at Meeting 2024-XX, of the City Council of the City of Palm Bay, Brevard County, Florida, held on _____, 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK