

Resolution No.: 16-1130
Introduced: September 22, 2009
Adopted: September 22, 2009

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the Request of the County Executive

SUBJECT: Approval of an Intergovernmental Cooperation Agreement for the Provision of Services and Aid in Preparation and During the G20 Summit

Background

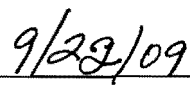
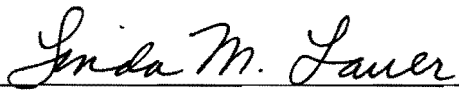
1. The City of Pittsburgh, Pennsylvania, is the host city for the G20 Summit, a forum for the discussion of international finance issues, to be held September 24-25, 2009, at venues throughout the City.
2. The G20 Summit has been classified by the federal government as a National Special Security Event.
3. The City of Pittsburgh, through its Bureau of Police, requested the assistance of the Montgomery County Department of Police to assist with providing G20 Event public safety-related aid in order to promote the safety and welfare of all G20 Summit participants and members of the public while enabling individuals to exercise their constitutional rights.
4. Md. Code, Criminal Procedure Article, §2-105(b) and County Code §35-13 authorize the Council and the Executive to approve a mutual aid agreement with another governmental entity authorizing the temporary deployment of its police officers and other officers, employees, and agents, together with all necessary equipment, in and outside Maryland to provide assistance to the other governmental entity under certain circumstances..
5. The Department of Police recommended approval of the Intergovernmental Cooperation Agreement (ICA) attached as Appendix 1 as sound, desirable, practicable, and beneficial for the County. The City of Pittsburgh will reimburse the County for all costs incurred and provide liability insurance under the ICA.
6. The County Attorney approved the attached ICA for form and legal sufficiency.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

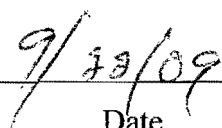
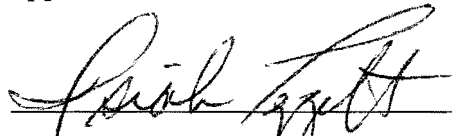
1. The Council declares that the approval of this resolution on the day it is introduced is an emergency due to the planned G20 Summit scheduled to begin on September 24, 2009.
2. The Council approves the attached ICA, which is made a part of this resolution.
3. The Council authorizes the County to assist the City of Pittsburgh under the circumstances and to the extent specified in the ICA.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the CouncilDate

Approved:



Isiah Leggett, County ExecutiveDate



**INTERGOVERNMENTAL COOPERATION AGREEMENT FOR THE
PROVISION OF SERVICES AND AID IN PREPARATION FOR
AND DURING THE G20 SUMMIT**

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (the "Agreement") is made and entered into this __ day of _____, 2009, by and between the **CITY OF PITTSBURGH, ("City" or "the City")**, a municipal corporation of the Commonwealth of Pennsylvania acting through its Bureau of Police (hereinafter the "PBP") and **MONTGOMERY COUNTY, MARYLAND ("Agency" or "the Agency")**, a body corporate and body politic of the State of Maryland (each a "party" and collectively the "parties").

WHEREAS, the City is the host city for the G20 Summit (hereinafter "G20 Event"), a forum for the discussion of international finance issues, to be held September 24-25, 2009, at the David Lawrence Convention Center and other venues throughout the City; and

WHEREAS, the G20 Event has been classified by the federal government as a National Special Security Event ("NSSE"); and

WHEREAS, pursuant to this NSSE classification, the United States Secret Service is the authorized lead agency for the design and implementation of the official operational security plan ("G20 Operational Plan") pertaining to the G20 Event; and

WHEREAS, the PBP is responsible for coordinating local law enforcement efforts for the G20 Event; and

WHEREAS, in this role, the PBP seeks to promote the safety and welfare of all G20 Event participants and members of the public while enabling individuals to exercise their constitutional rights; and

WHEREAS, the City is in need of procuring the assistance of additional law enforcement personnel to provide services required for this NSSE during the period of September 22 through September 26 (the "G20 Event Period"); and

WHEREAS, Agency's Department of Police provides law enforcement services to the Agency pursuant to the police powers and law enforcement authority granted under applicable Maryland law; and

WHEREAS, at the request of the City, the Agency is willing to provide the services of the law enforcement and/or public safety personnel identified in this Agreement to assist with providing G20 Event public safety-related aid and assistance; and

WHEREAS, the parties now wish to outline the terms and scope of the intergovernmental cooperation required for G20 Event purposes.

NOW THEREFORE, pursuant to the authority of 53 Pa.C.S.A. §§ 2301 *et seq.*, and other applicable statutes and ordinances authorizing intergovernmental cooperation and in consideration of the mutual covenants herein contained and the benefits that each party hereto shall derive from their joint participation, the parties agree as follows:

I. INCORPORATION OF RECITALS

The above recitals are incorporated herein by reference.

II. ORGANIZATIONAL STRUCTURE

A. Agency acknowledges and agrees that at all times during any joint training session prior to the G20 Event and during the G20 Event Period, including each deployment of any licensed police officer ("LPO" as further defined below), regardless of such LPO's rank or job title within the Agency, he or she shall be subject to a structure of supervision, command and control coordinated through a unified law enforcement command composed of federal, state, and local public safety personnel and following unified command principles and practices established throughout the law enforcement community.

B. The PBP is the lead local law enforcement agency associated with G20 Event law enforcement. All functions and duties to be performed by the Agency's personnel under this Agreement will conform to the G20 Operational Plan (the "Plan"), with specific assignments to be communicated to the Agency by the "Commanding Officer" (as defined below) or his designee. Agency will be provided with briefings from the PBP, as necessary, regarding its assignments.

C. For purposes of the G20 Event Period, the PBP's "Commanding Officer" shall be City of Pittsburgh Police Chief Nathan Harper.

D. Agency LPOs performing services pursuant to this Agreement will abide by applicable PBP policies, which will be provided to it in one or more G20 information and training packets ("G20 Preparatory Materials") prior to the G20 Event and which Agency shall disseminate to its LPOs providing services hereunder. In the event of a conflict between Agency policies and PBP applicable policies, Agency agrees to follow PBP policies with respect to any G20 Event services provided hereunder and shall instruct its LPOs to do likewise. By signing this Agreement, Agency certifies that all LPOs provided hereunder are or will be trained on the provided PBP policies before the G20 Event period.

E. Nothing in this Agreement shall affect the statutory or common law authority of the parties or their personnel, nor shall this Agreement limit or enhance the respective liabilities and immunities of the parties. Responsibility for the conduct of Agency personnel, both personally and professionally, shall remain with the Agency as further set forth herein.

III. AGENCY RESPONSIBILITIES

Agency agrees to the following terms in preparation for and during the G20 Event:

A. That upon reasonable advance written notification from the PBP, Agency's LPOs being deployed at the G20 Event shall participate in G20 Event training activities that are coordinated or conducted by Agency and the PBP or its designee. For purposes of this Agreement, training activities will include G20 Preparatory Materials and in person-training on September 23, 2009, for all Agency LPOs providing services during the G20 Event Period; and

B. That upon reasonable advance written notification from the PBP to the Agency, each Agency LPO being deployed at the G20 Event shall provide services assigned by the PBP during the G20 Event Period; and

C. That each Agency LPO agrees to be placed by the PBP in an "on call" status in which the LPO is physically near a specified G20 Event location within the City of Pittsburgh or the County of Allegheny, so as to be able to physically report in a timely manner to such duty post assigned by the PBP and be prepared to undertake the specific job task or responsibility assigned to the LPO by the PBP.

D. That at the request of the PBP, each Agency LPO shall participate in and/or provide information to and otherwise cooperate with the PBP in any "after action activities" following the conclusion of the G20 Event Period. This may include debriefings of information and experiences, completion of surveys and questionnaires and assisting and/or participating in any civil and/or criminal legal proceedings.

E. Agency agrees to cooperate with and provide the City with any other information reasonably requested by the City that the City deems necessary to facilitate and enable compliance with the terms and conditions contained in this Agreement. By way of illustration only, such cooperation and information may include, but not be limited to the Agency's timely completion and production of information required for insurance or audit purposes.

F. Agency has designated the following contacts for operational and administrative purposes under this Agreement:

Captain Luther Reynolds	Captain, Special Operations Division
Captain Mitch Cunningham	Liaison, Special Operations Division

G. The names of all LPOs to be provided by the Agency for G20 Event purposes shall be sent to the PBP in written form upon execution of this Agreement and prior to providing any G20 Event services hereunder.

H. Each of the LPOs provided by Agency shall meet the following criteria:

Non-Commonwealth of Pennsylvania Agencies shall ensure that the LPOs providing assistance under this Agreement are duly licensed or

certified by the authority of the state in which the officer's appointing authority is located. Statutory certification requirements for Agency LPOs shall be forwarded to the PBP with the list of all Agency LPOs providing G20 Event services.

i. In addition to the certification/licensure for LPOs set forth above, Agency agrees that each of the LPOs provided shall also meet all of the following criteria:

1. That each LPO shall by reason of experience, training and physical fitness is capable of performing the duties anticipated to be required by the PBP during the G20 Event; and
2. That each LPO shall have been employed as a licensed police officer for a minimum of two (2) years in the United States; and
3. That each of the LPOs being provided for the G20 Event are officers in good standing with the Agency. Throughout the term of this Agreement, the Agency shall promptly notify the PBP in the event that any LPO is no longer an officer in good standing with the Agency; and
4. That no LPO being provided for the G20 event has been sued in an individual capacity in the last three (3) years and adjudicated as liable for violations of the first amendment of the U.S. Constitution or for use of excessive, unreasonable or unnecessary force; and that no internal investigations on such allegations have been sustained.

J. Unless otherwise provided or requested by the PBP, each of the LPOs being provided shall be equipped and/or supplied by Agency at Agency's own expense, with a seasonally appropriate patrol uniform and equipment, including but not limited to service belts with Agency radio equipment, service weapon and personal soft ballistic body armor as required to be worn by the LPO while on duty for the Agency. A complete sanctioned uniform and authorized equipment list will be provided to Agency as part of the G20 Preparatory Materials. To the extent that Agency intends to send any equipment, gear, service weapons or munitions with its LPOs that is not included in the PBP sanctioned list, it shall notify PBP in writing no later than September 18th, 2009, and must obtain the PBP's written consent prior to its use by an Agency LPO during the G20 Event Period.

K Agency acknowledges and agrees that at anytime during the term of this Agreement the PBP has the sole discretion to decline to accept and/or use any LPO without cause or explanation.

L. Agency will exercise its best efforts to assist with the G20 Event. However, the parties recognize that resource availability requires Agency to exercise its best judgment in prioritizing and responding to the public safety needs of its own jurisdiction, which may also include the G20 Event. That prioritization decision belongs solely to Agency and Agency may recall its LPOs when Agency so determines it is in its best interest to do so. Agency shall follow the termination procedures set forth in Section XII of this Agreement in the event a decision to recall its assistance is made.

M. Except as set forth in Sections IV and V, Agency shall be responsible for all costs associated with providing LPO assistance that are not assumed by City as stated in this Agreement and authorized in writing. Nothing in this Section shall prohibit authorized representatives of the City and Agency from agreeing in writing to the assignment of specific costs borne of unforeseen circumstances immediately preceding, during and following the event. For purposes of this Section, official electronic messaging will suffice for "in writing".

IV. CITY RESPONSIBILITIES

In addition to its lead local law enforcement planning responsibilities for the G20 Event, City agrees to the following:

A. City agrees that it will provide G20 Event training for participating Agency LPOs, including the provision of G20 Preparatory Materials for review and in-person training on September 23, 2009.

B. City will provide lodging and food for Agency LPOs performing services under this Agreement. The PBP shall provide lodging and food location assignments to Agency LPOs in writing prior to the G20 Event Period. This shall include a standard *per diem* for each LPO for one day's travel to, and one day's travel from, the City.

C. City shall further cover personnel and transportation expenses of LPOs providing services during the G20 Event Period. Agency's estimate of allowable expenses will be itemized on a Travel Reimbursement Request, which has been provided to Agency prior to execution of this Agreement. The compensation to Agency for LPO services pursuant to this Agreement has been based on this estimate, as approved by City and may not exceed **ONE HUNDRED FORTY-FIVE THOUSAND, FOUR HUNDRED SEVENTEEN DOLLARS AND SEVENTY-FIVE CENTS (\$145,417.75)**. This estimate is a "not to exceed" amount, and Agency agrees that all actual payments in an amount equal or less than this amount shall be based on itemized invoices provided to City for services actually provided after the G20 Event according to the Payment Terms provided to Agency as part of the G20 Preparatory Materials.

D. As further set forth in Section XIV herein, City is in the process of procuring an insurance policy to cover certain liabilities of the parties, including Agency, participating in the G20 Event. In the event that the policy cannot be procured prior to the G20 Event, City will notify Agency in writing.

V. FINAL PAYMENT TERMS

A. Agency shall only be paid for the necessary costs of participating in G20 Event-related activities during the G20 Event Period, and any "after action activities" related thereto.

A. Subject to the terms of this Agreement and the prior written approval of the City,

the City agrees to provide payment to the Agency for each LPO whose services are actually utilized (including "on-call status" set forth in Section III.C.) by the PBP during the G20 Event Period.

B. Unless otherwise agreed to in writing by the City, the City shall only provide reimbursement to the Agency for Personnel Costs if the Agency completed the PBP's required training and 1) participated in the G20 Event or 2) was ready, willing, available and physically present in the City of Pittsburgh or Allegheny County to participate in the G20 Event as required by the PBP hereunder despite the LPO not having actually participated in the G20 Event.

D. In the event the Agency fails to comply with any terms or conditions of this Agreement or to provide in any manner the work or services as agreed to herein, the City reserves the right to withhold any available payment until the City is satisfied that corrective action has been taken or completed. This option is in addition to and not in lieu of the City's right of termination as provided in this Agreement.

VI. LAW ENFORCEMENT PROCEDURES

A. Authority to Act as LPOs/Appointment of LPOs.

Non-Commonwealth of Pennsylvania Agencies: As necessary, LPOs from agencies located outside the Commonwealth of Pennsylvania shall be appointed by the Mayor of the City of Pittsburgh as "special" and/or "auxiliary" police officers during the G20 Event pursuant to, *inter alia*, the respective provisions of 53 P.S. § 23434 and/or 53 P.S. §§ 731 *et seq*; and Section 113.03(c) of the Pittsburgh City Code and other applicable law. PBP shall provide appropriate training to all LPOs as to the authority of such a "special" and/or "auxiliary" police officers under Pennsylvania law.

B. Law Enforcement Activities

Law enforcement methods employed by the Agency's LPOs shall conform to the requirements of Pennsylvania law, the United States Constitution and applicable federal statutes.

C. Prosecutions.

Questions regarding prosecutorial jurisdiction shall be decided by the United States Attorney's Office; the District Attorney of Allegheny County, Pennsylvania; the City of Pittsburgh, and/or the applicable municipal government entity affected.

VII. TERM OF AGREEMENT

Unless otherwise terminated by either party as set forth in Section XII herein, the term of the Agreement shall commence as of the date first written above and terminate upon the

completion of all obligations under this Agreement inclusive of participation in criminal and/or civil trials or claims unless terminated earlier as set forth herein.

VIII. MUTUAL BENEFITS TO PARTIES-CONSIDERATION

A. Other than the items set forth in Section IV (B) and (C), further consideration for this Agreement shall be non-monetary and shall consist of enhanced public safety and improved law enforcement activity in the Greater Pittsburgh region in preparation for and during the G20 Event, and other mutual benefits through the cooperative efforts of the parties under this Agreement.

B. It is understood and agreed that any anticipated payment obligation of the City hereunder shall extend only to funds appropriated by its City Council, encumbered for the purpose of this Agreement and paid into the City's general fund.

IX. STATUS OF AGENCY AS INDEPENDENT CONTRACTOR; RULES OF CONDUCT

A. It is not intended, nor shall it be construed, that any party or any officer, employee, or agent of the Agency is an officer, employee, loaned employee, or agent of the City for purposes of unemployment compensation, workers' compensation, Heart and Lung benefits, governmental immunity, civil rights, or for any purpose whatsoever. Nothing contained in this Agreement shall be construed so as to find the Agency or its LPOs to be employees of the City, and the Agency LPOs shall be entitled to none of the rights, privileges, or benefits of City employees.

B. Except to the extent covered by the insurance policy acquired by the City as referenced in Section XIV and the "not to exceed" compensation amount set forth in Section IV(C), Agency acknowledges that it remains fully responsible for any and all obligations as the employer of its LPOs assigned to the G20 Event, including, among other things, responsibility for the payment of the earnings, overtime earnings, withholdings, insurance coverage, workers' compensation, death benefits, medical and legal indemnity where appropriate, and all other requirements by law, regulations, ordinance or contract.

C. For purposes of workers' compensation, the parties agree that Agency's LPOs will remain employees of the Agency and that, in the event the City is deemed a "statutory employer" of the Agency's employees under the Pennsylvania Workers' Compensation Act, 77 P.S. §§ 1-2626, the City will maintain immunity from tort lawsuits pursuant to the exclusive remedy provisions of the Worker's Compensation Act of Pennsylvania.

D. To the extent an Agency LPO individually pursues a third party action and the third party or any other party joins the City as a party to that action,

1. The City shall be immune from subrogation claims pursuant to the exclusive remedy provisions of the Worker's Compensation Act, 77 P.S. §§ 1-2626, 1993, July 2, P.L. 190, No. 44, § 25(b) ("Act 44") and the Pennsylvania Tort Claims Act, 42 Pa. C.S.A. §§ 8541 *et. seq.*

E. During the G20 Event Period, each LPO performing G20 Event services under this Agreement shall be required to comply with the rules of conduct established by the Agency and the PBP. In the event that a conflict exists between the Agency's rules of conduct and the PBP's rules of conduct, the PBP's rules of conduct shall apply.

F. The City shall refer disciplinary matters involving LPOs to the Agency for an investigation that may be jointly conducted by the PBP and the Agency unless, based on the judgment of the City, that a particular matter represents probable cause for the issuance of a criminal complaint, in which case the matter shall be referred directly to an external law enforcement agency for investigation with appropriate notice to Agency.

X. MUTUAL RESPONSIBILITY; POLITICAL SUBDIVISION TORTS CLAIMS ACT; LIMITATION OF LIABILITY STATUTES; NO WAIVER OF IMMUNITIES

A. Each party agrees that it will be responsible for its own acts and/or omissions and those of its officials, employees, representatives and agents in carrying out the terms of this Agreement and the results thereof to the extent authorized by law and shall not be responsible for the acts and/or omissions of the other party and the results thereof. Notwithstanding the foregoing, nothing contained in this Section shall waive, nor shall it be construed to waive any rights and benefits either party has with regard to its status under the insurance coverage described in Section XIV of this Agreement.

B. It is understood and agreed that each party's liability may be limited by the provisions of the Pennsylvania Political Subdivision Tort Claims Act ("PSTCA"), 42 Pa.C.S.A. §§ 8541 *et seq.*, or other immunity law applicable to Agency. The parties understand and agree that each party is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protections provided by the PSTCA. Nothing contained in this Agreement shall waive or amend, nor shall be construed to waive or amend any defense or immunity that either party, their respective officials and employees, may have under the PSTCA or any other common-law immunity or limitation of liability, all of which are hereby reserved by the parties hereto.

XI. RECORDS AND DISSEMINATION OF INFORMATION

A. The Agency shall comply with all applicable local, state or federal laws and requirements pertaining to maintenance and disclosure of personal, criminal justice, medical or health records or data, including but not limited to the Pennsylvania Right to Know Act ("PRKA"), 65 P.S. §§67.101 *et seq.*, the federal Freedom of Information Act, the Health Insurance Portability and Accountability Act of 1996, and those methods, procedures and otherwise set forth as privileged by the Secret Service or other governmental entity. Such records or data may be in hardcopy, printed, digital or electronic format. If the Agency has custody of a record provided by the City, which contains specialized details of security arrangements or investigations, the Agency shall refer any request to inspect that record to the City, which shall address per the applicable section(s) of the PRKA. Agency agrees to provide prior notice to City of any request for and/or release, transmission, or disclosure of

information associated with or generated as a result of the work performed under this Agreement.

B. The Agency agrees that any duly authorized representative of the City, including the City's Controller or other financial representative, or a federal grant auditor, will have access to, and the right to, examine any directly pertinent books, documents, papers, records and data of the Agency, involving transactions related to this Agreement until the expiration of seven (7) years after the termination of this Agreement.

C. In the event of the need for personnel or other records in criminal and/or civil proceedings, the agency agrees to provide such records as requested.

XII. TERMINATION RIGHTS OF PARTIES

A. **By the City.** The City may terminate this Agreement without penalty based on the occurrence of any of the following events:

1. the cancellation of the G20 Event; or
2. the failure of City to be able to purchase and provide the insurance coverage described in Section XIV of this Agreement in a timely manner; or
3. the failure of the Agency to comply with or perform any material term, condition or obligation contained in this Agreement and to fail to cure such default within seven (7) calendar days after the City or PBP provides Agency with notice of such failure.

B. **By the Agency.** The Agency may terminate this Agreement without penalty based on the occurrence of any of the following events:

1. the cancellation of the G20 Event;
2. the failure of the City to purchase and provide the insurance coverage described in Section XIV of this Agreement;
3. the Agency's determination per Section III(L) that it does not have the resources available to participate in the G20 Event; or
4. the failure of the City to comply with or perform any material term, condition or obligation contained in this Agreement and to fail to cure such default within seven (7) calendar days after the Agency provides the PBP with notice of such failure.

C. Both the City and the Agency shall act in good faith to provide as much advance written notice of an event of termination under this Section to the other party that is

reasonable under the circumstances.

D In the event of termination by either party, the City will only pay Agency for those services authorized hereunder and actually, timely, and faithfully rendered up to the receipt of the notice of termination and thereafter until the date of termination. Neither the City nor the Agency shall be entitled to the recovery of any penalties, consequential damages or attorney fees related to an event of termination hereunder.

XIII. GOVERNING LAW; COMPLIANCE WITH LAWS

A. Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with Pennsylvania law and any applicable federal law. Any action arising from this Agreement shall be brought and maintained in a state or federal court in Allegheny County, Pennsylvania, which shall have exclusive jurisdiction of such action. No legal or equitable rights of the parties shall be limited by this Section.

B. Both the City and the Agency agree to comply with all federal, state, and local laws or ordinances, and all applicable rules, regulations, and standards established by any agency of such governmental units, which are now or hereafter promulgated insofar as they relate to their respective performances of the provisions of this Agreement.

XIV. INSURANCE

A. Workers' Compensation

For any injury incurred for work performed pursuant to this Agreement, Maryland law shall be the exclusive remedy for work-related injuries.

B. Professional Liability Insurance

1. The City is binding a Police Professional Liability Insurance (G20 Security Policy), including law enforcement professional liability coverage that will be an occurrence policy, which applies only to claims that occur during the G20 Event.

2. The (G20 Security Policy) shall cover the acts of each party during the provision of the G20 Event Period, subject to any policy limits.

3. The City agrees to name the Agency and its LPOs as insureds on any Police Professional Liability Insurance it purchases to provide coverage for the G20 event.

4. The G20 Security Policy shall be the primary policy to the extent one or more policies of Police Professional Liability Insurance provide coverage for any claim or incident.

5. The G20 Security Policy shall be the primary policy to the extent that an Agency is self-insured.

6. The Agency agrees that through the G20 Security Policy, a defense can be provided for the Agency and its LPOs to the extent one, the other or both are named as parties to a lawsuit for an action or omission that is alleged to have occurred during the course and scope of the services provided for the G20 Event; however, neither the City nor the G20 Security Policy carrier shall have any duty to indemnify for loss or liability against the actions or omissions that are judicially determined to be beyond the course and scope of the services provided for the G20 Event, the alleged actions or omissions are judicially determined to be willful misconduct as set forth in the Tort Claims Act, 42 Pa.C.S.A. § 8550 or where the claim establishes exemplary or punitive damages against the LPO or his or her Agency.

7. The Agency agrees the City shall not have any duty or obligation to indemnify against loss or liability beyond the monetary limit of the G20 Security Policy and in the event that an award, compromise, judgment, settlement or verdict exceeds the monetary limit of the G20 Security Policy, the Agency, to the extent permitted by law, shall indemnify the City against all losses that exceed the monetary limit of the G20 Security Policy for those actions or omissions attributable to the Agency and its respective LPOs.

8. For any and all acts and omissions that may fall outside the scope of the G20 Security Policy or any liability that may exceed the policy limits of the G20 Security Policy, the parties will be self-insured as required by applicable law or will maintain adequate insurance to insure the types of activities undertaken in this Agreement.

a. The Agency's self-insurance or in the alternative, its insurance, shall be considered secondary to the G20 Security Policy, which will be considered primary; and

b. The Agency's self-insurance or in the alternative, its insurance shall be considered primary to any insurance or self-insurance obligation of the City beyond the G20 Security Policy.

9. Each party will, at all times, be legally self-insured or maintain auto insurance, equipment, and/or equipment insurance for its own automobiles, equipment or other property used during its performance of G20 Event services.

a. The Agency's self-insurance or in the alternative, its insurance, shall be considered primary; and

b. The Agency's self-insurance or in the alternative, its insurance shall be considered primary to any insurance obligation of the City beyond the G20 Security Policy and the City's self-insurance.

10. Agency and LPOs agree to be bound by the terms and conditions contained in the G20 Security Policy, which is incorporated herein by reference and a copy of which will be provided to Agency upon receipt by City.

11 The Parties agree the City is responsible for any deductible amount required per the G20 Security Policy.

12. Agency and its LPOs agree to cooperate with the underwriter for the G20 Security Policy by timely providing information as is reasonably requested by the insurer or its designee(s).

a. This cooperation will include both the underwriting process and the claims process and this obligation shall survive and extend (if necessary) beyond the termination date of this Agreement.

b. The Agency agrees to fully cooperate in the defense of any civil claims, as reasonably requested by the insurer or its designee and shall instruct its LPOs to do the same.

13. The parties agree the G20 Security Policy will not provide coverage to any Agency or LPO for claims that establish a right to exemplary or punitive damages or are judicially determined to be willful misconduct as set forth in the Tort Claims Act, 42 Pa.C.S.A. § 8550 and the City's self insurance will not provide coverage for any claims that establish a right to exemplary or punitive damage or are judicially determined to be willful misconduct as set forth in the Tort Claims Act, 42 Pa.C.S.A. § 8550,

14. The parties agree the City shall have the exclusive and sole right to approve or reject any compromise or settlement of any claim filed against the Agency or its LPO.

XV. MISCELLANEOUS

A. **No waiver.** Acceptance of partial performance or continued performance after breach shall not be construed to be a waiver of any such breach.

B. **Assignment and Subcontracting.** Neither party is obligated or liable under this Agreement to any party other than the other party to the Agreement. Each party understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the other party, and in the event any such assignment or subcontracting shall occur, such action shall not be construed to create any contractual relationship between the parties and such assignee or subcontractor, and each party herein named shall remain fully responsible to the other party according to the terms of this Agreement.

C. **No Third Party Beneficiary.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties to the Agreement, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement, including but not limited to members of the general public. It is the express intention of the parties that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

D. **Paragraph Headings.** The captions and headings set forth in this Agreement are for convenience of reference only, and shall not be construed as defining or limiting the terms and provisions in this Agreement.

E. **Severability.** If any part, term, or provision of this Agreement, except for the provisions of the Agreement requiring prior appropriation of funds, is by the courts held to be illegal or in conflict with any law of the Commonwealth of Pennsylvania, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Agency shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

F. **Agreement as Complete Integration- Amendments.** This Agreement is intended as the complete integration of all understandings between the parties as to the subject matter of this Agreement. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. No oral representation by any officer or employee of the Agency at variance with the terms and conditions of this Agreement, or any written amendment to this Agreement, shall have any force or effect or bind the Agency. Amendments to this Agreement will become effective when approved by all Agencies and executed in the same manner as this Agreement. This Agreement and any amendments will be binding upon the Agencies, their successors and assigns.

G. **Survival of Certain Provisions.** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the City's obligations to provide insurance as set forth in Section XIV will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

H. **Notices.** Notices concerning the termination of this Agreement, alleged or actual violations of the terms or conditions of this Agreement, and any and all other notices that may or should be given to either party under this Agreement will be made to each party as follows:

For Notice to the City:

Chief Nathan Harper
Bureau of Police
1203 Western Avenue
Pittsburgh, PA 15233

With a copy to:

George R. Specter
City Solicitor

313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

For Notice to the Agency:
Chief of Police
J. Thomas Manger
2350 Research Blvd.
Rockville, MD 20850

With a copy to:

County Attorney
c/o William Snoddy
Association County Attorney
101 Monroe Street
Rockville, MD 20850

J. **Counterparts.** This Agreement may be executed in two (2) counterparts, each of which shall be deemed to be an original of this Agreement.

XVI. LEGAL AUTHORITY

A. Each party represents that it possesses the legal authority, pursuant to proper, appropriate statute, ordinance, official motion, resolution or action passed or taken or required, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of each party hereby represents and guarantees that he/she or they have been fully authorized by such party to execute this Agreement on behalf of the party and to validly and legally bind the party to all the terms, conditions, performances and provisions herein.

C. The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Agency or the person signing the Agreement on behalf of such Agency to enter into this Agreement.

D. **Authorizing Legislation.** The City is authorized to enter into this Intergovernmental Cooperation Agreement pursuant to Ordinance No. 22 of 2009, effective September 7, 2009. Agency is authorized to enter into this Intergovernmental Cooperation Agreement pursuant to _____.

E. **Home Rule Charter/Liability of City.** This Agreement is subject to the Home Rule Charter of the City of Pittsburgh. The City's liability hereunder is limited to **ONE HUNDRED FORTY-FIVE THOUSAND, FOUR HUNDRED SEVENTEEN DOLLARS AND SEVENTY-FIVE CENTS (\$145,417.75).**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

CITY OF PITTSBURGH

Mayor, Luke Ravenstahl

WITNESS:

Director, Department of Public Safety

WITNESS:

MONTGOMERYCOUNTY, MD

Name:

County Executive, Isiah Leggett

WITNESS:

Name:

Director, Department of Police

EXAMINED BY: _____

Assistant City Solicitor

APPROVED AS TO FORM: _____

City Solicitor

COUNTERSIGNED BY: _____

City Controller