



CITY COUNCIL AGENDA ITEM

Date: October 01, 2012

To: Michael Culpepper, Acting City Manager

From: Gary Mayer, Chief of Police
Keith A. Frye, Captain

Subject: Interlocal Agreement for the Major Case Assistance Team

Background

The Major Case Assistance Team (MCAT) was formed in 2009 as a collaborative initiative aimed at resolving complex criminal cases through the provision of additional trained personnel and equipment to member agencies involved in major criminal investigations. Participating agencies are the Auburn Hills Police Department, the Birmingham Police Department, the Bloomfield Township Police Department, the Clawson Police Department, and the Troy Police Department. The Interlocal Agreement contained provisions for additional agencies through a majority vote of the representatives of the participating agencies.

On January 19, 2011, the Board of Directors approved a request for a cooperative partnership with the Oakland County Sheriff's Office – Rochester Hills substation. Because the Oakland County Sheriff's Office already had countywide jurisdiction, no action was required by City Council.

On March 15, 2012, the Board of Directors approved a request from the Rochester Police Department to be accepted as a participating agency. The addition of the Rochester Police Department requires the adoption of a new Interlocal Agreement. This new Interlocal Agreement will contain provisions that will allow for the addition of participating law enforcement agencies through the approval of the MCAT Board of Directors.

An amended Interlocal Agreement will provide investigators of the participating agencies with the powers and authority of police officers of the requesting agency while working in concert with the Chief of Police of a requesting agency.

A resolution by the City Council exercising approval of the amended Interlocal Agreement between the City of Troy and Oakland County is required.

Recommendation

The Police Department recommends approval of the amended Interlocal Agreement between the City of Troy and Oakland County.

INTERLOCAL AGREEMENT FOR THE MAJOR CASE ASSISTANCE TEAM

THIS INTERLOCAL AGREEMENT entered into by and between the City of Clawson, the City of Troy, the City of Birmingham, the City of Auburn Hills, City of Rochester, and the Charter Township of Bloomfield, all located in the County of Oakland, State of Michigan, which collectively shall be referred to as the Major Case Assistance Team (“Team”).

RECITALS

Article VII, Section 28 of the Michigan Constitution of 1963 provides, in part, that two or more counties, townships, cities, villages, or districts, or any combination thereof, may, among other things, enter into contractual undertakings or agreements with one another for the joint administration of any of the functions or powers which each would have the power to perform separately; and,

The Urban Cooperation Act of 1967, MCLA §124.501 et seq.; MSA §5.4088 et seq. provides that a public agency (defined to mean a political subdivision of this state including, but not limited to, a county, city, village, township, or charter township) may exercise jointly with any other public agency of the state any power, privilege or authority which such agencies share in common and which each might exercise separately; and,

Each local governmental unit has decided that it is in the best interests of such local governmental unit to become a Member of the Team to exercise such additional powers, functions, duties, and responsibilities granted to the Team and imposed upon it by this Agreement; and,

The Members endeavor to realize and benefit from each Member’s accumulated expertise and recognize substantial savings in time, effort, and expenses to each individual Member by being a Member of the Team; and,

In consideration of the foregoing, the parties agree to the Interlocal Agreement as set forth below.

SECTION 1: Purpose of Agreement

- A. This Agreement is made in recognition of the fact that local law enforcement capabilities are enhanced by having access to regionalized facilities, programs and the assistance of other departments. It is the purpose of this Agreement to provide the means whereby enhanced access to facilities, programs, training and assistance is provided through the Intergovernmental cooperation of the Participating Agencies.

- B. It is the intent of this organization that each member shall bear its own costs and risk of liability associated with personnel, training, and equipment when providing assistance to another member. When entering into membership, it is impossible to predict the frequency or intensity of a particular member’s mutual aid requirements. Therefore,

some members may ultimately receive a greater measure of actual benefit than other members. The purpose of entering into such an Intergovernmental Agreement is to gain access to mutual aid when required. A consideration for the access is the known risk that the ultimate cost and benefit may not be evenly distributed among members.

SECTION 2: Definitions

For purposes of this Agreement, the following terms shall be defined as set forth in this section, as follows:

- A. *Participating Agency.* Any one or more agencies that have duly adopted a resolution authorizing the execution of this Agreement.
- B. *Agreement.* This Intergovernmental Major Case Assistance Team Agreement.
- C. *Police Assistance.* Assistance provided by any Participating Agency to any other Participating Agency, which shall include, but not be limited to, the assignment of sworn and/or civilian personnel and the use of equipment for such assistance as back-up on traffic stops, investigations, establishment of regionalized operations or administrative programs, and major crime task forces, all as more fully defined in the Operations Manual developed pursuant to this Agreement and incorporated herein by reference.
- D. *Requesting Agency.* A participating agency that requests police assistance pursuant to this Agreement.
- E. *Aiding Agency.* A participating agency that provides police assistance pursuant to this Agreement.
- F. *Chief of Police.* The highest ranking law enforcement officer of a participating agency or his or her designee.
- G. *City Manager, Township Supervisor.* The chief administrative officer or designee of that officer for each member municipality.
- H. *Petitioning Agency.* An Oakland County governmental unit that has petitioned for membership in MCAT pursuant to Section 4.

SECTION 3: Rights of Participating Agency

The rights of each Participating Agency shall be as set forth in this Section and shall be exercised by and through the actions of the Chief of Police, or his or her designee, of each respective participating agency.

- A. Any Participating Agency may request police assistance from any one or more Participating Agency when, in the judgment of the Chief of Police of the requesting agency, such assistance is necessary. The request shall be made to the MCAT Coordinator.
- B. Any Participating Agency may render aid to any one or more Participating Agencies to the extent available personnel and equipment are not required for the adequate protection of the Aiding Agency. In making that determination, the Chief of Police of the Aiding Agency may consider the reasonableness or urgency of the request and the amount of personnel, equipment and time commitment available to the requesting agency, and that determination shall be final.
- C. The Chief of Police of the Requesting Agency shall, through the MCAT Coordinator, direct the actions of any sworn or civilian personnel of any Aiding Agency providing police assistance pursuant to this Agreement.
- D. Nothing in this Agreement shall prevent any Participating Agency from cooperating with any other agency, regardless of whether it is a Participating Agency. Nor shall anything in this Agreement prevent any Participating Agency from acting jointly or in cooperation with any other local, state or federal unit of government or agency thereof, to the fullest extent permitted by law.

SECTION 4: New Members

- A. The MCAT Board of Directors shall have the power to determine if a non-Participating Agency police department should be allowed to join MCAT as a Participating Agency but only if that police department is a governmental unit of Oakland County, Michigan and has petitioned the MCAT Board of Directors for membership. The MCAT Board of Directors may approve membership for the Petitioning Agency conditioned upon the governmental unit obtaining a certified resolution of its legislative body which approves this Agreement and authorizes the appropriate signatory to execute the Binder Agreement attached hereto and incorporated herein as Exhibit A. Execution of that Binder Agreement results in the acceptance of all terms and conditions set out in this Agreement. The certified resolution and an executed copy of the Binder Agreement shall be presented to the MCAT Board of Directors for vote to determine if the Board of Directors authorizes the Coordinator and/or Assistant Coordinator to execute the Binder Agreement on behalf of MCAT. If the Petitioning Agency has been conditionally approved for membership but the MCAT Board of Directors is not given a certified resolution and an executed copy of the Binder Agreement within six (6) months after the date of conditional approval, the conditional approval becomes null and void and a Petitioning Agency must file a new request for membership. A two-third (2/3) vote of the total number of Participating Agencies is required to authorize the execution of the

Binder Agreement and accept the Petitioning Agency as a member of MCAT. Membership will become effective after execution of the Binder Agreement by the authorized representatives of the Petitioning Agency and MCAT.

SECTION 5: Authority of Sworn Police Personnel

Any sworn police officers providing police assistance to a requesting agency under this Agreement shall have all of the powers of police officers of the requesting agency, including the power of arrest, and are subject to the direction of the MCAT Coordinator working in concert with the Chief of Police of a requesting agency.

SECTION 6: Compensation Between Participating Agencies; Length of Engagement for Investigation

- A. Except as hereinafter provided, the assistance provided by any Aiding Agency under this Agreement shall be rendered without charge to the Requesting Agency or any other Participating Agency.
- B. The length of any particular activation of MCAT shall be as set forth in the Operations Manual. If any agency desires to retain the services of another agency's employee beyond the time limits set forth in the Operations Manual, they may do so only with the consent of the Aiding Agency. Under such circumstances, the agencies shall determine between themselves the amounts of compensation to be paid to the Aiding Agency.

SECTION 7: Responsibilities and Liability of Participating Agencies

- A. Each Participating Agency shall assume the responsibility for the actions of its sworn or civilian personnel acting pursuant to this Agreement both as to liability and as to the payment of benefits to such sworn or civilian personnel all to the same extent as such personnel are insured, indemnified and otherwise protected when acting within the Participating Agencies' respective corporate limits.
- B. Each Participating Agency shall be responsible for the payment of all benefits to all of its sworn and civilian personnel acting pursuant to this Agreement, including, but not limited to the payment of wages, salaries, disability payments, pension benefits, workers' compensation claims, and claims for damage to or destruction of equipment and clothing, and claims for medical expenses.

- C. Each Participating Agency agrees to be responsible for the negligent or wrongful acts or omissions of their respective employees. Nothing in this Agreement shall be construed as creating an obligation to indemnify or defend any other party or parties for any claim, damage or liability arising out of or stemming from an act or action of a party.

SECTION 8: Participating Agency's Insurance

- A. Insurance. Within ten (10) days from the execution of this Agreement, each Participating Agency shall provide a Certificate of Insurance, acceptable to the other Participating Agencies demonstrating that general liability coverage is available for any and all claims for personal injury or property damage which are or might be caused by an employee of a Participating Agency under this Agreement. Each Participating Agency agrees to keep said insurance coverage in full force and effect for the term of this Agreement or any renewals thereof. Each Participating Agency shall submit to the other Participating Agencies, prior to the expiration of any insurance coverage, the new Certificate(s) of Insurance acceptable to the other Participating Agencies.

Any Participating Agency may request a copy of said insurance certificate at any time during this Agreement. Failure to produce a certificate of insurance within twenty (20) days of a request by a Participating Agency shall allow the requesting Participating Agency to petition the MCAT Board of Directors to terminate the Agreement as to that specific Participating Agency.

A lapse in the insurance coverage required under the Agreement shall be considered a material breach of this Agreement and the Agreement shall become null and void automatically as to that Participating Agency only at any time such a lapse in coverage exists.

The Participating Agencies agree that they shall promptly deliver to the other Participating Agencies written notice and copies of any claims, complaints, charges, or any other accusations or allegations of negligence or other wrongdoing, whether civil or criminal in nature that the other Participating Agencies becomes aware of and which involves any program or activity under this Agreement. Unless otherwise provided by law and/or the Michigan Court Rules, the Participating Agencies agree to cooperate with one another in any investigation conducted by any other Participating Agency regarding any acts or performances of any services under this Agreement.

SECTION 9: Membership Fees, Compensation and Funding

- A. Membership Fee. There shall be no fee to any Participating Agency to participate in this Agreement unless fees are adopted by the MCAT Board of Directors under the terms set out in the MCAT Operation's Manual.

- B. Compensation. No member of the MCAT Board of Directors, including its elected or appointed officers, shall receive compensation from MCAT for the performance of their duties. A Participating Agency may be reimbursed for costs that another Participating Agency has incurred for MCAT business meetings or other expenses, if such costs and/or expenses are approved by the MCAT Board of Directors.
- C. Funding. MCAT is authorized under this Agreement to pursue grant funding for MCAT for programs, equipment, gear and non-member training personnel. No Participating Agency match shall be authorized, except upon approval of the MCAT Board of Directors. The Treasurer of MCAT shall be custodian and sole depositor of the funds of MCAT and shall only disburse funds as authorized by the MCAT Board of Directors. If MCAT is successful in obtaining grant funding and if the grant so allows, the Board of Directors may approve, by a majority vote, reimbursement of costs incurred by any specific Participating Agency for training and equipment utilized exclusively by or for MCAT. Any equipment, gear or other property purchased by grant or otherwise by MCAT shall remain the property of MCAT.
- D. Assets Upon Termination. Upon termination of this Agreement, any expenses or outstanding liability shall be paid first through any remaining assets of the consortium known as MCAT and thereafter, any remaining assets shall be distributed to the Participating Agencies on an equitable basis as determined by the MCAT Board of Directors.

SECTION 10: Board of Directors; Operations Manual

- A. The Chief of Police of each participating agency, or his or her designee, shall constitute the Board of Directors of the Major Case Assistance Team.
- B. The MCAT Board of Directors shall establish an Operations Manual for implementing this Agreement. The Operations Manual shall include, but not be limited to, procedures for requesting, rendering and receiving aid. The Operations Manual shall be reviewed, updated and evaluated by the Board of Directors at regular intervals.
- C. The Operations Manual shall provide for the duties and responsibilities of the MCAT Board of Directors and establish procedures for selecting Coordinators, Assistant Coordinators, and other personnel and establish the duties and responsibilities of established personnel. If MCAT receives membership fees, funding or grant monies, the Board of Directors will establish a procedure in the Operations Manual for selecting a Treasurer and set out the duties and responsibilities of the Treasurer.

SECTION 11: Removal of Participating Agency; Termination of Agreement

- A. A Participating Agency may be removed for just cause upon a two-thirds (2/3) vote of the total number of Participating Agencies.
- B. This Agreement shall continue until terminated as follows:
 - 1. There is only one remaining Participating Agency; or
 - 2. A unanimous vote of termination by all of the Participating Agencies.

SECTION 12: General Provisions

- A. Binding Effect. This Agreement shall remain in full force and effect and shall bind the Participating Agency executing the Agreement and said governing body of the Participating Agency adopting a resolution giving its approval to this Agreement. Certified copies of such resolution shall be filed with the other appropriate office of all other participating agencies within thirty (30) days of its passage.
- B. Amendment of Agreement. This Agreement may be amended from time to time in writing and approved by resolution of the appropriate governing body of three quarters of the participating agencies. The effective date of any amendment shall be the date as of which the last of the necessary agencies has approved the amendment.
- C. No Employer-Employee Relationship. Nothing in this Agreement shall be construed as creating an employer-employee relationship between any party (including any of its agents) and any other party (including any of its agents).
- D. No Discrimination. The parties shall not discriminate against their employees, agents, applicants for employment or other person or entities with respect to hire, tenure, terms, conditions and privileges of employment or any matter directly or indirectly related to employment in violation of any federal, state or local law.
- E. Continuing Obligation. The Participating Agencies agree that all promises, waivers of liability, representations, insurance coverage obligations, liabilities, payment obligations and/or any other related obligations provided for in this Agreement with regard to any acts, occurrences, events, transactions, or claims, either occurring or having their basis in any events or transaction that occurred before termination of this Agreement, shall survive the termination.

F. No Waiver of Governmental Immunity. All of the privileges and immunities from liability, and exemptions from laws, ordinances and rules which apply to the activities of parties, officers, agencies, and employees of any governmental agency when performing its functions, shall apply to the same degree and extent to the performance of such functions and duties under the provisions of this Agreement. No provision of this Agreement is intended, nor shall any provision of this Agreement be construed, as a waiver by any Participating Agency of governmental immunity as provided under law.

G. Governing Law. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret or decide any claim arising under this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan (Oakland County Circuit Court) or the United States District Court for the Eastern District of Michigan, Southern Division as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

H. Counterpart Signatures. 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, this Agreement has been duly executed this _____ day of _____ 2012.

CITY OF AUBURN HILLS

CITY OF CLAWSON

By: _____

By: _____

Its: _____

Its: _____

Auburn Hills Police

Clawson Police

CITY OF BIRMINGHAM

By: _____

Its: _____

Birmingham Police

CITY OF TROY

By: _____

Its: _____

Troy Police

TOWNSHIP OF BLOOMFIELD

By: _____

Its: _____

Bloomfield Township Police

CITY OF ROCHESTER

By: _____

Its: _____

Rochester Police

Major Case Assistance Team
Coordinator

Major Case Assistance Team
Assistant Coordinator

Exhibit A

**BINDER AGREEMENT FOR INTERLOCAL AGREEMENT FOR THE
MAJOR CASE ASSISTANCE TEAM**

This Agreement between the Major Case Assistance Team (“MCAT”) and _____, hereinafter “Petitioning Agency”, whose address is: _____ dated, this ____ day of _____ 20____, is hereby entered into as follows:

RECITALS

WHEREAS, there currently exist an Interlocal Agreement For The Major Case Assistance Team (“MCAT”) which was entered into by a number of governmental entities (“Participating Agencies”) in Oakland County, Michigan. That Agreement is authorized under the Urban Cooperation Act of 1967 and is attached hereto as Exhibit 1;

WHEREAS, the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of 1967, Ex. Sess., being MCL 124.501, et. seq. (the “Act”), permit governmental units to exercise jointly with other governmental units any power, privilege or authority which such governmental units share in common which each might exercise separately; and

WHEREAS, for a Petitioning Agency consisting of an Oakland County governmental entity to become a Participating Agency of MCAT it is necessary to enter into an Agreement accepting all terms and conditions set out in the existing Interlocal Agreement For The Major Case Assistance Team; and

WHEREAS, pursuant to a resolution of the Petitioning Agency’s legislative body, giving the signatories on this Agreement the authority to bind the Petitioning Agency to the terms and conditions set out in the Interlocal Agreement For The Major Case Assistance Team as though the Petitioning Agency had signed the original Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, understandings and agreements set forth above and in this Agreement, the Petitioning

Agency agrees to the following terms, conditions, representations, consideration and acknowledgements and mutually agree as follows:

1.Certified Resolution and Execution of Binder Agreement. Prior to the execution of this Binder Agreement, Petitioning Agency has petitioned the MCAT Board of Directors for membership. The MCAT Board of Directors has approved Petitioning Agency for membership conditioned on the Petitioning Agency obtaining a certified resolution of the Petitioning Agency's City Council or legislative body approving this Binder Agreement and authorizing the appropriate signatories to execute this Binder Agreement. Petitioning Agency agrees to submit the certified resolution and an executed copy of this Binder Agreement to the MCAT Board of Directors within a timely manner after approval of the resolution and execution of the Binder Agreement.

2.Agreement to be Bound by Terms and Conditions in Existing Interlocal Agreement For The Major Case Assistance Team. Petitioning Agency acknowledges that it has been given a copy of the existing Interlocal Agreement For The Major Case Assistance Team establishing MCAT(Exhibit 1) and that it has read and agrees to be bound by each and every terms and conditions contained therein including the Agreement attached hereto and made a part hereof.

3. MCAT Board of Directors approval. Upon receipt of the certified resolution and the executed Binder Agreement, the MCAT Board of Directors shall place the item on the agenda for a vote of the MCAT Board of Directors. A resolution to approve membership for the Petitioning Agency shall require a two-third (2/3) vote of the total number of Participating Agencies. The MCAT resolution for approval shall state that the Petitioning Agency has provided a certified resolution and an executed copy of the Binder Agreement; is approved for membership in MCAT and the Coordinator and/or Assistant Coordinator have the authority to execute the Binder Agreement on behalf of MCAT.

4. Membership on Board of Directors. After passage of a resolution approving the Petitioning Agency for membership in MCAT and the execution of the Binder Agreement by MCAT, the Chief of Police or his/her designed of the Petitioning Agency as a Member of MCAT shall hold one (1) seat on the MCAT Board of Directors and shall one (1) vote on any motion of the MCAT Board of Directors.

5. Counterpart Signatures. This Agreement may be signed in counterpart. The counterpart taken together shall constitute one (1) agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Petitioning Agency.

WITNESSES:

CITY OF _____,
PETITIONING AGENCY

By: _____

By: _____

Dated: _____

MAJOR CASE ASSISTANCE TEAM

By: _____

Its: _____

By: _____

Its: _____