

Mutual Aid Agreement

SUBJECT:

CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 03/24/09

DEPARTMENT: POLICE
RECOMMENDED MOTION:
Approval of Council Resolution #09- <u>23</u> authorizing participation in the Volusia County Poly-Drug Task Force Mutual Aid Agreement.
COMMENTS: The Florida Department of Law Enforcement has established a multi-agency Drug Task Force. The Volusia County Sheriff's Office and various municipalities in Volusia County, including the City of Port Orange, desire to continue participation in the Volusia County Poly-Drug Task Force Mutual Aid Agreement for the purpose of providing law enforcement assistance investigating racketeering, drug law violations, organized crime, related criminal violations and to disrupt organizations engaging in such activity. The current
Mutual Aid Agreement expires on March 31, 2009.
A copy of the new agreement is attached which extends participation until March 31, 2013.
ATTACHMENTS: [] Ordinance [] Resolution [] Budget Resolution
[X] Other [] Support Documents/Contracts Available for Review in Manager's Office
DEPARTMENT HEAD Gerald M. Monahang Jan delle Company Date 3/11/09
CITY ATTORNEY Date 3/169 Date 3/169
CITY MANAGER Approved Agenda Item For: Date 3 24 09
COUNCIL ACTION: [] Approved as Recommended [] Disapproved [] Tabled Indefinitely [] Continued to Date Certain [] Approved with Modification:

RESOLUTION NO. 09-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING PARTICIPATION IN A VOLUSIA COUNTY POLY-DRUG TASK FORCE MUTUAL AID AGREEMENT; AUTHORIZING THE POLICE CHIEF TO EXECUTE THE MUTUAL AID AGREEMENT ON BEHALF OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 23, Part I, Florida Statutes, authorizes mutual aid agreements between public agencies, including municipalities and counties; and

WHEREAS, the Volusia County Sheriff's Department and various municipalities in Volusia County, including the City of Port Orange, desire to enter into a Volusia County Poly-Drug Task Force Mutual Aid Agreement for the purpose of providing law enforcement assistance in investigation racketeering, drug law violations, organized crime, related criminal violations and to disrupt organizations engaging in such activity; and

WHEREAS, the City Council of the City of Port Orange has determined that it is of benefit to and in the common interest of the citizens of Port Orange to enter into a Volusia County Poly-Drug Task Force Mutual Aid Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The Volusia County Poly-Drug Task Force Mutual Aid Agreement, a copy of which is attached hereto as Exhibit A, is hereby approved.

Section 2. The Police Chief is hereby authorized to execute the Mutual Aid Agreement on behalf of the City of Port Orange, Florida.

Section 3. This resolution shall become effective immediately upon adoption.

-	MAYOR ALLEN GREEN
ATTEST:	
Kenneth W. Parker, City Manager	
Adopted on the day of	
Reviewed and Approved:	lut

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VOLUSIA COUNTY POLY-DRUG TASK FORCE MULTI-AGENCY VOLUNTARY COOPERATION MUTUAL AID AGREEMENT

WHEREAS, the below subscribed law enforcement agencies have joined together within Volusia County, Florida in a task force (hereinafter referred to as the Combined Drug Task Force or "Task Force") intended to combat racketeering, drug law violations, organized crime, related criminal violations and to disrupt organizations engaging in such activity; and

WHEREAS, the undersigned agencies agree to utilize applicable state and federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate; and

WHEREAS, the undersigned agencies have the authority under Part 1, Chapter 23, Florida Statutes, "the Florida Mutual Aid Act," to enter into a voluntary cooperation agreement for cooperation and assistance of a routine law enforcement nature that crosses jurisdictional lines; and

WHEREAS, the undersigned agencies acknowledge that they can make more efficient use of their respective powers and resources and thereby provide a higher quality of law enforcement services to the public through the coordination of members of the undersigned agencies in the Combined *Drug Task Force*;

NOW THEREFORE, the parties agree as follows:

Each of the undersigned law enforcement agencies approve, authorize and enter into this Agreement at the request of the Florida Department of Law Enforcement and the Volusia County Sheriff's Office to implement with the jurisdictional and other limits as noted herein the Combined *Drug Task Force* for the purposes and goals indicated.

Parties To This Agreement:

State and Local Participants:
Office of the State Attorney, Seventh Judicial Circuit of Florida
Volusia County Sheriff's Office

Daytona Beach Police Department
Florida Department of Law Enforcement
Daytona Beach Shores Department of Public Safety
New Smyrna Beach Police Department
Port Orange Police Department

DeLand Police Department
Federal Participants:

Bureau of Immigration and Customs Enforcement

Additional parties may, at the request of a participating member and with the approval of the other Combined *Drug Task Force* member agencies, enter into this Agreement at a later date as evidenced by their signing of this Agreement. Any party may cancel its participation in the Agreement upon delivery of written notice of cancellation to the *Task Force* Governing Board.

Intent Statement, Task Force Goals and Provisions for Voluntary Cooperation:

It is the intention of the Florida Department of Law Enforcement and the Volusia County Sheriff's Office to establish this multi-agency *Drug Task Force* as a mechanism by which area law enforcement agencies can dedicate resources into a centralized unit for the purpose of targeting "trafficking" level offenders, along with their associated distribution organizations.

While it is a known fact that the targeting and arrest of "street-level" drug dealers is an essential function of local law enforcement, it is also an established fact that those investigations oftentimes fail to result in the arrest of the dealer's source of supply. Therefore, it is the intent of this *Task Force* to target the offenders that have a direct effect on the importation and distribution of those illegal narcotics into the community.

The principle purpose of the *Task Force* shall be the successful prosecution of violators of the narcotic drug laws, with particular emphasis placed on efforts designed to identify and dismantle organized criminal enterprises. Furthermore, emphasis shall be placed on targeting violators that commit criminal acts in multiple jurisdictions and/or multiple judicial circuits.

Task Force efforts shall include, but are not limited to, undercover operations designed to detect illegal narcotics activity, including but not limited to violations of Chapters 893 and 895, Florida Statutes; the arrest and prosecution of those involved; the seizure of contraband and weapons; the forfeiture of assets from those engaged in such activity; and the referral of investigative leads and intelligence to such other federal, state or local law enforcement authorities as may be required and appropriate under the Task Force operations.

While the seizure and civil forfeiture of assets is an effective tool in combating organized criminal activity, the seizure and forfeiture of assets shall not take priority over the primary function of the *Task Force*, which shall be to enforce criminal law violations.

Nothing herein shall otherwise limit the ability of participating *Task Force* members to provide, as provided by or allowed by law, such assistance in any enforcement action as may be lawfully requested by a law enforcement officer having jurisdiction over an incident, crime or matter under consideration.

The Parties to this Agreement are contributing personnel and resources in support of the *Task Force* efforts, with the operations of the *Task Force* being coordinated with FDLE and other *Task Force* members.

Procedure for Requesting Assistance

Officers assigned to *Task Force* operations pursuant to this agreement who observe a violation of Florida Statutes in their presence shall be empowered to render enforcement assistance and take enforcement action in accordance with the law and the terms of this Agreement.

Organization, Command and Supervisory Responsibility:

There shall be a *Task Force* Governing Board, which shall consist of the State Attorney for the Seventh Judicial Circuit; the Sheriff of Volusia County; the Chief of Police of the Daytona Beach Police Department, the Resident Agent in Charge of the U.S. Customs Service and the Regional Director for the Orlando Regional Operations Center, Florida Department of Law Enforcement, and/or the individual agencies' approved designee. The Governing Board shall have plenary supervisory authority over the Combined *Drug Task Force*.

Each participating agency shall contribute personnel and resources to the Combined Drug Task Force in such numbers as are agreed to by the participating agency and the Task Force Governing Board. Participating agencies shall assign personnel to the Combined Drug Task Force based upon their investigative experience and the operational needs of the Task Force. Final acceptance of personnel assigned to the Combined Drug Task Force shall rest with the Task Force Governing Board.

The Volusia County Sheriff's Office (VCSO) will assign two supervisors of the rank of sergeant to the Task Force with supervisor authority for Task Force operations. The VCSO Supervisors shall be responsible for the operational command and day-to-day administration of all Task Force operations and personnel, and shall have the authority to make routine assignments and determine case priority, as needed, pending periodic review and concurrence of the Governing Board and shall have primary supervisory responsibility for operations and investigations occurring within Volusia County. However, for any Task Force activity and investigations outside of Volusia County to be considered as authorized by this agreement and afforded the provisions and powers of this agreement, additional supervisory authorization and control shall be exercised by a supervisor or designee of the Florida Department of Law Enforcement, as indicated herein.

The VCSO Supervisor, in consultation with the primary Assistant State Attorney assigned to *Task Force* matters, will initially determine whether cases resulting from *Task Force* activities shall be prosecuted in state court, or whether an individual case would be best resolved through referral to the United States Attorney for consideration of federal prosecution. Should any participating agency disagree with the initial venue determination made by the VCSO Supervisors and Assistant State Attorney, said agency shall have the right to present the matter to the Governing Board, on an individual case basis, for reconsideration and final decision.

During the absence of the VCSO Supervisors, or as deemed necessary by them, any member assigned to the *Task Force* may be designated as a Team Leader to manage operational *Task Force* matters.

The Governing Board shall periodically, at a minimum quarterly, review the objectives and accomplishments of the *Task Force* and report its findings to the VCSO Supervisors.

Jurisdiction:

The principle site of the Combined Drug Task Force activity is the geographical boundaries of Volusia County, Florida; provided however, that Task Force members shall enjoy full jurisdictional authority anywhere within the State of Florida, with full power to enforce Florida laws and avail themselves of the provisions of this Agreement when engaged in Task Force operations that have been approved by, and involve the Florida Department of Law Enforcement as are contemplated by this Agreement. Task Force members operating outside the jurisdiction of their Agency shall not enjoy extrajurisdictional authority as law enforcement officers unless engaged in approved Task Force activities as stated herein. The Parties to this Agreement recognize that any extension of jurisdictional authority beyond the bounds of their employing Agency is by reason of this Agreement and the overall supervision and authority of the Florida Department of Law Enforcement as provided by the "Florida Mutual Aid Act." Pursuant to Section 23.127(1), Florida Statutes, designated employees of the undersigned agencies participating in the Task Force shall, when engaging in authorized mutual cooperation and assistance pursuant to this Agreement, have the same powers, duties, rights, privileges and immunities as if the employees were performing duties inside the political subdivision in which the employee is normally employed.

Activities shall be considered authorized only when approved and actually directed as provided herein by a Florida Department of Law Enforcement *Task Force* supervisor or designee for any activities outside of Volusia County or a Volusia County Sheriff's office supervisor for activities occurring within Volusia County. No extension of jurisdiction or authority is granted by this Agreement for law enforcement activities unless they are approved and supervised as provided herein and are related to *Task Force* operations or have been encountered directly incident to an approved and supervised *Task Force* operation.

If a conflict arises between an order or direction provided by a *Task Force* supervisor and a member's employing Agency's rules, standards, or policies, the conflict shall be promptly reported to the *Task Force* supervisor, and to the superior in that member's agency chain of command. The *Task Force* supervisor, in conjunction with the member's agency superior, shall attempt to resolve the conflict in a manner that will allow the *Task Force* operation to continue appropriately. At no time will a participating member be forced to violate his/her own agency's policies or rules in order to effect a *Task Force* initiative.

The Parties to this Agreement may, by a written memorandum of understanding or written attachments to this Agreement, identify or further define particular guidelines, policies, or procedures to be utilized by members of the *Task Force* when engaged in *Task Force* operations. In the absence of written memorandum of understanding or attachments, the policies and procedures to be utilized by *Task Force* members shall be clearly identified by

the Volusia Bureau of Investigation Supervisor in consultation with the Governing Board. However, as stated above, no *Task Force* member will be expected or required to violate or otherwise fail to maintain the member's employing Agency's standards of conduct, rules or policies.

Powers, Privileges, Immunities, Costs and Liability-Related Issues:

Employees of the participating agencies, when actually engaging in mutual cooperation and assistance outside of their jurisdictional limits but inside this state, under the terms of this agreement, shall, pursuant to the provisions of section 23.127(1), Florida Statutes, have the same powers, duties, rights, privileges and immunities as if the employee was performing duties inside the employee's political subdivision in which normally employed.

An agency that furnished equipment pursuant to this agreement 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.

Each member agency engaging in the *Task Force* initiatives pursuant to this Agreement agrees to assume its own liability and responsibility for the acts, omission, or conduct of such Party's own employee while such employees are engaged in *Task Force* activities/initiatives, and shall remain responsible for the compensation, retirement, workers compensation and other benefits accruing to the benefit of said participating employees, as further discussed below:

Each Party to this Agreement agrees to furnish necessary personnel, property, police equipment, vehicles, and resources in order to effect the purposes of the *Task Force*, and agrees to bear the cost of loss or damage to its equipment, vehicles or property so provided. Parties understand and agree that they will be responsible for their own liability and bear their own costs with regard to their property and resources, or personnel expenses incurred by reason of death, injury or incidents giving rise to liability.

Each Agency furnishing services pursuant to this Agreement shall compensate its employees during the time such services are rendered and shall defray the actual expenses of its employees while they are rendering such services, including any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such services. The privileges and immunities from liability, exemption from laws, ordinances, and rules, and all pension, insurance, relief, disability, workers' compensation, salary (including overtime compensation or compensatory time), death and other benefits that apply to the activity of an employee of an Agency when performing the employee's duties within the territorial limits of the employee's Agency shall apply to the employee to the same degree, manner, and extent while such employee acts under this Agreement.

The provisions of this section shall apply with equal effect to paid, volunteer, and auxiliary employees.

Nothing herein shall prevent the requesting agency from requesting supplemental appropriations from the governing authority having budgeting jurisdiction to reimburse the

assisting agency for any actual costs or expenses incurred by the assisting agency performing hereunder.

Nothing in this agreement is intended or is to be construed as any transfer or contracting away of the powers or functions of one party hereto to the other.

Property Seizure and Forfeiture Considerations:

No funds or other property seized during Task Force operations are to be utilized by any member agency prior to successful forfeiture or until the title or interest in the funds otherwise lawfully vests in one or more member agencies. Forfeiture actions based upon seizures made by the Task Force shall be based upon current statutory and case law. The Parties agree that the Volusia County Sheriff's Office or individual participant agencies, through their own or other assisting attorneys, subject to participant agency concurrence, will be primarily responsible under this Agreement for pursuing all Task Force forfeiture actions on behalf of all of the Parties in state court, subject to its right to reimbursement of associated costs; however, this provision shall not preclude the use of other forfeiture attorneys or personnel as needed on particular matters, nor shall this preclude the adoption of said seizures for federal forfeiture proceedings when deemed appropriate. The Governing Board may, if necessary, determine which agencies or contract entities shall handle forfeitures, subject to approval of affected agencies. Distribution of the proceeds from successful forfeiture actions shall be equitable among the Parties to this Agreement and shall take into account their relative roles in support of the efforts of the Task Force. Forfeited assets will be distributed amongst the participating agencies in the following manner:

Volusia County Sheriff's Office Florida Department of Law Enforcement Daytona Beach Police Department Daytona Beach Shores Department of Public Safety New Smyrna Beach Police Department Port Orange Police Department DeLand Police Department Bureau of Immigration and Customs Enforcement	45.0% of seized assets 10.0% of seized assets 9.0% of seized assets 0.0% of seized assets
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The Governing Board may approve allocation of the forfeited assets to a non-participating agency of this *Task Force* based upon that agency's involvement or participation in an individual case.

Any Party to this Agreement or any prosecutor handling the criminal prosecution of *Task Force* cases may request copies of forfeiture complaints and pleading filed by reason of *Task Force* seizures, and such copies shall be promptly provided to the requester. If any legal dispute or concern as to the form or sufficiency of forfeiture actions or other action proposing to vest the interest of member agency (ies) in seized cash or property is raised by any of the Parties to this Agreement, an attempt to resolve the issue through informal discussion and contact shall be made. In the event any Party to this Agreement believes that there is no legal sufficiency upon which to pursue the forfeiture of particular seized

cash or property, and the concerns cannot be resolved, no forfeiture action on behalf of the *Task Force* is to be filed. All options available to state and local law enforcement agencies with regard to unclaimed evidence or abandoned property, gifts and plea agreements are available to the *Task Force*, provided the property under consideration otherwise qualifies under law for such consideration. Forfeiture actions shall be further governed by the terms and conditions described in Exhibit A, which is attached hereto and incorporated herein.

Evidence and Records:

The Parties agree that all Task Force reports and records shall be maintained by FDLE, and shall be identified as Task Force reports.

Evidence shall be seized in accordance with each *Task Force* member's agency guidelines and all evidence seized in *Task Force* operations shall be maintained by the participating local *Task Force* agency in whose jurisdiction the evidence was seized.

The Florida Department of Law Enforcement or the Volusia County Sheriff, in their *Task Force* supervisory capacities, may at any time order a review and audit by their respective Inspector General's Office of *Task Force* Operations with regard to the seizure and handling of all evidence, property, or cash or any other aspect of *Task Force* operations. The Parties agree to cooperate in any such audit by allowing full access to documents, personnel and facilities necessary to perform the audit function.

Operational Procedures Manual:

The Volusia Bureau of Investigation Supervisor will maintain a *Task Force* Operational Procedures Manual, which will be provided to the Parties of this Agreement and to all *Task Force* members. The Operational Procedures Manual will establish consistent uniform procedures for *Task Force* members to utilize during *Task Force* operations. The issues to be addressed in this Manual will include, but are not limited to: Confidential Sources; Security and Use of Investigative Funds; and Tactical/Raid Planning.

The Task Force Governing Board will establish a procedure that requires the uniform dissemination of media and/or public information, which relates to Task Force matters.

Term of Agreement:

This Agreement shall become effective as to the executing Parties upon execution by the Executive Director of the Florida Department of Law Enforcement, the Volusia County Sheriff, and at least one other participating Agency. As each additional Party executes this Agreement, it shall be effective as to the newly executing Party.

This Agreement shall remain in full force as to all participating Parties until March 31, 2013, unless cancelled in writing by an individual Party as provided herein. This Agreement may be duplicated for dissemination to all Parties, and such duplicates shall be of the same force and effect as the original. Execution of this Agreement may be signified by properly signing a separate signature page, the original of which shall be returned to,

and maintained by, the Office of the Special Agent in Charge of the Orlando Regional Operations Center of the Florida Department of Law Enforcement. Copies of the Agreement and all executed signature pages will be filed with the Florida Department of Law Enforcement Mutual Aid Office in Tallahassee, Florida. Under no circumstances may this agreement be renewed, amended, or extended except in writing.

IN WITNESS WHEREOF, the authorized representatives of the Parties hereto sign on the date specified.

Party's Acceptance of the Volusia County Poly-Drug Task F	orce Voluntary
Cooperation Mutual Aid Agreement (2009)	

Pursuant to F.S. 23.1225(3), this agreement may be entered into by a chief executive
officer of the agency who is authorized to contractually bind the agency. By signing
below, an indication of such authorization is being made. Any signatory may attach to this
signature page any further evidence of authorization you wish to remain on file at FDLE
along with this signature page.

For the Port Orange Police Department:

Gerald Monahan, Jr., Chief of Police Port Orange Police Department

Date:____