A RESOLUTION

BY THE FINANCE/EXECUTIVE COMMITTEE

02-R-0704

AUTHORIZING THE CITY OF ATLANTA TO ENTER INTO A STATEWIDE MUTUAL AID AND ASSISTANCE AGREEMENT FORMULATED BY THE GEORGIA EMERGENCY MANAGEMENT AGENCY.

WHEREAS, many state and local governments and private nonprofit organizations formulate mutual aid agreements to provide emergency assistance to each other in the event of disasters or other crises; and

WHEREAS, such assistance may include personnel, equipment, facilities, services, supplies, and other resources furnished to a requesting party during an emergency or a disaster; and

WHEREAS, the Georgia Emergency Management Agency has formulated a Mutual Aid Agreement that has been approved for use by the State Attorney General, the Adjutant General, the Governor's Office, the Georgia Municipal Association and the Association of County Commissioners; and

WHEREAS, the purpose of this Agreement is to provide for mutual assistance between the participating counties and municipalities in the State of Georgia in managing any emergency or disaster that is duly declared by the governing authority of any political subdivision, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack; and

WHEREAS, the Agreement provides that any assisting party shall be reimbursed by the party requesting assistance for expenses incurred in the operation and maintenance of equipment, compensation paid to employees furnished by the assisting party, material costs, and the reasonable costs of meals, lodging and related expenses.

WHEREAS, there is no vehicle for reimbursement of mutual aid costs when there is no formal written agreement in place; and

WHEREAS, this Mutual Aid Agreement is now ready to be signed by the Chief Executive Officers of every municipality within the State of Georgia; and

WHEREAS, the completion of this Mutual Aid Agreement is a requirement for receiving further federal financial assistance for the City's Emergency Management program; and

WHEREAS, a failure of the City to participate in this Mutual Aid Agreement could eliminate the City from eligibility for financial assistance following a Declared Disaster; and

WHEREAS, this Mutual Aid Agreement does not affect the validity or operation of the Georgia Mutual Aid Group, of which the Atlanta Fire Department currently is a member; and

WHEREAS, any participating party may withdraw from this Agreement by mailing notice of withdrawal, approved by the governing authority of such political subdivision, said withdrawal becoming effective thirty (30) days after the provision of written notice of withdrawal to the governing authorities of all other participating parties; and

WHEREAS, this Agreement shall expire on January 7, 2012 and any agreements of the participating parties to extend this agreement during the last year of its original term or the last year of a subsequent ten-year term shall extend the term of this agreement for ten years, each ten year extension being a separate agreement; and

WHEREAS, a copy of the proposed Mutual Aid Agreement is attached hereto as Exhibit 1.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES THAT the Mayor or her designee is authorized to execute a state-wide Mutual Aid Agreement on behalf of the City of Atlanta in order for the City to become a participating party.

GEORGIA EMERGENCY MANAGEMENT AGENCY
STATEWIDE MUTUAL AID AND ASSISTANCE AGREEMENT

The State of Georgia is vulnerable to a wide range of natural or man-made disaster/emergencies. The Georgia Emergency Management Act, as amended (The Act) gives the local governments of the State the authority to make agreements for mutual aid assistance in emergencies, and through such agreements to ensure the timely reimbursement of costs incurred by the local governments which render such assistance. Under the Act the Agency has authority to coordinate assistance between local governments during emergencies and to provide available resources where needed.

ARTICLE I
STATEMENT OF AGREEMENT, DEFINITIONS AND AUTHORITIES

This Agreement is made and entered into between the participating political subdivisions, which approve and execute this agreement, hereinafter called "Participating Parties" and the Georgia Emergency Management Agency (GEMA). For purposes of this agreement, the following terms and expressions shall apply:

(1) "Agreement" means this agreement, sometimes called the "Statewide Mutual Aid Agreement."

(2) "Assistance" includes personnel, equipment, facilities, services, supplies and other resources furnished to a Requesting Party pursuant to this agreement during an emergency or disaster.

(3) "Assisting Party" means a Participating Party that provides assistance pursuant to this agreement during a disaster or emergency.

(4) "Authorized Representative" means a Participating Party's employee who has been authorized in writing by that party to request, to offer, or otherwise to provide assistance or an employee of the Georgia Emergency Management Agency designated by its Director under the terms of this agreement.

(5) "Participating Parties" means the several counties and municipalities of this State or combinations thereof that have become parties to this agreement by their approval and execution of this agreement.

(6) "Requesting Party" means a Participating Party that requests assistance pursuant to this agreement during a disaster or emergency.

Any term or expression not defined in this agreement shall have the meaning specified in the Georgia Emergency Management Act and rules promulgated thereunder, unless used in a context that clearly suggests a different meaning.

This mutual aid agreement is entered pursuant to authorities contained in Articles I through III, Chapter 3, Title 38, Official Code of Georgia Annotated, including O.C.G.A. § 38-3-29, specifically.

ARTICLE II
GENERAL PURPOSE

The purpose of this agreement is to provide for mutual assistance between the Participating Parties in managing any emergency or disaster that is duly declared by the governing authority of any political subdivision that is a Participating Party, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.

ARTICLE III
ACKNOWLEDGEMENT OF PRINCIPLES

The prompt, full and effective utilization of resources of the Participating Parties, including any resources on hand or available from the State or Federal Government or any other source, that are essential to the safety, care

and welfare of the people in the event of any local emergency or disaster declared by the Governor shall be the underlying principle on which all articles of this agreement shall be understood.

In the event a conflict between any provision of this agreement and any existing intrastate mutual aid agreement affecting a Participating Party, the provisions of this agreement shall be controlling.

On behalf of the governing authority of each political subdivision of this State participating in the agreement, the Director of emergency management of such political subdivision will be responsible for formulation of the appropriate mutual aid plans and procedures necessary to implement this agreement.

ARTICLE IV
PARTICIPATING PARTY RESPONSIBILITIES

(a) It shall be the responsibility of each Participating Party to formulate procedures and programs for intergovernmental cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, each Participating Party, insofar as practical, shall:

(1) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(2) Inventory and set procedures for the loan and delivery of human and material resources, together with procedures for reimbursement.

(b) Whenever a Participating Party declares a local emergency and such disaster or emergency is too great to be dealt with unassisted, for which a state of emergency has been declared, the Director of Emergency Management for such Participating Party or his/her authorized representative may request assistance from another Participating Party by contacting the Director of the Georgia Emergency Management Agency. The provisions of this agreement shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

The Assisting Party will (a) maintain daily personnel time records, material records and a log of equipment hours (or miles, if appropriate) and (b) report work progress to the Requesting Party at mutually agreed upon intervals.

ARTICLE V
LIMITATIONS

Any Participating Party requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this agreement in accordance with the terms hereof; provided that it is understood that the Participating Party rendering aid may withhold resources to the extent necessary to provide reasonable protection for such political subdivision.

Emergency forces will continue under the command and control of their supervisors, but the organizational units will come under the operational control of the emergency services authorities of the Requesting Party unless the Director of GEMA or his/her authorized representative approves an alternative. These conditions may be activated, as needed, in any disaster or emergency for which a state of emergency has been declared and shall continue so long as the state of emergency or disaster remains in effect or loaned resources remain in the Requesting Party's jurisdiction(s), whichever is longer.

ARTICLE VI
LIABILITY AND IMMUNITY

(a) In accordance with O.C.G.A. § 38-3-35(a), no political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management worker or member of any agency engaged in emergency management activity. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under Chapter 9 of Title 34, Code Section 38-3-30, any pension law, or any act of Congress.

(b) In accordance with O.C.G.A. § 38-3-35(b), no political subdivision of the state nor, except in cases of willful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary emergency management worker or member of any agency engaged in any emergency management activity complying with or reasonably attempting to comply with Articles 1 through 3, Chapter 3, Title 38, Official Code of Georgia Annotated; or any order, rule, or regulation promulgated pursuant to Articles 1 through 3 of title, or pursuant to any ordinance relating to precautionary measures enacted by any political provisions of Articles 1 through 3 of said chapter and title, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state shall be liable for the death of or the injury to person or for damage to property as a result of any such activity.

(c) It is the express intent of the parties that the immunities specified above shall be construed in accordance with O.C.G.A. § 38-3-35 and shall apply in addition to any other immunities provided by statutory or case law.

ARTICLE VII
RIGHTS AND PRIVILEGES

In accordance with O.C.G.A. § 38-3-30(a), whenever the employees of any Assisting Party or political subdivision are rendering outside aid pursuant to this agreement and the authority contained in Code Section 38-3-27, the employees shall have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

ARTICLE VIII
REIMBURSEMENT

In accordance with O.C.G.A. § 38-3-30(b), the Requesting Party shall be liable for any loss of or damage to equipment used or placed within the jurisdiction of the Requesting Party and shall pay any expense incurred in the operation and maintenance thereof. No claim for the loss, damage or expense shall be allowed unless, within 60 days after the same is sustained or incurred, an itemized notice of the claim under oath is served by mail or otherwise upon the chief fiscal officer of the Requesting Party. The Requesting Party shall also pay and reimburse the Assisting Party for the compensation paid to employees furnished by the Assisting Party during the time of the rendition of the aid and shall defray the actual traveling and maintenance expenses of such employees while they are rendering the aid. The reimbursement shall include any amounts paid or due for compensation due to personal injury or death while the employees are engaged in rendering the aid. Expenses that are to be reimbursed by the Requesting Party shall include the following:

(1) Labor costs, which shall include all usual wages, salaries, compensation for hours worked, mobilization and demobilization, the Assisting Party's portion of payroll taxes (as employer), insurance, accrued paid leave and other fringe benefits, but not those amounts paid or due as a benefit to the Assisting Parties personnel under the terms of the Georgia Workers Compensation Act. The term "employee," as used herein, shall mean, and this provision shall apply with equal effect to, paid, volunteer and auxiliary employees and emergency management workers.

(2) Equipment costs, which shall include the fair rental value, the cost of fuel and other consumable supplies, service and repairs. If the equipment is damaged while in use under this agreement and the Assisting Party receives payment for such damage under any contract for insurance, the Requesting Party may deduct such payment from any item or items invoiced.

(3) Material costs, which shall include the total reasonable cost for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the benefit of the Requesting Party.

(4) Meals, lodging and other related expenses, which shall include charges for meals, lodging and other expenses relating to the provision of assistance pursuant to this agreement shall be the actual and reasonable costs incurred by the Assisting Party.

The Assisting Party shall maintain records and submit invoices for reimbursement as specifiedhereinabove and the Requesting Party shall pay the invoice no later that 30 days following the invoice date.

ARTICLE IX
IMPLEMENTATION

(a) This agreement shall become operative immediately upon its approval and execution by the Georgia Emergency Management Agency and any two political subdivsions of this State; thereafter, this agreement shall become effective as to any other political subdivision of this State upon its approval and execution by such political subdivision.

(b) Any Participating Party may withdraw from this agreement by mailing notice of withdrawal, approved by the governing authority of such political subdivision, but no such withdrawal shall take effect until 30 days after the governing authority of the withdrawing political subdivision has given notice in writing of such withdrawal to the governing authorities of all other Participating Parties. Such action shall not relieve the withdrawing political subdivision from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Copies of this agreement shall, at the time of their approval, be deposited with each of the Participating Parties and with the Georgia Emergency Management Agency.

ARTICLE X
GEORGIA EMERGENCY MANAGEMENT AGENCY

GEMA shall act as the coordinating entity under this agreement. Nothing herein shall limit any authority of the Governor or the Director of the Georgia Emergency Management Agency under articles, I, II, or III of Chapter 3, Title 38, Official Code of Georgia Annotated. In the event the Governor should declare a State of Emergency, any and all provisions of this agreement which may conflict with actions taken pursuant to such declaration shall be superseded by any such act or actions.

ARTICLE XI
TERM OF AGREEMENT

This agreement shall expire on January 7, 2012. Agreement of the Participating Parties to extend the term of this agreement at any time during the last year of its original term or the last year of any subsequent ten-year term shall extend the term of this agreement for ten years. Each ten-year extension shall constitute a separate agreement.

ARTICLE XII
VALIDITY

This agreement shall be construed to effectuate the purposes stated in Articles II and III hereof. If any provision of this agreement is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this agreement and the applicability thereof to other persons and circumstances shall not be affected thereby.

Agreed:

_____
County/Municipality

_____
Director of Georgia Emergency Management Agency

_____
Authorized Representative

_____
Date

_____
Date

APPROVED AS TO FORM:

_____
Senior Assistant City Attorney