

AS AMENDED ON JULY 9, 2012

RESOLUTION No. 2175

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND APPROVING THE ATTACHED POLICY ON SECONDARY AND EXTRA DUTY EMPLOYMENT FOR POLICE DEPARTMENT PERSONNEL AND AUTHORIZING THE CHIEF OF POLICE TO ENTER INTO CONTRACTS WHICH ALLOW POLICE OFFICERS TO PROVIDE EITHER UNIFORM OR NON-UNIFORM LAW ENFORCEMENT SERVICES TO PRIVATE BUSINESSES AND TO ALSO ALLOW OFFICERS AND CIVILIAN PERSONNEL TO WORK NON-LAW ENFORCEMENT, NON-CONTRACTUAL SECONDARY EMPLOYMENT.

WHEREAS, the Police Department has created a policy and standard contract which outlines the conditions of all Extra Duty and Secondary Employment for sworn and non-sworn personnel; and

WHEREAS, "Extra Duty" is defined as contractual employment of sworn police officers authorized to perform uniform or non-uniform law enforcement services for private businesses and within the authority of the Police Department; and

WHEREAS, "Secondary Employment" is defined as non-contractual, non-law enforcement and non-uniformed employment of sworn or non-sworn employees working outside of the authority and not related to the Police Department; and

WHEREAS, the Chief of Police will be authorized to enter into contractual agreements by means of the standard contract; and

WHEREAS, the Chief of Police will approve/disapprove all Secondary Employment and Extra Duty assignments as outlined within Police Department policy; and

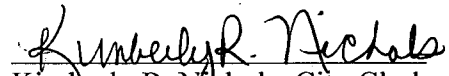
WHEREAS, the goal of this policy and standard contract is to streamline the process to monitor and evaluate Secondary and Extra Duty work assignments; and


WHEREAS, no costs will be incurred by the Police Department or the City of Salisbury for either the contractual Extra Duty assignments by police officers or for Secondary Employment by any SPD employee.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that authorization is given to the Chief of Police to enter into contracts with private businesses to allow police officers to work Extra Duty assignments, and to enforce the Salisbury Police Department's policy for both Extra Duty and Secondary Employment

THIS RESOLUTION was duly passed at a meeting of the Council of the City of Salisbury held on July 9, 2012, and is to become effective immediately upon adoption.

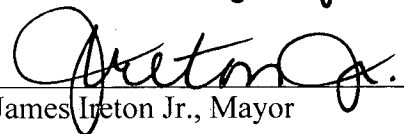
ATTEST;


Kimberly R. Nichols, City Clerk


Terry E. Cohen, President
Salisbury City Council

APPROVED BY ME THIS:

12th Day of July, 2012


James Ireton Jr., Mayor

SALISBURY POLICE DEPARTMENT

Secondary / Extra Duty Employment Policy

I. PURPOSE:

The purpose of this policy is to outline protocol pertaining to secondary/extra duty employment by personnel of the Salisbury Police Department. As it pertains to sworn officers, performing uniformed or non-uniformed security and/or law enforcement activities contracted and agreed upon between the City of Salisbury and a private person/business within the corporate limits of the City of Salisbury and within the jurisdiction of officers of the Salisbury Police Department as authorized by the city code and state law. In addition, this policy also pertains to non-sworn personnel who wish to engage in (non-contractual) secondary employment.

II. POLICY:

All secondary/extra duty employment will be approved by the Chief of Police or designee, who will be the final authority, along with the written approval of the requesting officer/employee's Squad and/or Division Commander noted on SPD-034 (Request for Secondary Employment) form. An SPD-035, Indemnification Agreement form will not be required. In addition to the SPD-034, a Law Enforcement Services Agreement, (SPD-039) will be completed, reviewed and agreed upon by the hiring entity and approved by the Chief of Police. An approved Secondary Employment Request will remain in effect for the specific period of time identified on the SPD-034 and will expire no later than December 31st of each year. Officers and civilians must obtain an approved Secondary Employment Request before beginning secondary/extra duty employment and re-submit an approved request on or before January 1st of each year of secondary/extra duty employment.

The original signed and approved SPD-034 Form and Law Enforcement Services Agreement SPD-039 for contractual extra duty employment will be maintained by the Administrative Commander and placed in the officer's personnel file and will become part of the officer's permanent record. A copy of the signed documents will be provided to the hiring entity and the officer. Any modifications of employment will render all approvals void and will require a new request and associated approvals.

All businesses requesting to hire officers will agree to abide by the conditions of the contract entered into with the City of Salisbury. A business representative, if applicable, must have written authorization from corporate headquarters to sign and assume the responsibilities of the contract on the business's behalf.

Contracted secondary/extra duty employment will be considered an overtime assignment for sworn personnel. An SPD Memorandum will be issued, as with any overtime assignment, outlining the dates and times of approved overtime. Businesses that contract SPD directly to contract for police services will have no control over which SPD officers sign-up for overtime assignments. However, every effort will be made to afford the opportunity to lower ranking and lesser paid officers who sign-up for the overtime assignments.

After a reasonable amount of time, ranking and higher paid officers will be allowed to sign-up in vacant spots. Once a contract is signed all vacancies regarding any respective assignment will be involuntarily filled at the discretion of the Operations Commander or designee.

In situations where an officer is solicited for police services directly from a business, he/she will accomplish the same paperwork as listed above and it will be evaluated by the Chief of Police or designee for approval.

In either case, approved secondary/extra duty employment for police services will be considered a duty assignment and a legal contract with the City of Salisbury. The business contracting with the City will compensate the City for each officer's overtime rate plus a fringe benefit rate outlined within the contract, (EXHIBIT A). Officers will complete form SPD-025, (Request for Overtime Pay) the same as any overtime assignment. As with all overtime requests, the request for overtime pay will be forwarded for processing immediately following the overtime assignment.

At the end of each contract or at the end of each month for ongoing contracts, an invoice will be generated by the City of Salisbury's Internal Services and provided to the business. The Administrative Commander or designee will monitor funds paid for authorized contractual agreements and coordinate with businesses and Internal Services for quality control of each account.

Sworn and non-sworn personnel wishing to engage in secondary employment that is not considered law enforcement services will be evaluated on a case-by-case basis and approved by the Chief of Police or designee. An SPD-034, Request for Secondary Employment will be required and renewed on or before January 1st of each year.

Employees who have demonstrated a pattern of disciplinary issues, sub-standard employee evaluations, and/or have proven to be unreliable in the past will not be permitted to work secondary/extra duty employment. Officers working approved uniform duties will only be authorized to wear the patrol officer's uniform of the day along with all appropriate and authorized gear.

LAW ENFORCEMENT SERVICES AGREEMENT

This Law Enforcement Services Agreement (referred to herein as the "Agreement") is made as of this ____ day of _____, 20__, by and between _____ (referred to herein as "Manager"), and the City of Salisbury (referred to herein as "Agency"), based upon the following facts and circumstances.

- A. Manager is the managing agent on behalf of the owner(s) of the business located at _____, Salisbury, MD and commonly known as _____, referred to herein as _____; and,
- B. Manager as agent of the owner desires to retain Agency to perform Law Enforcement Services (as defined below) at the _____, pursuant to the terms of this Agreement. In consideration of the fees to be paid by Manager to Agency and the covenants to be performed by each of the parties hereunder, Manager and Agency do hereby enter into this Agreement upon the terms and conditions hereinafter set forth.

1. Law Enforcement Services. Subject to the terms and conditions set forth in this Agreement, Agency hereby agrees to provide Manager and owner with uniformed officers ("Officers") to perform law enforcement functions referred to herein as the ("Law Enforcement Services") at the times and for the amounts set forth and further described in **Exhibit A**, attached hereto and incorporated herein by this reference, which exhibit may be modified by the parties from time to time to meet the specific needs of _____. Agency's primary responsibility is to provide Officers to protect life and property, to keep the peace, and to enforce local, state and federal laws. Officers working this assignment are subject to Agency's policies and procedures and, as such, are required to observe Agency's standards of conduct and uniform and shall not be required to perform tasks that are outside the routine services provided by Agency to the general public. Discipline for Officers will be initiated by Agency only and Manager shall have no liability with respect to any disciplinary action taken against any Officer. It is understood by the parties that Agency and its Officers do not owe a greater level of police services or protection under this Agreement than is owed to the public generally.

2. Term. The term of this Agreement shall commence upon the execution date of this Agreement ("Commencement Date") and shall expire on _____ unless sooner terminated as provided for herein. Either party may terminate this Agreement at any time and without cause upon thirty (30) days prior written notice. Agency may, at its' discretion, cancel any or all contracted Law Enforcement Services at any time due to unavailability of Officers or emergencies.

3. Payment for Services. Manager shall pay to Agency, within thirty (30) days of receipt of an invoice from Agency, the agreed upon costs (as set forth in **Exhibit A**) to Agency for providing the Law Enforcement Services. Agency requires at least 48 hours advance notification in order to cancel any request to provide Law Enforcement Services. If such cancellation notice is not provided to Agency, Manager shall pay to Agency the required minimum for each Officer.

4. Indemnity/Release. Manager and owner agrees to indemnify, defend, and hold Agency, its officers, its agents, and employees, harmless from and against injury, loss, damage or liability (including reasonable attorneys' fees and court costs) which may be imposed upon or incurred by or asserted against Agency, its officers, its agents, and employees, occurring during the term of this Agreement arising from Agency's performance of the Law Enforcement Services under this agreement except for liability, loss, claims, costs or damages caused by the negligence or willful misconduct of Agency and/or its Officers. Agency hereby releases Manager, the owner(s) of _____, and their respective agents, employees, officers, directors, shareholders and partners (collectively the "Releasees") from any liability for personal injury, consequential damages, loss of income or damage to or loss of property, or loss of use of any property, as a result of Agency providing the Law Enforcement Services hereunder, except for liability, loss, claims, costs or damages caused by the negligence or willful misconduct of the Releasees.

5. Non-Exclusivity. The Agreement is non-exclusive and the Agency has the right to enter into similar relationships with other entities.

6. Notices. All notices, demands, requests and other communications hereunder shall be in writing either personally delivered or mailed, via certified mail, return receipt requested, or sent by reputable overnight courier to the following addresses:

If to Manager, to:

If to Agency, to: City of Salisbury
 c/o Salisbury Police Department
 699 West Salisbury Parkway
 Salisbury, MD 21801
 Attn: Major David Meienschein

or to such other address as either party may direct by notice given to the other as hereinabove provided. Notices will be deemed to have been given upon either receipt or rejection.

For notices to be delivered to Manager, a copy shall also be sent to the manager for the business.

7. Miscellaneous.

- A. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.
- B. This Agreement shall be governed by and construed in accordance with the laws of the state in which the business is located.
- C. In the event of any dispute or legal proceeding between the parties arising out of or relating to this Agreement or its breach, the prevailing party shall be entitled to recover from the non-prevailing party all fees, costs and expenses, including but not limited to attorneys' and expert witness fees, incurred in connection with such dispute or legal proceeding.
- D. Except as the parties may specify in writing, neither party shall have the authority, express or implied, to act on behalf of the other party in any capacity whatsoever as an agent. Neither party shall have any authority, express or implied, pursuant to this Agreement to bind the other to any obligation whatsoever.
- E. Agency's relationship to Manager shall be that of an independent contractor. All Officers furnished by Agency will be employees of Agency only, and will at all times be subject to the direct supervision and control of Agency. Agency shall have the sole responsibility of paying the salaries, statutory benefits (including Worker's Compensation), insurance, taxes (including, but not limited to, Federal Social Security Taxes and Federal and State Unemployment Taxes) and all other expenses relating to each such employee of Agency, as applicable.
- F. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right thereunder.
- G. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendment to this Agreement must be in writing and executed by both parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date aforesaid.

MANAGER:

BY:

NAME:

TITLE:

AGENCY: City of Salisbury, Maryland

BY:

NAME: Barbara Duncan

TITLE: Chief of Police

EXHIBIT A

Internal Services will set-up a separate account for police contractual overtime and will manage funds by pay period. The City of Salisbury will bill the business directly. The following will be taken into consideration for billing purposes:

- Officer's overtime rate of pay (this will vary due to different salary amounts)
- Law Enforcement Officers Pension System (LEOPS) ~~30.03%~~ based on officer's pay rate
- FICA at ~~7.65%~~ based on officer's pay rate
- Workman's Compensation Insurance at ~~4.5%~~ based on officer's pay rate

~~These percentages as listed above~~ Amounts will fluctuate due to increases in officers pay, cost of LEOPS, FICA and Workman's Compensation Insurance. The City of Salisbury will give the business's Manager as much notice as possible when such increases are forthcoming.

_____ Overtime assignments will be offered to lower ranking Police Officers and Corporals first and if the assignments are not filled within a reasonable period of time they will be opened up to more senior officers holding the ranks of Sergeants and Lieutenants. Officers above the rank of Lieutenant will not be permitted to work this assignment.

Example #1: An officer with the rank of Officer, with an overtime rate of \$25.95 per/hr. plus 42.18% = Total: \$36.89 per/hr. The business would pay this amount per/hr. to the City.

Example #2: An officer with the rank of Sergeant with an overtime rate of \$41.98 per/hr. plus 42.18% = Total: \$59.68 per/hr. The business would pay this amount per/hr. to the City.

Example #3: An officer with the rank of Lieutenant with an overtime rate of \$50.10 per/hr., plus 42.18% = Total \$71.23 per/hr. The business would pay this amount per/hr to the City.

Officers working this overtime will complete Form SPD- 025, (Request for Overtime Pay) the same as other overtime assignments. The officer will have the _____ Management sign the overtime request to verify hours worked.

The officer will forward the overtime request, via Chain of Command, to the Administrative Commander or designee for processing. The Administrative Commander or designee will monitor funds paid for authorized overtime and coordinate with the City's Internal Services concerning quality control of this account.

A Request for Secondary Employment will need to be completed and approved prior to officers working this assignment. Officers will wear the patrol officer's uniform of the day along with authorized equipment, and if applicable utilize a patrol vehicle.

The Salisbury Police Department will not restrict the rank or pay classification of officers desiring to work this assignment. A minimum of two (2) officers must be scheduled at any given time for purposes of officer safety except for exterior traffic patrol as requested.

City of Salisbury



JAMES IRETON, JR.
MAYOR

JOHN R. PICK
CITY ADMINISTRATOR

LORÉ CHAMBERS
ASSISTANT CITY ADMINISTRATOR

699 W. SALISBURY PARKWAY
SALISBURY, MARYLAND 21801
Tel: 410-548-3165
Fax: 410-548-5173

MARYLAND

BARBARA DUNCAN
CHIEF OF POLICE
SALISBURY POLICE DEPARTMENT

July 5, 2012

TO: John Pick
FROM: Chief Barbara Duncan
SUBJECT: Secondary Employment Agreement

The following is submitted as per your directive in response to the Council's questions regarding the proposed Secondary Employment Agreement;

On average members of the Salisbury Police Department can reasonably estimate that administering a contract similar to the one under consideration will cost anywhere from \$50.00 to \$75.00 per event. Some of the administrative work includes reviewing and authorizing the contract, the posting of overtime, authorizing the overtime and receiving and processing the check.

The Acting Director of Finance, Ms. Gerri Moore, estimates that throughout the course of ordinary business during an average year the man-hours expended by her staff in processing bills / checks submitted to the city amounts to approximately \$400.00 per year. This includes work related to logging the received checks, applying the money to the appropriate employee and taking the checks to the bank for deposit. Ms Moore also estimated that it costs the Finance Department approximately \$4.00 to cut each check they routinely process.

Ms Moore indicated that she can and will create a line to capture all bills paid in accordance with the Secondary Employment Law Enforcement Services Agreement.

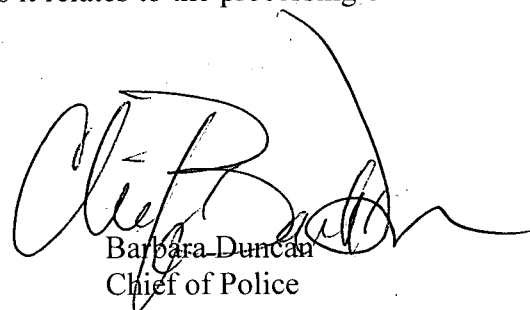
We have inquired with Wicomico County as to whether they charge an administrative fee for similar contractual work. The County does not charge any administrative fee when processing similar bills.

Salisbury



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Clearly there is a cost associated with the processing and administering of these contracts. Both Departments process these types of contracts in the ordinary course of business. I am concerned that should we decide to charge an administrative fee we run the risk of turning business away from the city towards less expensive opportunities. In consideration of the foregoing I recommend that we not charge an administrative fee as it relates to the processing of the Secondary Emplacement Agreement.



Barbara Duncan
Chief of Police

May 18, 2012

TO: Mr. John Pick
FROM: Major David Meienschein
SUBJECT: Resolution – Extra Duty/Secondary Employment Policy

For many months the Officers of the Salisbury Police Department have been working Extra Duty assignments at the Centre at Salisbury Mall. A contract was drawn up by the City Attorney and approved by the City Council authorizing this employment of our officers.

This resolution is intended to gain authorization for the Chief of Police to enter into contractual agreements with other businesses, who are requesting law enforcement services. With the assistance of the City Attorney, a standard contract was developed to cover all requests for law enforcement services. Also, our Secondary Employment policy was reviewed and revised to cover both Extra Duty employment and Secondary employment.

Unless you or the Mayor has further questions, please forward this resolution to the City Council.

Major David Meienschein
Administrative Commander

Attachment