

South Portland City Council  
***Position Paper of the City Manager***

***Subject:***

**ORDER #142-15/16 - Authorizing the Police Chief to execute an agreement between the City and Cumberland County relating to the terms and conditions under which certain police officers may be appointed as Cumberland County sheriff's deputies. Passage requires majority vote. Passage requires majority vote.**

***Position:***

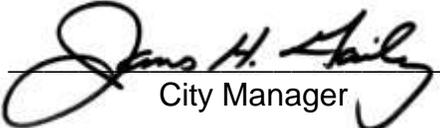
Maine State law authorizes a sheriff to appoint full or part-time deputies to enforce Maine's criminal laws and offenses. The South Portland Police Department has requested the appointment of certain officers as deputies. A new State law, P.L. c. 419 (effective 3/31/16), now requires a board of municipal officers to authorize the police chief or other designee to request the county sheriff to make appointments of property trained law enforcement officers from that municipality . This arrangement must also include a formal agreement between the municipality and the county that specifies the purpose and duration of the deputy sheriff appointment and the designation of liability for any damage or injury incurred by or to the appointed deputy. The deputy sheriff appointed under this authority has the same authority of any deputy sheriff with the exception of the authority to serve civil process.

This item is brought forward to authorize the Police Chief to execute an Agreement between Cumberland County and the City of South Portland for the appointment of Cumberland County Sheriff Deputies as required under this new law.

Frank Clark will be at Monday's meeting to answer any questions.

***Requested Action:***

Council passage of ORDER #142-15/16.

  
City Manager



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE  
Mayor

JAMES H. GAILEY  
City Manager

EMILY F. CARRINGTON  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

**IN CITY COUNCIL**

**ORDER #142-15/16**

District One  
CLAUDE V. Z. MORGAN

\_\_\_\_\_

District Two  
PATRICIA A. SMITH

\_\_\_\_\_

District Three  
EBEN C. ROSE

\_\_\_\_\_

District Four  
LINDA C. COHEN

\_\_\_\_\_

District Five  
BRAD FOX

\_\_\_\_\_

At Large  
MAXINE R. BEECHER

\_\_\_\_\_

At Large  
THOMAS E. BLAKE

**ORDERED**, that the Police Chief be and hereby is authorized to sign an agreement in substantially the same form as shown on the attached between Cumberland County and the City of South Portland relating to the terms and conditions under which certain police officers may be appointed as Cumberland County sheriff's deputies.

Fiscal Note: Less than \$1,000

Dated: May 2, 2016



# Cumberland County Sheriff's Office

- **Kevin J. Joyce**  
SHERIFF
- **Naldo Gagnon**  
CHIEF DEPUTY

36 COUNTY WAY, PORTLAND, ME 04102

PHONE (207) 774-1444 ~ FAX (207) 828-2373

## AGREEMENT BETWEEN CUMBERLAND COUNTY and the CITY of SOUTH PORTLAND

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of South Portland on behalf of the South Portland Police Department (hereinafter the "SPPD") and Cumberland County on behalf of the Cumberland County Sheriff's Office (hereinafter "CCSO").

### WITNESSETH:

WHEREAS, 30-A M.R.S.A. § 381 authorizes a sheriff to appoint full or part-time deputies to enforce Maine's criminal laws and offenses enumerated in Title 28 and 29-A of the Maine statutes; and

WHEREAS, the SPPD has requested that certain of its police officers be appointed as deputies in Cumberland County; and

WHEREAS, the Sheriff of Cumberland County agrees to appoint a specific number of SPPD police officers as Cumberland County Deputies;

NOW, THEREFORE, the parties do agree as follows:

#### 1. APPOINTMENT.

1.1 CCSO agrees to appoint certain SPPD police officers as Cumberland County Sheriff's Deputies authorized to enforce Maine's criminal laws and offenses enumerated in Title 28 and 29-A of the Maine statutes within Cumberland County but not authorized to serve civil process. The specific individuals to be so appointed will be mutually agreed upon by the SPPD and the CCSO; provided, however, that such individuals must have first satisfied the training requirements of 25 M.R.S.A. § 2804-C and § 2804-E.

#### 2. EMPLOYER-EMPLOYEE RELATIONSHIP RETAINED.

2.1 The SPPD shall be the sole and exclusive employer of persons appointed as deputies hereunder and they are not intended, nor shall they be deemed to be CCSO employees as a result of said

appointment. In addition, nothing herein shall be construed to create a joint employer relationship between the SPPD, CCSO and the appointed employee(s). The SPPD retains all of the legal responsibilities of the employer-employee relationship while its officer(s) are acting as deputies within Cumberland County.

2.2 SPPD police officers appointed hereunder shall be paid their wages and fringe benefits by the SPPD in the customary manner and shall accrue benefits pursuant to the SPPD applicable personnel policies and/or collective bargaining agreement.

### 3. INDEMNIFICATION

3.1 To the fullest extent permitted by law, the SPPD at its own expense, shall defend or cause to be defended, CCSO, its officers and employees, from and against any and all cause of action, claims or suits, just or unjust, arising out of, or resulting from its officers' acts or omissions occurring while said officers are acting pursuant to the deputy sheriff powers granted hereunder.

3.2 In addition to, and without limiting the foregoing, the SPPD shall indemnify and hold CCSO, its officers and employees, harmless from any liability, costs, damages, expenses, or judgments resulting from or arising out of its officers' acts or omissions occurring while said officers are acting pursuant to the deputy sheriff powers granted hereunder, subject to the limitations set forth in the Maine Tort Claims Act, Title 14 M.R.S.A. § 8101, *et seq.*

3.3 To the fullest extent permitted by law, the CCSO at its own expense, shall defend or cause to be defended, SPPD, its officers and employees, from and against any and all cause of action, claims or suits, just or unjust, arising out of, or resulting from its officers' acts or omissions.

3.4 In addition to, and without limiting the foregoing, the CCSO shall indemnify and hold SPPD, its officers and employees, harmless from any liability, costs, damages, expenses, or judgments resulting from or arising out of its officers' acts or omissions, subject to the limitations set forth in the Maine Tort Claims Act, Title 14 M.R.S.A. § 8101, *et seq.*

- 3.5 In the event that it is determined that CCSO, its officers or employees, require separate representation where the SPPD is defending the CCSO pursuant to Section 3.1, the selection of such counsel shall be subject to the approval of the Cumberland County Commissioners. Reasonable CCSO request(s) for separate representation shall be approved by the SPPD Counsel, whose approval shall not be unreasonably withheld.
- 3.6 A case or claim in which CCSO is a party shall not be settled without the approval of the Cumberland County Commissioners, which approval shall not be unreasonably withheld. In the event that the Cumberland County Commissioners do not approve a proposed settlement and release of CCSO which is otherwise acceptable to a claimant and to the SPPD, the SPPD shall be relieved of any further obligation which it may have to defend under Section 3.1, and any obligation which it may have to indemnify and hold harmless under Paragraph 3.2, if said obligation is in excess of the proposed settlement offer.
- 3.7 In addition to the foregoing, the SPPD shall be fully responsible for all workers' compensation coverage of its officers employment hereunder and SPPD hereby waives any right of the subrogation which it may have against CCSO, its officers or employees, arising out of or resulting from said workers' compensation claims.
- 3.8 SPPD shall immediately notify the CCSO and the Maine Criminal Justice Academy when an employee appointed as a deputy pursuant to this Agreement is no longer employed by the agency.

#### 4. DESIGNATED REPRESENTATIVE.

The Chief of Police shall be the SPPD designated representative for administration and implementation of this Agreement. The Sheriff of Cumberland County shall be the CCSO's designated representative for administration and implementation of this Agreement. Each representative may designate, from time to time, other officers within the respective department for day-to-day administration and contact.

5. TERM.

The commencement date of this Agreement is the date first written above. The term of this Agreement shall run from the commencement date to December 31, 2020, unless sooner terminated by mutual agreement of the parties. Either party may terminate this Agreement, without cause, at any time by giving the other party written notice at least thirty (30) days in advance.

6. MISCELLANEOUS.

This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes any and all prior understandings and agreements between the parties with respect to the subject matter hereof. The Agreement can be altered, amended or modified only by written instrument executed by both parties.

CITY OF SOUTH PORTLAND

Dated: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

CUMBERLAND COUNTY

Dated: \_\_\_\_\_ By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_