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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Terry Clark
Mayor, City of East Brewton
Post Office Box 2010
East Brewton, Alabama 36427

Municipalities – Contracts – Police
Departments – Mutual Aid Agreements –
Escambia County

The City of East Brewton may contract with the City of Brewton for the performance of policing duties within its jurisdiction. The contract must comply with the specifications set forth in section 11-102-2 of the Code of Alabama. Both municipalities must adopt an ordinance approving of the contract, and each municipality should adopt all ordinances, resolutions, and policies necessary to authorize law enforcement officers of the City of Brewton to carry out policing duties within the jurisdiction of the City of East Brewton.

Dear Mayor Clark:

This opinion of the Attorney General is issued in response to your request on behalf of the City of East Brewton.

QUESTIONS

May the City of East Brewton contract with the City of Brewton to provide policing duties within the City of East Brewton?

What is the procedure for entering such a contract?

FACTS AND ANALYSIS

According to your request, the City of East Brewton is considering entering into a contract with the City of Brewton. The proposed contract calls for the City of Brewton to provide policing duties within the City of East Brewton. The primary purpose of this proposal is to ease budget shortfalls in the City of East Brewton.

This Office has previously determined that there is no statutory authority for a municipality to contract with another municipality to provide police protection to the municipality. *See, e.g.*, opinions to Honorable J. Kenneth Guin, Jr., Attorney at Law, dated January 5, 1996, A.G. No. 96-00080; Honorable Josephine Gullage, City Clerk, Town of Midland City, dated December 7, 1990, A.G. No. 91-00105. Those opinions, however, were issued before the adoption of Act 98-471, now codified in sections 11-102-1 through 11-102-8 of the Code of Alabama. ALA. CODE §§ 11-102-1 to 11-102-8 (2008).

Section 11-102-1 of the Code states as follows:

Except as otherwise provided in this chapter or as otherwise prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually. For purposes of this chapter, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

ALA. CODE § 11-102-1 (2008). This Office has concluded that this statute authorizes a county office to contract with another county office for the sheriff to provide law enforcement services across county lines. Opinion to Honorable Edmund M. Sexton, Sr., Tuscaloosa County Sheriff, dated March 20, 2003, A.G. No. 2003-106. Similarly, it is the opinion of this Office that section 11-102-1 of the Code authorizes a municipality to contract with another municipality to perform policing duties within its jurisdiction.

The specifications and limitations of such a contractual relationship are also set forth in the Code. Section 11-102-2 of the Code states as follows:

Any contract entered into pursuant to this chapter shall be in writing. The contract shall specify the duration of the contract, which shall not exceed three years. The parties may renew the contract for another term of not more than three years on the same or amended terms by the same method by which the original contract was adopted. Any party to the contract shall have the power to refuse to renew the contract. The refusal shall not affect the authority of the remaining parties to enter into a contract with each other with the same or similar terms of the original contract as provided in this chapter. The contract shall also specify the purpose of the contract; the method to be used to partially or completely terminate the contract; the method to be used to dispose of any property belonging to the parties as a result of the contract upon termination of the contract; the manner of financing the joint undertaking and of establishing and creating a budget for the undertaking, except that no party to the contract shall have any power to incur any debt which shall become the responsibility of any other contracting party; and any other matter necessary and proper to jointly exercise the contract.

ALA. CODE 11-102-2 (2008). Additionally, the contract may not take effect until both municipalities adopt “an ordinance of general and permanent operation.” ALA. CODE 11-102-3 (2008). Moreover, each municipality participating in the contract should adopt “all ordinances, resolutions, and policies necessary to authorize the [law enforcement officers of the City of Brewton] to carry out their contractual duties and responsibilities.” ALA. CODE 11-102-7 (2008); *see also, C.D.C. v State*, 821 So. 2d 1021 (Ala. Crim. App. 2001) (rejecting appellant’s argument that multijurisdictional task force was an illegal posse).

CONCLUSION

The City of East Brewton may contract with the City of Brewton for the performance of policing duties within its jurisdiction. The contract must comply with the specifications set forth in section 11-102-2 of the Code of Alabama. Both municipalities must adopt an ordinance approving of the contract, and each municipality should adopt all ordinances, resolutions, and policies necessary to authorize law enforcement officers of the City of Brewton to carry out policing duties within the jurisdiction of the City of East Brewton.

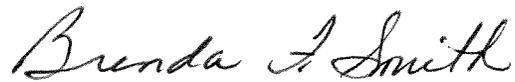
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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ben Baxley of my staff.

Sincerely,

LUTHER STRANGE
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

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