



available, and would help ensure that mutual aid is accomplished in the minimum time possible, and thus desire to enter into an agreement to provide mutual aid.

**NOW, THEREFORE**, the Parties agree as follows:

## **TERMS**

1. **Recitals**. The recitals set forth above are true and correct.
2. **DEFINITIONS**. For purposes of this Agreement, the terms listed below will have the following meanings:
  - (a) "Civil emergency" means an unforeseen combination of circumstances or the resulting consequences thereof within the geographic limits of a given jurisdiction that calls for immediate action or for which there is an urgent need for assistance or relief to protect the general citizenry.
  - (b) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, energy emergency (as that term is defined in Chapter 418 of the Texas Government Code), acts of terrorism, and other public calamity requiring emergency action.
  - (c) "Local government" means a county, municipality, special district, or any corporate/political entity organized under state law, of Texas or a state that borders Texas.
  - (d) "Mutual aid" includes, but is not limited to, such resources as equipment, supplies, and personnel.
  - (e) "Political subdivision" means county or incorporated city.
3. **Party's Emergency Management Plan**. Each Party shall prepare and keep current an emergency management plan for its jurisdiction to provide for emergency/disaster mitigation, preparedness, response and recovery, in accordance with Chapter 418 of the Texas Government Code. The emergency management plan shall incorporate the use of available resources, including personnel, equipment and supplies, necessary to provide mutual aid. The emergency management plan shall be submitted to the Governor's Division of Emergency Management.
4. **Emergency Management Director**. The Judge of the County and the Mayor of each city participating in this Agreement shall each serve as the

Emergency Management Director for his/her respective jurisdiction and shall take all steps necessary for the implementation of this Agreement. Each Emergency Management Director may designate an Emergency Management Coordinator who shall serve as an assistant to the presiding officer of the political subdivision for emergency management purposes.

5. Activation of Agreement. This Agreement shall be activated in the event of either: (a) a declaration of a local state of disaster by a Party pursuant to Chapter 418 of the Texas Government Code; or (b) the finding of a state of civil emergency by the presiding officer of the governing body of a Party. The activation of the Agreement shall continue until the services of the Party rendering aid are no longer required or when the officer in charge of the forces of the Party rendering aid determines, in his sole discretion, that further assistance should not be provided. The party rendering aid maintains control of their resources at all times and may withdraw them for any reason at anytime.

6. Request for Mutual Aid.

(a) Local Disaster. In the event of a local disaster declaration, the Emergency Management Director or the designated Emergency Management Coordinator of a Party seeking mutual aid shall make the request directly to the Party from whom aid is sought. A Party from whom mutual aid is sought shall furnish mutual aid to cope with the disaster to the requesting Party, subject to the terms of this Agreement. In the event of a widespread disaster affecting more than one Party hereto, each affected Party shall utilize its respective State of Texas Department of Public Safety Disaster District Committee for coordinating the provision of mutual aid.

(b) Civil Emergency. If the presiding officer of the governing body of a Party is of the opinion that a state of civil emergency exists that requires assistance from another Party, the presiding officer of the Party requesting mutual aid shall make the request directly to the Party from which assistance is sought. Before the emergency assistance is provided, the governing body of the Party whose assistance has been requested shall authorize such assistance by resolution or other official action, in accordance with Chapter 791 of the Texas Government Code. In the event of a widespread civil emergency affecting more than one Party hereto, each affected Party shall utilize its respective State of Texas Department of Public Safety Disaster District Committee for coordinating the provision of mutual aid.

7. Conditions. Any furnishing of resources under this Agreement is subject to the following conditions:

(a) A request for aid shall specify the amount and type of resources being requested, the location to which the resources are to be

dispatched, and the specific time by which such resources are needed;

- (b) The Party rendering aid shall take such action as is necessary to provide and make available the resources requested, provided however, that the Party rendering aid, in its sole discretion, shall determine what resources are available to furnish the requested aid;
- (c) The requesting party will have an incident command system in place and an incident commander in charge of the incident. The responding party will participate in the incident command system;
- (d) The Party rendering aid shall report to the officer in charge of the requesting Party's forces at the location to which the resources are dispatched; and
- (e) Responding personnel must meet the minimum standards for their position as established by their jurisdiction.

8. Waiver of Claims Against Parties; Immunity Retained. Except as provided in paragraph 9, the Parties agree that they shall not be liable to each other, and hereby waive all claims against the other Parties, for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of the Agreement, except those caused in whole or in part by the negligence of any officer, employee, or agent of another party. No Party waives or relinquishes any immunity or defense it may enjoy under state law and specifically Section 421.062 of the Texas Government Code for the furnishing of a homeland security activity as that term is defined in Chapter 421 of the Texas Government Code on behalf of itself, its officers, employees and agents for the performance of an activity under this Agreement.

9. Costs. All costs associated with the provision of Mutual Aid shall be borne by the Responding Party for the first eight (8) hours that assistance is provided, after which, the Party rendering aid may be reimbursed by the requesting Party.

(a) Personnel. During the first eight (8) hours of assistance, the Responding Party shall continue to pay its employees according to its prevailing ordinances, rules, and regulations. The Requesting Party shall reimburse the Responding Party for all direct and indirect payroll costs and expenses (including travel expenses, benefits, including injury or death benefits, disability payments, and worker's compensation benefits) incurred after the initial eight (8) hours of assistance.

(b) Equipment. Except for the first eight (8) hours of assistance, the Responding Party shall be reimbursed by the Requesting Party for the use of its equipment during the period of assistance according to the state

standard rate. Each Party shall maintain its own equipment in safe and operational condition.

(c) Materials and Supplies. After the initial eight (8) hours of assistance, the Responding Party shall be reimbursed for all materials and supplies furnished by it and used or damaged during the period of assistance, except for the costs of equipment, fuel, maintenance materials, labor and supplies, which shall be included in the equipment rate established above, unless such damage is caused by gross negligence, or willful and wanton misconduct of the Responding Party's personnel. Reimbursement will be based on the actual cost of the materials and supplies provided by the Responding Party to the Requesting Party pursuant to this agreement.

(d) Hazardous Materials. All costs incurred by the Responding Party for a Hazardous Materials event response shall be reimbursed by the Requesting Party from the time the request for assistance is initiated by the Responding Party.

(e) Record Keeping. The Responding Party shall maintain records and submit invoices for reimbursement by the Requesting Party in accordance with existing policies and practices. Requesting Party personnel shall provide information, directions, and assistance for record keeping to Responding Party personnel.

(f) Payment. The Responding Party shall bill the Requesting Party for all reimbursable expenses with an itemized statement as soon as practicable after the expenses are incurred.

10. Expending Funds. Each Party which performs services or furnishes aid pursuant to this Agreement shall do so with funds available from current revenues of the Party. No Party shall have any liability for the failure to expend funds to provide aid hereunder.

11. Termination. It is agreed that any Party hereto shall have the right to terminate its participation in this Agreement upon ninety (90) days written notice to the other Parties hereto.

12. Term. This Agreement shall become effective as to each Party when approved and executed by that Party. This Agreement shall continue in force and remain binding on each and every Party until such time as the governing body of a Party terminates its participation in this Agreement pursuant to Section 11 of this Agreement. Termination of participation in this Agreement by a Party(ies) shall not affect the continued operation of this Agreement between and among the remaining Parties and this Agreement shall continue in force and remain binding on the remaining Parties.

13. Entirety. This Agreement contains all commitments and agreements of the Parties with respect to the mutual aid to be rendered hereunder during or in connection with a disaster and/or civil emergency. No other oral or written commitments of the Parties with respect to mutual aid under this Agreement shall have any force or effect if not contained herein, except as provided in Section 16 below.

14. Ratification. Each Party hereby ratifies the actions of its personnel taken prior to the date of this Agreement.

15. Other Mutual Aid Agreements. Notwithstanding Section 14, it is understood and agreed that certain signatory Parties may have heretofore contracted or may hereafter contract with each other for mutual aid in civil emergency and/or disaster situations, and it is agreed that this Agreement shall be subordinate to any such individual contract. To assist each other in the process of mutual aid response planning, each Party agrees to inform the other Parties of all mutual aid agreements that each Party has with other municipalities, entities, counties, and state or federal agencies.

Specifically, the existence of this Agreement shall not prevent a municipality, county, rural fire prevention district, emergency services district, fire protection agency, organized volunteer group, or other emergency services entity from providing mutual aid assistance on request from another municipality, county, rural fire prevention district, emergency services district, fire protection agency, organized volunteer group, or other emergency services entity, in accordance with the provisions in Section 418.109 (d) of the Texas Government Code. Additionally, the existence of this Agreement shall not prevent any Local Government which is a Party hereto from providing emergency assistance to another Local Government which is not a party hereto, in accordance with the provisions in Section 791.027 of the Texas Government Code.

16. Interlocal Cooperation Act. The Parties agree that mutual aid in the context contemplated herein is a “governmental function and service” and that the Parties are “local governments” as that term is defined herein and in the Interlocal Cooperation Act.

17. Severability. If a provision contained in this Agreement is held invalid for any reason, the invalidity does not affect other provisions of the Agreement that can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

18. Validity and Enforceability. If any current or future legal limitations affect the validity or enforceability of a provision of this Agreement, then the legal limitations are made a part of this Agreement and shall operate to amend this Agreement to the minimum extent necessary to bring this Agreement into conformity with the requirements of the limitations, and so modified, this Agreement shall continue in full force and effect.

19. Amendment. This Agreement may be amended only by the mutual written consent of the Parties.
20. Third Parties. This Agreement is intended to inure only to the benefit of the Parties hereto. This Agreement is not intended to create, nor shall be deemed or construed to create, any rights in third parties.
21. Warranty. The Agreement has been officially authorized by the governing body of each Party hereto and each signatory to this Agreement guarantees and warrants that the signatory has full authority to execute this Agreement and to legally bind the respective Party to this Agreement.
22. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for an action arising under this Agreement shall be in accordance with the Texas Rules of Civil Procedure.
23. Headings. The headings at the beginning of the various provisions of this Agreement have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Agreement.

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