

REGIONAL MUTUAL AID AGREEMENT

State of Texas §
 §
County §

This Regional Mutual Aid Agreement (the “Agreement”) is entered into by and between local government entities and local organizations wholly or partially within the geographic areas covered by the Alamo Area Council of Governments (the “AACOG Region”), that by their signatures on duplicate original copies of this Agreement have consented to the terms of this Agreement (individually, a “Party”, and collectively, the “Parties”).

WHEREAS, the Parties recognize the vulnerability of the people and communities located in the Region to damage, injury, and loss of life and property resulting from Emergencies and recognize that Emergencies may present equipment and manpower requirements beyond the capacity of each individual Party; and,

WHEREAS, the Parties to this Agreement recognize that in the past Regional Mutual Aid has been provided between or among the Parties in the form of personnel, equipment, and other resources during Emergencies and to help with recovery; and,

WHEREAS, the governing officials of the Parties desire to secure for each Party the benefits of Regional Mutual Aid and protection of life and property in the event of an Emergency; and,

WHEREAS, the Parties wish to make suitable arrangements for furnishing Regional Mutual Aid in coping with Emergencies and are so authorized and make this Agreement pursuant to Chapter 791 of the Texas Government Code (Interlocal Cooperation Act), Chapter 418 of the Texas Government Code (Texas Disaster Act of 1975), Chapter 421 of the Texas Government Code (Homeland Security), and Chapter 362 of the Local Government Code; and,

WHEREAS, the Parties recognize that a formal agreement for Regional Mutual Aid would allow for better coordination of effort, provide that adequate equipment is available, and help ensure that Regional Mutual Aid is accomplished in the minimum time possible and desire to enter into this Agreement to provide Regional Mutual Aid consistent with the Regional Mutual Aid plans developed by the respective jurisdictions and approved by the governing bodies of the jurisdictions.

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 shall have the following meanings:

- a. Agreement – this Regional Mutual Aid Agreement as such may be amended by its own terms.
- b. Emergency – Any incident, whether natural or human-caused, that requires responsive action to protect life and property which is declared by the appropriate agency or government official or employee in accordance with applicable law.
- c. Regional Mutual Aid – a homeland security activity, such as an activity related to the prevention or discovery of, response to, or recovery from a terrorist attack, natural or man-made disaster, hostile military or paramilitary action, or extraordinary law enforcement emergency and also includes personnel, equipment, and other resources.
- d. NIMS – the National Incident Management System.
- e. The Plan – The Threat and Hazard Identification and Risk Assessment (THIRA) adopted by the Board of Directors of Alamo Area Council of Governments as amended. The THIRA outlines the coordinating of emergency management resources during Emergencies involving multiple jurisdictions.
- f. Point of Contact – the individual or individuals authorized by the governing body of each Party to request or respond to a request for Regional Mutual Aid on behalf of the Party. A Party's Emergency Management Director or Chief Executive Officer is always a Point of Contact, in addition to those designated in writing as the Point of Contact.
- g. Regional Emergency Preparedness Advisory Council. The advisory committee created by the Board of Directors of AACOG to assist and advise elected officials in their decision-making responsibilities on matters related to regional homeland security (hereinafter, "REPAC").
- h. Requesting Party – the Party requesting Regional Mutual Aid under this Agreement.

- i. Responding Party – the Party providing Regional Mutual Aid assistance under this Agreement.

3. ADMINISTRATIVE AGENCY

The Parties hereby designate the Alamo Area Council of Governments, (hereinafter, “AACOG”) to be the Administrative Agency under this Agreement. AACOG shall be responsible for maintaining and distributing current Point of Contact information to all Parties. AACOG is also responsible for maintaining duplicate or certified copies of the original signature pages of the Parties to this Agreement. AACOG is not a signatory to the Agreement, and is not bound by any provision contained herein that is not directly related to the duties of the Administrative Agency.

4. POINT OF CONTACT DESIGNATION

Each Party shall provide the Administrative Agency with written protocol by which its designated Point of Contact may be contacted twenty-four hours a day, seven days a week. This protocol shall designate, by name or position, the person or persons authorized to request or respond to a request for Regional Mutual Aid on behalf of a Party under this Agreement. Each Party must notify the Administrative Agency in writing of any change in its Point of Contact protocol as soon as practicable.

5. ACTIVATION OF AGREEMENT

This Agreement is activated when a request is made for Regional Mutual Aid assistance. The request shall be documented by the Requesting Party and forwarded to each Party from whom assistance is sought.

6. INITIATION OF REQUEST

A request under this Agreement may be made by a Point of Contact after one of the following occurs:

- a. After a declaration of a local state of Disaster pursuant to Chapter 418 of the Texas Government Code, as amended; or
- b. After a finding of an Emergency as defined in this Agreement.

7. PROCEDURES FOR REQUESTS

Subject to the conditions in this Section, a Point of Contact may request Regional Mutual Aid assistance by: (1) submitting a written request for assistance to a Point of Contact of a Responding Party, or (2) orally communicating a request for Regional Mutual Aid assistance to a Point of Contact of a Responding Party, which shall be followed up by written documentation. In making any such request, each notice must adhere to the following minimum requirements:

- a. The written request shall state that the request is made pursuant to this Agreement.

- b. Regional Mutual Aid shall not be requested by a Party unless it is directly related to an Emergency and resources available from the normal responding agencies to the stricken area within the Region are deemed to be inadequate, or are predicted to be expended prior to the resolution of the Emergency.
- c. All requests for Regional Mutual Aid shall be transmitted by a Point of Contact of the Requesting Party to a Point of Contact of the Responding Party or in accordance with the terms of the Plan.
- d. Each request for assistance shall be accompanied by the following information, to the extent known:
- i. A general description of the Emergency and the damage or injury sustained or threatened;
 - ii. Identification of the general emergency service function or functions for which assistance is needed (e.g. fire, law enforcement, emergency medical, search and rescue, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and other medical services, etc.) and the particular type of assistance needed;
 - iii. The amount and type of personnel, equipment, and other resources needed and a reasonable estimate of the length of time that each will be needed;
 - iv. The location(s) to which the resources are to be dispatched and the specific time by which the resources are needed; and,
 - v. The name and contact information of a representative of the Requesting Party, if available, to meet the personnel and equipment of any Responding Party at each location to which resources are dispatched.

8. THE PROVISION OF REGIONAL MUTUAL AID

Subject to the conditions of this Section, upon request of the Requesting Party, each Party hereto may furnish Regional Mutual Aid in coping with an emergency.

- a. Assessment of Availability of Resources and Ability to Render Assistance.
When contacted by a Requesting Party, a Point of Contact of the Party from whom Regional Mutual Aid is requested agrees to assess local resources to determine availability of personnel, equipment and other assistance to respond to the request. A Responding Party is not required to provide Regional Mutual Aid assistance unless

the Responding Party determines that the Responding Party has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

b. Information Required of the Responding Party.

A Point of Contact who determines that the Responding Party has available personnel, equipment, and other resources, shall so notify the Requesting Party and provide the following information, to the extent known:

- i. A complete description of the personnel and their expertise and capabilities, equipment, and other resources to be furnished to the Requesting Party;
- ii. The estimated length of time that the personnel, equipment, and other resources will be available;
- iii. The name of the person or persons to be designated as supervisory personnel; and,
- iv. The estimated time of arrival for provided assistance to arrive at the designated location(s).

c. Supervision and Control.

When providing assistance under the terms of this Agreement, the response effort must be organized and function in accordance with the most current version of the applicable NIMS guidelines. The personnel, equipment, and resources of a Responding Party being used in the response effort will be under the operational control of the Requesting Party. Direct supervision and control of personnel, equipment and resources, as well as personnel accountability, shall remain the responsibility of the designated supervisory personnel of the Responding Party. Emergency Medical Services organizations providing assistance under this Agreement will utilize medical protocols authorized by their medical director. The designated supervisory personnel of the Responding Party shall: maintain daily personnel time records, material records and a log of equipment hours; be responsible for the operation and maintenance of the equipment and other resources furnished by the Responding Party; and, report work progress to the Requesting Party.

d. The Plan.

Each Party hereto agrees that it will provide Regional Mutual Aid assistance under this Agreement in accordance with the Plan.

e. Food, Housing, and Self-Sufficiency.

The Requesting Party shall have the responsibility of providing food and housing for the personnel of the Responding Party from twelve (12) hours after the time of their arrival at the designated location(s) to the time of their departure. However, Responding Party personnel and equipment should be, to the greatest extent possible, self-sufficient while working in the Emergency area. The Requesting Party may limit its request for assistance to only self-sufficient personnel and resources in its request for assistance.

f. Rights and Privileges.

Personnel who are assigned, designated or ordered by their Party's governing body to perform duties pursuant to this Agreement shall continue to receive the same wages, salary, pension and other compensation including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of those duties as though the services had been rendered for the Party employing the personnel. The Responding Party employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under this Agreement.

g. License Portability.

If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a Party under this Agreement, the person is considered licensed, certified, permitted, or otherwise documented in the Requesting Party's jurisdiction in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or governing body of the Requesting Party.

h. The Duration of Aid.

The provision of Regional Mutual Aid under this Agreement may continue until the services of the Responding Party are no longer required, or the Responding Party determines that further Regional Mutual Aid should not be provided. Resources of the Responding Party shall remain subject to recall by the Responding Party at any time, subject to reasonable notice to the Requesting Party.

9. COSTS

All costs associated with the provision of Regional Mutual Aid, when such assistance requires a response exceeding 12 consecutive hours, shall be paid by the Responding Party and reimbursed by the Requesting Party at actual cost, to the extent permitted by applicable law. Such costs include but are not limited to: compensation for personnel; operation and maintenance of equipment; damage to equipment; and food, lodging and transportation expenses.

- a. Requests for reimbursement must be submitted as soon as practicable but no later than sixty days after the return of all personnel deployed under this Agreement. Failure to submit a request for reimbursement within the specified time frame will result in the Responding Party not being reimbursed for the Regional Mutual Aid provided unless the Requesting Party extends the deadline for filing requests for reimbursement or the Federal or State Government extends the deadline for filing request for reimbursement. Such requests shall specifically identify all personnel, equipment, and resources provided; dates of issuance or duration of deployment, and the unit cost and total costs associated with each.
- b. The Responding Party shall be responsible for creating and maintaining a record of all costs incurred, both reimbursed and unreimbursed costs, in providing Regional Mutual Aid under this Agreement. The record shall be kept for a period of three years from the date the incident is closed.
- c. In the event federal funds are available for costs associated with the provision of Regional Mutual Aid, the Parties agree that the Requesting Party shall make the claim for the eligible costs of the Responding Party on its subgrant application and will disburse the federal share of funds to the Responding Party.
- d. Reimbursement under this Section will be made by the Requesting Party no later than: (1) one-hundred eighty days after receipt of the request for reimbursement; or (2) ninety days after the Requesting Party receives reimbursement from the federal or state government, whichever is sooner.
- e. The Parties recognize that each benefits from the existence of this Agreement and expect that each will provided and receive Regional Mutual Aid over the life of this Agreement. The Responding Party may assume in whole or in part any cost associated with the provision of Regional Mutual Aid or may loan or donate equipment or services to the Requesting Party without charge or cost.
- f. The provision of Regional Mutual Aid will be considered a non-reimbursable if the Responding Party does not request reimbursement within the time specified in this Section.

10. INSURANCE

- a. Workers' Compensation Coverage. Each Party shall be responsible for complying with the Texas Workers' Compensation Act.

- b. Automobile Liability Coverage. Each Party shall be responsible for complying with the Texas motor vehicle financial responsibility laws.
- c. General Liability, Public Officials Liability and Law Enforcement Liability. Each Party agrees to obtain or continue its general liability, public official's liability and law enforcement liability insurance, if applicable, or maintain a comparable self-insurance program.
- d. Other Coverage: The Responding Party shall provide and maintain its standard packages of medical and death benefit insurance coverage while its personnel are assisting the Requesting Party.

11. WAIVER OF CLAIMS AGAINST PARTIES

Each Party hereto waives claims for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement, except those caused in whole or part by the gross negligence of an officer or employee of another Party.

12. EXPENDING FUNDS

- a. Each Responding Party which performs services or furnishes aid pursuant to this Agreement shall do so with appropriated funds from current revenues available to the Responding Party, to the extent permitted by law. No Party shall have any liability for the failure to expend funds to provide aid hereunder.
- b. Each Requesting Party which reimburses costs of a Responding Party shall do so with appropriated funds from current revenues available to the Requesting Party, to the extent permitted by law.

13. EMERGENCY ASSISTANCE AND LAW ENFORCEMENT ASSISTANCE

Notwithstanding any other provisions herein, any Party hereto may provide emergency assistance or law enforcement assistance to another Party as provided in Section 791.027 of the Texas Government Code or Section 362.002 of the Texas Local Government Code.

14. TERM

This Agreement shall become effective as to each Party when approved and executed by that Party and shall be binding on each and every Party through December 31 of the year signed. This Agreement shall automatically renew for a period of one year upon the completion of the initial term and each subsequent term unless and until such time as the governing body of a Party terminates its participation in this Agreement pursuant to Section 25 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.

15. LIABILITY IN FIRE PROTECTION CONTRACT OR PROVISION OF LAW ENFORCEMENT SERVICES.

To the extent that this Agreement is considered an Agreement under Section 791.006 of the Texas Government Code, the Responding Party under this Agreement is not responsible for any civil liability that arises from the furnishing of services described in Section 791.006.

16. LIABILITY UNDER INTERLOCAL CONTRACT

A Party that furnishes a service related to a homeland security activity, as defined in Chapter 421 of the Texas Government Code, under this Agreement is immune from civil liability for any act or omission resulting in death, damage, or injury while acting under this Agreement if the act or omission was in good faith and in the course and scope of its functions to provide a service related to a homeland security activity. To the extent that any service is not considered to be a homeland security activity, as defined in Chapter 421 of the Texas Government Code, the Requesting Party assumes all risk of and responsibility for any claims against the Responding Party that arise out of the Responding Party's furnishing of Regional Mutual Aid under this Agreement, so long as, the act or omission was in good faith and in the course and scope of its functions to provide Regional Mutual Aid under this Agreement.

17. ENTIRETY

This Agreement contains all commitments and agreements of the Parties regarding Regional Mutual Aid to be rendered during or in connection with an Emergency. All previously entered into Regional Mutual Aid Agreements are superseded by this Agreement. No other oral or written commitments of the parties shall have any force or effect if not contained herein. Notwithstanding the preceding sentence, it is understood and agreed that certain signatory Parties may have heretofore contracted or hereafter contract with each other for Regional Mutual Aid in Emergencies or the provision of other government services and functions, and it is agreed that this Agreement shall be subordinate to any such individual agreement.

18. OTHER REGIONAL MUTUAL AID AGREEMENTS

To assist each other in the process of Regional Mutual Aid response planning, each Party shall inform the Administrative Agency of all Regional Mutual Aid Agreements, memorandums of agreement or understanding, or contracts that each Party has with other municipalities, entities, counties, and state or federal agencies and furnish copies of said Regional Mutual Aid Agreements, memorandums of agreement or understanding, or contracts to the Administrative Agency, preferably in electronic format, if and when feasible and/or permissible.

19. RATIFICATION

Each Party hereby ratifies the rendering and/or receiving of Regional Mutual Aid taken prior to the date of this Agreement.

20. INTERLOCAL COOPERATION ACT

The Parties agree that Regional Mutual Aid in the context contemplated herein is a “governmental function and service” and that the Parties are “local governments” as those terms are defined in the Interlocal Cooperation Act Chapter 791, Texas Government Code..

21. CONFIDENTIALITY

The Parties recognize that the provision of Regional Mutual Aid under this Agreement may result in the transfer of confidential medical information between them. The Parties shall guard the confidentiality of such information as required by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Texas Medical Practice Act, and other state privacy laws pertaining to the confidentiality of medical records.

22. SEVERABILITY

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

23. 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.

24. AMENDMENT

The Parties agree that this Agreement may be reviewed by the REPAC as required by applicable law. The Parties further agree that the Agreement may be amended by the REPAC. At least sixty calendar days (60 days) before any REPAC meeting at which an amendment or amendments to this Agreement will be considered and voted upon, the Administrative Agency shall send out notice to each Party to this Agreement informing them of the proposed amendment(s). This notice shall include the language of the amendment(s), and a list of current REPAC members and officers and the jurisdictions they represent. Each Party may direct any comments or concerns about said amendment(s) to their respective REPAC representative(s) prior to said meeting. Upon approval of said amendment(s) by the REPAC, the amendment(s) become(s) part of the Agreement and the Administrative Agency shall forward an amended copy of the Agreement to the Point(s) of Contact of the Parties to the Agreement.

25. TERMINATION

The governing body of a Party which is a signatory hereto, shall, by order, ordinance, or resolution, give notice of termination of participation in this Agreement and submit a

certified copy of such order, ordinance, or resolution to the Administrative Agency. Such termination shall become effective not earlier than 30 days after the filing of such notice. The termination by one or more of the Parties of its participation in this Agreement shall not affect the operation of this Agreement as between the other Parties hereto. Upon receipt of said notice to terminate participation in the Agreement, the Administrative Agency shall notify the remaining Parties to the Agreement in writing within ten days.

26. 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.

27. NOTICES

Any notice required or permitted between the Parties must be in writing, addressed to the attention of each respective Point of Contact, and shall be delivered in person, or mailed certified mail, return receipt requested, or may be transmitted by facsimile transmission.

28. WARRANTY

The Agreement has been officially authorized by the governing or controlling body of each Party hereto by order, ordinance or resolution and each signatory to this Agreement guarantees and warrants and guarantees that the signatory has full authority to execute this Agreement and to legally bind the respective Party to this Agreement.

29. IMMUNITY RETAINED

The Parties to this Agreement do not waive or relinquish any immunity or defense on behalf of itself, officers, employers, agents, and volunteers as a result of its execution of this Agreement and the performance of the covenants contained herein.

30. GOVERNING LAW AND VENUE

The laws of the State of Texas shall govern this Agreement. In the event of an Emergency physically occurring within the geographical limits of only one county that is a Party hereto, venue shall lie in the county in which the Emergency occurred. In the event of an Emergency physically occurring in more than one county that is a Party hereto, venue shall be determined in accordance with the Texas Rules of Civil Procedure.

31. PARTY ELIGIBILITY

Any local government as that term is defined in Chapter 418 of the Texas Government Code may be a Party to this Agreement, provided that no Party is an agency, department or entity of the same town, county or State government.

32. FORMS

The Administrative Agency may prepare and provide forms designated for the purposes of this Agreement to be used by the Parties.

33. HEADINGS The headings at the beginning of the various provisions of this Agreement have been included only to more quickly locate the subject covered by each provision and are not to be used in construing this Agreement.

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DRAFT

REGIONAL MUTUAL AID AUTHORIZING RESOLUTION

EXECUTED by the Parties hereto, each respective entity acting by and through its duly authorized official as required by law, on multiple counterparts each of which shall be deemed to be an original, on the date specified on the multiple counterpart executed by such entity.

_____, _____ County, Texas:

NAME: _____

Date _____

Signature: _____

[Judge or Mayor] of _____ [County/City]

Attest: _____

Received by:

NAME: Diane Rath
Executive Director
Alamo Area Council of Governments

Date _____

Signature: _____

Please Complete Contact Information

Primary:

Contact Name: _____

Office Number: _____ **24 Hour Contact No.** _____

E-mail address: _____

Alternate:

Contact Name: _____

Office Number: _____ **24 Hour Contact No.** _____

E-mail address: _____