

WASHTENAW COUNTY MUTUAL AID AGREEMENT (2020)

This Agreement is entered into by and between the participating units of local government (the “Parties”) that execute this agreement and adopt its terms and conditions. This Agreement supersedes all prior Washtenaw County Mutual Aid Agreements.

WHEREAS, the Constitution of the State of Michigan, 1963, Article VII, Section 28, authorizes units of local government to contract as provided by law; and,

WHEREAS, the Urban Cooperation Act, of 1967, 1967 PA 7, MCL 124.501, et seq., provides that any political subdivision of Michigan or of another state may enter into interlocal agreements for joint exercise of power, privilege, or authority that agencies share in common and might each exercise separately; and,

WHEREAS, the Parties have determined that it is in their best interests to enter into this Agreement to secure to each the benefits of mutual aid in fire protection, suppression, rescue and emergency medical assistance, hazardous materials control, technical rescue and/or other emergency support for an Emergency, Disaster, or other Serious Threat to Public Health and Safety; and,

WHEREAS, the Parties have determined that it is in their best interests to enter into the Agreement to secure to each the benefits of Automatic and/or Mutual Aid with their service area, to provide for communications procedures, training, and other functions to further the provision of said protection of life and property during an Emergency, Disaster, or other Serious Threat to Public Health and Safety; and

WHEREAS, the Constitution and people of the State of Michigan have long recognized the value of cooperation by and among the state and its political subdivisions; and

WHEREAS, there exists a Michigan Nonprofit Corporation, the Washtenaw Area Mutual Association (the “Corporation”), that various Parties participate in the management of which is designed to further the objectives noted above; and

WHEREAS, the Corporation does not, in and of itself, provide emergency services, but rather exists to promote training and provide equipment for the various Parties to improve their emergency response capabilities; and

WHEREAS, many of the Parties also participate in the Michigan Mutual Aid Box Alarm System Association (MI-MABAS), for purposes of addressing certain needs of mutual aid in fire protection, suppression, rescue and emergency medical assistance, hazardous materials control, technical rescue and/or other emergency support for an Emergency, Disaster, or other Serious Threat to Public Health and Safety;

NOW, THEREFORE, the Parties agree as follows:

Section One – General Purpose

The Parties agree that certain emergency incidents, including but not limited to natural disasters, man-made catastrophes, conflagrations and Acts of God, require such resources that none of the Parties individually would, by way of the Fire Departments or other Emergency Services Agencies they operate, possess all the necessary resources to most efficiently and effectively respond thereto. In such situations, the Parties agree that the sharing of resources through a mutual aid system is appropriate and desirable.

Section Two – Definitions

The Parties agree that for the purposes of this Agreement, the following words and phrases shall have the meanings indicated herein:

A. **Agreement** means this Agreement.

- B. **The Corporation** means the Michigan Nonprofit Corporation known as “Washtenaw Area Mutual Aid Association.”
- C. **MABAS System** means the mutual aid system defined, outlined, and controlled by the Amended Michigan Mutual Aid Box Alarm System Association Agreement adopted by many, but not all, of the Parties hereto.
- D. **Party** means a political subdivision of the State of Michigan which has adopted this agreement.
- E. **Associate** means an entity interested in the provision of emergency services that is not a political subdivision of the State of Michigan but desires to participate in this Agreement and obtain the benefits hereunder relative to the particular scope of their role in the provision of emergency services.
- F. **Requesting Party** means any Party requesting assistance under this Agreement.
- G. **Assisting Party** means any Party furnishing assistance, personnel, equipment and/or services to a Requesting Party under this Agreement.
- H. **Emergency** means an occurrence or condition in a Party’s jurisdiction which results in a situation of such magnitude and/or consequence that it cannot be adequately handled by the Requesting Party and such that a Requesting Party determines the necessity of requesting aid.
- I. **Disaster** means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major

transportation accident, hazardous materials incident, epidemic, air contamination, or similar occurrences resulting from terrorist activities, riots, or civil disorders.

J. **Serious Threats to Public Health and Safety** means other threats or incidents such as those described as Disasters, of sufficient magnitude that the necessary public safety response threatens to overwhelm local resources and requires mutual aid or other assistance.

K. **Executive Board** means the Executive Board described in Section 6(A) of this Agreement.

L. **Effective Date** means the date on which this Agreement is first filed with the Michigan Department of State, Office of the Great Seal, and the county clerk of Washtenaw County.

M. **Technical Rescue Teams** means the technical rescue team and swiftwater rescue team operated jointly under the applicable sections of this Agreement. This term specifically does not include the Washtenaw County Hazardous Materials Response Team, which the parties recognize is a separate political subdivision as its own Michigan Emergency Services Authority incorporated under the laws of the State of Michigan.

N. **Routine Mutual Aid** means mutual aid requests which are generally limited in nature and occur in the course of the day to day operation of the Parties' Fire Departments.

O. **Automatic Mutual Aid** means mutual aid requests that are predetermined between a Requesting Party and Assisting Party, generally based on the geographic location of a particular Emergency where the request occurs automatically per protocol administered by Washtenaw County Central Dispatch.

- P. **MABAS Mutual Aid** means mutual aid requests, beyond Routine Mutual Aid or Automatic Mutual Aid, which are controlled and determined by the Parties pursuant to the MABAS system.
- Q. **Extraordinary Emergency Incident** means emergency incident which requires a greater amount of personnel, equipment, supplies, and/or personnel hours than were required to respond to ninety percent of the Requesting Party's incidents in the prior fiscal year.
- R. **Cost Recovery Ordinance** means an ordinance adopted by a Party designed to recovery the costs expended in the course of mitigating an Extraordinary Emergency Incident from a person or entity determined under that ordinance to be responsible for the incurring of said costs.
- S. **Dues** means the annual levy amount set by the Executive Board for participation in this Agreement, which shall be held by the Corporation as a fiduciary for the Parties hereto.
- T. **Box Cards** means the written predetermined response plan that is dispatched to a reported fire or other emergency. Cards are developed and agreed upon by participating agencies to determine automatic resources and elevated mutual aid resources for escalating events.
- U. **Service Area** means additional area outside the parties' corporate boundaries in which the party has a signed agreement to provide fire protection services to another community.
- V. **Incident Commander/s** is the person who has been designated as the person in charge of the specific incident. In the event of a Unified Incident Command, more

than one person will be in charge of the incident; decision will be made and agreed upon by the Unified Incident Command.

- W. **Emergency** means an occurrence or condition in a Party's jurisdiction which results in a situation that cannot be adequately handled by the Requesting Party and such that a Requesting Party determines the necessity of requesting aid.
- X. **Training** means the regular schedule practice of emergency procedures during non-emergency drills to implement the necessary joint operations.

Section Three – Mutual Aid Responses

- A. The Parties agree that for purposes of this Agreement, the Fire Chief of the Party, or his or her designee, who may be nominated under the Party's Fire Department standard procedures, and the designation of whom need not be provided to other Parties, shall be the individual delegated the Authority to determine that the Party will be a Requesting Party or Assisting Party under this Agreement, and authorize such individual to take necessary and proper action under this Agreement to request or provide mutual aid assistance.
- B. In the event of Emergency, Disaster or Serious Threat to Public Health and Safety that, in the sole determination of a Party's Fire Chief, or his or her designee, shall require the assistance of other Parties' resources to effectively and efficiently mitigate, the Fire Chief, or his or her designee, may request such personnel, equipment and/or resources as he or she deems necessary to respond to such incident.
- C. Requests under Section (B) above may be predetermined in the course of establishing provisions of the providing and receiving of Automatic Mutual Aid based on the Parties' experience with incidents of particular types and/or the geographic location

of an incident. Predetermined Automatic Aid may use the Box Card System to pre-identify those needs for an initial response.

- D. In the event of receipt of a request for mutual aid assistance in responding to an Emergency, Disaster or Serious Threat to Public Health, the Fire Chief, or his or her designee, of the Party or Parties receiving the request shall have the authority to commit the requested personnel, equipment and/or resources to respond to the incident as requested by the Requesting Party. The assistance rendered will be in the amount requested or, if less than that, to the extent that the available personnel, equipment and/or resources are not required for adequate protection within the territorial limits of the Assisting Party. The judgment of the Fire Chief, or his or her designee, of the Assisting Party as to the availability of personnel, equipment and/or resources shall be final and binding. In the event personnel, equipment and/or resources cannot be provided in the amount requested the Fire Chief, or his or her designee, shall immediately notify the Requesting Party of the specific shortfall and reason therefore.
- E. Personnel dispatched to aid a party pursuant to this Agreement shall at all times remain employees of the Assisting Party, and are entitled to receive benefits and/or compensation to which they are otherwise entitled to under the Michigan Workers' Disability Compensation Act of 1969, any pension law, or any act of Congress. Personnel dispatched intrastate to assist a party pursuant to this Agreement continue to enjoy all powers, duties, rights, privileges, and immunities as provided by Michigan Law. When Parties are dispatched pursuant to the Emergency Management Assistance Compact (EMAC), the Parties shall adhere to all provisions of the EMAC.

Personnel rendering aid shall report for direction and assignment at the scene of the emergency to the Incident Commander of the Requesting Party.

- F. The assisting party may at any time recall such assistance when in his or her best judgement or by and order from the governing body of the Assisting Party, it is in the best interest of the Assisting Party to do so.
- G. An authorized representative of the Party which has withheld or refused to provide requested assistance under this Agreement shall immediately notify the Requesting Party, and shall submit an explanation for the refusal.
- H. The Parties agree to utilize the National Incident Management System (NIMS) during any emergency involving Mutual Aid. It is understood that both the Requesting and Assisting Parties have a responsibility to ensure proper incident management implementation and interface to ensure resource utilization, safety, accountability, and organization.

Section Four – Compensation

- A. Except as provided in this section, personnel, equipment and resources provided pursuant to this Agreement shall, absent a state or federal declaration of emergency or disaster, shall be at no charge to the Requesting Party. In the event that expenses for the response are recovered by the Requesting Party from some responsible third person or entity, said funds shall be distributed pro rata among the Assisting Parties based on the level of assistance each provided.
- B. Technical Rescue Teams: A request for response of the Technical Rescue Team, whether the Technical Rescue Team or its Swiftwater component, shall require full

and complete reimbursement to the responding Team for all expenses, including but not limited to, expenses for equipment, personnel, management, administration and all other services provided at an incident.

- C. Extraordinary Emergency Responses: A request for response to an Extraordinary Emergency Response may require full and complete reimbursement to the Assisting Parties for all expenses, including but not limited to, expenses for equipment, personnel, management, administration and all other services provided at an incident.
- D. Nothing in this Section or Agreement shall be construed to operate to bar any recovery of funds or expenses from any state or federal entity under any existing state or federal law.
- E. The Parties specifically reserve the right of any Assisting Party to waive any right to recovery against a Requesting Party.

Section Five – Insurance

Each Party shall procure and maintain, at its sole and exclusive expense, insurance coverage, including comprehensive liability, personal injury, property damage, worker's compensation, and, if applicable, emergency medical service professional liability, with minimum limits of \$1,000,000 auto and \$1,000,000 combined single limit general liability and professional liability. The obligations of the Section may be satisfied by a Party's membership in a self-insurance pool, a self-insurance plan, or arrangement with an insurance provider approved by the State of Michigan. The Executive Board may require that copies or other evidence of compliance with the provisions of this Section be provided by the Parties to the Executive Board.

Section Six – Limitations on Liability and No Waiver of Governmental Immunity

Each Party will be solely responsible for the acts of its own employees, agents, and subcontractors, the costs associated with those acts, and the defense of those acts. The Parties shall not be responsible for any liability or costs associated with those acts and the defense of those acts for other Parties outside of their political jurisdictions. It is agreed that none of the Parties shall be liable for failure to respond for any reason to any request for aid or for leaving the scene of an incident with proper notice after responding to a request for service.

Nothing in this Section or Agreement shall be construed as in any way waiving or limiting any right a party may have to Sovereign Immunity, Governmental Immunity, immunity or limitations on liability under the Michigan Governmental Tort Liability Act, immunity or limitations on liability under the Michigan Emergency Medical Services Act, or any other immunity or limitation on liability provided by any Michigan or Federal law or court decision. All of the privileges and immunities from liability, and exemptions from laws, ordinances and rules, and all pensions, relief, disability, worker's compensation and other benefits which apply to the activity of Parties, officers, agency, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies, shall apply to the same degree and extent to the performance of such functions and duties of such Parties, officers, agents, or employees extraterritorially under the provision of this Agreement.

Section Six – Administration

- A. Executive Board – The Parties hereto shall each be provided one vote in the initial election, and in subsequent elections to be held every two years in January of even numbered years, for the positions of the Executive Board charged with administering this Agreement. The positions of the Executive Board shall be President, Vice

President, Treasurer and Secretary. No person may serve on the Executive Board without contemporaneously serving as Fire Chief for a Party. No Associate shall have a vote in said elections. There shall be no term limits as to Executive Board membership, provided that said Executive Board members stand for election every two years in January of even numbered years.

- B. The Corporation: The Parties hereto agree that the Executive Board as defined herein shall simultaneously serve as the Executive Board of the Corporation, pursuant to the Articles and Bylaws of the Corporation, by way of simultaneous election to both positions.
- C. The Executive Board may nominate, and the Parties, with one vote each, may vote on a Director and Deputy Director for the Technical Rescue Teams, who shall serve at the pleasure of the Executive Board. Said Director and Deputy Director may appoint other officers of the Technical Rescue Team in their discretion.
- D. The duties of the Executive Board shall include, each year in November, setting the annual Dues for participation under this Agreement for the following year. Said Dues shall be payable in January of the following year. Said Dues shall be held, as shall be all funds collected for the Technical Rescue Team under this Agreement, by the Corporation as a fiduciary.
- E. The Executive Board members designated herein are simply positions of administration for the good order of administering this Agreement. No Executive Board position shall hold any power or authority not specifically conferred by this Agreement. No Executive Board member shall be personally liable to the Parties, the Corporation, any members thereof, or any third party except in the event of their

receipt of an unentitled financial benefit, their undertaking of intentional harm to the Parties or Corporation, an intentional criminal act, or any other situation where liability is provided for by the Articles of Incorporation of the Corporation.

- F. Any Party that is located within the jurisdictional boundaries of Washtenaw County, Michigan, or located in a jurisdiction with a boundary within five miles of a boundary of Washtenaw County, may become a Party to this Agreement by duly executing the Agreement.
- G. Any entity interested in the provision of emergency services that is not a political subdivision of the State of Michigan but desires to participate in this Agreement and obtain the benefits hereunder relative to the particular scope of their role in the provision of emergency services may apply for membership as an Associate member. Associate membership shall be approved or denied based on a majority vote of the Parties, each of which shall have one vote. Associate members shall pay annual Dues in the amount determined by the Executive Board for Associate members, the procedure for which shall be as set forth in subsection (D) of this Section.

Section Seven – Miscellaneous

- A. Entire Agreement: This Agreement sets forth the entire agreement between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning and not construed strictly for or against any party. The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement.
- B. Severability of Provisions: If a Court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, then that provision shall be

deemed severed from this Agreement. The remainder of this Agreement shall remain in full force and effect.

- C. Governing Law/Consent to Jurisdiction: This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced, and governed under the laws of the State of Michigan.
- D. Captions: The captions, headings, and titles in this Agreement are intended for the convenience of the reader and not intended to have any substantive meaning and are not to be interpreted as part of this Agreement.
- E. Terminology: All terms and words used in this Agreement, regardless of the numbers or gender in which they are used, are deemed to include any other number and any other gender as the context may require.
- F. Recitals: The Recitals shall be considered an integral part of this Agreement.
- G. Amendment: The Agreement may be amended or an alternative form of the Agreement adopted only upon written agreement and approval of the governing bodies of all Parties. Amendments to this Agreement shall be filed with the Department of State, the Office of the Great Seal, each county of the State where a Party is located, and any other governmental agency, office, and official required by law. The undersigned unit of local government or public agency hereby adopts, subscribes, and approves this Agreement to which this signature page will be attached, and agrees to be a party and be bound by the terms.
- H. Compliance with Law: The Association shall comply with all federal and State laws, rules, regulations, and orders applicable to this Agreement.

- I. No Third Party Beneficiaries: Except as expressly provided herein, this Agreement does not create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right of indemnification (i.e., contractual, legal, equitable, or by implication) right of subrogation as to any Party's rights in this Agreement, or any other right of any kind in favor of any individual or legal entity.
- J. Counterpart Signatures: This Agreement may be signed in counterpart. The counterparts taken together shall constitute one (1) agreement.
- K. Permits and Licenses: Each Party shall be responsible for obtaining and maintaining, throughout the term of this Agreement, all licenses, permits, certificates, and governmental authorizations for its employees and/or agents necessary to perform all its obligations under this Agreement. Upon request, a Party shall furnish copies of any permit, license, certificate or governmental authorization to the requesting party.
- L. No Implied Waiver: Absent a written waiver, no fact, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.

- M. Notices: Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid to the Fire Chief of each Party.
- N. No Joint Venture. The provisions of this Agreement nor the mutual provision of service and aid described herein are not intended and do not create a joint venture.
- O. Effect on Other Agreements. Neither participation nor requests for assistance under this agreement shall preclude, supersede or negate the activation or the fulfillment of the terms of any other local, regional, state or federal mutual aid or reciprocal aid compacts and agreements.
- P. Fire Cause Investigation. The fire department having territorial jurisdiction maintains ultimate responsibility for fire cause and origin investigation within their fire service district.

Political Entity

Chief Executive Official

Date