

DISASTER SERVICES COOPERATION AGREEMENT BETWEEN

THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON AND
THE CITY OF GALVESTON AND ITS FIRE DEPARTMENT

THIS AGREEMENT is by and between The University of Texas Medical Branch at Galveston, an institution of higher education for the State of Texas (“UTMB”) and the City of Galveston for and on behalf of its fire department (“CITY”).

PREAMBLE

WHEREAS, UTMB’s mission includes the provision of health care services for patients referred to UTMB facilities, including those victims of hurricanes and

WHEREAS, CITY has a fire department which provides essential services to the general public and to UTMB; and

WHEREAS, the fire department has requested access to UTMB designated facilities in the event of a hurricane threat, and

WHEREAS, UTMB desires to provide limited access to its facilities for personnel of CITY for the specific purpose of assisting victims of hurricanes by restoring essential public services; and

WHEREAS, UTMB and CITY deem it to be in the best interest of the health, safety and general welfare of the victims of hurricanes to contract with UTMB to provide limited access to its facilities under the terms set forth below.

NOW, THEREFORE, UTMB and CITY, in consideration of the promises and covenants hereby made, mutually agree as follows;

RESPONSIBILITIES OF UTMB

- 1.1.0 During the occurrence of a hurricane and for a reasonable period of time thereafter, UTMB will provide CITY with designated facilities for eight personnel identified in writing by CITY. These facilities will be provided on a 7-day week, 24-hour basis.
 - 1.1.1 For purposes of this agreement, a hurricane occurrence begins when the Galveston City designated officer calls for the evacuation of the city
 - 1.1.2 Access to UTMB facilities during the occurrence of an evacuation because of a hurricane shall be provided for a reasonable period of time both before and after the hurricane makes landfall.
 - 1.1.3 For purposes of this agreement, designated facilities shall mean the mutually agreed campus location.
- 1.2.0 The operation or supervision of any of these facilities shall be deemed to be within the exclusive purview and control of UTMB. The UTMB official who will be responsible to administer UTMB’s operation and supervision of these facilities will be the Institutional Emergency Preparedness Officer or designee.
- 1.3.0 Under this Agreement, UTMB will furnish access to UTMB facilities within the corporate limits of the City of Galveston, and only for the purpose of assisting victims of a disaster by restoring essential public services for the victims of a hurricane.

CITY RESPONSIBILITIES

- 2.1 CITY shall be responsible for securing or maintaining, in their own name or the name of their employees, all authorizations, licenses, certificates, credentials or other documents required by law to provide the emergency services contemplated by this Agreement. For purposes of this agreement, emergency services shall mean the performing of every day duties and responsibilities.
- 2.2 Unless explicitly set forth in this Agreement, UTMB shall not be financially, legally or otherwise liable for any

expenses of any nature arising from or associated with the services provided by CITY, including without limitation for the operation, maintenance, repair, or replacement of CITY vehicle and equipment. At CITY's own expense, they shall furnish, maintain and, as necessary, repair or replace all their equipment of any kind.

- 2.3 UTMB and CITY shall be solely responsible for the planning, support, and all aspects of the operation of the services respectively performed by each one and contemplated by this Agreement, including all legal and financial obligations without limitation, including those of their employees and agents.

TERM

- 3.1 The term of this Agreement is one year commencing on January 1, 1998 and continuing until January 1, 1999, unless earlier terminated as provided herein. Therefore, subject to each of the parties' prior written consent, this Agreement, shall renew for 1-year terms up to a total of five (5) such terms, unless earlier terminated as provided herein.

MUTUAL AGREEMENTS

4.1 Indemnification.

4.1.1 To the extent authorized by the constitution and laws of the State of Texas, CITY agrees to hold the State of Texas, the Board of Regents of The University of Texas System, UTMB, its officers, employees, and agents harmless from and indemnify each of them against any and all claims, actions, damages, suits, proceedings, judgments, and liabilities, excluding attorney's fees, for personal injury, death, or property damage resulting from the negligent acts or omissions of CITY or the negligent acts or omissions of others under CITY's supervision or control.

4.1.2 To the extent authorized by the Constitution and laws of the State of Texas, UTMB agrees to hold CITY and their officers, employees, and agents harmless from all claims, actions, damages, suits, proceedings, judgments and liabilities, excluding attorney's fees, for personal injury, death, or property damage resulting from the negligent acts or omissions of UTMB, its officers and employees.

- 4.2 Force Majeure. Neither UTMB nor CITY shall be required to perform any term, condition, or covenant of this Agreement so long as such performance is delayed or prevented by acts of God, material or labor restrictions by any governmental authority, civil riot, floods, hurricanes, or other natural disasters or any cause not reasonably within control of UTMB or CITY is unable, wholly or in part, to prevent or overcome.
- 4.3 Entire Agreement. This Agreement constitutes the entire Agreement between UTMB and CITY. No agreements, amendments, modifications, implied or otherwise, shall be binding on any of the parties unless set forth in writing and signed by both parties.
- 4.4 Amendments. This Agreement may be amended when set forth in writing and signed by both parties to the Agreement.
- 4.5 Governing Law. UTMB and CITY agree that this Agreement shall be construed in accordance with the laws of the State of Texas.
- 4.6 Severability. If one or more of the provisions of this Agreement, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Agreement and the application of the provision to other parties or circumstances shall remain in full force and effect.
- 4.7 Nondiscrimination. UTMB and CITY agree that in the performance of this Agreement there will be no discrimination against any person or persons on account of race, color, sex, sexual orientation, religion, age, disability, national origin, or veteran status and that both parties agree to comply with all applicable requirements of the Civil Rights Act of 1964, as amended, Civil Rights Act of 1991, Executive Order 11246, the Vietnam Era Veterans Readjustment Act of 1974, the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1995, the Americans with Disabilities Act of 1990, and all federal rules and regulations, state laws and executive orders as applicable.
- 4.8 Notice. Any Notice required to be given pursuant to the terms and provisions of this Agreement shall be in writing and be mailed by certified or registered mail, return receipt requested, addressed as set forth below or at such address as may be specified by written notice:

UTMB: Vice President for Business Affairs
The University of Texas Medical Branch
301 University Boulevard
Galveston, Texas 77555-0126

cc: Institutional Emergency Preparedness Officer
The University of Texas Medical Branch
301 University Boulevard
Galveston, Texas 77555-0138

CITY: Galveston City Manager 823 Rosenberg Avenue
Galveston, Texas 77550

cc: Chief Galveston Fire Department
2514 Sealy Avenue
Galveston, Texas 77550

cc: City Attorney
823 Rosenberg Avenue
Galveston, Texas 77550

- 4.9 Termination. Either party may terminate this Agreement for any reason by giving the other party ten days prior ten notice of such intent to terminate.
- 4.10 Waiver. A waiver by either party of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of this Agreement.
- 4.11 Compliance. UTMB and CITY shall at all times comply with all applicable ordinances, laws, rules and regulations of local, state, and federal governments, or any political subdivision or agency, authority or commission thereof, which may have jurisdiction to pass laws, ordinances, or make and enforce rules and regulations with respect to either party.
- 4.12 Headings. Headings have been included in this Agreement for convenience only and shall not effect the interpretation of any terms found herein.
- 4.13 Independent Contractor and Payroll Functions. UTMB and CITY are independent contractors and nothing herein contained shall constitute or designate any of a party's employees or agents as agents or employees of the other party. Each party hereto shall be solely responsible for performance of its own respective employee payroll functions. Each party shall withhold all applicable federal, state and local employment taxes and payroll insurance with respect to its employees, insurance **premiums**, contributions to benefit and deferred compensation plans, licensing fees and worker's compensation costs, and shall file all required documents and forms. Each party shall indemnify, **defend and hold** the other harmless from and against any claims, liabilities and expenses, excluding attorney's **fees**, related to or arising out of the indemnifying party's responsibilities set forth in this Section 4.13.
- 4.14 Effective Date. This Agreement shall be effective as of January 1, 1991, until terminated as provided herein.

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