

INTERLOCAL COOPERATION ACT AGREEMENT
BETWEEN THE CITY OF GALVESTON, TEXAS
AND
GALVESTON PARK BOARD OF TRUSTEES
EMERGENCY RESPONSE SERVICES

This AGREEMENT is entered into by and between the Galveston Park Board of Trustees, and the City of Galveston (“CITY”) pursuant to the authority granted and in compliance with the provisions of the “INTERLOCAL COOPERATION ACT,” Chapter 791, Texas Government Code Annotated.

WITNESSETH

WHEREAS, the City Council of Galveston finds that the public interest is benefited by having a contract for emergency response and disaster management in place prior to the occurrence of a declared state of emergency or disaster, to assure prompt response; and

WHEREAS, the Park Board is responsible for the management, operation, and security for City properties placed under their management and control and are further responsible for beach patrol and life guard services, beach maintenance, and beach clean-up for the beach areas placed under their management and control; and,

WHEREAS, pursuant to the Act, the City is authorized to contract with eligible entities to perform government functions and services; and

WHEREAS, Park Board is an eligible entity under the Act and desires to contract with the City on the terms described herein; and

WHEREAS, the Parties recognize the vulnerability of the people and communities located within the City to damage, injury, and loss of life and property resulting from emergencies and/or disasters and recognize that disasters and/or emergencies may present equipment and manpower requirements beyond the capacity of each individual Party; and

WHEREAS, the Parties recognize that in the past the Park Board has provided the City services in the form of personnel, supplies and equipment during emergencies and/or disasters as well as during cleanup periods; and,

WHEREAS, the Parties wish to make suitable arrangements for furnishing mutual aid in coping with emergencies and/or disasters and are so authorized and make this Agreement pursuant to Chapter 791 of the Texas Government Code, Chapter 418 of the Texas Government Code, and Executive Order of the Governor of the State of Texas, RP 12, dated April 12, 2002; and

WHEREAS, the Parties recognize that a formal agreement for mutual aid would allow for better coordination of effort, provide that adequate equipment is available, and help ensure that mutual aid is accomplished in the minimum time possible and desire to enter into an agreement to provide mutual aid; and

WHEREAS, in accordance with the "Act," the City and Park Board recognize that any payments for the performance of governmental functions or services are from available current revenues; and

WHEREAS, the Parties agree that the respective rights, duties, and obligations, regarding this joint project are as specified in this Interlocal Agreement; now therefore,

For and in consideration of the mutual covenants, obligations, and benefits hereunder, the parties do hereby agree as follows:

I. STATEMENT OF RESPONSIBILITIES:

Upon Request. During a declared state of emergency or disaster the Mayor as the Emergency Management Director for the City shall take all steps necessary for the implementation of this Agreement. Upon request of the City, the Park Board shall furnish mutual aid in coping with an emergency and/or disaster and the forces necessary to provide such mutual aid to the City subject to the terms of this Agreement.

Law Enforcement: The Park Board agrees to provide such available law enforcement personnel and equipment provided that the Park Board does not otherwise require the personnel and equipment requested. While any peace officer regularly employed by the Park Board is in the service of the Galveston Police Department pursuant to this Agreement, the officer shall be a peace officer of the City and under the command of the City of Galveston Police Chief or officer in charge and said officer shall have all the powers of a regular City of Galveston police officer and his qualification for office shall constitute his qualification for office with the City and no other oath, bond or compensation need be made. A Park Board law enforcement officer providing service for the City may make arrests within the City's jurisdiction provided that the City shall be notified of such arrest without delay. Park Board peace officers shall have such

investigative or other law enforcement authority in the City’s jurisdictional area as is reasonable and proper to accomplish the purpose for which a request for mutual aid assistance is made.

Beach Patrol/Water Rescue: The Galveston Beach Patrol shall have the authority to prohibit beach activities in any beach area of the City if an imminent threat of widespread and severe damage, injury, and loss of life and property due to high winds and tidal surges and other calamity resulting therefrom requires preventative or immediate emergency action. In the event the Mayor or Governor “Order a Mandatory Evacuation”, the Beach Patrol shall assist the City in alerting all persons in the City of Galveston beach areas of the Order to evacuate the Island or part of the threatened area under the Mayor’s jurisdiction when the Mayor considers it necessary for the preservation of life or disaster mitigation.

The City may request the Beach Patrol to assist the City in water response operations in addition to the Beach Patrol’s normal activities.

Beach & Beach Access Debris Removal: The City may request the Park Board provide equipment, supplies, and personnel to assist with debris removal on beaches and beach access points to allow safe passage and access to the beach. All stockpiled or displaced sand shall be returned to the beach and placed seaward of the line of vegetation/private structures. All activities shall be conducted in accordance with the Texas Natural Resources Code, the City of Galveston Zoning Standards, and applicable emergency rules issued by the Texas General Land Office.

Conditions. Any furnishing of resources under this Agreement, which includes but is not limited to equipment, supplies, and personnel, is subject to the following conditions:

- a. a request for aid shall specify the amount and type of resources being requested, shall state the location to which the resources are to be dispatched, and shall state the time period for which such resources are requested;
- 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 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
- d. the Party rendering aid Party shall be released by the requesting Party when the services of the Party rendering aid are no longer required or when the officer in charge of the Party rendering aid’s forces determines, in his sole discretion, that further assistance should not be provided.

THE PARTIES UNDERSTAND THAT THEIR EFFORTS WILL BE UNDERTAKEN DURING A TIME OF PUBLIC EMERGENCY AND ARE SUBJECT TO ORDERS ISSUED BY LAWFUL EMERGENCY MANAGEMENT AND/OR LAW ENFORCEMENT

AUTHORITIES. ACCORDINGLY THE PARTIES CAN ONLY AGREE TO USE THEIR BEST EFFORTS TO PROVIDE SERVICES IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

Management of Services. Overall management and direction of this Agreement is assigned to the City Manager or designee for the City and _____ for the Park board. These designated officials are authorized to approve and direct the provision of services under this Agreement, except where by City Charter or State law, the City Council or Mayor and/or Park Board are required to act. These officials shall be responsible for coordinating all aspects of the entities work in providing the services. They shall ensure that the services and the tasks related thereto are completed expeditiously and economically, and shall be the contact person through whom the City and Park Board shall communicate officially, and shall coordinate and expedite all actions relating to the City's and Park Board's decision-making relating to the services.

II. COSTS & DOCUMENTATION:

Costs. The City and Park Board shall be solely responsible for the costs, 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.

Each Party that performs services or furnishes aid pursuant to the 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.

Equipment and Personnel. All equipment used by the Party rendering aid under this Agreement will, during the time the aid is being furnished, be owned, leased, or rented by it and all personnel acting for the Party rendering aid under this Agreement will, during the time the aid is being furnished, be paid by the Party rendering aid. At all times while equipment and personnel of a Party rendering aid are traveling to, from, or within the geographical limits of the requesting Party in accordance with the terms of this Agreement, such personnel and equipment shall be deemed to be employed or used, as the case may be, in the full line and cause of duty of the Party rendering aid. In addition, such personnel shall be deemed to be engaged in a governmental function of their entity.

Personnel who are assigned, designated or ordered by heir governing body to perform duties pursuant to this Agreement shall receive the same wages, salary, pension, and other compensation and benefits for the performance of such duties, including injury or death benefits and worker's compensation benefits, as though the service had been rendered within the limits of the jurisdiction where the personnel are regularly employed. All wage and disability payments, pension payments, damage to equipment and clothing, medical expenses, and expenses of travel,

food, and lodging shall be paid by the Party in which the employee in question is regularly employed.

Reimbursement documentation. Each Party agrees to cooperate in the process of seeking FEMA and State direct reimbursement for the services provided under this Agreement and to the extent applicable to the service shall cooperate in good faith to provide records satisfactory to the Federal and State government. In the event neither FEMA nor the State reimburses either Party for performance the performance of services detailed in this Agreement, the Parties agree that all financial obligations shall be made from current revenues available.

Expending Funds. Each Party that 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.

Insurance. Each Party agrees to provide the minimal level of general liability insurance as required by State law. In the event of any cause of action or claim asserted against either/or the City or Park Board, the City/Park Board will provide the other party timely notice of such claim, dispute, or notice. Thereafter, to the extent allowed by law, the City and/or the Park Board shall at their own expense, faithfully and completely defend and protect themselves against any and all liabilities arising from the claim, cause of action, or notice.

Certification. Each Party 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.

Liability: The parties, being fully cognizant of the provisions of TEX. GOVT. CODE §791.006(a), nonetheless agree and intend that each shall be responsible for its own actions and those of its members, while providing emergency assistance, traveling to or from the scene of emergencies, or in any manner of providing services pursuant to and within the scope of this agreement, or a written supplement hereto. It is therefore expressly understood and agreed by the parties that neither shall be held liable for the actions of the other party or any of the other party's members while in any manner furnishing services hereunder. Under no circumstances shall either party be deemed an employee of the other party. Any and all joint venture or partnership status is hereby expressly denied and the parties expressly state that they have not formed, either expressly or impliedly a joint venture or partnership

Immunity Retained. No Party waives or relinquishes any immunity or defense on behalf of itself, its officers, employees and agents as a result of its execution of this Agreement and the performance of the covenants contained herein.

Waiver of Claims Against Parties. Each Party hereto waives all claims against the other Party hereto 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 in part by the negligence of an officer or employee of another Party. Provided however, that this waiver shall not apply in those cases in which the claim results from the failure of the requesting Party

to accept responsibility for any civil liability for which the requesting Party is responsible as determined by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended.

However, neither party waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its governmental powers and functions.

This Agreement shall not be construed to be for the benefit of any third party.

III. TERM OF AGREEMENT:

The term of this Agreement is one year commencing on _____, 2007 and continuing until _____, 2008 unless earlier terminated by providing 90 days written notice. Therefore, subject to each of the parties written consent, this Agreement, shall renew for 1-year terms up to a total of five (5) such terms, unless earlier terminated.

IV.

V. MUTUAL AGREEMENTS

Entire Agreement. This agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and all prior discussions, representations, proposals, offers, and oral or written communications of any nature are entirely superseded hereby and extinguished by the execution of this Agreement. No modification or, or waiver of any right under, this Agreement will be effective unless it is evidenced in a writing executed by an authorized representative of each party to this Agreement.

Compliance with All Applicable Laws. This Agreement is intended to enhance emergency planning by the Parties. It is not meant to supersede or negate any other Agreements entered into by the Parties. The Parties will comply with all applicable federal, state, and local laws, rules, ordinances and regulations affecting the conduct of services provided and the performance of all obligations undertaken by this Agreement.

Joint Severability. The phrases, clauses, sentences, paragraphs or section of this Agreement are severable and, if any phrase, clause, sentence, paragraph, or section of this Agreement should be declared invalid by the final decree or judgment of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Agreement.

Venue. Venue of any dispute arising out of this agreement shall be in Galveston County, Texas.

Paragraph Headings. The captions, numbering sequences, titles, paragraph headings, punctuation, and organization used in this Agreement are for convenience only and shall in no way define, limit, or describe the scope or intent of this Agreement or any part of it.

Understanding, Fair Construction. By execution of this Agreement, the parties acknowledge that they have read and understand each provision, term, and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.

Corporate Authority. The parties signing this Agreement on behalf of PARK BOARD and CITY represent to each other that this Agreement and the transactions contemplated in this Agreement and the execution and delivery of this Agreement have been duly authorized by all necessary governing bodies, corporate, partnership, or trust proceedings and actions, including, but not limited to, actions on the part of the directors, officers, and agents of PARK BOARD and the CITY pursuant to section 791.001 et seq. of the Texas Government Code.

Home Rule Municipality. The CITY is a municipality incorporated under the laws of the State of Texas, and all laws regulating and concerning Texas municipalities apply, including The City Charter and The City Code. PARK BOARD acknowledges that the CITY may only act through its City Council or a duly authorized representative of City Council, and that any act or an employee or officer of the CITY that is not duly authorized is void.

Notice. Any notice required to be given hereunder shall be in writing and delivered to the addresses and titles set forth below by certified mail (return receipt requested), a recorded delivery service, or by other means of delivery requiring a signed receipt. All notices shall be effective upon receipt. The addresses provided herein may be changed at any time on prior written notice.

PARK BOARD:

with copy to:

CITY: City Manager
City of Galveston
P.O. Box 779
Galveston, Texas 77553
(409) 766-2150
Fax: (409) 763-4847

with copy to: City Attorney
City of Galveston
P.O. Box 779
Galveston, TX 77553
(409) 797-3532
Fax: (409) 797-3531

The UNDERSIGNED PARTIES do hereby certify that, (1) the responsibilities specified above are properly within the statutory functions and programs of the parties to this AGREEMENT, (2) the parties hereto are legally authorized to perform the required duties of the AGREEMENT and (3) this AGREEMENT has been duly authorized by the governing body of the LOCAL GOVERNMENT.

EXECUTED this _____ day of _____, 200__.

CITY OF GALVESTON

GALVESTON PARK BOARD OF TRUSTEES

By: Steve LeBlanc
Title: City Manager

By:
Title:

(Date)

(Date)