

AN ORDINANCE **2017-02-23-0116**

AUTHORIZING A MUTUAL AID AGREEMENT WITH GOVERNMENTAL ENTITIES WITHIN THE ALAMO AREA COUNCIL OF GOVERNMENTS REGION FOR COORDINATION OF EMERGENCY SERVICES DUE TO OCCASIONAL SHORTAGES OF EMERGENCY SERVICES EQUIPMENT, PERSONNEL OR NEED FOR SPECIALIZED EQUIPMENT OR RESOURCES.

* * * * *

WHEREAS, there is a need among neighboring governmental entities to provide for mutual aid in the event of an emergency due to occasional shortages of emergency services equipment, personnel or need for specialized equipment or resources; and

WHEREAS, the governmental entities lying wholly or partially within the geographic area covered by the Alamo Area Council of Governments (AACOG) wish to enter into a regional mutual aid agreement for this purpose; and

WHEREAS, The Alamo Area Fire Chiefs Association will serve as the administrative agency under the agreement; and

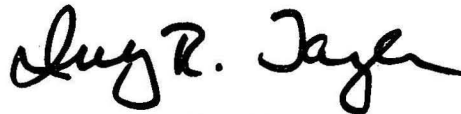
WHEREAS, such an agreement is authorized by Chapter 791 of the Texas Government Code, Chapter 418 of the Texas Government Code, Chapter 421 of the Texas Government Code, and Chapter 362 of the Texas Local Government Code; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager and her designee are hereby authorized to execute the Alamo Area Emergency Services Mutual Aid Agreement attached hereto as **Exhibit I** or an agreement that is substantially the same as that attached hereto.

SECTION 2. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED and APPROVED this 23rd day February, 2017.



M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:


Leticia M. Vacek, City Clerk
Andrew Segovia, City Attorney

Agenda Item:	23 (in consent vote: 4, 5, 6, 9A, 9B, 9C, 11, 12, 14, 15, 16A, 16B, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27)						
Date:	02/23/2017						
Time:	09:31:13 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a Regional Mutual Aid Agreement with the Alamo Area Fire Chiefs Association for coordination of emergency fire response services during a disaster. [Erik Walsh, Deputy City Manager; Charles Hood, Fire Chief]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x			x	

Exhibit I

**ALAMO AREA EMERGENCY SERVICES
MUTUAL AID AGREEMENT**

PREAMBLE

This agreement is intended to provide assistance to jurisdictions that need emergency aid in order to reduce property damage, suffering, injury or loss of life of the inhabitants of the jurisdictions due to occasional shortages of emergency services equipment, personnel or need for specialized equipment or resources.

At any time, any jurisdiction may experience multiple simultaneous emergency responses, large or complex events that overwhelm existing resources, potential events that if they occur will overwhelm existing resources, equipment loss or malfunctions, a need for specialized equipment or personnel, or other causes that do not reach thresholds that trigger existing disaster mutual aid agreements.

When these events occur, neighboring agencies must work cooperatively to ensure that appropriate emergency mutual aid resources are mobilized in a timely manner to protect life and property. When a jurisdiction is overwhelmed, the closest appropriate and available resource should be sent from a neighboring agency in order to address the emergency.

AGREEMENT

This Agreement is made by and between the municipalities, emergency services districts, Emergency Medical Service (EMS) agencies, military installations, and volunteer fire departments listed below, all situated within the AACOG region of Texas, through their duly authorized Mayor, City Council, City Manager, President, Boards of Directors or other lawfully designated representatives, to provide for mutual aid assistance authorized under V.T.C.A. Government Code Section 418.109, 42USC1856a, or other applicable law for emergencies as described under the terms of this agreement for the participating parties;

WITNESSETH:

WHEREAS, it is the desire of the municipalities, emergency services districts, Emergency Medical Service agencies, military installations, and volunteer fire departments joining in the Agreement to coordinate and provide for emergency assistance to each other when emergencies arise within their respective jurisdictions that require additional equipment and additional firefighting, rescue, hazardous materials, and/or emergency medical personnel are needed on an emergency basis to protect the health, life and property of the inhabitants of the respective jurisdictions; and

WHEREAS, it is further the determination of each party that the decision to enter in this Emergency Services Mutual Aid Agreement can be terminated at any time as provided in this agreement; and

WHEREAS, it is further recognized by the parties that their primary responsibility will remain the provision of fire and EMS protection to the persons and property within their respective jurisdiction and any assistance provided under this agreement will not be obligatory in any manner; and

WHEREAS, it is the desire of the parties hereto to institute a mutual aid agreement for fire protection, rescue, hazardous materials and EMS services under emergency circumstances;

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and agreements stated herein, the parties agree as follows:

SECTION 1. The municipalities, emergency services districts, Emergency Medical Service agencies, military installations, and volunteer fire departments joining in this agreement agree that certain formal operating procedures shall be followed for requesting, dispatching, deploying and operating emergency resources at the scene of emergencies.

SECTION 2. It is understood and agreed that the Fire Chief or Chief Executive Officer (CEO) of a party requesting assistance (or his/her designee) (the "Requesting Party") shall be the sole judge of how much assistance is needed, and the Fire Chief or CEO of the party receiving the request for assistance (or his/her designee) (the "Responding Party") shall be the sole judge of determining, pursuant to the policy of his/her jurisdiction, the level and amount and duration of deployment of the resources, including equipment and personnel to be devoted in response to the requested assistance furnished to any given incident; and that neither party is in any manner liable to the other or to any other person, firm, corporation, or entity for the determination to supply, or not to supply, or to limit or terminate the amount of assistance supplied upon such request following such determination. No party to this agreement accepts any liability to any third party, and by entering into this Agreement, no party hereto waives, nor shall be deemed to waive, any rights, defenses, or immunities that such party may have under applicable law.

SECTION 3. It is further agreed that the scope of the agreement is for the provision of firefighting assistance, emergency medical assistance, rescue assistance, hazardous materials assistance or other emergency assistance as needed to protect the health, life and property of the inhabitants of the respective jurisdictions.

It is further understood that these emergency events may be potential events, and that the emergency events do not have to be catastrophic or disaster scale events.

SECTION 4. Any dispatch of personnel and equipment pursuant to this agreement is subject to the following conditions:

(a) Any request for mutual aid hereunder may be submitted verbally or in writing and shall include the following: i. a statement of the number of personnel; ii. the amount and type of equipment requested; and iii. the location to which i. and ii. are to be dispatched. If the request is submitted verbally, it must be confirmed in writing as soon as practicable. See Attachment 1.

(b) The Responding Party shall report to the Staging Officer or Incident Commander (or his/her designee) of the Requesting Party and shall coordinate from the time of arrival to the time of departure, at the emergency scene until the termination of participation. It is agreed that the National Incident Management Systems (NIMS) shall be used as the command framework for the coordination of the incidents. When proceeding to and from the emergency scene, the Responding Party may be considered to be an independent contractor for all purposes, and not under the direction and control of the Requesting Party.

(c) Unless participation is previously terminated by the Responding Party, the Responding Party shall be released by the Requesting Party when the services of the providing department are no longer required or when the officer in charge of the Responding Party determines, in his/her sole discretion, that further assistance should not be provided.

(d) The parties agree that the act of any person or persons while fighting fires, providing rescue services, providing first response EMS services, traveling to or from any type of emergency call or emergency scene, or in any manner furnishing services in accordance with this Agreement, or any supplement thereto, shall be the act of the party performing such acts. An employee or volunteer shall be deemed to be performing services when en route to; en route from or at the scene of a call or emergency. Specifically citing Texas Government Code Section 791.006 (a-1), the parties agree that, for purposes of determining civil liability for non-party claims, the act of any person or persons while fighting fires, providing rescue services, providing first response EMS services, traveling to or from any type of emergency call or emergency scene, or in any manner furnishing services in accordance with this Agreement, shall be the act of the party performing such act. The payment of any and all civil or other liability, including negligence, resulting from the furnishing of services under this Agreement is the responsibility of the individual party performing such acts. This shall specifically include, but not be limited to, the payment of court costs, expenses, and attorneys' fees resulting from any such claim or lawsuit. The parties agree that the assignment of liability described in this Section 9 is

intended to be different than liability otherwise assigned under Section 791.006 (a) of the Texas Government Code.

SECTION 5. In areas where common jurisdictional boundaries exist, it is understood that accurate determination of jurisdiction boundaries may not be possible upon receipt of alarm. In such cases, it is deemed appropriate and in the best interest of the public for the entity receiving the alarm to dispatch its forces and to render aid at the scene of the emergency until jurisdictional responsibility can be determined, and thereby be relieved by the department or agency having jurisdiction. Under the conditions described in this section, should a party respond outside its jurisdiction, the terms and conditions of this Agreement shall be in effect just as though a request for mutual aid had been initiated.

SECTION 6. The personnel of each party shall continue to be officials, volunteers, or employees of their own respective departments and shall be entitled to the same wages and benefits from their own respective employer as if responding within their own jurisdiction. Each party shall only be responsible for damages, injuries, or death to its employees and volunteers while performing services under this Agreement, except for those caused in whole or in part by the gross negligence of an officer or employee of another party. A party shall not be liable for benefits or any other compensation for injuries or death of the other party's employees or volunteers while performing services under this Agreement, except for those caused in whole or in part by the gross negligence of an officer or employee of another party. An employee or volunteer shall be deemed to be performing services when en route to, en route from or at the scene of a call or emergency.

SECTION 7. The expenses of repairing or replacing equipment or vehicles which may be damaged or destroyed while responding to, operating at, or returning from an emergency in a requesting party's jurisdiction shall be at the expense of the providing department, except for those caused in whole or in part by the gross negligence of an officer or employee of another party.

SECTION 8. When the Requesting Party requests mutual aid assistance from another entity/agency under this Agreement, and such assistance requires a response exceeding 12 consecutive hours ("First Operational Period"), all costs shall be paid by the Responding Party and reimbursed by the Requesting Party, such costs shall include, but are not limited to: i. compensation to personnel, ii. operation and maintenance of equipment, iii. damage to equipment, and iv. food, lodging, and transportation. After the First Operational Period, the Requesting Party shall be responsible for the costs set forth above, and no party waives, nor shall be deemed to waive, its rights of reimbursement for services provided or received after the First Operational Period.

- a. Requests for reimbursement must be submitted as soon as practicable but no later than sixty (60) days after the return of all personnel

deployed under this Agreement. Such requests shall specifically identify: i. all personnel, equipment, and resources provided; ii. Dates of issuance or duration of deployment; and iii. The unit and total costs associated with each.

- b. Reimbursements shall be made by the Requesting Party to the Responding Party no later than: i. One hundred and eighty (180) days after receipt of the request for reimbursement; or ii. ninety (90) days after the Requesting Party receives reimbursement from the federal or state government, whichever is sooner.
- c. The provision of mutual aid will be considered non-reimbursable if the request for reimbursement is not made by the Responding Party within the specified time frame.

SECTION 9. A Responding Party that provides an ambulance and emergency medical personnel shall bill the patient(s) treated or transported during the emergency for the cost of supplies, equipment, and for transport services if provided. The costs and fees for services shall be the rates normally charged for services in the Responding party's jurisdiction.

SECTION 10. A Responding Party that bills for emergency services or uses a billing agency to bill for services shall be allowed to bill the responsible party for services rendered during the emergency and for the cost of supplies used. The costs and fees for services shall be the rates normally charged for services in the Responding Party's jurisdiction. The Requesting Party shall not be responsible for the cost of any unpaid balance due after all usual means of collection of the debt have been exhausted by the Responding Party. The bill from the Responding Party may be routed through the Requesting Party for coordination and accounting purposes. The Requesting Party shall then send the bill to the responsible party.

SECTION 11. No term or provision of this agreement is intended to, or shall, prevent any party to this Agreement from seeking reimbursement from the State of Texas or the Federal government for the cost of supplies, services, equipment, or personnel costs that are available under any other mutual aid, disaster aid or memorandum of agreement if an emergency event that a Responding Party participates in becomes a declared disaster. The Requesting Party shall not be responsible for the reimbursement of any unpaid balance due under this Section. Double billing for services by Responding or Requesting Parties is not authorized.

SECTION 12. This Agreement does not replace, supersede or void any other existing mutual aid agreement, disaster aid agreement, or memorandum of agreement in effect between any of the parties participating in this agreement and other parties not participating hereunder. Within 30 days of the effective date of this agreement, notice shall be sent to all mutual aid parties of the SAN ANTONIO AREA EMERGENCY SERVICES MUTUAL AID

AGREEMENT, VERSION 1 and VERSION 2, that those agreements are terminated.

SECTION 13. The parties hereto agree that responses to emergencies under this Agreement will be only within the service area of each party to this Agreement within the AACOG region of Texas and not otherwise.

SECTION 14. All governmental agencies acknowledge that they are political subdivisions, emergency services organizations, or governmental units of the State of Texas and are subject to, and comply with the applicable provisions of the Texas Tort Claims Act, as set out in Civil Practices and Remedies Code, Section 101.001, *et seq.*

This Agreement will be interpreted according to the Constitution and laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in accordance with applicable law. Nothing in this agreement shall limit the ability of any or all of the parties from agreeing to participate in more specific contracts for services, mutual assistance or automatic response; nor shall this prohibit any party from providing emergency assistance to another jurisdiction which is not a participant in this agreement. However, this agreement shall not include providing assistance to such other non-signatory jurisdiction.

SECTION 16. Each party shall be responsible for complying with the following insurance requirements: i. Texas Worker's Compensation Act; ii. Texas motor vehicle financial responsibility laws; and iii. General Liability, Public Officials Liability and Law Enforcement Liability. 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. Each party to this Agreement, by signing this agreement, certifies that the required insurance is and will remain current. Proof of insurance shall be provided to any other party of this Agreement upon written request. Failure to maintain proper insurance as required in this Section shall constitute a ground for immediate termination of that party from this agreement. Each party shall notify the custodian of this agreement if adequate insurance lapses for any reason.

SECTION 17. It is understood that no party to this agreement by the execution of said Agreement or by the requesting or providing of assistance under this agreement has assumed any binding legal responsibility to provide the resources, equipment, facilities, or personnel of such responding jurisdiction outside its geographic area of jurisdiction, either in the instance of the initial request for assistance or any future request for assistance.

SECTION 18. It is not intended by this Agreement to create, and nothing contained in this Agreement shall create, any partnership, joint venture or similar arrangement among the parties hereto.

SECTION 19. No term or provision of this agreement is intended to, or shall, create any rights in any person, firm, corporation, or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.

SECTION 20. The term of this Agreement shall be indefinite with any party having the right to terminate said agreement upon thirty days' written notice to all other parties. The addition or deletion of parties to this agreement shall not affect the agreement as to the remaining parties, except as may be specifically provided by amendment to this Agreement.

SECTION 21. This Agreement shall be effective as to a department or agency immediately upon execution of the same by such department or agency.

SECTION 22. The terms of this agreement shall be in effect at any time a party hereto responds within the geographical jurisdiction of a participating party.

SECTION 23. Neither this Agreement nor any duties or obligations hereunder shall be assignable by any party without the prior written consent of all other parties and any assignment without the written consent of a non-assigning party shall be null and void.

SECTION 24. This Agreement is performable within the AACOG region of Texas. The validity of this Agreement or any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas and the United States.

SECTION 25. The Alamo Area Fire Chiefs Association shall serve as custodian of this Agreement. The custodian shall maintain a current and correct copy of the Agreement and an executed copy from each agency or department. The custodian shall maintain a current listing of all agencies and departments that have executed the Agreement, and shall serve as the source of information relating to the document.

SECTION 26. Suggestions for revisions, corrections, improvements or other changes to the Agreement shall be forwarded, in writing, to the custodian. The proposed changes shall be distributed to all agencies and departments that have executed the Agreement for review and comment.

SECTION 27. A simple majority of the Fire Chiefs or administrative heads of departments or agencies present at a regularly scheduled meeting may propose changes or corrections to the Agreement.

SECTION 28. This Agreement may be amended only by the mutual written agreement of all parties hereto, by the re-execution of the Agreement by each department or agency.

SECTION 29. Force Majeure. None of the parties hereto shall be required to perform a term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by Force Majeure, which will mean acts of God, strikes, lockout, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of said parties and which by the existence of due diligence said party is unable, wholly or in part, to prevent or overcome.

SECTION 30. 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. No Party shall have any liability for the failure to expend funds to provide aid hereunder. Each Requesting Party which reimburses costs of a Responding Party shall do so with appropriated funds from current revenue available to the Requesting Party, to the extent permitted by law.

SECTION 31. This amended Agreement, after having been re-executed by each participating department or agency, shall supersede and replace any previously executed version of this Agreement on the effective date. This amended version of the Agreement shall become effective beginning April 1, 2015.

EXECUTED by the entities whose signatures are affixed hereto, each representative entity acting by and through its duly authorized official in the manner required by each representative entity's charter, or otherwise 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.

City of San Antonio, Bexar, Texas
(Department, Agency or Entity Name) (County)

Name: Sheryl Sculley Date: _____

Signature: _____

Title: City Manager of City of San Antonio
(Mayor, City Manager, President, etc.) (Department, Agency or Entity)

Attest: _____

Received By:

Name: DAVID COLLINGTON (PRESIDENT) for Alamo Area Fire Chiefs Association

Signature:  Date: _____