

## MUTUAL AID AGREEMENT

Pursuant to Texas Government Code Section 791 and in consideration of the mutual commitments given herein, each of the Signatories to this Mutual Aid Agreement (the Agreement) agree to render aid to any of the other Signatories as follows. Any party to this Mutual Aid Agreement that is requesting aid (as hereinafter defined) is referred to herein as the "Requesting Signatory", and the party that is requested to provide aid is referred to herein as the "Aiding Signatory" to wit:

- 1) Request for aid. The Requesting Signatory agrees to make its request in writing to the Aiding Signatory within a reasonable time after aid is needed and with reasonable specificity, including without limitation, the work to be performed and the materials, supplies, personnel, and/or equipment that the Requesting Signatory is requesting from the Aiding Signatory ("Request for Aid"). The Requesting Signatory agrees to compensate the Aiding Signatory for the aid as specified in this Agreement.
- 2) Discretionary rendering of aid. The decision to render aid and the extent and limitations of the aid rendered (including the materials, supplies, personnel, and/or equipment to be provided by the party rendering aid) is entirely at the discretion of the Aiding Signatory. Nothing in this Agreement commits, binds, or otherwise obligates an Aiding Signatory to respond to any particular Request For Aid. This Agreement to render aid is expressly not contingent upon a declaration of a major disaster or emergency by the federal government or upon receiving federal funds. An Aiding Signatory reserves the right to recall any and all materials, supplies, personnel, and/or equipment, at any time. It is acknowledged and agreed that the decision to terminate aid and recall materials, supplies, personnel, and/or equipment lies solely with the Aiding Signatory.
- 3) Invoice to the Requesting Signatory. Within 90 days of the return to the home work station of all personnel and equipment of the Aiding Signatory, the Aiding Signatory shall submit to the Requesting Signatory an invoice for all charges related to the aid provided pursuant to this Agreement. The invoice shall contain only charges related to the aid provided pursuant to this Agreement.
- 4) Charges to the Requesting Signatory. Charges to the Requesting Signatory from the Aiding Signatory shall be as follows:
  - a) Labor force. Charges for labor force shall be in accordance with the Aiding Signatory's standard practices.
  - b) Equipment. Charges for equipment, such as bucket trucks, digger derricks, and other special equipment used by the Aiding Signatory, shall be at the reasonable and customary rates for such equipment in the Aiding Signatory's location.
  - c) Transportation. The Aiding Signatory shall transport the personnel and equipment it is providing by reasonable and customary means and shall charge reasonable and customary rates for such transportation.

- d) Materials and supplies. Charges for materials and supplies furnished or used by the Aiding Signatory shall be the reasonable replacement cost of such materials and supplies.
  - e) Meals, lodging and other related expenses. Charges for meals, lodging and other expenses related to the provision of aid pursuant to this Agreement shall be the reasonable and the actual costs incurred by the Aiding Signatory.
- 5) Command Responsibility at Response Site. The employee of the Requesting Signatory in charge at the site to which the response is made shall be the individual in charge of the operations ("Requesting Signatory Supervisor") and thus Signatory Supervisor (as hereinafter defined) shall serve under the Requesting Signatory Supervisor; PROVIDED THAT, the Aiding Signatory's equipment, supplies, and personnel shall be under the direct and immediate supervision of an employee of the Aiding Signatory ("Aiding Signatory Supervisor"). If the Requesting Signatory Supervisor specifically requests the Aiding Signatory Supervisor assume operational control, neither the Requesting Signatory Supervisor who makes such request nor the Requesting Signatory shall, by relinquishing operational control, be relieved of responsibility for the operation.
- 6) Indemnification. Requesting signatory hereby agrees, to the extent permitted by the constitution and laws of the state of texas, to indemnify, defend and hold aiding signatory, and its members, affiliates, partners, clients, officers, directors, employees, agents, and representatives harmless from and against any loss, cost, damage and expense (including, but not limited to, reasonable attorneys' fees and court costs) of whatever kind (i) suffered or incurred by any person or organization (including any contractor(s) engaged by requesting signatory or any employees of requesting signatory, or its contractors), and (ii) arising directly or indirectly from the performance of the services under this agreement and/or from requesting signatory's breach of this agreement, except to the extent such loss, cost, damage, or expense is due to the negligence, gross negligence or willful misconduct of aiding signatory.
- 7) Dispute Resolutions. If a dispute arises between the parties to this Agreement, the party claiming that a dispute has arisen shall provide to the other party immediate written notification, in accordance with the Notification Section of this Agreement, setting forth the specific nature of such dispute.

Upon the giving of the notice referenced above, the parties agree that they shall attempt to resolve the dispute by informal discussions. Each party commits to participate in these efforts in a timely manner and in good faith.

If such informal efforts are not successful, the parties may submit the dispute to non-binding mediation through the Denton County Bar Association Alternative Dispute Resolution Program. Any costs for the mediator shall be shared equally between the parties.

In the event of any litigation arising out of the performance of this Agreement, it is agreed that the Courts of the County of Denton, State of Texas, shall be courts of proper venue.

Further, in addition to any other relief, the Court may award the substantially prevailing party reasonable attorneys' fees and costs.

- 8) Notice. Any notice under this Agreement is to be in writing and shall be delivered by (a) United States certified first class mail, postage prepaid, return receipt requested, (b) personal delivery, (c) facsimile, with printed confirmation, (d) electronic transmission (e-mail), or (e) nationally recognized overnight carrier to the appropriate party using the following respective addresses:

To City of Sanger, Texas:      City of Sanger, Texas  
502 Elm Street  
Sanger, Texas 76266  
Attn: City Secretary's Office  
Fax: 940-458-4180  
E-Mail: [citysecretary@sangertexas.org](mailto:citysecretary@sangertexas.org)

To City of Whitesboro, Texas      City of Whitesboro, Texas  
111 West Main Street  
Whitesboro, Texas 76273  
Attn: City Secretary's Office  
Fax: 903-564-6105  
E-Mail: [tnino@whitesborotexas.com](mailto:tnino@whitesborotexas.com)

Notice shall be deemed given forty-eight (48) hours after deposit into the United States Mail if sent by certified mail; when received if delivered personally, by facsimile or by e-mail (provided that if the fax or e-mail is received by the addressee, as evidenced by the fax confirmation or e-mail confirmation of the addressee, after 5:00 p.m. on the day the fax or e-mail is sent, such notice shall be deemed effective on the next business day); or twenty-four (24) hours after deposit if sent by nationally recognized overnight carrier.

Either party may at any time change its address for notice by providing written notice of same to the other party in accordance with the notice provisions set forth above.

- 9) Insurance. Each party agrees to maintain insurance coverage for its own equipment and personnel, whether through third-party insurance, self-insurance, or membership in an appropriate insurance pool providing equivalent coverage.
- 10) Counterparts. The Signatories may execute this Agreement in one or more counterparts, with each counterpart being deemed an original Agreement, but with all counterparts being considered one Agreement.

11) Execution. Each party hereto has read, agreed to and executed this Agreement on the date indicated. Each party hereto represents that they have the authority to enter into this Agreement.

**CITY OF WHITESBORO, TEXAS**

**CITY OF SANGER, TEXAS**

\_\_\_\_\_  
PHILL HARRIS, CITY MANAGER

\_\_\_\_\_  
JOHN NOBLITT, CITY MANAGER

ATTEST:

ATTEST:

\_\_\_\_\_  
TERESA NINO, CITY SECRETARY

\_\_\_\_\_  
KELLY EDWARDS, CITY SECRETARY

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
AMANDA DAVIS, CITY ATTORNEY

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CITY ATTORNEY