

# Model Mutual Aid Agreement for Emergency Management and Homeland Security

**Date/Source:** *May 2007 Training Material (Reviewed January 2008)*

**Note:** *This model agreement has been developed by the Minnesota Counties Insurance Trust (MCIT). MCIT provides this model to its members as a recommended form for mutual aid agreement for emergency management and homeland security. This is only a recommendation and does not constitute legal advice. Changes to this document may affect the intent of the document. MCIT recommends that you consult legal counsel prior to taking any action.*

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## Model Mutual Aid Agreement for Emergency Management and Homeland Security

THIS AGREEMENT is made and entered into between the Parties, governmental subdivisions of the State of Minnesota, pursuant to authority granted to them by Minnesota Statutes, Section 471.59, which authorizes the joint and cooperative exercise of powers common to contracting parties; and Section 12.27 which authorizes mutual aid arrangements for reciprocal emergency management.

In consideration of the mutual promises and Agreements contained herein, and subject to the provisions of Minnesota Statutes, Sections 471.59 and 12.27, the Parties agree to the following:

### **Article 1** **Enabling Authority**

Minnesota Statutes Section 471.59 authorizes two or more governmental units to jointly exercise any power common to the contracting parties. Minnesota Statutes Section 12.27 authorizes the director of each county emergency management organization to collaborate with other public agencies within the state to develop mutual aid arrangements for reciprocal emergency management aid and assistance in an emergency or disaster too great to be dealt with unassisted. These arrangements must be consistent with the local emergency operations plan for each Party, if required.

### **Article 2** **Purpose**

The Parties to this Agreement intend to make equipment, personnel and other resources available to each Party who has signed this Agreement upon its request to the other Parties who have signed the Agreement. A

peacetime declaration of emergency may be declared only when an act of nature, a technological failure or malfunction, a terrorist incident, an industrial accident a hazardous materials accident, or a civil disturbance endangers life and property and local government resources are inadequate to handle the situation.

The Parties to this Agreement intend that the Agreement serve as a valid written agreement for mutual aid as required by FEMA in requesting reimbursement for those reasonable eligible costs incurred as a result of a qualifying emergency.

The Parties to this Agreement also intend that the Agreement cover preparation and training for emergency management activities.

### **Article 3 Definitions**

For the purposes of this Agreement, the following terms shall be defined as follows:

- A. “Assistance” means personnel, equipment, supplies and/or services from the following departments: Public Works, Fire, Rescue, Emergency Management, Emergency Medical Services, Law Enforcement, and any other services as agreed upon by the Parties and permitted by law.
- B. “Employee” means those personnel currently working for a Party including, elected and appointed officials, officers and volunteers who are registered with and under the direction and control of that Party as required by Minn. Stat. §12.22, subd. 2a (a) (2005).
- C. “Participating Party” means the governing body of a political subdivision that is a Party to this Agreement.
- D. “Requesting Official” means the person designated by a Participating Party who is responsible for requesting Assistance from the other Participating Parties.
- E. “Requesting Party” means a Participating Party that requests Assistance from other Participating Parties.
- F. “Responding Official” means the person designated by a Participating Party who is responsible to determine whether and to what extent that Participating Party should provide Assistance to a Requesting Party.
- G. “Responding Party” means a Participating Party that provides Assistance to a Requesting Party.

### **Article 4 Provision of Mutual Aid**

- A. Request for Assistance. Whenever, in the opinion of a Requesting Official, there is a need for Assistance from other Parties, the Requesting Official may call upon the Responding Official of any other Party to furnish Assistance. The Requesting Party, within a reasonable period of time, shall provide the Responding Party/ies with a written confirmation of the need for Assistance including details regarding requested resources, timelines/schedules and location(s) for assistance.
- B. Response to Request. Upon the request for assistance from a Requesting Party, the Responding Official may authorize and direct his/her Party’s personnel to provide Assistance to the Requesting Party. This decision will be made after considering the needs of the Responding Party and the availability of

resources. Once Assistance has been authorized, the Responding Party, within a reasonable period of time, shall provide the Requesting Party with a written confirmation of Assistance including details regarding the personnel and resources to be provided and when they will be available.

- C. Recall and Release of Assistance. The Responding Official may at any time recall such assistance when in his or her best judgment or by an order from the governing body of the Responding Party or its designee, it is considered to be in the best interest of the Responding Party to do so. The Requesting Party may at any time release a Responding Party or an individual from providing any further assistance.
- D. Command of Scene. The Requesting Party shall be in command of the mutual aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.
- E. State Declared Emergency. If the State of Minnesota or an authorized state agency declares an emergency, the statutes and administrative rules pertaining to state declared emergencies shall prevail where they conflict with the provisions of this Agreement.
- F. Volunteer Registration. Any volunteers participating in the mutual aid activities shall register with the Party in command of the scene (the Requesting Party).

## Article 5

### Hold Harmless and Indemnification

- A. Each Requesting Party shall defend, indemnify and hold harmless a Responding Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under Minnesota Statutes Chapter 466 and other applicable law, rule, and regulation, including common law.
- B. For purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), the Employees of the Responding Party are deemed to be Employees of the Requesting Party as defined in Minn. Stat. § 466.01, subdivision 6, but only for purposes of addressing liability under this Agreement. The Employees of the Responding Party shall not be considered Employees of the Requesting Party for any other purpose.
- C. The Requesting Party shall defend, indemnify and hold harmless the Responding Party and its Employees against any and all claims brought or actions filed against the Responding Party or its Employees for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of Assistance in responding to a request for Assistance by the Requesting Party pursuant to this Agreement.
- D. Under no circumstances shall a Party be required to pay on behalf of itself and other Parties, any amounts in excess of the limits of liability established in Minnesota Statutes Chapter 466 applicable to any third party claim. The statutory limits of liability for some or all of the Participating Parties may not be added together or stacked to increase the maximum amount of liability for any third party claim.
- E. Each Participating Party agrees to promptly notify the other Participating Parties if it knows or becomes aware of any facts or allegations reasonably giving rise to actual or potential liability, claims, causes of action, judgments, damages, losses, costs or expenses, including attorney's fees, involving or reasonably likely to involve the other Participating Parties, and arising out of acts or omissions related to this Agreement.

- F. There shall be no liability to any Participating Party for failure to furnish Assistance, or for recalling or releasing Assistance as described in this Agreement.

## **Article 6**

### **Workers' Compensation**

Each Participating Party shall be responsible for injuries or death of its own Employees to the extent required by law. Each Participating Party will maintain workers' compensation insurance or self-insurance coverage, covering its own Employees while they are providing assistance pursuant to this Agreement.

## **Article 7**

### **Damage to Equipment**

Each Participating Party, to the extent a party is at fault, shall be responsible for damage to or loss of its equipment while acting within the scope of this Agreement.

## **Article 8**

### **Charges to the Requesting Party**

- A. A Requesting Party shall not be billed or charged by a Responding Party for Assistance rendered unless the assistance continues for a period of more than eight (8) hours, as measured from the time Responding Party begins to provide Assistance after being specifically directed by the Requesting Party to perform a task or tasks, unless the Requesting Party is eligible to obtain reimbursement for expenses it incurred during this period from the United States, the State of Minnesota, or any other source. The Requesting Party shall take all steps necessary to seek reimbursement on behalf of the Responding Party for the actual cost of any Assistance provided during this initial eight (8) hour period including salaries, overtime, materials and supplies, and other necessary expenses.
- B. If Assistance provided under this Agreement continues for more than eight (8) hours, the Responding Party may submit to the Requesting Party an itemized bill for the actual cost of any Assistance provided after the initial eight (8) hour period, including salaries, overtime, materials and supplies and other necessary expenses; and the Requesting Party shall reimburse the party providing the Assistance for that amount.
- C. The Parties acknowledge that charges may be assessed without regard to the availability of federal or state government funds to reimburse the charges.

## **Article 9**

### **Term of Agreement**

This Agreement will commence upon approval of the Participating Party and the signature of the official with authority to bind the Party. This Agreement shall be in effect until such time as the Agreement is terminated pursuant to Article 11 herein. This Agreement will only apply to those Parties whose county boards' have lawfully executed the document.

## **Article 10**

### **Merger and Modification**

- A. It is understood and agreed that the entire Agreement between the Parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
- B. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement and signed by the Participating Parties hereto.

## **Article 11**

### **Default and Withdrawal**

- A. A default in this Agreement may occur when a Party fails to perform any of the provisions of this Agreement or so fails to administer the work as to endanger the performance of the Agreement. Unless the Party's default is excused by the other Participating Parties, the non-defaulting Parties may by majority, vote to remove the defaulting Party by providing written notice of termination of the Agreement as to the defaulting Party only. Any such removal or termination of this Agreement shall become effective upon the sending of such notice and will not cancel any obligations incurred by any Party prior to such termination.
- B. Any Party may withdraw from this Agreement with or without cause by providing thirty (30) days' prior written notice to the other Parties herein.
- C. The terms of Article 5, 6, 7, 12 and 13 shall survive the expiration, termination or withdrawal from this Agreement.
- D. Only the governing bodies of the Participating Parties have authority to act pursuant to this provision of the Agreement.

## **Article 12**

### **Records – Availability and Access**

To the extent required by Minnesota Statutes Section 16C.05, Subd. 5 (as may be amended), the Parties agree that any Party, the State Auditor, the Legislative Auditor or any of their duly authorized representatives, at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the other Parties and involve transactions relating to this Agreement. Such materials shall be maintained and such access and rights shall be in force and effect during the period of the Agreement and for seven (7) years after its termination or cancellation.

## **Article 13**

### **Data Privacy**

Each Party, its employees, agents, owners, partners, and subcontractors agree to abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 and implementing regulations, if

applicable, and all other applicable state and federal laws, rules, regulations and orders relating to data privacy or confidentiality, and as any of the same may be amended.

**Article 14  
Compliance**

Participating Parties shall comply with all applicable federal, state and local statutes, regulations, rules and ordinances in force or hereafter enacted.

**Article 15  
Execution**

Each Party hereto has read, agreed to and executed this Agreement on the date indicated.

**Article 16  
Counterparts**

This Agreement may be executed in any number of counterparts, each counterpart for all purposes being deemed an original and all such counterparts shall together constitute one and the same agreement.

**Article 17  
Contract Administration**

In order to coordinate the services so as to accomplish the purposes of this Agreement, each Participating Party's \_\_\_\_\_, or equivalent counterpart, shall be the contact person for each Participating Party under this Agreement. A Participating Party may designate someone other than the \_\_\_\_\_, or equivalent, as the contact person by providing written notice to all other Participating Parties.

***A SIGNATURE PAGE FOR EACH PARTY SHALL BE ATTACHED  
PLEASE SUBMIT A SIGNATURE PAGE FOR YOUR RESPECTIVE COUNTY***

The \_\_\_\_\_ County Board of Commissioners having duly approved this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_, and pursuant to such approval, the proper County officials having signed this Agreement, the Parties hereto agree to be bound by the provisions herein set forth.

**COUNTY OF**

By: \_\_\_\_\_  
Assistant/Deputy/County Administrator

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chair of its County Board

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Deputy/Clerk of the County Board

Date: \_\_\_\_\_

Reviewed by the County Attorney's Office

By: \_\_\_\_\_

Date: \_\_\_\_\_