

**RESOLUTION** 050424  
**OF** \_\_\_\_\_  
**BECOMING A PARTY TO THE**  
**“TRI-STATE” HAZARDOUS MATERIALS RESPONSE**  
**MUTUAL AID AGREEMENT**

This Agreement between the constituent local governments of the State of Alabama, the State of Florida, and the State of Georgia that participate in this Agreement (the “Local Parties”) is based on the existence of the following conditions:

- A. The States and the Local Parties have a shared interest in responding in a timely manner to the release of hazardous materials that may pose a public danger;
  - B. The States and the Local Parties likewise have a shared interest in seeking to ensure the timely and efficient deployment of the resources used in responding to them;
  - C. The States and the Local Parties are concerned that some hazardous materials incidents are likely to exceed the capability of any one Local Party to cope with them;
  - D. The States and the Local Parties are further concerned that the timely and efficient deployment of the resources in a State to meet a hazardous materials incident in that State may be impracticable due to geographical distance or other circumstances that may cause critical operational delays; and
  - E. Based on the foregoing, the States and the Local Parties have determined that it is in the best interest of all the Parties to enter into this Agreement in order to ensure the timely and efficient deployment of resources to the scene of any hazardous materials incident that may affect any one or more of them.
1. Definitions. The following definitions shall be used in the administration and performance of this Agreement:
    - A. The “Assisting Parties” to this Agreement are those Local Parties who render assistance to a Requesting Party in connection with an incident.
    - B. The “Requesting Parties” to this Agreement are those Local Parties who

request assistance in connection with an incident.

- C. An “incident” shall be the release of any substance covered by this Agreement, regardless of whether accidental or intentional.
  - D. A “substance” covered by this Agreement shall be any biological, chemical, radiological, or other substance that is classified as a “hazardous” substance or material under the Emergency Planning and Community Right-To-Know Act (EPRCA) of 1986, Pub. L. No. 99-499, as from time to time amended, or that may otherwise pose a public danger.
  - E. The “Designated Officer” of a Local Party shall be that individual whom the Local Party designates to give or receive notices in connection with any incident or other matter that may arise under this Agreement.
  - F. The “Period of Assistance” is the time during which any Assisting Party renders assistance to any Requesting Party in connection with an incident, and shall include both the time necessary for the resources and personnel of the Assisting Party to travel to the place specified by the Requesting Party and the time necessary to return them to their home jurisdiction.
2. Execution of the Agreement. Any local government in one of the States may become a Local Party to this Agreement by executing the Agreement, completing the information called for in Form A, and forwarding the Agreement and Form A to the State where the local government is situated.
3. Invocation of the Agreement. In the event of an incident covered by this Agreement, a Local Party may invoke assistance under this Agreement by requesting it from any other Local Party if, in the judgment of the Requesting Party, its own resources are inadequate to meet the situation, or it is impracticable to call upon the resources within its own State because of distance or any other circumstance likely to cause operational delays.
- A. Any request for assistance under this Agreement may be oral, but within five (5) days must be confirmed in writing by the Requesting Party.

- B. All requests for assistance under this Agreement shall be transmitted by the Designated Officer of the Requesting Party to the Designated Officers of the other Local Parties.
4. Responsibilities of Requesting Parties. To the extent practicable, all Requesting Parties seeking assistance under this Agreement shall provide the following information to the other Local Parties when requesting assistance:
- A. A description of the damage sustained or threatened because of the incident;
  - B. A description of the specific type of assistance needed;
  - C. A description of the types of personnel, equipment, services, and supplies needed for each specific type of assistance, with an estimate of the time each will be needed;
  - D. A description of any sites or structures outside the territorial jurisdiction of the Requesting Party to be used as centers to stage incoming personnel, equipment, supplies, services, or other resources;
  - E. The place, date and time for personnel of the Requesting Party to meet and receive the personnel and equipment of the Assisting Party; and
  - F. A technical description of any communications or telecommunications equipment needed to ensure timely and efficient communications between the Requesting Party and any Assisting Parties. In providing such information, the Requesting Party may use Form B attached to this Agreement, and the use of Form B by the Requesting Party shall be deemed sufficient to meet the requirements of this Article.
5. Responsibilities of Assisting Parties. Each Local Party shall render assistance under this Agreement to any Requesting Party to the extent practicable given its personnel, equipment, resources and capabilities. If a Local Party which has received a request for assistance under this Agreement determines that it has the capacity to render some or all of such assistance, it shall provide the following information to the Requesting Party and shall transmit it without delay to the Requesting Party:

- A. A description of the personnel, equipment, supplies and services it has available, together with a description of the qualifications of any skilled personnel;
  - B. An estimate of the time such personnel, equipment, supplies, and services will continue to be available;
  - C. An estimate of the time it will take to deliver such personnel, equipment, supplies, and services at the date, time and place specified by the Requesting Party;
  - D. A technical description of any communications and telecommunications equipment available for timely communications with the Requesting Party and other Assisting Parties; and
  - E. The names of all personnel whom the Assisting Party designates as Supervisors. In providing such information, the Assisting Party may use Form C attached to this Agreement, and the use of Form C by the Assisting Party shall be deemed sufficient to meet the requirements of this Article.
6. Rendition of Assistance. After the Assisting Party has delivered its personnel, equipment, supplies, services, or other resources to the place specified by the Requesting Party, the Requesting Party shall give specific assignments to the Supervisors of the Assisting Party, who shall be responsible for directing the performance of these assignments. The Assisting Party shall have authority to direct the manner in which the assignments are performed. In the event of a disaster or other incident that affects the Assisting Party, all personnel, equipment, supplies, services and other resources of the Assisting Party shall be subject to recall by the Assisting Party upon not less than five (5) days notice or, if such notice is impracticable, as much notice as is practicable under the circumstances.
- A. To the fullest extent practicable, the Assisting Party shall give its personnel and other resources sufficient equipment and supplies to make them self-sufficient for food, shelter, and operations unless the Requesting Party has specified the contrary.

- B. To the fullest extent practicable, the Requesting Party shall coordinate all communications between its personnel and those of any Assisting Parties, and shall determine all frequencies and other technical specifications for all communications and telecommunications equipment to be used.
  - C. Personnel of the Assisting Party who render assistance under this Agreement shall receive their usual wages, salaries, and other compensation, and shall have all the duties, responsibilities, immunities, rights, interests, and privileges of their usual employment.
7. Procedures for Reimbursement. Unless the Assisting Party specifies the contrary in writing, the Requesting Party shall be responsible to reimburse the Assisting Party for all costs incurred by the latter in responding to an incident covered by this Agreement, in accordance with the following procedures:
- A. A State or other Requesting Party shall reimburse the Assisting Party for all costs incurred by the latter in responding to an incident at its request upon being billed by that Assisting Party in accordance with this Agreement.
  - B. An Assisting Party shall bill the State or other Requesting Party as soon as practicable, but not later than thirty (30) days after the Period of Assistance has closed.
  - C. If the Requesting Party protests any bill or item on a bill from an Assisting Party, it shall do so in writing as soon as practicable, but in no event later than thirty (30) days after the bill is received. Failure to protest any bill or billed item in writing within thirty (30) days shall constitute agreement to the bill and the items on the bill.
  - D. If any agency of the United States Government should reimburse any of the costs for a covered incident that have already been advanced to an Assisting Party, the Assisting Party shall repay such costs to the Requesting Party within thirty (30) days.

8. Costs Eligible for Reimbursement. The costs incurred by the Assisting Party under this Agreement shall be reimbursed as needed to make the Assisting Party whole to the fullest extent practicable.

A. Employees of the Assisting Party who render assistance under this Agreement shall be entitled to receive from the Assisting Party all their usual wages, salaries, and any and all other compensation for mobilization, hours worked, and demobilization. Such compensation shall include any and all contributions for insurance and retirement, and such employees shall continue to accumulate seniority at the usual rate. As between the Assisting Party and its employees, the employees shall have all the duties, responsibilities, immunities, rights, interests and privileges incident to their usual employment. The Requesting Party shall reimburse the Assisting Party for these costs of employment.

B. The costs of equipment supplied by the Assisting Party shall be reimbursed at the rental rate established for like equipment by the regulations of the Federal Emergency Management Agency, or at any other rental rate agreed to by the Requesting Party. The Assisting Party shall pay for fuels, other consumable supplies, and repairs to its equipment as needed to keep the equipment in a state of operational readiness. Rent for the equipment shall be deemed to include the cost of fuel and other consumable supplies, maintenance, service, repairs, and ordinary wear and tear. With the consent of the Assisting Party, the Requesting Party may provide fuels, consumable supplies, maintenance, and repair services for such equipment at the site. In that event, the Requesting Party may deduct the actual costs of such fuels, consumable supplies, maintenance, and services from the total costs otherwise payable to the Assisting Party. If the equipment is damaged while in use under this Agreement and the Assisting Party receives payment for such damage under any contract of insurance, the Requesting Party may deduct such payment

from any item or items billed by the Assisting Party for any of the costs for such damage that may otherwise be payable.

- C. The Requesting Party shall pay the total costs for the use and consumption of any and all consumable supplies delivered by the Assisting Party for the Requesting Party under this Agreement. In the case of perishable supplies, consumption shall be deemed to include normal deterioration, spoilage and damage notwithstanding the exercise of reasonable care in its storage and use. Supplies remaining unused shall be returned to the Assisting Party in usable condition upon the close of the Period of Assistance, and the Requesting Party may deduct the cost of such returned supplies from the total costs billed by the Assisting Party for such supplies. If the Assisting Party agrees, the Requesting Party may also replace any and all used consumable supplies with like supplies in usable condition and of like grade, quality and quantity within the time allowed for reimbursement under this Agreement.
  - D. The Assisting Party shall keep records to document all assistance rendered under this Agreement. Upon reasonable notice, the Assisting Party shall make its records available to the Requesting Party for inspection or duplication between 8:00 a.m. and 5:00 p.m. local time on all weekdays other than official holidays.
9. Insurance. Each Local Party shall procure employers' insurance meeting the requirements of the Workers' Compensation Act, as amended, affording coverage for any of its employees who may be injured while performing any activities under the authority of this Agreement.
- A. With the foregoing exception, nothing in this Agreement shall be construed to require any Local Party to procure insurance.
  - B. Nothing in this Agreement shall be construed to waive, in whole or in part, any immunity any Local Party may have in any judicial or quasi-judicial proceeding.

- C. Each Local Party which renders assistance under this Agreement shall be deemed to stand in the relation of an independent contractor to all other Local Parties, and shall not be deemed to be the agent of any other Local Party.
- D. Nothing in this Agreement shall be construed to relieve any Local Party of liability for its own conduct and that of its employees.
- E. Nothing in this Agreement shall be construed to obligate any Local Party to indemnify any other Local Party from liability to third parties.

10. Arbitration. If the Assisting Party cannot agree with the Requesting Party on the settlement of any protested bill or billed item, the Assisting Party or the Requesting Party may elect binding arbitration to determine its rights, interests, and obligations with respect to the protested bill or billed item in accordance with this Article.

- A. If a Local Party elects binding arbitration, it may select as an arbitrator any elected official of another Local Party or any other official of another Local Party whose normal duties include emergency management, and the other Local Party shall also select such an official as an arbitrator, and the arbitrators thus chosen shall select another such official as a third arbitrator.
- B. The three (3) arbitrators shall convene by teleconference or video conference within thirty (30) days to consider any documents and any statements or arguments by the Requesting Party or the Assisting Party concerning the protest, and shall render a decision in writing not later than ten (10) days after the close of the hearing. The decision of a majority of the arbitrators shall bind the parties, and shall be final.

11. Interpretation and Application of Agreement. The interpretation and application of this Agreement shall be governed by the following principles:

- A. The reciprocal obligations and conditions resting upon the Local Parties under this Agreement are independent, and not dependent.
- B. Time shall be of the essence of this Agreement, and of the performance of all conditions, obligations, duties, responsibilities and promises under it.
- C. This Agreement states all the conditions, obligations, duties, responsibilities



and promises of the Local Parties with respect to the subject of this Agreement, and there are no conditions, obligations, duties, responsibilities or promises other than those expressed in this Agreement.

- D. If any sentence, clause, phrase, or other portion of this Agreement is ruled unenforceable or invalid, every other sentence, clause, phrase, or other portion of the Agreement shall remain in full force and effect, it being the intent of the Parties that every portion of this Agreement shall be severable from every other portion to the fullest extent practicable.
- E. The waiver of any obligation or condition in this Agreement in any instance shall not be construed as a waiver of that obligation or condition in the same instance, or of any other obligation or condition in the same or any other instance.

12. Enforcement of Agreement. The enforcement of this Agreement shall be governed by the following principles:

- A. A judicial or quasi-judicial proceeding may be initiated by a State or a Local Party for the enforcement of any arbitration order issued in accordance with this Agreement.
- B. In any such proceeding, the law to be applied shall be that of the State where the incident in question occurred, and the venue of any such proceeding shall lie in the State and County where the incident occurred. With respect to incidents occurring in more than one State or County, the incident shall be deemed to have occurred in the State or County that suffered the most damage or that incurred the largest costs from the incident.

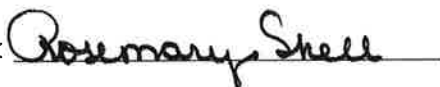
13. Termination of Agreement. Any of the Local Parties may terminate its participation in this Agreement by sending a notice in writing to that effect to the State where it is situated, and such termination will take effect thirty (30) days after the date of such notice, but such termination will not affect any right or interest under this Agreement that shall have vested before such notice has been received.


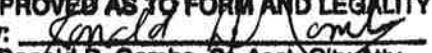
NOW, THEREFORE, BE IT RESOLVED that the Local Party accepts the terms and conditions of this mutual aid agreement and together with all the current parties and with those which may hereafter become a party thereto until the undersigned party wishes to withdraw from the Agreement.

DATE: October 6, 2005

LOCAL  
PARTY: CITY OF GAINESVILLE

BY:   
CITY MANAGER

ATTEST: 

  
APPROVED AS TO FORM AND LEGALITY  
By:   
Ronald D. Combs, Sr. Asst. City Atty  
City of Gainesville, Florida

**TRI-STATE HAZARDOUS MATERIALS MUTUAL AID AGREEMENT**

**FORM A – North Central Florida and Georgia**

Date: September 9, 2005  
Name of Government: City of Gainesville, Gainesville Fire Rescue  
Mailing Address: P. O. Box 490  
City, State, Zip: Gainesville, FL 32602

**Authorized Representatives to Contact for Emergency Assistance:**

**Primary Representative**

Name: Donald R. Sessions  
Title: Special Operations Chief  
Address: Same  
Day Phone: 352/334-5078      Night Phone: 352/318-5291  
Facsimile: 352/334-2529      Email: sessionsdr@cityofgainesville.org

**First Alternate Representative**

Name: Howard E. Prince  
Title: Interim Deputy Chief  
Address: Same  
Day Phone: 352/334-5078      Night Phone: 352/318-8170  
Facsimile: 352/334-2529      Email: princehe@cityofgainesville.org

**Second Alternate Representative**

Name: William K. Northcutt  
Title: Interim Fire Chief  
Address: Same  
Day Phone: 352/334-5078      Night Phone: 352/225-1696  
Facsimile: 352/334-2529      Email: northcutwk@cityofgainesville.org

**PLEASE UPDATE AS ELECTIONS OR APPOINTMENTS OCCUR**

Return to: North Central Florida Regional Planning Council  
2009 NW 67 Place, Suite A, Gainesville, FL 32653-1603