

DUPAGE COUNTY OFFICE OF
HOMELAND SECURITY
AND EMERGENCY MANAGEMENT
MUTUAL AID AGREEMENT

This Intergovernmental Agreement (the "Agreement") made and entered into on the dates herein specified, by and between the political subdivisions and taxing districts which have indicated by the signing hereof their intent to so participate on the dates indicated hereinafter:

WHEREAS, Article VII, Section 10 of the constitution of the State of Illinois (1970) authorizes units of local government, including municipalities and counties, to contract to exercise, combine or transfer any power or function not prohibited to them by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*, as amended) authorizes units of local government in Illinois to exercise jointly with any public agency of the State, including other units of local government, any power or powers, privileges, functions or authority, or to enter into contracts for the performance of governmental services, activities and undertaking; and

WHEREAS, the Illinois Emergency Management Agency Act (20 ILCS 3305/13 as amended) authorizes the Emergency Management Coordinator of a political subdivision to develop mutual aid arrangements between political subdivisions and taxing districts for reciprocal disaster response and recovery assistance; and

WHEREAS, the Code of DuPage County (2005 Code, Chapter 10, Section 10-6, as amended) authorizes the Director of the County Office of Homeland Security and Emergency Management ("OHSEM") to negotiate mutual aid agreements with municipalities or political subdivisions of the State; and

WHEREAS, in the case of an emergency, disaster or in significant situations where local response capacity is insufficient, arising within the jurisdictional territories of a party hereto, it is often desirable and necessary to require additional equipment and personnel, beyond that which each individual party is able to furnish from its own resources, to respond to such an emergency, disaster or significant localized situation; and

WHEREAS, the parties hereto recognize that such an emergency, disaster or significant localized situation is likely to arise, and desire to agree in advance to a system of mutual aid and assistance to meet such a situation, and at the same time to allocate risk and responsibility among themselves; and

WHEREAS, the terms of this Agreement have been approved and authorized by the County of DuPage (the "County") pursuant to Resolution FI-0029-97, dated March 11, 1997.

NOW THEREFORE, in consideration of the foregoing premises and of the covenants and conditions herein contained, the adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

I. DEFINITIONS

- a. The term “requesting party” shall collectively refer to the party, its agents, employees, volunteers, officers, representatives, and servants which requests or requires additional equipment and personnel to respond to an emergency, disaster or significant localized situation within its jurisdictional limits.
- b. The term “responding party” shall collectively refer to the party, its agents, employees, volunteers, officers, representatives, and servants from whom aid or assistance is requested.
- c. The term “equipment and personnel” shall refer to any equipment owned by, or personnel employed by, the political subdivision or taxing district. This refers to the jurisdiction as a whole, rather than within any single department or agency.
- d. The term “disaster” shall mean an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, or hostile military or paramilitary action. The term is not limited to disasters declared pursuant to statute or ordinance, but may include events where no declaration has been made.
- e. The term “emergency” shall refer to any situation that requires immediate response by the jurisdictions’ first response departments or agencies to save lives, protect property and public health, or to lessen or avert the threat of a disaster. The term is not limited to emergencies declared pursuant to statute or ordinance, but may include events where no declaration has been made.
- f. The term “significant localized situation” shall refer to any emergency or disaster situation which is not declared as such by statute or ordinance, but for which local resources are insufficient to respond adequately.
- g. The term “Coordinator” shall refer to a staff assistant to the principal executive officer of a political subdivision or taxing district with the duty of coordinating the emergency management programs of that political subdivision. In the case of the County, the Director of the County OHSEM shall be the Coordinator, and may be referred to herein as “Director”.

- h. The term “party” shall refer to any political subdivision or taxing district located within or partially within DuPage County, Illinois, including the County.
- i. The term “vicinity” shall mean the regions about, near or adjacent to the parties.

II. EMERGENCY ACTIVATION OF THE TERMS OF THIS AGREEMENT

The requesting or rendering of aid under the terms of this Agreement, shall be authorized upon the declaration of a local emergency or disaster by the requesting party, as authorized under the Illinois Emergency Management Agency Act (20 ILCS 3305/11), or in a significant localized situation, as follows herein:

- a. A local emergency or disaster may be declared only by the principal executive officer of a political subdivision or taxing district, or his/her interim emergency successor, as provided in Section 7 of the “Emergency Interim Executive Succession Act” (5 ILCS 275/7). It shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the governing board of the political subdivision or taxing district. Any order or proclamation declaring, continuing, or terminating a local emergency or disaster shall be given prompt and general publicity and shall be filed promptly with the County clerk, township clerk, or the municipal clerk, as the case may be, in the area to which it applies.
- b. The effect of a declaration of a local emergency or disaster is to activate the emergency operations plan of that political subdivision or taxing district and to authorize the furnishing of aid and assistance thereunder.
- c. A significant localized situation may be determined by the Incident Commander, as that term is defined in the National Incident Management System (“NIMS”).
- d. The effect of a determination of a significant localized situation by the Incident Commander is to authorize the furnishing of aid and assistance by any political subdivision or taxing district participating in this Agreement with the OHSEM (“responding party”), to supplement the resources of the requesting party at the direction or request of the Director; provided, however, the emergency operations plan of the responding party may, but need not, be activated.

III. POWER AND AUTHORITY

- a. Each party hereto authorizes its emergency management coordinator, or his/her designee, acting on behalf of the party, to (1) request mutual aid from the other parties hereto or (2) render mutual aid to the other parties hereto to the extent that available

personnel and equipment are not required for adequate protection of the responding party.

- b. In the event of an emergency, disaster or significant localized situation within its jurisdictional territory, the requesting party shall request assistance under this Agreement by notifying the Director as to the nature and location of the incident and the type and quantity of equipment and personnel needed. The Director will dispatch the request to the appropriate responding party(ies).
- c. Each responding party shall have an absolute right to refuse any equipment or personnel (or portion thereof) to the requesting party consistent with the responding party's primary responsibility of providing emergency assistance to the responding party's own territory. This right of refusal shall be exercised by the responding party's emergency management coordinator or the principal executive officer or administrator/manager, or in the absence of any of these persons, by that person's designee. Such decision shall be final.
- d. Nothing contained herein shall be construed to impose a duty on a party, its agents, employees, volunteers, officers, representatives, and servants to provide equipment or personnel to a requesting party under the terms of this Agreement, and no liability shall attach for a failure to do so. In addition, once equipment and personnel have been provided, no liability shall attach for withdrawing such equipment or personnel.

IV. CONTROL OF PERSONNEL AND EQUIPMENT

- a. The agents, employees, volunteers, officers, representatives, and servants of a party shall be deemed at all times during the emergency, disaster or significant localized situation to be agents, employees, volunteers, officers, representative, and servants of that party, and shall be considered as acting in the course of their employment or relationship with that party.
- b. Equipment and personnel of a responding party, functioning at the site of the emergency, disaster or significant localized situation, shall be under the control and direction of the Incident Commander consistent with the NIMS. The responding party; however, shall retain and exercise the absolute discretionary right to remove such equipment and personnel from the emergency, disaster or significant localized situation site at any time, but shall not so withdraw the aid without first orally notifying the requesting party.

V. COMPENSATION FOR AID

- a. Equipment, personnel, and/or services provided pursuant to this Agreement shall be provided at no direct charge to the requesting party.

- b. If state, federal, or private reimbursement becomes available for the emergency, disaster or significant localized situation, the charges for equipment, personnel, and/or services will be billed to the requesting party, based on prevailing wages and equipment costs, for consolidation into one claim by the requesting party. Reimbursement of costs to a responding party will be made from the first funds available from the state, federal, or private entity.

VI. INDEMNIFICATION AND LIABILITY

- a. Nothing contained herein shall be construed to create a right, claim or cause of action on behalf of any person not a party to this Agreement. Each party hereto agrees to waive all claims, except for indemnification below, against all other parties hereto for any loss, damage, personal injury or death occurring in consequence of the performance of this Agreement; provided, however, that such claim is not the result of gross negligence or willful misconduct by a party hereto or its agents, employees, volunteers, officers, representatives or servants. All employee benefits, wage and disability payments, pensions, workers' compensation claims, damage to, or destruction of equipment or clothing, and medical expenses of the party rendering aid shall be the sole and exclusive responsibility of each respective party for its own agents, employees, volunteers, officers, representatives or servants, subject to any reimbursement under Section V.b. above.
- b. Each party hereto requesting aid under this Agreement shall indemnify the responding party providing the aid and hold harmless that party and its agents, employees, volunteers, officers, representatives, and servants from any liability for bodily injury or property damage to a third party caused by the individuals involved in rendering the aid; provided, however, that such claim is not the cause of gross negligence or willful misconduct by the responding party or its agents, employees, volunteers, officers, representatives or servants; and further, that there shall be no indemnification for any liability arising out of the operation of motor vehicles to and from the scene of aid pursuant to a request under this Agreement.
- c. Nothing contained in the Agreement shall constitute a waiver of any privileges, defenses or immunities which any party hereto may have under the Local Governmental and Governmental Employees Tort Immunity Act with respect to any claim brought by a third party.

VII. TERMINATION

- a. This Agreement shall be in effect for a term of one (1) year from the date of execution by the Director of the County OHSEM. It shall be automatically renewed for successive one (1) year terms unless terminated in accordance with this Section.
- b. Any party may withdraw from this Agreement at any time at its sole option by a resolution passed by its Board, Council or governing body. Obligations for

reimbursement under Section V.b. above, and as to liability under Section VI above, shall however, survive termination.

- c. Copies of any withdrawing resolution shall be filed with the respective clerks of the parties within fifteen (15) days of passage and with the County OHSEM within thirty (30) days of passage.

VI. MODIFICATION

Modifications to this Agreement may be negotiated by the Director of the County OHSEM without further approval of the County Board to the extent that changes are required to keep the Agreement consistent with State and Federal law.

IX. EFFECTIVE DATE

The County Board has approved this Agreement and authorized its execution by the Director of the County OHSEM. When the Director receives resolutions indicating approval by the respective corporate authorities, as provided by law, he shall execute the Agreement on behalf of the County and the Agreement shall then be in full force and effect.

IN WITNESS WHEREOF, this Agreement has been duly executed by the following parties:

County of DuPage

Village of Lombard

Joseph H. Kirts, Acting Director
Office of Homeland Security
And Emergency Management

William J. Mueller
Village President

Attested by:

Brigitte O'Brien
Village Clerk