

AMAS

"Alabama Mutual Aid System"

AGREEMENT

April 2005 Version

ENDORSED BY:

Association of County Commissioners of Alabama
Alabama League of Municipalities

Contact:

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ALABAMA MUTUAL AID SYSTEM

THIS AGREEMENT IS ENTERED INTO BETWEEN THE STATE OF ALABAMA, ALABAMA EMERGENCY MANAGEMENT AGENCY AND AMONG EACH POLITICAL SUB-DIVISION OF THE STATE THAT EXECUTES AND ADOPTS THE TERMS AND CONDITIONS CONTAINED HEREIN, BASED UPON THE FOLLOWING:

WHEREAS, the State Emergency Management Act of 1955, as codified in Section 31-9-01 et seq. Code of Alabama (1975) as amended, hereinafter referred to as the “State Emergency Management Act”, authorizes the state and its political subdivisions to develop and enter into mutual aid agreements for reciprocal emergency aid and assistance in case of emergencies too extensive to be dealt with unassisted; and

WHEREAS, the State Emergency Management Act sets forth details concerning powers, duties, rights, privileges, and immunities of political subdivisions of the state rendering outside aid; and

WHEREAS, the State Emergency Management Act, authorizes the State to enter into a contract on behalf of the State for the lease or loan to any political subdivision of the state any real or personal property of the state government or the temporary transfer or employment of personnel of the state government to or by any political subdivision of the state; and

WHEREAS, the State Emergency Management Act, authorizes the governing body of each political subdivision of the state to enter into such contract or lease with the state, accept any such loan, or employ such personnel, and such political subdivision may equip, maintain, utilize, and operate any such property and employ necessary personnel therefore in accordance with the purposes for which such contract is executed, and to otherwise do all things and perform any and all acts which it may deem necessary to effectuate the purpose for which such contract was entered into; and

WHEREAS, the State Emergency Management Act, authorizes the Alabama Emergency Management Agency, hereinafter referred to as “State EMA”, to make available any equipment, services, or facilities owned or organized by the state or its political subdivisions for use in the affected area upon request of the duly constituted authority of the area or upon the request of any recognized and accredited relief agency through such duly constituted authority; and

WHEREAS, the State Emergency Management Act, authorizes the State EMA to call to duty and otherwise provide, within or without the state, such support from available personnel, equipment, and other resources of state agencies and the political subdivisions of the state as may be necessary to reinforce emergency management agencies in areas stricken by emergencies; and

WHEREAS, the State of Alabama is geographically vulnerable to hurricanes, tornadoes, freshwater flooding, sinkhole formations, and other natural disasters that in the past have caused severe disruption of essential human services and severe property damage to public roads, utilities, buildings, parks, and other government owned facilities; and

WHEREAS, the Parties to this Agreement recognize that additional manpower and equipment may be needed to mitigate further damage and restore vital services to the citizens of the affected community should a disaster, whether by natural causes or as a consequence to an enemy attack, sabotage or hostile action occur; and

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WHEREAS, to provide the most effective mutual aid possible, each participating political subdivision, intends to foster communications between the personnel of other political subdivisions by visits, compilation of asset inventories, exchange of information and development of plans and procedures to implement this Agreement;

WHEREAS, to provide the most effective mutual aid possible, all activities performed under this agreement are hereby recognized to be governmental functions, and thus enjoy immunity from liability for torts as provided by law, enumerated in subsection (a) of Section 31-9-16 Code of Alabama (1975) as amended. All persons responding under the operational control of the State EMA are recognized to be emergency management workers on the behalf of the State, for purposes of liability. Neither the State or the participating political subdivisions nor their employees, except in cases of willful misconduct, gross negligence or bad faith shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the statewide mutual aid system, enumerated in Subsection (b) of Section 31-9-16 Code of Alabama (1975) as amended.

NOW, THEREFORE, the Parties hereto agree as follows:

SECTION 1. DEFINITIONS

A. "AGREEMENT" - The Alabama Mutual Aid System Agreement for Emergency Response/Recovery. Political subdivisions of the State of Alabama may become a party to this Agreement by executing a copy of this Agreement and providing a copy with original signatures and authorizing resolution(s) to the State EMA. Copies of the agreement with original signatures and copies of authorizing resolutions shall be filed and maintained at the State EMA in Clanton, Alabama. For the purposes of this Agreement, a Volunteer Fire Department/Association and/or a Mutual Aid team composed of volunteer members, as defined below, are not considered a political subdivision. Such Volunteer Associations are deemed "sub-contractors" to the political subdivisions that have secured such volunteer services for the purposes of fulfilling that political subdivisions obligations agreed to in this instrument.

B. "EMERGENCY MANAGEMENT WORKER" (RESPONDER) - An emergency management worker is defined as anyone possessing special skills, qualifications, training, knowledge and experience in the public or private sectors that would be beneficial to a participating political subdivision in response to a locally declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and/or authorized to respond. Under this definition, an emergency management worker may or may not be required to possess a license, certificate, permit or other official recognition for their expertise in a particular field or area of knowledge. An emergency management worker could include, but is in no way limited to, the following regardless of compensation: law enforcement officers, fire fighters, emergency medical services personnel, physicians, nurses, other public health personnel, emergency management personnel, public works personnel, local emergency debris removal teams, those persons with specialized equipment operations skills or training or any other skills needed to provide aid in a declared emergency.

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C. "VOLUNTEER MEMBER" – An emergency management worker, which is not personally compensated for their local emergency response duties and/or labor performed within the jurisdiction of their residence or employment. As a condition of their appointment as a recognized task force team member, Volunteer Members agree to waive any claim to personal compensation from the responding political subdivision or reimbursement from State EMA.

D. "REQUESTING POLITICAL SUBDIVISION" - The participating political subdivision entity requesting aid in the event of an emergency. Each requesting political subdivision shall coordinate requests for state or federal emergency response assistance through its local EMA director or designee.

E. "ASSISTING POLITICAL SUBDIVISION" - The participating political subdivision entity furnishing equipment, services and/or manpower to the requesting political subdivision.

F. "AUTHORIZED REPRESENTATIVE" - An employee(s) or official of a participating political subdivision authorized in writing by that government to request, offer, or provide assistance under the terms of this Agreement. The list of authorized representatives for the participating political subdivision executing this Agreement shall be attached as Appendix A to the executed copy of the Agreement supplied to the State EMA, and shall be updated as needed by each participating political subdivision.

G. "STATE EMA" - Alabama Emergency Management Agency, Clanton, Alabama.

H. "FEMA" – Federal Emergency Management Agency, Washington, D.C.

I. "EMERGENCY" - Any occurrence, or threat thereof, whether natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

J. "DISASTER" - Any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a proclamation of a State of Emergency by the Governor, or a Declaration signed by the President of the United States.

K. "PARTICIPATING POLITICAL SUBDIVISION" - The governmental entity within the borders of the State of Alabama, which executes this Alabama Mutual Aid System Agreement and supplies a complete, executed copy to the State EMA.

L. "NON-PROFIT ORGANIZATION" - A non-profit organization, corporation or other legal entity as defined by state law whose mission is to provide an emergency response function to the general public for no monetary compensation (volunteer) as defined in §6-5-336 Code of Alabama 1975, as amended.

M. "PERIOD OF ASSISTANCE" - The period of time beginning with the departure of any personnel of the Assisting political subdivision from any point for the purpose of traveling to the requesting political subdivision's jurisdiction in order to provide assistance and ending upon the return of all personnel and equipment of the assisting political subdivision, after providing the assistance requested, to their residence or regular place of work, whichever occurs first. The period of assistance shall not include any portion of the trip to the requesting political subdivision or the return trip from the requesting political subdivision during which the personnel of the assisting political subdivision are engaged in a course of conduct not reasonably necessary for their safe arrival at or return from the Requesting political subdivision.

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N. "WORK OR WORK-RELATED PERIOD" - Any period of time in which either the personnel or equipment of the assisting political subdivision are being used by the requesting political subdivision to provide assistance and for which the requesting political subdivision will reimburse the assisting political subdivision. Specifically included within such period of time are rest breaks when the personnel of the Assisting political subdivision will return to active work within a reasonable time. Specifically excluded from such period of time are breakfast, lunch, and dinner breaks.

SECTION 2. RESPONSIBILITIES

It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for the local emergency management agency within that certain subdivision to do the following:

- a. Identify potential hazards that could affect the participant using an identification system common to all participating jurisdictions.
- b. Conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions, and conduct joint training at least biennially.
- c. Identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation, and response and recovery activities of the participating political subdivision.
- d. Adopt and put into practice the standardized incident management system approved by the State EMA.

SECTION 3. PROCEDURES

Requests for assistance under this Agreement shall be limited to emergency public safety events that exceed the resources of the local jurisdiction, thus creating the need for outside assistance. Should a political subdivision exceed available resources within their jurisdiction and/or those resources provided by other political subdivisions or private entities through pre-existing local or regional mutual aid agreements or compacts; then such participating political subdivisions may request mutual aid assistance from the State EMA.

When a participating political subdivision either becomes affected by, or is under imminent threat of, an emergency or disaster, it may invoke emergency related mutual aid assistance by an official request communicated in writing to the State EMA. The official request shall be made by resolution by the appropriate governing body of the participating political subdivision or by an authorized representative(s). The request shall be submitted to the State EMA by the local emergency management director. Such procedures are essential to the continuity and efficiency of operation and compliance is critical. Request for mutual aid assistance under this agreement may be communicated to the State EMA orally, provided such request is reduced to writing, properly executed and transmitted to the State EMA as soon as practical.

A. ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE - When contacted by the State EMA, the governing body of any participating political subdivision agree to assess their government's situation to determine available personnel, equipment and other resources.

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All participating political subdivisions shall render assistance to the extent personnel, equipment and resources are available. Each participating political subdivision agrees to render assistance in accordance with the terms of this Agreement to the fullest extent possible. When the appropriate governing body or its authorized representative(s) determines that their participating political subdivision has available personnel, equipment or other resources, they shall so notify the State EMA, and provide the information listed below. The State EMA shall, upon response from sufficient participating parties to meet the needs of the requesting political subdivision, notify the authorized representative of the requesting political subdivision and provide them with the following information, to the extent known:

1. A complete description of the personnel, equipment, and materials to be furnished to the requesting political subdivision;
2. The estimated length of time the personnel, equipment, and materials will be available;
3. The areas of experience and abilities of the personnel and the capability of the equipment to be furnished;
4. The name of the person or persons to be designated as supervisory personnel; and
5. The estimated time when the assistance provided will arrive at the location designated by the authorized representative of the requesting political subdivision.

MISCELLANEOUS PROCEDURES:

[Refer to the Alabama Mutual Aid System Concept of Operations, (Current Version; AEMA).]

SECTION 4. REIMBURSABLE EXPENSES

The terms and conditions governing reimbursement for any assistance provided under this agreement shall be in accordance with the following provisions.

A. **PERSONNEL** - During the period of assistance, the assisting political subdivision shall continue to pay its employees according to its then prevailing ordinances, rules, and regulations. The State EMA shall from any available source, reimburse at a rate of 100% the assisting political subdivision for all direct and indirect payroll costs and expenses incurred during the period of assistance, including, but not limited to, employee pensions and benefits, and the pro rata portion of the cost for workman's compensation insurance, as determined by Generally Accepted Accounting Principles (GAAP). State EMA is prohibited from granting reimbursement for overtime payroll costs, unless such compensation is in accordance with payroll policies previously established for normal day to day non-disaster activities. Volunteers, as defined in Section 1, will not be reimbursed for labor performed while participating under this agreement. While providing services to the requesting political subdivision, employees of the assisting political subdivision shall remain as employees of their respective agency while responding to, or performing an emergency mutual aid function on behalf of the State EMA and until which time the emergency management worker is relieved of further emergency mutual aid responsibility by a duly authorized official.

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B. EQUIPMENT – Unless otherwise agreed to as provided herein, the assisting political subdivision shall be reimbursed by any available source, or by the State EMA, for the use of its equipment during the period of assistance according to the pre-established FEMA hourly rate cost codes, the actual replacement, operation, and maintenance expenses incurred or the rental rate blue-book for construction equipment if approval by the State EMA or FEMA. The assisting political subdivision shall pay for all repairs to its equipment as determined necessary by its on-site supervisor(s) to maintain such equipment in safe and operational condition. In the event replacement of equipment becomes necessary, State EMA shall not reimburse any replacement cost(s) incurred above the current fair market value of the equipment at issue. At the request of the assisting political subdivision, fuels, miscellaneous supplies, and minor repairs may be provided by the State EMA, if practical. The total equipment charges to the State EMA shall be reduced by the total value of the fuels, supplies, and repairs furnished by the State EMA and by the amount of any insurance proceeds received by the assisting political subdivision.

C. MATERIALS AND SUPPLIES - Unless otherwise agreed to as provided herein, the assisting political subdivision shall be reimbursed for all materials and supplies used or damaged during the period of assistance, except for the costs of equipment, fuel and maintenance materials, labor and supplies, which shall be included in the equipment rate established in 3.B. above, unless such damage is caused by gross negligence, willful and wanton misconduct, intentional misuse, or recklessness of the assisting political subdivision's personnel. The assisting political subdivision's personnel shall use reasonable care under the circumstances in the operation and control of all materials and supplies used by them during the period of assistance. The measure of reimbursement shall be determined in accordance with 44 CFR 206.228. In the alternative, the parties may agree that the State EMA will replace, with like kind and quality as determined by the assisting political subdivision, the materials and supplies used or damaged. If such an agreement is made, it shall be reduced to writing and transmitted to the State EMA.

D. RECORD KEEPING - The assisting political subdivision shall maintain records and submit invoices for reimbursement direct to the STATE EMA using a format commonly used by the State of Alabama or required by FEMA publications, including 44 CFR Part 13 and applicable Office of Management and Budget Circulars. State EMA finance personnel shall provide information, directions, and assistance for record keeping to assisting political subdivision personnel.

E. PAYMENT - The assisting political subdivision shall bill the State EMA for all reimbursable expenses with an itemized invoice as soon as practicable after the expenses are incurred, but not later than forty (40) calendar days following the period of assistance, unless the deadline for identifying damage is extended in accordance with 44 CFR Part 206. The State EMA shall pay the bill, or advise of any disputed items, not later than forty (40) calendar days following the billing date. Should State EMA fail to reimburse an assisting political subdivision within forty (40) days following the date the political subdivision applies for such reimbursement, such political subdivision shall no longer be required to fulfill the requirements of this agreement until such reimbursement is made by the State EMA. These time frames may be modified by mutual agreement.

F. PAYMENT BY OR THROUGH THE ALABAMA EMERGENCY MANAGEMENT AGENCY - The State EMA may reimburse the assisting political subdivision for all actual and necessary travel and subsistence expenses for personnel providing assistance pursuant to the request of the State EMA.

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The assisting political subdivision shall be responsible for making written request to the State EMA for reimbursement of travel and subsistence expenses. The assisting political subdivision's written request should be submitted as soon as possible, not to exceed forty (40) days after expiration of the period of assistance. The State EMA shall provide a written response to said requests within forty (40) days of actual receipt. In the event that an affected jurisdiction requests assistance without forwarding said request through the State EMA, or an assisting political subdivision provides assistance without having been requested by the State EMA to do so, the State EMA shall not be liable for reimbursement of any of the cost(s) of assistance incurred. The State EMA may serve as the eligible entity for requesting reimbursement of eligible costs from FEMA. Any costs to be so reimbursed by or through the State EMA shall be determined in accordance with 44 CFR 206.228. The State EMA may authorize applications for reimbursement, of eligible costs for the non-federal share portion, from the undeclared disaster portion, of the Governor's Contingency Fund created in accordance with Section 36-13-1 et seq. Code of Alabama (1975) as amended, or by any other legally authorized appropriation or fund. Such applications shall be evaluated pursuant to rules established by the State EMA, and may be funded only to the extent of available state or federal funds.

SECTION 5. INSURANCE

Each participating political subdivision shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. If a participating political subdivision is insured, its file shall contain a letter from its insurance carrier(s) stating in affect that insurance coverage will follow the employee or volunteer, their vehicles and their agency's liability upon leaving its local jurisdiction. If a participating political subdivision is self-insured, its file shall contain a copy of a resolution authorizing its self-insurance program. Specifically, regarding workman's compensation liability of self-insured parties, evidence of a certificate of self-insurance, with a resolution reflecting such status, and a copy of which must be attached to the executed copy of this Agreement, which is filed with the State EMA. Each Assisting political subdivision shall be solely responsible for determining that its insurance is current and adequate prior to providing assistance under this agreement. The amount of reimbursement from the State EMA or the requesting political subdivision shall be reduced by the amount of any insurance proceeds to which the assisting political subdivision is entitled as a result of losses experienced in rendering assistance pursuant to this Agreement.

SECTION 6. LIABILITY

To the extent permitted by law, including those in accordance with Section 31-9-16 and Section 11-98-2 Code of Alabama (1975) as amended, and without waiving sovereign immunity, or those limitations provided by law, each political subdivision to this Agreement shall be responsible for any and all claims, demands, suits, actions, damages, and causes of action related to or arising out of or in any way connected with its own actions, and the actions of its personnel, in providing mutual aid assistance rendered or performed pursuant to the terms and conditions of this Agreement.

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SECTION 7. LENGTH OF TIME FOR EMERGENCY RESPONSE

The duration of response to said state of emergency, declared by the requesting political subdivision, is limited to 72 hours (3) days. It may be extended, if necessary.

SECTION 8. TERM

This Agreement shall be in effect for one (1) year from the date hereof and shall automatically be renewed in successive one (1) year terms unless terminated in writing by the participating political subdivision. Notice of such termination shall be made in writing and shall be served personally or by registered mail upon the Director, State EMA, which shall provide copies to all other participating parties. Written notification shall be submitted no later than sixty (60) days prior the requested date of termination.

SECTION 9. EFFECTIVE DATE OF THIS AGREEMENT

This Agreement shall be in full force and effect upon approval by the participating political subdivision and upon proper execution hereof.

SECTION 10. ROLE OF ALABAMA EMERGENCY MANAGEMENT AGENCY

The responsibilities of the State EMA under this Agreement are to: (1) request mutual aid on behalf of a participating political subdivision, under the circumstances identified in this Agreement; (2) coordinate the provision of mutual aid to a requesting political subdivision, pursuant to the provisions of this Agreement; (3) serve as the eligible entity for requesting reimbursement of eligible costs from the Alabama Department of Finance upon a proclaimed State of Emergency, or from the U.S. Department of Homeland Security, FEMA, and/or all other supporting federal agencies upon a presidential disaster declaration; (4) serve as central depository for executed Agreements; and (5) maintain a current listing of participating political subdivisions with their authorized representative and contact information, and to provide a copy of the listing to each of the participating political subdivisions on an annual basis during the second quarter of the calendar year.

SECTION 11. SEVERABILITY; EFFECT ON OTHER AGREEMENTS

Should any portion, section, or subsection of this Agreement be held to be invalid by a court of competent jurisdiction, that fact shall not affect or invalidate any other portion, section or subsection; and the remaining portions of this Agreement shall remain in full force and affect without regard to the section, portion, or subsection or power invalidated.

In the event that any parties to this agreement have entered into other mutual aid agreements, or inter-local agreements, pursuant to Section 31-9-9 et seq. Code of Alabama (1975) as amended, those parties agree that said agreements are superseded by this agreement only for emergency management assistance and activities performed in catastrophic emergencies pursuant to this agreement. In the event that two or more parties to this agreement have not entered into another mutual aid agreement, and the parties wish to engage in mutual aid, then the terms and conditions of this agreement shall apply unless otherwise agreed between those parties.

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SECTION 12. MISCELLANEOUS:

Capacity - Each political subdivision that has entered into this agreement represents and warrants to the other as follows:

- A. That it is a legal government entity duly organized and in good standing pursuant to all applicable laws, rules and regulations. That each has full power and capacity to enter into this agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.
- B. That to the extent required, each political subdivision has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the political subdivision.
- C. That each political subdivision has duly authorized and empowered a representative to execute this agreement on their respective behalf and the execution of this agreement by such representative fully and completely binds the political subdivision to the terms and conditions hereof.
- D. That absent fraud, the execution of this agreement by a representative of the political subdivision shall constitute a certification that all such authorizations for execution exist and have been performed and the other political subdivision shall be entitled to rely upon the same.
- E. That each political subdivision represents and warrants to the other that there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this agreement.
- F. That each political subdivision has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this agreement.

Third political subdivision - It is the intent of the parties hereto that there shall be no third political subdivision beneficiaries to this agreement.

Final Integration - This Agreement constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any political subdivision which is not contained in this Agreement or expressly referred to herein has been relied on by any political subdivision in entering into this Agreement.

Force Majeure - Neither political subdivision to this agreement shall hold the other political subdivision responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other political subdivision's employees, agents or contractors.

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Amendment in Writing - This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

Binding Effect - This agreement shall bind the parties and successors.

Construction - This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the political subdivision that provided or drafted it.

Mandatory and Permissive - "Shall", "will", and "agrees" are mandatory; "may" is permissive.

Governing Laws - The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.

Prohibition on Assignment and Delegation - No political subdivision to this Agreement may assign its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any political subdivision from its obligations and duties hereunder and such assigning or delegating political subdivision shall in all respects remain liable hereunder irrespective of such assignment or delegation.

Waiver - Non enforcement of any provision of this agreement by either political subdivision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the agreement.

IN WITNESS WHEREOF, the parties set forth below have duly executed this Agreement on the date set forth below:

ATTEST:

LOCAL GOVERNMENT AGENCY

By: _____

Date: _____

Its: _____

Mayor/County Commissioner

By: _____

Date: _____

Its: _____

County Sheriff

ACKNOWLEDGED AND AGREED BY THE ALABAMA EMERGENCY MANAGEMENT AGENCY

Date: _____

BRUCE P. BAUGHMAN, Director