

MEMORANDUM OF AGREEMENT
BETWEEN THE
CITY OF INDIANAPOLIS, INDIANA ACTING THROUGH THE INDIANAPOLIS FIRE
DEPARTMENT AND THE CITY OF LEBANON, INDIANA
REGARDING INDIANA TASK FORCE ONE

THIS MEMORANDUM OF AGREEMENT (hereinafter referred to as "Agreement"), entered into by and between the City of Indianapolis, Indiana acting through the Indianapolis Fire Department (hereinafter referred to as "CITY"), and the City of Lebanon, Indiana, a political subdivision of the State of Indiana, for and on behalf of its Lebanon Fire Department;

RECITALS:

WHEREAS, pursuant to federal law, principally the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 through 5206 (hereinafter referred to as the "Stafford Act"), the U.S. Department of Homeland Security, acting through the Federal Emergency Management Agency (hereinafter referred to as "FEMA"), operates the National Urban Search & Rescue Response System (hereinafter referred to as "System") in conjunction with State and local governments; and

WHEREAS, the CITY is the sponsoring agency for Indiana Task Force One (hereinafter referred to as "Task Force"), an urban search and rescue task force of the System, established in 1992 pursuant to an agreement between FEMA and the City of Indianapolis, Indiana; and

WHEREAS, the CITY in its capacity as sponsoring agency is responsible for recruiting and organizing the Task Force such that the Task Force consists of individuals occupying certain specified positions plus additional support personnel, all of whom have been properly trained with the requisite skills and capabilities required for urban search and rescue operations and/or deployment of the Task Force; and

WHEREAS, the Task Force may be deployed as a single unit or it may be reorganized into teams for purposes of modularized responses for limited or specialized activations, and members of the Task Force may also be deployed as members of a management or other technical team; and

WHEREAS, the CITY in the performance of its responsibilities may enter into cooperative arrangements with federal, state, or local government entities, or non-profit or for-profit entities, to serve as participating agencies in the Task Force, and with individuals to serve as affiliated personnel of the Task Force; and

WHEREAS, the CITY in its capacity as sponsoring agency is obligated to enter into written agreements with those participating agencies and affiliated personnel setting forth the relationship between the parties; and

WHEREAS, the City of Lebanon, Indiana, desires to be a participating agency in the Task Force, subject to all of the provisions of this Agreement;

NOW, THEREFORE, the CITY and the City of Lebanon, Indiana, (hereinafter referred to as "Participating Agency"), in consideration of the foregoing recitals and the following promises, hereby agree as follows.

I. CONSTRUCTION

- 1.01 With respect to National Urban Search & Rescue Response System activities of the Participating Agency and its employees under this Agreement, the provisions of Interim Final Rule, "National Urban Search and Rescue Response System," 70 Fed. Reg. 9182 (Feb. 24, 2005) 44 CFR Part 208 (hereinafter referred to as "Interim Final Rule"), hereby are incorporated and made applicable.
- 1.02 To the extent it may be applicable, the Interim Final Rule will prevail and govern this Agreement; and upon the effective date of a final rule that supplants the Interim Final Rule governing this subject (hereinafter referred to as "Final Rule"), the Final Rule shall supersede the Interim Final Rule and shall prevail over any contrary provisions in the governance of this Agreement.
- 1.03 This Agreement is entered into by and between the parties, who agree that subject to all of the provisions of this Agreement, the City of Lebanon, Indiana, will serve as Participating Agency for the Task Force. Each party further agrees that it assumes all of the duties and responsibilities assigned to that party under this Agreement, and that so long as this Agreement remains in effect, the party will fully perform all of those duties and responsibilities.

II. TERM AND TERMINATION

- 2.01 This Agreement shall be effective when it has been duly and regularly authorized and executed by both parties. For purposes of reference and convenience, the parties have agreed that the effective date of the Agreement is January 1, 2022.
- 2.02 The Agreement shall continue in effect unless and until it is terminated as provided in this Agreement.
- 2.03 The Agreement may be terminated by either party upon thirty (30) days written notice, except that the Participating Agency may not terminate this Agreement without the written consent of the CITY during any time interval when the Task Force has been placed on alert status or has been activated, if the alert or activation affects participants of the Participating Agency.

III. CONDITIONS OF AGENCY PARTICIPATION

- 3.01 The Participating Agency hereby agrees to commit at least one (1) individual employees of the Participating Agency (hereinafter referred to as "Committed Personnel") to serve in designated positions on the Task Force as determined by the CITY and Task Force.
- 3.02 The Participating Agency further agrees that the Committed Personnel shall be able to deploy within one (1) hour after notification, on a twenty-four (24) hour per day and three hundred and sixty-five (365) days per year basis.
- 3.03 The Parties agree that on an ongoing basis the Task Force shall provide any and all required training of the Committed Personnel to satisfy such conditions of preparedness and response as may be required by the Task Force. The Participating Agency shall not be required to mandate the Committed Personnel to participate in the training.
- 3.04 Upon execution of this Agreement, the Participating Agency shall provide the CITY and Task Force with a written list of the names, addresses, and appropriate contact information of the Committed Personnel; thereafter, the Participating Agency shall also provide the CITY and Task Force with immediate written notification of any additions to or deletions from such list. All

Committed Personnel shall be subject to approval and acceptance by the Task Force Administrator.

- 3.05 The Parties will cooperate with each other so as to facilitate achievement of the goals and objectives of the System as fully and completely as possible, and as further provided in Section VIII of the Agreement.

IV. TORT LIABILITY AND WORKERS' COMPENSATION

- 4.01 The Participating Agency and the Committed Personnel shall be afforded such coverage for tort liability and workers' compensation as is afforded all Task Forces and their System members under federal law.
- 4.02 Except as afforded by the Federal Government, the responsibility for risks associated with claims for tort liability and workers' compensation arising out of participation in the Task Force, shall be the responsibility of the CITY and not under any circumstances, the responsibility of the Participating Agency. At all times, the CITY and Task Force shall maintain in full force and effect, for the benefit of the Committed Personnel, coverage for workers' compensation to provide coverage for risks associated with and/or arising out of the Committed Personnel's participation in the Task Force and/or the Committed Personnel's responsibilities under this Agreement.

V. FINANCIAL PROVISIONS

5.01 Preparedness Funds

- 5.01.1 In its sole discretion, the CITY may distribute to the Participating Agency such preparedness grant funding as the CITY shall be eligible to and does receive from FEMA. Any such distributions shall be subject to the requirements of the preparedness grants and the needs of the Task Force generally.
- 5.01.2 Any other funding received by the CITY from sources other than the federal government may also be made available as the CITY determines in its discretion. The CITY shall make such distributions fairly and equitably taking into account the mission, goals and objectives of the Task Force and the needs of the CITY as compared to other proper needs and demands.

5.02 Response Funds

- 5.02.1 The CITY shall promptly reimburse the Participating Agency for response expenses that are authorized to be incurred by or for the benefit of the Committed Personnel engaged in Task Force activities, upon receiving reimbursement for such expenses from the federal government. Such expenses must be properly ascertained, accumulated and reported to the CITY, and the funds to be utilized for payment must have been reimbursed by or on behalf of FEMA to the CITY.
- 5.02.2 After an alert or activation, the Participating Agency shall provide the CITY with a complete cost reimbursement package to be submitted by the CITY as part of an overall claim package which the CITY is obliged to submit to FEMA. The Participating Agency's cost reimbursement package shall be submitted to the CITY within thirty (30) days after the end of the Personal Rehabilitation Period established by FEMA. The Participating Agency's cost reimbursement package shall be prepared in conformance

with applicable federal directives which the CITY shall disseminate to the Participating Agency.

- 5.02.3 The Participating Agency shall provide the CITY with the established hourly or daily rates of pay of each of the Committed Personnel. Such information shall be stated on "Exhibit A" to this Agreement, attached hereto and incorporated herein by reference. Throughout the term of the Agreement, the Participating Agency also shall notify the CITY immediately of any changes to such established hourly or daily rates of pay by providing a substitute "Exhibit A" that contains the new information.
- 5.02.4 In order to ensure proper reimbursement from FEMA, the compensation of Committed Personnel on the Task Force shall be in accordance with established pay schedules and policies, during an alert, and from the time of activation and until the Task Force returns, is deactivated, and Committed Personnel are returned to regular work schedules.
- 5.03 All financial commitments of the CITY are subject to the availability and receipt of funds by the CITY from FEMA and other sources.
- 5.04 Neither the Participating Agency nor any Committed Personnel shall be reimbursed for costs incurred outside the scope of this Agreement.
- 5.05 The parties agree that in the event the CITY makes an overpayment to a Participating Agency and the CITY is required to reimburse FEMA for such overpayment, then the Participating Agency shall be responsible for collecting any overpayment from the Committed Personnel and shall promptly reimburse the CITY for such overpayment.

VI. MANDATORY MINIMUM REQUIREMENTS FOR COMMITTED PERSONNEL

- 6.01 Each individual in the Committed Personnel must satisfy all of the requirements for participation in the Task Force as listed in this Section VI of the Agreement.
- 6.02 The Committed Personnel shall be employees of the Participating Agency in good standing. Entry-level employees who are probationary or in a similar status are not eligible.
- 6.03 The Committed Personnel shall be of good moral character and shall not have been convicted of a felony or of any other criminal offense involving moral turpitude.
- 6.04 The Committed Personnel serving in a Task Force position that requires the individual member to hold a license, registration, certificate or other similar authorization to lawfully engage in an activity must hold the appropriate authorization, which must be current and validly issued.
- 6.05 Subject to any applicable FEMA standards, each Committed Personnel member must meet the medical/fitness standards mutually agreed upon by the CITY and the Participating Agency, and further must not have any medical condition or disability that will prevent performance of the duties of the Task Force position he/she occupies.
- 6.06 Each Committed Personnel member must be able to respond on a mission for a duration of at least fourteen (14) days.
- 6.07 Each Committed Personnel member must be capable of improvising and functioning for long hours under adverse working conditions.

- 6.08 Each Committed Personnel member must receive such inoculations as are specified by the CITY.
- 6.09 Each Committed Personnel member must be aware of the signs, symptoms and corrective measures of Critical Incident Stress Syndrome.
- 6.10 Each Committed Personnel member must understand and adhere to safe working practices and procedures as required in the urban disaster environment.
- 6.11 Each Committed Personnel member must have a working knowledge of the US&R System and the Task Force's organizational structure, operating procedures, safety practices, terminology and communication protocols.
- 6.12 Each Committed Personnel member must have completed such courses of education and training and other requirements as the CITY and Task Force shall specify.
- 6.13 The CITY has authority to suspend or terminate a Committed Personnel member's participation on the Task Force for failure to satisfy any mandatory minimum requirement.

VII. CLOTHING AND EQUIPMENT

- 7.01 The CITY and/or Task Force will issue to each Committed Personnel member certain items of personal protective clothing and equipment for use in Task Force activities and operations. In the event of activation, the Committed Personnel shall provide certain additional items of personal clothing and equipment. Items of clothing and equipment supplied by the CITY or Task Force shall remain the property of the CITY or Task Force and shall be returned promptly whenever a person ceases to be a Committed Personnel member.
- 7.02 Subject to FEMA requirements, all uniforms will display the official patch of the Task Force and the official patch of the System, as specified by the CITY. The CITY shall specify the design of the uniform and any identifying insignia or markings.

VIII. COMMAND, CONTROL AND COORDINATION

- 8.01 When the Committed Personnel have been activated or have otherwise been placed at the direction, control and funding of FEMA (e.g., during participation in FEMA-sponsored training), the ultimate authority for command, control and coordination of the service of the Committed Personnel reposes with FEMA. Subject to the principle just stated, the following provisions of this Section VIII govern the responsibilities of the parties with respect to supervisory, disciplinary and other specified aspects of the employment of the Committed Personnel within the context of his/her participation on the Task Force.
- 8.02 Nothing in this Agreement is intended to, nor does it, establish the creation of a joint venture or joint enterprise between the CITY and Participating Agency. Nor shall anything herein be deemed to create or affect the employer-employee relationship between the Participating Agency and its employees who are members of the Committed Personnel, and the Participating Agency shall at all times continue to be fully responsible for all of its employment obligations to its employees, including the compensation and benefits that the Participating Agency has agreed to provide.
- 8.03 While participating in System activities conducted by the Task Force, all Committed Personnel shall be subject to and observe and comply with all lawful orders and directions of the authorized

representatives of the CITY and the Task Force. Sponsoring Agency retains the right to suspend or exclude any Participant from participation on the Task Force for cause including failure to abide by the provisions of this Agreement.

- 8.04 The CITY and/or the Task Force shall exercise direct supervisory authority with respect to Participants during activations, deployments and other activities of the Task Force conducted by the CITY, but for disciplinary purposes, that authority is limited to temporary suspension or permanent exclusion from participation. In all other instances where disciplinary action may be necessary, the CITY shall report the pertinent circumstances to the Participating Agency, who shall cooperate with the CITY and shall administer discipline as appropriate in accordance with the Participating Agency's established rules and regulations.

IX. MEDIA AND INFORMATION POLICY

- 9.01 Subject to applicable law, including FEMA regulations, all photographs and video taken on deployments will be kept under the control of the CITY and Task Force until the use of such materials in internal or external education programs or other dissemination is approved.
- 9.02 All applicable federal, state, and local media policies will be strictly enforced and followed.
- 9.03 Subject to applicable rules and regulations, the CITY and Task Force will have the primary responsibility for coordination of media coverage and liaison with media sources and representatives concerning activities of the Task Force.

X. RULES OF CONDUCT

- 10.01 Committed Personnel will be expected to abide by the rules of conduct established by the CITY.
- 10.02 The failure of a Committed Personnel member to abide by the rules of conduct constitutes good cause for suspension or exclusion from the Task Force under Section VIII of this Agreement.

XI. PREPAREDNESS ACTIVITIES

- 11.01 The CITY shall conduct Task Force management, administration, training, equipment procurement and other preparedness activities required by FEMA. The Participating Agency and its Committed Personnel shall cooperate with the CITY and shall participate in the activities as necessary to achieve Task Force preparedness goals and objectives.
- 11.02 As established by System directives but subject to the availability of federal funding, the CITY shall procure and maintain required caches of equipment and supplies. The contents of these caches shall be utilized for deployments of the Task Force and, subject to federal rules and regulations, will be made available for training activities of the CITY and the Participating Agency. Committed Personnel shall use Task Force cache equipment and supplies only for authorized purposes and shall exercise reasonable care to protect and preserve the property against loss or damage. The Participating Agency shall be financially accountable for any Task Force property that is lost or damaged due to negligence or unauthorized use by the Participating Agency or its Committed Personnel.

XII. NOTIFICATION PROCEDURES AND OTHER COMMUNICATIONS

12.01 Alerts and Activation

12.01.1 The CITY shall determine whether the Task Force is capable of and will respond to activation orders.

12.01.2 The Participating Agency at all times shall maintain a ready means to be contacted (hereinafter referred to as "Point of Notification") by the CITY or Task Force regarding possible deployments of the Task Force. The Point of Notification shall include 24-hour telephonic and electronic capabilities.

12.01.3 Upon receipt of alert or activation orders, the CITY shall give prompt telephonic and electronic notice to the Participating Agency's Point of Notification. The notice shall designate the Task Force positions for which the Participating Agency's Committed Personnel are being requisitioned, the location of the assembly point, and to the extent known, the nature and character of the activation.

12.01.4 The Participating Agency shall at all times maintain the capability of providing requisitioned Committed Personnel for participation on a deployment of the Task Force.

12.01.5 Upon receipt of an activation order for the Task Force, the Participating Agency shall cause the required Committed Personnel to respond to the assembly point designated in the notice.

12.02 Mobilization

12.02.1 All requisitioned Committed Personnel will respond to the designated assembly point within one (1) hour of notification with all required personal clothing and equipment and required documentation.

12.02.2 The Participating Agency will select its Committed Personnel through a pre-established selection system that ensures the requisition is promptly filled with fully qualified individuals.

12.02.3 Selected members of the Committed Personnel will be subject to a medical pre-screening for deployment. Any such member who fails the screening will not be deployed.

12.02.4 The CITY retains the sole right to determine which Committed Personnel, if any, will respond with the Task Force when activated.

12.03 Other Communications. The CITY will remain in contact with the Participating Agency through the Participating Agency's Point of Notification during the period of activation.

XIII. CRITICAL INCIDENT STRESS SYNDROME AND MANAGEMENT

13.01 The CITY will have primary responsibility to offer critical incident stress syndrome intervention and support during and after activation.

- 13.02 Costs incurred for unauthorized critical incident stress syndrome activities are not eligible for reimbursement.

XIV. GENERAL PROVISIONS

- 14.01 Authority. As more specifically indicated above and below, this Agreement is made (a) pursuant to the provisions of the Interim Final Rule or the Final Rule; and (b) under the authority of Indiana law, in furtherance of the purposes of the National Urban Search and Rescue Response System.
- 14.02 Amendments. Except as otherwise expressly provided, this Agreement may be modified or amended only by another written agreement approved and executed by both parties, and all such amendments will be attached to this Agreement.
- 14.03 Delegation. The obligations of the Participating Agency set forth in this Agreement are non-delegable and may not be assigned to or assumed by any other person without the prior written consent of the CITY.
- 14.04 Controlling Law. Except and to the extent federal law controls, this Agreement shall be construed and enforced as between the parties according to the laws of the State of Indiana.
- 14.05 Conflict of Interest. No party shall engage in any conduct or activity in the performance of this Agreement or participation in the System that constitutes a conflict of interest under applicable federal, state or local law.
- 14.06 Compliance with Law. Each party shall at all times observe and comply with all applicable federal, state and local laws.
- 14.07 Notice. Except as provided otherwise with respect to emergency notifications, if it is necessary for the purposes of this Agreement for one of the named parties to give notice to the other named party, notice shall be in writing with the expenses of delivery or mailing fully prepaid and shall be delivered by personal service or a form of public or private mail service requiring proof of delivery. Notice is effective upon personal delivery, or by mail service, on the date of either actual receipt or five days after posting, whichever is first. Unless changed in writing in accordance with this Section, notice shall be served on the party at the following address:

to the CITY and Task Force:

Administrator, Indiana Task Force One
2650 Fortune Circle East Drive
Indianapolis, IN 46241

to the Participating Agency:

City of Lebanon, Indiana
Lebanon Fire Department
975 Lasley Drive,
Lebanon, IN 46052

- 14.08 Titles and Section Headings. Titles and section headings are for convenience only and are not a

part of the parties' Agreement.

- 14.09 Severability. Should any provision of this Agreement be determined to be invalid or unenforceable under applicable law, the provision shall, to the extent required, be severed from the remainder of the Agreement which shall continue in full force and effect.
- 14.10 Successors and Assigns. This Agreement and its provisions are binding upon and inure to the benefit of the parties and to their respective successors in interest; provided, however, this Agreement does not and will not bestow any rights or remedies upon persons to whom an unlawful delegation or assignment has been made by the Participating Agency.
- 14.11 Indemnification. Each party to this Agreement shall be responsible for its own acts or omissions and any claims, liabilities, injuries, suits, demands or expenses of any kind that may result or arise out of any alleged conduct by the party, its officers or employees, in the performance or omission of any act or responsibility of that party under this Agreement. In the event a claim is made against either or both parties, the intent of the parties is to cooperate in the defense of said claim and to cause an insurer, if any, to do likewise. However, each party shall have the right to take any action it believes necessary to protect its interests.
- 14.12 Non-discrimination. The CITY and the Participating Agency shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status. Breach of this section shall be regarded as a material breach of this Agreement.
- 14.13 Post-Employment Restrictions. Participating Agency certifies to CITY that no employee, contract employee, or sub-contractor of Participating Agency:
- 14.13.1 Participated in any way in the solicitation, negotiation, or awarding of this Agreement while previously employed by an agency of the City of Indianapolis or Marion County for a period of one (1) year prior to the execution of this Agreement;
 - 14.13.2 For a period of one (1) year after such employee ceased supervising the administration or performance of this Agreement on behalf of an agency of the City of Indianapolis or Marion County, shall perform any functions on behalf of Participating Agency under this Agreement with respect to the CITY, unless the employee's former agency has consented to the employee's performance for Contractor in writing;
 - 14.13.3 Has violated any provision of Chapter 293 of the Revised Code of the Consolidated City of Indianapolis and Marion County ("Revised Code"), regarding the solicitation, negotiation, awarding, or the performance of this Agreement;
 - 14.13.4 Is currently an official or deputy mayor of, or has appointing authority to, any agency of the City of Indianapolis or Marion County; and
 - 14.13.5 Was previously employed by the City of Indianapolis or Marion County within one (1) year of this Agreement and currently has the performance of lobbying activity (as that term is defined in Section 909-101 of the Revised Code) related to an agency or an official as a responsibility of his or her employment or contractual relationship with Contractor.

Violation of this certification shall constitute a material breach of this Agreement and, upon such a violation, CITY may terminate this Agreement. In addition, upon a violation of this certification, CITY shall report such violation to the Office of Corporation Counsel who may, at its discretion, debar Participating Agency from eligibility for future city or county purchasing, bids, contracts, or projects.

- 14.14 Wage Theft/Payroll Fraud. The Contractor shall report, and shall require its subcontractors to report, all complaints or adverse determinations of Wage Theft or Payroll Fraud against the Contractor or its subcontractors to the City's Office of Finance and Management within thirty (30) days of notification of the complaint or adverse determination. If an adverse decision is rendered against the Contractor with respect to services provided to the City, the City may terminate this Agreement, reduce the incentives or subsidies to be provided under this Agreement, or seek other remedies.

By executing this Agreement, Contractor affirms under the penalties of perjury that Contractor has not had any adverse determinations rendered against the Contractor within the preceding three (3) years.

- 14.15 Third Party Beneficiaries. This Agreement is made for the sole and exclusive benefit of the named parties and their lawful successors in interest, and no other person or entity is intended to, nor shall such other person or entity acquire or be entitled to receive any rights or benefits as a third-party beneficiary of this Agreement.

- 14.16 Non-parties. Neither the United States of America or the State of Indiana is a party to this Agreement.

- 14.17 Assurances of Understanding. Each party represents to the other the following: that the party has fully read and understood all of the provisions of this Agreement; that the party has secured and considered such legal advice and other expert counsel as the party deemed necessary and advisable for these purposes; and, that in agreeing to execute and become a signatory to this Agreement the party has deemed itself adequately informed and advised as to all of the risks assumed and obligations undertaken pursuant to this Agreement.

- 14.18 Signatory Authority. Each person executing this Agreement represents the following: that he/she was and is lawfully authorized to sign the Agreement on behalf of the party he/she represents; that execution of the Agreement was duly and regularly authorized by the party's governing body; and, that to the person's best knowledge and belief the Agreement is a binding and enforceable obligation of the party on whose behalf he/she executed his/her signature.

- 14.19 Signatures. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement. A signature may be delivered by facsimile transmission or by e-mail of a ".pdf" format data file, such signature shall create a valid and binding obligation on the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page was an original thereof.

- 14.19 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter, and it supersedes any prior agreements on this matter.

(Exhibit A follow)

EXHIBIT A

ESTABLISHED HOURLY OR DAILY RATES OF PAY OF COMMITTED PERSONNEL

Name and rank of Committed Personnel:

Hourly or Daily Rate of Pay:

| | | |
|-----|-------|-------|
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[Page 2 of signatures to follow]