

NONREIMBURSABLE SPACE ACT AGREEMENT
BETWEEN
BAY AREA EMERGENCY RESPONDERS
AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
NASA LYNDON B. JOHNSON SPACE CENTER
FOR RECIPROCAL USE OF EMERGENCY OPERATIONS CENTERS
AND OTHER FACILITIES DURING EMERGENCIES

ARTICLE 1. AUTHORITY AND PARTIES

In accordance with the National Aeronautics and Space Act (51 U.S.C. § 20113), this multi-party Agreement is entered into by the National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, located at 2101 NASA Parkway, Houston, Texas 77058 (hereinafter referred to as "NASA JSC," "JSC," or "NASA") and the cities of League City, Nassau Bay, Seabrook, Kemah, Webster, and El Lago, to be herein referred to as "The Bay Area Emergency Responders" offices located at P. O. Box 98, Seabrook, Texas, 77586 (hereinafter referred to as "Partners" or "The Bay Area Emergency Responders"). NASA and The Bay Area Emergency Responders may be individually referred to as a "Party" and collectively referred to as the "Parties."

ARTICLE 2. PURPOSE

The NASA Lyndon B. Johnson Space Center (JSC) and several surrounding municipalities within the Houston Galveston Bay area wish to enter into a multi-party space act agreement to provide coordinated responses to a wide spectrum of emergencies affecting JSC and the surrounding communities through reciprocal utilization of the JSC Emergency Operations Center (EOC) and other facilities as required, and the municipalities' EOCs and emergency facilities. The municipalities include the Cities of League City, Nassau Bay, Seabrook, Kemah, Webster, and El Lago. Together their emergency capabilities and facilities are herein known as "The Bay Area Emergency Responders." As appropriate, The Bay Area Emergency Responders, plan for and coordinate with each other during emergencies. NASA JSC and these local governmental entities share a common interest in maintaining an ability to quickly assess, respond to, and recover from natural disasters and other emergencies. Providing mutual support for emergency operations and response between the parties can be achieved via this Nonreimbursable space act agreement. The space act agreement will enhance the ability of JSC and local governments to quickly assess and respond to emergencies, shortening the time period required to respond to natural disasters and other emergencies, restore critical government services, and return JSC employees and JSC to full operational capacity. The goal of this Agreement is to provide coordinated responses to a wide spectrum of emergencies affecting JSC and the surrounding communities.

ARTICLE 3. RESPONSIBILITIES

NASA will use reasonable efforts to:

1. Provide space at JSC and/or Ellington Field as needed for up to 200 persons and for 50 emergency vehicles during a single incident.
2. Provide all basic utility services attendant to the operations of an aircraft hangar except during emergency conditions when some or all utilities may be unavailable.
3. Ensure safety and proper facility operation by providing an official JSC liaison who shall be on duty whenever Partners are present. The general purpose of the liaison is to facilitate access to facilities, provide assistance, and coordinate between JSC operations and Partners, as required. The liaison will be available to provide assistance regarding the general layout of the site, identification of the high hazard areas, site safety briefing, specialized or unusual instructions, and other pertinent information required for emergency operations.
4. Provide access to facilities 24 hours a day 7 days a week for entry/exit during emergency/exercise. Response will not be impaired by the method chosen to provide site entry/exit during emergency. Access procedures will be coordinated with the JSC Emergency Preparedness Coordinator.
5. JSC EDC dispatchers will request Partners services through procedures identified by Partners and agreed to by JSC.

Partners will use reasonable efforts to:

1. Comply with Federal safety, environmental, and security rules and regulations while operating at JSC including Ellington Field.
2. Provide identification (including full name, office and emergency contact telephone number, and entity represented) for all Partners requested to occupy space at JSC or Ellington Field. Partners are not allowed to bring family members or pets on base (except service animals on duty).
3. Provide all personal equipment, including but not limited to pagers, cell phones, medications, shelter supplies (e.g. food, clothing, bedding, toiletries, etc.) for each person assigned by their entity to the appropriate facility for the duration of the emergency shelter/exercise.
4. Provide radio and or other communications equipment for connection to dispatch centers as appropriate.
5. Provide marshaling and dispatching of Partners' assets and personnel. NASA Security Services will not dispatch Partners' responders.
6. Provide any auxiliary equipment and supplies normally associated with Emergency services shelter/deployment operations. This would include, but not limited to, fuel, food, planning and operations materials, etc.
7. Provide JSC the capability to have access to or utilize shared resources as appropriate and available from the Partners. These shared resources may include communication equipment, portable generators, maintenance/clean-up equipment, etc., which would be used to perform appropriate emergency response activities.

8. Provide JSC with the capability to have access to or utilize shared resources as appropriate and consistent with Harris County Mutual Aid Agreement, which would be used to perform appropriate emergency response activities.
9. Comply with Federal, NASA and JSC policies on the official use of computer resources as defined in the enclosure C, while occupying hangar space at Ellington Field. Use of NASA Ellington Field equipment, particularly computers and JSC Internet access are subject to monitoring for official use. Misuse and abuse of Government-furnished computers and JSC Internet access will result in a formal complaint to the Mayor of each municipality, the Emergency Management Director, and Information Technology Director.

ARTICLE 4. SCHEDULE AND MILESTONES

The planned major milestones for the activities defined in the "Responsibilities" clause are as follows:

JSC Security Badging of Bay Area Emergency Responders personnel.	At the time an event that triggers this SAA occurs.
Bay Area Emergency Responders utilize JSC Ellington Hangar 990 during emergency incident.	As needed during agreement.
JSC Personnel utilize Bay Area Emergency Responders facilities during emergency incident.	As needed during agreement.
Bay Area Emergency Responders utilize Hangar 990 for preparedness exercise.	Dates to be mutually agreed upon, not to exceed one exercise per year.
JSC Personnel utilize Bay Area Emergency Responders facilities for preparedness exercise.	Date to be mutually agreed upon, not to exceed one exercise per year.

ARTICLE 5. FINANCIAL OBLIGATIONS

There will be no transfer of funds between the Parties under this Agreement and each Party will fund its own participation. All activities under or pursuant to this Agreement are subject to the availability of funds, and no provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, (31 U.S.C. § 1341).

ARTICLE 6. PRIORITY OF USE

Any schedule or milestone in this Agreement is estimated based upon the Parties' current understanding of the projected availability of NASA goods, services, facilities, or equipment. In the event that NASA's projected availability changes, Partners shall be given reasonable notice of that change, so that the schedule and milestones may be adjusted accordingly. The Parties agree that NASA's use of the goods, services, facilities,

or equipment shall have priority over the use planned in this Agreement. Should a conflict arise, NASA in its sole discretion shall determine whether to exercise that priority. Likewise, should a conflict arise as between two or more non-NASA Partners, NASA, in its sole discretion, shall determine the priority as between those Partners. This Agreement does not obligate NASA to seek alternative government property or services under the jurisdiction of NASA at other locations.

ARTICLE 7. NONEXCLUSIVITY

This Agreement is not exclusive; accordingly, NASA may enter into similar agreements for the same or similar purpose with other private or public entities.

ARTICLE 8. LIABILITY AND RISK OF LOSS

1. Each Party hereby waives any claim against the other Party, employees of the other Party, the other Party's Related Entities (including but not limited to contractors and subcontractors at any tier, grantees, investigators, customers, users, and their contractors or subcontractor at any tier), or employees of the other Party's Related Entities for any injury to, or death of, the waiving Party's employees or the employees of its Related Entities, or for damage to, or loss of, the waiving Party's property or the property of its Related Entities arising from or related to activities conducted under this Agreement, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of willful misconduct.

2. Each Party further agrees to extend this cross-waiver to its Related Entities by requiring them, by contract or otherwise, to waive all claims against the other Party, Related Entities of the other Party, and employees of the other Party or of its Related Entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement. Additionally, each Party shall require that their Related Entities extend this cross-waiver to their Related Entities by requiring them, by contract or otherwise, to waive all claims against the other Party, Related Entities of the other Party, and employees of the other Party or of its Related Entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement.

ARTICLE 9. INTELLECTUAL PROPERTY RIGHTS - DATA RIGHTS

1. General

(a) "Related Entity" as used in this Data Rights clause means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partners, that is assigned, tasked, or contracted to perform activities under this Agreement.

(b) "Data," means recorded information, regardless of form, the media on which it is recorded, or the method of recording.

(c) "Proprietary Data," means Data embodying trade secrets developed at private expense or commercial or financial information that is privileged or confidential, and that includes a restrictive notice, unless the Data is:

(i) known or available from other sources without restriction;

(ii) known, possessed, or developed independently, and without reference to the Proprietary Data;
(iii) made available by the owners to others without restriction; or
(iv) required by law or court order to be disclosed.

(d) Data exchanged under this Agreement is exchanged without restriction except as otherwise provided herein.

(e) Notwithstanding any restrictions provided in this clause, the Parties are not restricted in the use, disclosure, or reproduction of Data provided under this Agreement that meets one of the exceptions in (c) above. If a Party believes that any exceptions apply, it shall notify the other Party before any unrestricted use, disclosure, or reproduction of the Data.

(f) The Parties will not exchange preexisting Proprietary Data under this Agreement unless authorized herein or in writing by the owner.

(g) If the Parties exchange Data having a notice that the Receiving Party deems is ambiguous or unauthorized, the Receiving Party shall tell the Providing Party. If the notice indicates a restriction, the Receiving Party shall protect the Data under this clause unless otherwise directed in writing by the Providing Party.

(h) The Data rights herein apply to the employees and Related Entities of Partners. Partners shall ensure that its employees and Related Entity employees know about and are bound by the obligations under this clause.

(i) Disclaimer of Liability: NASA is not restricted in, or liable for, the use, disclosure, or reproduction of Data without a restrictive notice under paragraphs 1(c) or 2 of this clause or for Data Partners gives, or is required to give, the U.S. Government without restriction.

2. Data First Produced by Partners Under this Agreement

If Data first produced by Partners or its Related Entities under this Agreement is given to NASA, and the Data is Proprietary Data, and it includes a restrictive notice, NASA will use reasonable efforts to protect it. The Data will be disclosed and used (under suitable protective conditions) only for U.S. Government purposes.

3. Data First Produced by NASA Under this Agreement

If Partners requests that Data first produced by NASA or its Related Entities under this Agreement be protected, and NASA determines it would be Proprietary Data if obtained from Partners, NASA will mark it with a restrictive notice and use reasonable efforts to protect it for [insert a period of up to 5 years, typically 1 or 2 years] after its development. During this restricted period the Data may be disclosed and used (under suitable protective conditions) for U.S. Government purposes only, and thereafter for any purpose. Partners must not disclose the Data without NASA's written approval during the restricted period. The restrictions placed on NASA do not apply to Data disclosing a NASA-owned invention for which patent protection is being considered.

4. Publication of Results

The National Aeronautics and Space Act (51 U.S.C. § 20112) requires NASA to provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof. As such, NASA may publish unclassified and non-Proprietary Data resulting from work performed under this Agreement. The Parties will coordinate publication of results allowing a reasonable time to review and comment.

5. Data Disclosing an Invention

If the Parties exchange Data disclosing an invention for which patent protection is being considered, and the furnishing Party identifies the Data as such when providing it to the Receiving Party, the Receiving Party shall withhold it from public disclosure for a reasonable time (one (1) year unless otherwise agreed or the Data is restricted for a longer period herein).

6. Copyright

Data exchanged with a copyright notice and no indication of restriction under paragraphs 1(c), 2 or 3 of this clause (i.e., Data has no restrictive notice) is presumed to be published. The following royalty-free licenses apply:

(a) If indicated on the Data that it was produced outside of this Agreement, it may be reproduced, distributed, and used to prepare derivative works only for carrying out the Receiving Party's responsibilities under this Agreement.

(b) Data without the indication of (a) is presumed to be first produced under this Agreement. Except as otherwise provided in paragraph 5 of this clause, and in the Inventions and Patent Rights clause of this Agreement for protection of reported inventions, the Data may be reproduced, distributed, and used to prepare derivative works for any purpose.

7. Data Subject to Export Control

Whether or not marked, technical data subject to the export laws and regulations of the United States provided to Partners under this Agreement must not be given to foreign persons or transmitted outside the United States without proper U.S. Government authorization.

ARTICLE 10. INTELLECTUAL PROPERTY RIGHTS - INVENTION AND PATENT RIGHTS

1. "Related Entity" as used in this Invention and Patent Rights clause means a contractor, subcontractor, grantee, or other entity having a legal relationship with NASA or Partners assigned, tasked, or contracted with to perform activities under this Agreement.

2. The invention and patent rights herein apply to employees and Related Entities of Partners. Partners shall ensure that its employees and Related Entity employees know about and are bound by the obligations under this clause.

3. NASA has determined that 51 U.S.C. § 20135(b) does not apply to this Agreement. Therefore, title to inventions made (conceived or first actually reduced to practice) under this Agreement remain with the respective inventing party(ies). No invention or patent rights are exchanged or granted under this Agreement. NASA and Partners will use reasonable efforts to report inventions made jointly by their employees (including employees of their Related Entities). The Parties will consult and agree on the responsibilities and actions to establish and maintain patent protection for joint invention, and on the terms and conditions of any license or other rights exchanged or granted between them.

ARTICLE 11. USE OF NASA NAME AND EMBLEMS

1. NASA Name and Initials

Partners shall not use "National Aeronautics and Space Administration" or "NASA" in a way that creates the impression that a product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. Except for releases under the "Release of General Information to the Public and Media" clause, Partners must submit any proposed public use of the NASA name or initials (including press releases and all promotional and advertising use) to the NASA Associate Administrator for the Office of Communication or designee ("NASA Communications") for review and approval. Approval by NASA Communications shall be based on applicable law and policy governing the use of the NASA name and initials.

2. NASA Emblems

Use of NASA emblems (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) is governed by 14 C.F.R. Part 1221. Partners must submit any proposed use of the emblems to NASA Communications for review and approval.

ARTICLE 12. RELEASE OF GENERAL INFORMATION TO THE PUBLIC AND MEDIA

NASA or Partners may, consistent with Federal law and this Agreement, release general information regarding its own participation in this Agreement as desired.

ARTICLE 13. DISCLAIMER OF WARRANTY

Goods, services, facilities, or equipment provided by NASA under this Agreement are provided "as is." NASA makes no express or implied warranty as to the condition of any such goods, services, facilities, or equipment, or as to the condition of any research or information generated under this Agreement, or as to any products made or developed under or as a result of this Agreement including as a result of the use of information generated hereunder, or as to the merchantability or fitness for a particular purpose of such research, information, or resulting product, or that the goods, services, facilities or

equipment provided will accomplish the intended results or are safe for any purpose including the intended purpose, or that any of the above will not interfere with privately-owned rights of others. Neither the government nor its contractors shall be liable for special, consequential or incidental damages attributed to such equipment, facilities, technical information, or services provided under this Agreement or such research, information, or resulting products made or developed under or as a result of this Agreement.

ARTICLE 14. DISCLAIMER OF ENDORSEMENT

NASA does not endorse or sponsor any commercial product, service, or activity. NASA's participation in this Agreement or provision of goods, services, facilities or equipment under this Agreement does not constitute endorsement by NASA. Partners agrees that nothing in this Agreement will be construed to imply that NASA authorizes, supports, endorses, or sponsors any product or service of Partners resulting from activities conducted under this Agreement, regardless of the fact that such product or service may employ NASA-developed technology.

ARTICLE 15. COMPLIANCE WITH LAWS AND REGULATIONS

(a) The Parties shall comply with all applicable laws and regulations including, but not limited to, safety; security; export control; environmental; and suspension and debarment laws and regulations. Access by the Partners to NASA facilities or property, or to a NASA Information Technology (IT) system or application, is contingent upon compliance with NASA security and safety policies and guidelines including, but not limited to, standards on badging, credentials, and facility and IT system/application access.

(b) With respect to any export control requirements:

(i) The Parties will comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 C.F.R. Parts 120 through 130, and the Export Administration Regulations (EAR), 15 C.F.R. Parts 730 through 799, in performing work under this Agreement or any Annex to this Agreement. In the absence of available license exemptions or exceptions, the Partners shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data and software, or for the provision of technical assistance.

(ii) The Partners shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of work under this Agreement or any Annex under this Agreement, including instances where the work is to be performed on-site at NASA and where the foreign person will have access to export-controlled technical data or software.

(iii) The Partners will be responsible for all regulatory record-keeping requirements associated with the use of licenses and license exemptions or exceptions.

(iv) The Partners will be responsible for ensuring that the provisions of this Article apply to its Related Entities.

(c) With respect to suspension and debarment requirements:

(i) The Partners hereby certifies, to the best of its knowledge and belief, that it has complied, and shall comply, with 2 C.F.R. Part 180, Subpart C, as supplemented by 2 C.F.R. Part 1880, Subpart C.

(ii) The Partners shall include language and requirements equivalent to those set forth in subparagraph (c)(i), above, in any lower-tier covered transaction entered into under this Agreement.

ARTICLE 16. TERM OF AGREEMENT

This Agreement becomes effective upon the date of the last signature below ("effective date") and shall remain in effect until the completion of all obligations of both Parties hereto, or three (3) Years from the effective date, whichever comes first.

ARTICLE 17. RIGHT TO TERMINATE

Either Party may unilaterally terminate this Agreement by providing thirty (30) calendar days written notice to the other Party.

ARTICLE 18. CONTINUING OBLIGATIONS

The rights and obligations of the Parties that, by their nature, would continue beyond the expiration or termination of this Agreement, e.g., "Liability and Risk of Loss," "Intellectual Property Rights," and related clauses shall survive such expiration or termination of this Agreement.

ARTICLE 19. POINTS OF CONTACT

The following personnel are designated as the Points of Contact between the Parties in the performance of this Agreement.

Management Points of Contact:

NASA Lyndon B. Johnson Space Center

Alan T. Mather
Chief, Protective Services Division
Mail Stop: JS
2101 NASA Parkway
Houston, Texas 77058
Phone: 281-483-2619
alan.t.mather@nasa.gov

Bay Area Emergency Responders

Dominic L. Del Rosso
Seabrook Volunteer Fire Department
P. O. Box 98
Seabrook, TX 77586
Phone: 281-704-2685
svfd202@yahoo.com

ARTICLE 20. DISPUTE RESOLUTION

Except as otherwise provided in the Article entitled "Priority of Use," the Article entitled "Intellectual Property Rights – Invention and Patent Rights" (for those activities governed by 37 C.F.R. Part 404), and those situations where a pre-existing statutory or regulatory system exists (e.g., under the Freedom of Information Act, 5 U.S.C. § 552), all disputes concerning questions of fact or law arising under this Agreement shall be referred by the claimant in writing to the appropriate person identified in this Agreement as the "Points of Contact." The persons identified as the "Points of Contact" for NASA and the Partners will consult and attempt to resolve all issues arising from the implementation of this Agreement. If they are unable to come to agreement on any issue, the dispute will be referred to the signatories to this Agreement, or their designees, for joint resolution. If the Parties remain unable to resolve the dispute, then the NASA signatory or that person's designee, as applicable, will issue a written decision that will be the final agency decision for the purpose of judicial review. Nothing in this Article limits or prevents either Party from pursuing any other right or remedy available by law upon the issuance of the final agency decision.

ARTICLE 21. MODIFICATIONS

Any modification to this Agreement shall be executed, in writing, and signed by an authorized representative of NASA and the Partners.

ARTICLE 22. ASSIGNMENT

Neither this Agreement nor any interest arising under it will be assigned by the Partners or NASA without the express written consent of the officials executing, or successors, or higher- level officials possessing original or delegated authority to execute this Agreement.

ARTICLE 23. APPLICABLE LAW

U.S. Federal law governs this Agreement for all purposes, including, but not limited to, determining the validity of the Agreement, the meaning of its provisions, and the rights, obligations and remedies of the Parties.

ARTICLE 24. INDEPENDENT RELATIONSHIP

This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership, or formal business organization, or agency agreement of any kind, and the rights and obligations of the Parties shall be only those expressly set forth herein.

ARTICLE 25. LOAN OF GOVERNMENT PROPERTY

The parties shall complete and enter into a separate NASA Form 893, Loan of NASA Equipment, for any NASA equipment which is to be loaned to Partner in support of the activities under this Agreement.

ARTICLE 26. SIGNATORY AUTHORITY

The signatories to this Agreement covenant and warrant that they have authority to execute this Agreement. By signing below, the undersigned agrees to the above terms and conditions.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION
LYNDON B. JOHNSON SPACE
CENTER

BY: _____
Joel B. Walker
Director, Center Operations

DATE: _____

BAY AREA EMERGENCY RESPONDERS SIGNATORIES ON PAGE 12

BAY AREA EMERGENCY RESPONDERS

BY: _____
The Honorable Pat Hallisey
Mayor, League City, Texas

BY: _____
The Honorable Mark Denman
Mayor, Nassau Bay, Texas

DATE: _____

DATE: _____

BY: _____
The Honorable Thom Kolupski
Mayor, Seabrook, Texas

BY: _____
Chief Brent Hahn
Kemah Fire Department, Kemah, Texas

DATE: _____

DATE: _____

BY: _____
The Honorable Donna Rogers
Mayor, Webster, Texas

BY: _____
The Honorable Mark Briggs
Mayor, El Lago, Texas

DATE: _____

DATE: _____