

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
 COUNTY OF FORT BEND §

**FULL RELEASE, INDEMNIFICATION, AND REQUIREMENT FOR LIABILITY INSURANCE
 BETWEEN FORT BEND COUNTY AND THE CIVIL AIR PATROL**

This Full Release, Indemnification, and Requirement for Liability Insurance, (hereinafter referred to as "Release"), is made and entered into by and between Fort Bend County, Texas, (hereinafter referred to as "County"), a body corporate and politic by and through its governing body, the Fort Bend County Commissioners Court, and the Civil Air Patrol, (hereinafter referred to as "CAP"), a 501(c)(3) organization, acting by and through its Group Four of its Texas Wing (TX040).

WHEREAS, CAP is the civilian auxiliary of the United States Air Force (USAF) created under Title 10 of the United States Code and its purposes are defined by Title 36 of the United States Code; and

WHEREAS Group Four of the Texas Wing (TX040) is an active unit of CAP; and

WHEREAS, CAP performs congressionally approved key missions including emergency services, search and rescue, disaster recovery operations, aerial photography, and other tasks ("herein Activities") as may be assigned to CAP from time to time by USAF or other federal, state and local agencies which benefit the citizens of Fort Bend County; and

WHEREAS, the County desires to permit CAP, non-exclusive use of the rooftop and mechanical penthouse of the Travis Building (herein "Facilities") located at 301 Travis St. in Richmond, Texas, for the placement and storage of communications and ancillary equipment;

WHEREAS, CAP desires to fully release the County of any and all claims, past, present or future, deriving or resulting from CAP's use of the Facilities; and

WHEREAS, CAP desires to fully indemnify the County from any and all claims, past, present or future, deriving or resulting from CAP's use of the Facilities; and

WHEREAS, County has determined that this agreement serves a public purpose;

NOW THEREFORE, in consideration of the recitals set forth above, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

I. PURPOSE AND USE

- 1.01 County agrees to provide CAP access to Facilities for the purposes of operating, maintaining, inspecting, using, replacing, repairing, moving, and removing its equipment and for complying with any reasonable request for inspection by representatives of the FCC.

- 1.02 CAP agrees to install only the equipment (including antennas and feed line) approved by County. CAP agrees the installation will be done in a neat, professional manner and in compliance with all applicable laws and regulations. All costs will be the responsibility of CAP.
- 1.03 CAP agrees to properly ground all antenna equipment and coaxial cable as required by regulations and local law.
- 1.04 If County needs to perform any type of construction or maintenance to the Facility and CAP equipment needs to be removed for this purpose, CAP agrees to temporarily remove its equipment. In the alternative, equipment may be temporarily re-located upon written agreement of the parties. County agrees to provide thirty (30) days' notice, whenever possible, if CAP equipment will need to be removed or relocated under this Section.
- 1.05 CAP agrees to remove all of its equipment at CAP's sole risk and expense, within a reasonable amount of time, not to exceed thirty (30) days, after the termination of this Agreement.
- 1.06 CAP will use the Facility with proper care and caution.
- 1.07 CAP shall keep and maintain the Facility in neat and orderly condition at the conclusion of each use.
- 1.08 CAP shall use the Facilities for the purposes as described in this Agreement and for no other activity.

II. TERM

- 2.01 The term of this Agreement is effective upon signature of the County and shall end on December 31, 2017. From then on, this Agreement shall automatically renew each year for a one year period until terminated by either party in writing.
- 2.02 Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.
- 2.03 Breach of any provision of this Article shall be grounds for immediate termination of this Agreement.

III. COMPENSATION

Both parties agree that no financial obligation shall be incurred by either party as a result of this Agreement.

IV. RELEASE

CAP AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, VOLUNTEERS, AND ALL PERSONS IN PRIVITY WITH CAP, HEREBY AGREE TO FULLY RELEASE, ACQUIT, AND FOREVER DISCHARGE THE COUNTY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND SERVANTS, AND ALL PERSONS IN PRIVITY WITH THE COUNTY, FROM ANY AND ALL PAST, PRESENT OR FUTURE CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, AT COMMON LAW, STATUTORY OR OTHERWISE, THAT MIGHT ARISE, AT ANY TIME, DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO CAP'S USE OF THE FACILITIES.

V. INDEMNITY

CAP AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, VOLUNTEERS, AND ALL PERSONS IN PRIVITY WITH CAP , HEREBY AGREE TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND SERVANTS, AND ALL PERSONS IN PRIVITY WITH THE COUNTY, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEY'S FEES, BODILY INJURY, SICKNESS, DISEASE OR DEATH, THAT MIGHT ARISE, AT ANY TIME, DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO CAP'S USE OF THE FACILITIES.

VI. INSURANCE

- 6.01 Prior to commencement of the CAP's use of the Facilities, CAP shall furnish County with properly executed certificates of insurance for commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. The policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder and such insurance shall not be canceled, except on 30 days' prior written notice to County. CAP shall provide certified copies of insurance endorsements and/or policies if requested by County CAP shall maintain such insurance coverage from the time CAP's use of the Facilities commences throughout the Term of this Agreement and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to end of the Term. CAP shall obtain such insurance written on an Occurrence form from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas.
- 6.02 County and the members of Commissioners Court shall be named as additional insured to all required coverage. All Liability policies written on behalf of CAP shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- 6.03 If required coverage is written on a claims-made basis, CAP warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time that CAP's use of the Facilities is complete.

VII. NOTICE

- 7.01 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

7.02 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

If to County: Director of Facilities Management & Planning
301 Jackson St.
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

CAP: Civil Air Patrol, Nat'l Headquarters
Office of General Counsel
105 S. Hansell Street, Bldg 714
Maxwell AFB, AL 36112
blee@capnhq.gov

Texas Wing Civil Air Patrol
553 Terry Crawford Drive
Nacogdoches, TX 75964-2468
www.txwgcap.org
Lt. Col. Henry Howe
CAP, Communications Officer
940-597-1233
henry.howe39@gmail.com

Group IV Texas Wing Civil Air Patrol
www.grp4txwgcap.org
Lt. Col. Donald T. Anderson
CAP, Communications Officer,
817-219-3197
arlllp@aol.com

7.03 A Notice is effective only if the party giving or making the Notice has complied with subsections 7.01 and 7.02 and if the addressee has received the Notice. A Notice is deemed received as follows:

7.03.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

7.03.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

VIII. ADDITIONAL TERMS

- 8.01 CAP agrees to observe and obey all federal, state and local laws, ordinances and regulations pertinent to the use of the Facility during the term of its use including proper operation of its equipment and compliance with Federal Communication Commission ("FCC") rules;
- 8.02 This Agreement shall be governed by the laws of the State of Texas. Venue for all purposes is the County of Fort Bend, Texas.
- 8.03 This Agreement may not be assigned by either party.
- 8.04 Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in CAP's use of the Facilities hereunder without the express written permission of County, except where required to do so by law.
- 8.05 CAP hereby acknowledges and agrees that it has read this Release and that it fully understands the Release and its consequences. CAP expressly warrants to County that it is has the legal authority to execute this Release, and that it does so of its own free will and accord without reliance on any representations of any kind or character not expressly set forth herein.

{Execution Page Follows}

FORT BEND COUNTY

Robert E. Hebert

Robert E. Hebert, County Judge

February 14, 2017

Reviewed by:

James Knight

James Knight

Director of Facilities Management and
Planning

CIVIL AIR PATROL

John A. Salvador

Authorized Agent- Signature

John A. Salvador

Authorized Agent- Printed Name

Chief Operating Officer

Title

27 January 2017

Date

ATTEST:

Laura Richard

Laura Richard, County Clerk



CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
 CIVIL AIR PATROL
 MONTGOMERY, AL United States

Certificate Number:
 2017-162672

Date Filed:
 02/06/2017

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
 FORT BEND COUNTY

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
 99999
 Facility Usage Agreement

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest (check applicable) | |
|---|------------------------------------|--|---------------------------------------|--------------|
| | | | Controlling | Intermediary |
| | Rafael Robles, CAP General Counsel | Montgomery, AL United States | | X |
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5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



[Handwritten Signature]

 Signature of authorized agent of contracting business entity

AFFIX NOTARY SEAL

Sworn to and subscribed before me, by the said Rafael Robles, CAP General Counsel, this the 6th day of February, 2017, to certify which, witness my hand and seal of office.

[Handwritten Signature]

 Signature of officer administering oath

Rebecca D. Lee
 Printed name of officer administering oath

CAP GC-Paralegal
 Title of officer administering oath

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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02/06/2017

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02/14/2017

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CIVIL AIR PATROL
MONTGOMERY, AL United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

FORT BEND COUNTY

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

99999
Facility Usage Agreement

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|---|------------------------------------|--|---------------------------------------|--------------|
| | | | Controlling | Intermediary |
| | Rafael Robles, CAP General Counsel | Montgomery, AL United States | | X |
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5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath