

STATE OF ALABAMA)
COUNTY OF BALDWIN)

**TRI-PARTY
SECONDARY SHELTER AGREEMENT**

This Tri-Party Secondary Shelter Agreement (the "Agreement") between *Spanish Fort Presbyterian Church* (the "Owner"), The American National Red Cross, a not-for-profit corporation (the "Red Cross") and The Baldwin County Commission, a political subdivision of the State of Alabama (the "County"), and all collectively known as the "Parties", generally concerning the use of certain Owner-owned facilities for the purpose of providing emergency shelters for the general benefit of Baldwin County.

WITNESSETH:

WHEREAS, in reference to the general circumstances surrounding emergencies and natural disasters likely to impact the citizens of Baldwin County, the County has, in the past, been met with disasters too great in magnitude to be dealt with unassisted; and,

WHEREAS, during a local state of emergency, the Owner, the Red Cross and the County wish to partner to provide for non-traditional (e.g., hurricane) evacuee and/or public sheltering needs; and,

WHEREAS, the County considers the provision of non-traditional evacuee shelters, public sheltering, the staffing thereof, and related resources as emergency management functions pursuant to § 31-9-1, et seq. Code of Alabama 1975; and,

WHEREAS, the County also considers the Owner's provision of such facilities, to house evacuees, along with the Red Cross' providing of staff and resources all to be great acts of benevolence in harmony with the County's efforts to provide emergency protective measures to save lives and protect public health and safety during and following times and events of emergency and/or disasters.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, the Parties enter into this Tri-Party Secondary Sheltering Agreement as follows:

- 1) Recitals Included. The above recitals and statements are incorporated as part of this Agreement, and shall have the binding effect and enforceability as all other provisions herein.

- 2) Effective Date. The Parties acknowledge that this Agreement shall be effective on the last date that the same is fully executed by the Parties.

- 3) Limited Agreement. The Parties agree that this Agreement is limited in scope to the Owner providing a facility as an evacuee shelter if necessary, the Red Cross providing various disaster relief functions including operation of the facility, and the County procuring listed resources and reimbursing the Owner if and when necessary. Notwithstanding the scope of this Agreement, nothing shall prevent the Owner from submitting any eligible expenses in their requests for consideration of reimbursement from the County.
- 4) General Certifications of the Parties. The Parties generally certify the following:
- i) The costs associated with general wear and tear within the Owner's facility shall be non-reimbursable, and the same shall be omitted from any Owner requests for reimbursement from the Red Cross or County.
 - ii) Any change, improvement, alteration or modification, of any kind, made to or for the facility and/or property, without limitation, during, prior to, or in anticipation of occupancy must first receive written consent from the Baldwin County Commission in order for such modifications to be considered for County reimbursement.
 - iii) All Parties will conduct a pre-occupancy inspection, attached as Exhibit A, of the facility to identify, in writing, existing but obvious facility flaws, problems and/or defects before the facility is used as a shelter.
 - iv) All Parties following the closing of the shelter will conduct a post-occupancy inspection of the facility, attached as Exhibit B, in order to identify in writing existing but obvious facility flaws, problems and/or defects.
- 5) Owner Certifications. The Owner certifies that:
The Owner shall herein designate and provide certain Owner-owned facilities for the purposes of housing individuals affected by natural disasters, emergency events, or other conditions which require the activation of the disaster relief functions of the Red Cross. Red Cross will determine if the facility is suitable for use as a public shelter and will determine the capacity of the shelter. The Owner will make the facility available to Red Cross for use as a shelter, upon Red Cross' oral or written request. The Owner shall provide support and necessary access to resources found within the respective facility to include, without limitation, telecommunications, electricity, natural gas, furnishings, water, and food.
- i) The Owner shall provide an accessible primary and alternate contact person, without limitation, prior to and during the entire time the facility is utilized as a shelter.
 - ii) The Owner may remit to the County eligible costs incurred which have not been reimbursed by the Red Cross, for the sheltering of evacuees and/or displaced individuals including related expenses.
 - iii) The Owner will, to the extent as possible, seek out volunteers and/or staff to assist the Red Cross in its overall effort to house and generally provide for those occupying and/or being served by the facility.

- iv) The Owner will appoint a person to coordinate the Owner's activities ("Facility Coordinator"). The Facility Coordinator will coordinate the use of the shelter with Red Cross' designated official ("Shelter Manager") and will collaborate to resolve questions or dilemmas regarding shelter operations. The Facility Coordinator will secure all equipment that is not to be used by Red Cross before the shelter is turned over to Red Cross.
- v) The Facility Coordinator shall, if feasible, designate a Foodservice Manager who will establish a feeding schedule and determine foodservice inventory and supply needs. At the direction of and in cooperation with the Shelter Manager, the Foodservice Manager will provide food and supplies needed for meals at the shelter site. If, in the opinion of the Shelter Manager, additional food or supplies are needed, the Shelter Manager will coordinate the procurement of the additional food or supplies. Red Cross will pay or reimburse Owner for all food and supplies, as approved by the Shelter Manager and used in the course of operating the shelter.
- vi) The Facility Coordinator shall, if feasible, designate a Facility Custodian who will establish and direct the sanitation inventory and supply needs. The Facility Coordinator or Facility Custodian will order and provide all sanitation and custodial supplies and services, as determined by the Shelter Manager. Red Cross will pay or reimburse Owner for all sanitation supplies, as approved by the Shelter Manager and used in the course of operating the shelter.
- vii) The Facility Coordinator and the Shelter Manager shall, if feasible, jointly coordinate a work schedule for any personnel who are not County or Red Cross employees, volunteers, or contractors. If the Owner experiences shortfalls in personnel and is unable to appoint a Foodservice Manager or Facility Custodian, the Facility Coordinator will notify the Shelter Manager, who may obtain such services by contract.
- viii) Red Cross is not responsible for coordinating police or security for the shelter. Any private security services that are to be the responsibility of Red Cross must be arranged under a separate agreement.
- ix) Within thirty (30) days after the close of a shelter, the Owner shall submit to the Red Cross its request for reimbursement, with supporting invoices, to the address included herein. Invoices and the supporting documentation shall include a list of the Owner's operations personnel and hours worked at the shelter, and details on any materials or goods used or consumed.
- x) Should the Owner not be reimbursed by the Red Cross, the Owner shall immediately submit such non-reimbursed costs to the County for consideration of reimbursement by the County.
- xi) The Owner shall not release any information concerning occupants of, or people served by, the shelter without express written consent of the Red Cross. Owner will refer all media questions related to the shelter to the Shelter Manager. Press releases issued to the media will credit all Parties.
- xii) Signage identifying the shelter will be allowed from all Parties and each will be responsible for removal of signage, if necessary, upon closing of the shelter.

6) County Certifications. The County certifies the following:

- i) To the extent any of Owner's personnel costs are not reimbursed by the Red Cross, the County will reimburse personnel costs at actual, current, per-hour straight time rate for instruction, custodial, maintenance, and food service.
- ii) To the extent any of Owner's out-of-pocket operational expenses are not reimbursed by the Red Cross, the County will reimburse the Owner for the reasonable out-of-pocket costs and expenses for the operational expenses, including the replacement of food, supplies, and equipment.
- iii) The County recognizes secondary shelters as a vital function in disaster response and recovery, and sanctions them as part of the County's Emergency Management Operations Plan.
- iv) The County may, when deemed necessary and requested and approved by the Shelter Manager, procure resources for the Red Cross and/or the Owner which could include, without limitation or guarantee, the following:
 - 1. Generators
 - 2. Emergency Lighting Kits
 - 3. Communications Equipment
 - 4. Cots, Blankets, Pillows
 - 5. Towels, Washcloths
 - 6. Fans
 - 7. Showering Facilities
 - 8. Extension Cords
 - 9. Gasoline for Generators
 - 10. Food
 - 11. Beverages
 - 12. Janitorial Supplies
 - 13. Paper products
 - 14. Toiletries
 - 15. Augment Personnel
 - 16. Interpreters
 - 17. Security
 - 18. Transportation
 - 19. Message Boards/Signage

7) Red Cross Certifications. The Red Cross Certifies the following:

- i) The Red Cross Shelter Manager has primary responsibility for the operation of the shelter. The Red Cross will provide additional Red Cross staff and volunteers to carry out the activities of the shelter.
- ii) The Red Cross and all of its agents, employees, and volunteers will exercise reasonable care in the operation of the shelter facility.

- iii) The Red Cross will reimburse the Owner for personnel costs at actual, current, per-hour straight time rate for custodial, maintenance, and food service.
- iv) The Red Cross will reimburse the Owner for the reasonable out-of-pocket costs and expenses for the operational expenses it incurs due to the use of the facility as a shelter, including the replacement of food, supplies, and equipment. Property damaged, lost or stolen due to the negligence of the Red Cross will be compensated based on depreciated actual cash value. Reimbursement for any extraordinary or capital expenses (including without limitation painting, carpeting, wiring, and structural work) will be limited to replacement at actual cash value of the property. In such cases, the Red Cross will select from among bids from at least three reputable contractors. Storm damage and other damage caused by the disaster is not the responsibility of the Red Cross.
- v) The Red Cross will notify the Owner or Facilities Coordinator of the closing schedule for the shelter.
- 8) Review of Receipts Limited & No Guarantee. The County will receive and document all non-reimbursed costs submitted by the Owner. Notwithstanding such receipt, the County makes no guarantee, warrantee or opinion as to the eligibility or payment of such expenditures.
- 9) 24-Hour Points of Contact.

OWNER PRIMARY: John Walthall
 Cell #: 251-626-1242

OWNER ALTERNATE: Gwen Goldman
 Cell #: 251-626-1242

RED CROSS: Jane Dellaire
 Cell #: 251-366-2532

COUNTY: Renee Cook
 Cell #: 251-424-0602

10) Notices:

OWNER: Spanish Fort Presbyterian
John Walthall
6620 Spanish Fort Blvd
Spanish Fort, AL 36527

RED CROSS: The American National Red Cross
Alabama Gulf Coast Chapter
P.O. Box 1764
Mobile, AL 36633

With a copy to:
The American National Red Cross
Office of the General Counsel
2025 E Street, N.W.
Washington, D.C. 20006

With a copy to:

The American National Red Cross
Disaster Operations
2025 E. Street, N.W.
Washington, D.C. 20006

Invoices to:

The American National Red Cross
Alabama Gulf Coast Chapter
P.O. Box 1764
Mobile, AL 36633

COUNTY:

The Baldwin County Commission
c/o The Chairman
312 Courthouse Square
Bay Minette, AL 36507

With a copy to:

The Baldwin County EMA
23100 McAuliffe Drive
Robertsdale, AL 36567

- 11) Designated Non-Traditional Facilities. The Parties agree that the following Owner-owned properties may be utilized, during natural disasters or local emergencies, as evacuee-shelter facilities:

Facility description:

Location/Address:

Approx. size:

Spanish Fort Presbyterian 6620 Spanish Fort
Bldg, Spanish Fort Pre-event 47 Post-event 24

- 12) Term and Termination of the Agreement. Any of the Parties shall be able to, upon 30 days advance written notice, terminate this Agreement.

- 13) No Agency Created. This agreement does not create an agency relationship between or among any of the parties hereto. It is neither the express nor the implied intent of the Parties to create an agency relationship pursuant to this Agreement and the creation of such a relationship is prohibited and void.

- 14) Unenforceable Provisions. If any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision

hereof. This Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

- 15) Entire Agreement. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by all Parties.
- 16) Failure to Strictly Enforce Performance. The failure of the Parties to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this Agreement shall not constitute, and shall never be asserted by the other Parties as constituting a default or be construed as a waiver or relinquishment of the right of the other Parties to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.
- 17) Assignment. This Agreement or any interest herein shall not be assigned transferred or otherwise encumbered by the Parties without the prior written consent of the other Parties, which each party may withhold or grant in its sole discretion.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement effective on the last date that the same is fully executed by the Parties as herein written.

SIGNATURE AND NOTARY PAGE TO FOLLOW

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

COUNTY: Walter J. Pender 7-16-07
Chairman /Date
Baldwin County Commission

ATTEST:
Michael Thayer
County Administrator

OWNER:
Julian W. Walthall 7/31/07
Authorized Representative /Date
Julian W. Walthall

STATE OF ALABAMA
COUNTY OF BALDWIN

I, Jan McCarthy Byrd a Notary Public in and for said County, in said State, hereby certify that Julian W. Walthall, whose name as Spanish Fort Presbyterian is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal, this the 31 day of July, 2007

Jan McCarthy Byrd
Notary Public My Commission Expires: November 19, 2007
My commission expires

THE RED CROSS:
Leisle E. Mims 6/7/2007
Authorized Representative /Date

STATE OF Ala
COUNTY OF Mobile

I, Sandra Lanier, a Notary Public in and for said County, in said State, hereby certify that Leisle Mims, whose name as Leisle E. Mims, and as the duly authorized representative of the American National Red Cross is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal, this the 7 day of June, 2007

Sandra Lanier
Notary Public My Commission Expires: _____
Sandra Lanier
Notary Public, Alabama State At Large
My Commission Expires: 3/14/2009