

MEMORANDUM OF AGREEMENT
Between the Town of Cary
and the Town of Nags Head

This Memorandum of Agreement (hereinafter "Agreement") is made on the last date entered below between the Town of Cary and the Town of Nags Head (collectively referred to hereinafter as "the Parties") for the emergency relocation of government during a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency declared pursuant to Nags Head Town Code Chapter 14 and Chapter 166A of the North Carolina General Statutes.

WHEREAS, during a declared State of Disaster or Imminent Threat of Disaster which implements the North Carolina Emergency Operations Plan (hereinafter "NCEOP"), the Town of Nags Head may request the use of designated facilities from the Town of Cary for the purpose of the continuation of government. These facilities would include space to operate a telephone bank and Internet access to communicate with citizens, operations staff, property owners and other parties who need access to Town government; AND

WHEREAS, the Town of Nags Head has requested that it be allowed the opportunity to relocate certain government functions to the Town of Cary and the Town of Cary is willing to provide the necessary facilities; AND

WHEREAS, the Parties have conferred as to the best methods and practices to allow the Town of Nags Head to operate remote government functions; AND

WHEREAS, this Agreement is authorized by N.C.G.S. 166A-19.72.

NOW, THEREFORE, the Parties agree as follows:

1. The Town of Cary will provide space to operate a five (5) person phone bank.
2. The Town of Cary will provide internet access in order that the Town of Nags Head may update its Website.
3. The Town of Cary will provide access to additional facilities such as bathrooms, break rooms, and recreational areas as available during times when Nags Head staff are engaged in work activity.
4. The Town of Cary will provide said facilities for a period not to exceed two weeks unless by further written agreement.
5. The Town of Nags Head will provide and pay for phone service for five phone lines for use by the Town of Nags Head in the facilities designated by the Town of Cary.
6. The Town of Nags Head will pay necessary Internet access charges for the period of use by the Town of Nags Head.
7. The Town of Cary will provide an itemized notice of costs and expenses to be paid to the Town of Cary, and forward this notice as soon as practicable after the costs and expenses are incurred, but

not later than sixty (60) days following the period of assistance. The Town of Nags Head shall pay the bill or advise of any disputed items, not later than 30 (thirty) days following the billing date.

8. The Town of Cary has no legal obligation to provide or maintain communication services for the Town of Nags Head and does not guarantee the quality of communication services that may be provided to the Town of Nags Head as a result of this Agreement.
9. A reasonable effort will be made by the Parties to identify and maintain availability of adequate communication services that the Town of Nags Head has been authorized to install and/or utilize on the Town of Cary's premises for the purpose of this Agreement.
10. The Town of Cary shall not be responsible for reimbursing any amounts paid or due as benefits to the Town of Nags Head personnel under the terms of the North Carolina Workers' Compensation Act (Chapter 97 of the North Carolina General Statutes). It is mutually understood that the Town of Nags Head and the Town of Cary shall be responsible for payment of such workers' compensation benefits only to their own respective employees.
11. It is mutually understood that each Party's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose upon the Town of Cary an unconditional obligation to provide aid and assistance pursuant to a request from the Town of Nags Head. Accordingly, when aid and assistance have been requested, the Town of Cary may in good faith withhold the resources necessary to provide reasonable and adequate protection for its own community, by deeming itself unavailable to respond and so informing the Town of Nags Head. Concomitantly, the Town of Cary fully recognizes that there is a highly meritorious reason for entering into this Agreement, and accordingly shall attempt to render assistance in accordance with the terms of this Agreement to the fullest extent possible.
12. The Parties intend that this Agreement be governed by the law of the State of North Carolina.
13. In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction. Such disputes, or any other claims, disputes or other controversies arising out of, and
between the Parties shall be subject to and decided by the appropriate general court of justice of Wake County, North Carolina.
14. In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the Parties without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.
15. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Either Party may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina

Department of Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

- 16. This Agreement may be modified only upon the written consent and approval of both parties.
- 17. This Agreement shall be in effect from the last date written below until **October 31, 2025**. This Agreement may be terminated by either party upon submission of a thirty-day advance written notice of termination to the non-terminating party.
- 18. To provide consistent and effective communication between the Parties, each party shall appoint a Principal Representative to serve as its central point of contact responsible for coordinating and implementing their Agreement. The Principal Representative of the Town of Cary shall be the Director of Technology Services Department or designee. The Principal Representative of the Town of Nags Head shall be the Fire Chief or designee.
- 19. The governing boards of both parties have concurred in the adoption of this Agreement.

This Agreement shall be effective on the date of the last signature below.

IN WITNESS WHEREOF, the Parties have each executed this Agreement as follows:

TOWN OF CARY

BY: _____

ITS: _____

ATTEST: _____

DATE: _____

Date of Governing Board Concurrence: _____

TOWN OF NAGS HEAD

BY: _____

ITS: _____

ATTEST: _____

DATE: _____

Date of Governing Board Concurrence: _____