

**EXECUTIVE ORDER NO.**

**2023-19**

**WHEREAS**, on May 12, 2023, the Governor of the State of Texas issued a proclamation renewing his prior disaster declaration and certification that the surge of individuals unlawfully crossing the Texas–Mexico border poses an ongoing and imminent threat of disaster for a number of Texas counties and for all state agencies affected by the disaster; and

**WHEREAS**, on May 16, 2023, the Governor of the State of Texas requested that other States provide military and law enforcement support to assist the State of Texas in managing these emergency conditions; and

**WHEREAS**, on June 5, 2023, in accordance with the provisions of the Emergency Management Assistance Compact (“EMAC”), S.C. Code Ann. §§ 25-9-420 *et seq.*, the Governor of the State of Texas formally requested that the State of South Carolina assist the State of Texas in securing the Southern Border and in addressing the related public safety and national security threats; and

**WHEREAS**, article IV, section 13 of the South Carolina Constitution designates the Governor as the “Commander-in-Chief of the organized and unorganized militia of the State”; and

**WHEREAS**, article XIII, section 3 of the South Carolina Constitution states that “[t]he Governor shall have the power to call out the volunteer and militia forces, either or both, to execute the laws, repel invasions, suppress insurrections and preserve the public peace”; and

**WHEREAS**, section 25-1-1820 of the South Carolina Code of Laws, as amended, provides that the South Carolina National Guard may be subject to active duty “for aiding civil officers in the execution of the laws, in which cases the Governor or local commander . . . shall order out for active service, by draft or otherwise, as many of the National Guard as necessity demands”; and

**WHEREAS**, section 25-1-1840 of the South Carolina Code of Laws, as amended, provides, in pertinent part, that “[i]n the event of (a) war, insurrection, rebellion, invasion, tumult, riot[,] or a mob, (b) a body of men acting together by force with intent to commit a felony to offer

violence to persons or property or by force and violence to break and resist the laws of this State or the United States, (c) in case of the imminent danger of the occurrence of any such events[,] or (d) in the event of public disaster the Governor may order the National Guard of South Carolina or any part thereof into the active service of the State and cause them to perform such duty as he shall deem proper”; and

**WHEREAS**, South Carolina is prepared to provide the personnel, resources, and equipment necessary to assist the State of Texas and to respond to the cited circumstances and emergency conditions pursuant to the terms of the EMAC; and

**WHEREAS**, the critical, trying, and unusual state of affairs in Texas presents a public danger to other States, including the State of South Carolina, and a threat to public peace as described in article XIII, section 3 and article I, section 11 of the South Carolina Constitution and satisfies the statutory and common law criteria applicable to the undersigned’s authority to require service of the State’s military forces and to utilize them in accordance with that authority to alleviate public danger and threats to public peace; and

**WHEREAS**, upon consultation with the Adjutant General of South Carolina and the South Carolina Emergency Management Division (“EMD”), the undersigned has determined that it is necessary and appropriate for South Carolina National Guard personnel, resources, and equipment to respond to the aforementioned request for mutual aid and emergency assistance from the State of Texas.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

**Section 1.     Activating the South Carolina National Guard to Provide Requested Assistance and Mutual Aid to the State of Texas**

A.     In accordance with the foregoing authorities and other applicable law, I hereby authorize and direct the Adjutant General to place specified units or personnel, or both, of the South Carolina National Guard on State Active Duty; to issue any supplemental orders he deems necessary and appropriate; and to utilize the requisite South Carolina National Guard personnel, resources, and equipment to fulfill the aforementioned mission in support of, and requested by, the State of Texas.

B.     South Carolina National Guard personnel and equipment deployments and mission requirements shall be coordinated through EMD, in consultation with the Office of the Governor, in accordance with the terms of the EMAC.

**Section 2.     General Provisions**

A.     This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any

party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and, in accordance with article 4 of the EMAC, shall remain in effect for so long as the activities for mutual aid are in progress, the state of emergency or disaster remains in effect in the State of Texas, or the loaned resources remain in the State of Texas, whichever is longer.

**GIVEN UNDER MY HAND AND THE  
GREAT SEAL OF THE STATE OF  
SOUTH CAROLINA, THIS 9th DAY OF  
JUNE, 2023.**

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**HENRY MCMASTER**  
Governor

ATTEST:

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MARK HAMMOND  
Secretary of State