

RESOLUTION NO.: R-2014-096

Authorizing the City Manager and Chief of the Fire Department to execute an Agreement for Mutual Aid in Fire Emergency Services (US) between the City of Columbia and McEntire Joint National Guard Base

ORIGINAL
STAMPED IN RED

BE IT RESOLVED by the Mayor and City Council this 7th day of October, 2014, that the City Manager and the Chief of the Fire Department are authorized to execute the attached Agreement for Mutual Aid in Fire Emergency Services (US).

Requested by:

City Manager _____



Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 10/7/2014
Final Reading: 10/7/2014

**AGREEMENT FOR
MUTUAL AID IN FIRE EMERGENCY SERVICES (US)**

This Mutual Aid Agreement (the "Agreement"), is made and entered into this ___ day of October 2014, between the Secretary of the Air Force (the "Air Force") acting by and through the Commander of McEntire Joint National Guard Base (JNGB) pursuant to the authority of 42 U.S.C. § 1856a and the Fire Department of the City of Columbia. Together the Air Force and the City of Columbia Fire Department are hereinafter referred to as the "Parties".

WITNESSETH:

WHEREAS, each of the Parties hereto maintains equipment and personnel for the suppression of fires and the management of other emergency incidents occurring within areas under their respective jurisdictions; and

WHEREAS, as set forth in 42 U.S.C. § 1856 the term 'fire protection' includes personal services and equipment required for fire prevention, the protection of life and property from fire, fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions; and

WHEREAS, the Parties hereto desire to augment the fire protection capabilities available in their respective jurisdictions by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, obligations and agreements herein established, the Parties hereby agree as follows:

a. The authority to enter into this Agreement is set forth in 42 U.S.C. § 1856a, and 15 U.S.C. § 2210, the regulations implementing same at 44 Code of Federal Regulations Part 151 and Air Force Instruction 32-2001, *The Fire Protection Operations and Fire Prevention Program*.

b. This Agreement shall serve as the agreement between the Parties for securing to each mutual aid in fire protection services as defined above.

c. On request to a representative of the McEntire fire department by a representative of the City of Columbia fire department, fire protection equipment and personnel of the McEntire fire department will be dispatched to any point within the area for which the City of Columbia fire department normally provides fire protection services as designated by the representatives of the City of Columbia fire department.

d. On request to a representative of the City of Columbia fire department by a representative of the McEntire fire department, fire protection equipment and personnel of the City of Columbia fire department will be dispatched to any point within the jurisdiction of the McEntire fire department as designated by the representative of the McEntire fire department.

e. Any dispatch of equipment and personnel by the Parties pursuant to this Agreement is subject to the following conditions:

(1) Any request for aid hereunder shall include a statement of the amount and type of equipment and personnel requested and shall specify the location to which the equipment and personnel are to be dispatched, but the amount and type of equipment and the number of personnel to be furnished shall be determined by the responding organization. The requesting organization shall ensure access to site for the responding organization.

(2) The responding organization shall report to the officer in charge of the requesting organization at the location to which the equipment is dispatched, and shall be subject to the orders of that official.

(3) The responding organization shall be released by the requesting organization when the services of the responding organization are no longer required or when the responding organization is needed within the area for which it normally provides fire protection.

(4). Hazardous Materials incident response shall include the response to, and control and containment of any release or suspected release of any material suspected to be or known to be hazardous. Where the properties of a released material are not known, it shall be considered hazardous until proven otherwise by the requesting organization using all technical resources available. Cleanup and removal of contained hazardous materials shall be the responsibility of the requesting organization.

(5) In the event of a crash of an aircraft owned or operated by the United States or military aircraft of any foreign nation within the area for which the City of Columbia fire department normally provides fire protection services, the chief of the McEntire fire department or his or her representative may assume full command on arrival at the scene of the crash.

(6) Where local agencies do not assign an incident safety officer, an Air Force representative will be assigned to act as the incident safety officer for McEntire fire department to observe Air Force operations.

f. Each Party hereby agrees that its intent with respect to the rendering of assistance to the other Party under this Agreement is not to seek reimbursement from the Party requesting such assistance. Notwithstanding the above, the Parties hereby recognize that pursuant to the Section 11 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. § 2210) and Federal regulations issued there under (Title 44 of the Code of Federal Regulations, Part 151), the City of Columbia fire department is permitted to seek reimbursement for all or any part of its direct expenses and losses (defined as additional fire fighting costs over normal operational costs) incurred in fighting fires on property under the jurisdiction of the United States. Furthermore, under the authority of 42 U.S.C. § 1856a, and pursuant to any applicable state or local law each Party hereby reserves the right to seek reimbursement from the other for all or any part of the costs (defined as additional fire fighting costs over normal operational costs) incurred by it in providing fire protection services to the other Party in response to a request for assistance.

g. Both Parties agree to implement the National Incident Management System during all emergency responses on and off installations in accordance with National Fire Protection Association (NFPA) Standard 1561.

h. Each Party waives all claims against the other Party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement. This provision does not waive any right of reimbursement pursuant to paragraph f above.

i. All equipment used by City of Columbia fire department in carrying out this Agreement will, at the time of action hereunder, be owned by it; and all personnel acting for City of Columbia fire department under this Agreement will, at the time of such action, be an employee or volunteer member of City of Columbia fire department.

j. The rendering of assistance under the terms of this Agreement shall not be mandatory; however, the Party receiving a request for assistance shall endeavor to immediately inform the requesting Party if the requested assistance cannot be provided and, if assistance can be provided, the quantity of such resources as may be dispatched in response to such request.

k. Neither Party shall hold the other Party liable or at fault for failing to respond to any request for assistance or for failing to respond to such a request in a timely manner or with less than optimum

equipment and/or personnel, it being the understanding of the Parties that each is primarily and ultimately responsible for the provision of fire protection services needed within their own jurisdictions.

l. Should a dispute arise between the Parties under or related to this Agreement, the Parties agree that within 30 days after notice of the dispute from one Party to the other, the Parties shall attempt to resolve the dispute through negotiations. If such negotiations reach an impasse, the Parties agree that within 60 days after Notice of an impasse, they shall attempt to resolve the matter through any method or combination of non-binding alternative dispute resolution (ADR) methods available under the Administrative Dispute Resolution Act of 1996, Pub. L. No. 104-320 (codified at 5 U.S.C. §§ 571-583). The cost of any third party neutral shall be divided equally between the Parties, and the selection of any third party neutral shall be by agreement of the Parties. If such ADR proceeding does not result in resolution of the dispute, the Parties may separately pursue any remedy available to a Party under the law. However, both Parties agree that the initiation of formal litigation does not preclude further attempts at resolving the dispute through alternative dispute resolution methods. Both Parties agree that the terms of this clause shall be considered the "Administrative Remedies" that must be exhausted, prior to institution of any formal litigation.

m. All notices, requests, demands, and other communications which may or are required to be delivered hereunder shall be in writing and shall be delivered by messenger, by a nationally-recognized overnight mail delivery service or by certified mail, return receipt requested, at the following addresses:

For the Air Force:

McEntire Joint National Guard Base
c/o Commander
1325 South Carolina Rd. Stop 1
Eastover, SC 29044

For the City of Columbia:

City of Columbia Fire Department
Attn: Fire Chief
1800 Laurel St.
Columbia, SC 29201

And: Department of the Air Force
c/o The AF Fire Chief
HQ AFCEA/CEXF
139 Barnes Dr., Suite 1
Tyndall AFB FL 32403-5319

And: City Manager
City of Columbia
Post Office Box 147
Columbia, SC 29217

And: McEntire Joint National Guard Base
c/o Fire Chief
1325 South Carolina Rd. Stop 36
Eastover, SC 29044-5036

And: City Attorney
City of Columbia
Post Office Box 667
Columbia, SC 29202

TERMS OF THE AGREEMENT

n. This Agreement shall become effective on the date of the last signature to the Agreement and will remain in effect for 5 years from that date (the "Term") and automatically renews annually for a term of 20 years. This Agreement can be unilaterally terminated by either party by giving a 90 day notice to the other party. Such notification shall be in the form of a written submission to the other Party.

o. Upon becoming effective, this Agreement shall supersede and cancel all previous agreements between the Parties concerning the rendering of assistance from one to the other for the purposes stated in this Agreement.

p. The modification or amendment of this Agreement, or any of the provisions of this Agreement, shall not become effective unless executed in writing by both Parties.

q. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the dates shown below:

FOR SECRETARY OF THE AIR FORCE:

FOR CHIEF, NATIONAL GUARD BUREAU

DAVID J. MEYER, Col, SCANG
Commander, 169th Fighter Wing

PETER A. SARTORI, Col, USAF
Director of Installations and Mission Support

THE ADJUTANT GENERAL:

USP&FO FOR SOUTH CAROLINA:

ROBERT E. LIVINGSTON Jr.,
Major General, SCARNG

CHRISTOPHER T. EAKER, Col, US Army

FOR CITY OF COLUMBIA, SOUTH CAROLINA:

Aubrey Jenkins

John Danville

Teresa Wilson

TERESA WILSON, City Manager

AUBREY JENKINS
Fire Chief, City of Columbia

APPROVED AS TO FORM
Janne J. Lisowski

Legal Department City of Columbia, SC