

RESOLUTION NO. 12893-16

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN AGREEMENT FOR MUTUAL AID FIRE RESCUE SERVICES AND EMERGENCY MEDICAL SERVICES BETWEEN THE SECRETARY OF THE AIR FORCE ACTING BY AND THROUGH THE COMMANDER, 633D AIR BASE WING JOINT BASE LANGLEY-EUSTIS (LANGLEY AIR FORCE BASE) AND THE CITY OF NEWPORT NEWS, VIRGINIA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Agreement for Mutual Aid Fire Rescue Services and Emergency Medical Services between The Secretary of the Air Force Acting by and through the Commander, 633D Air Base Wing, Joint Base Langley-Eustis (Langley Air Force Base) and the City of Newport News, Virginia.
2. That a copy of the said Agreement is attached hereto and made a part hereof.
3. That this resolution shall be in effect on and after the date of its adoption, February 23, 2016.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON FEBRUARY 23, 2016

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

**AGREEMENT FOR MUTUAL AID
FIRE RESCUE SERVICES and EMERGENCY MEDICAL SERVICES**

**Between
Langley Air Force Base
And
City of Newport News, Virginia**

This Mutual Aid Agreement is made and entered into this 1st day of April 2015, between the Secretary of the Air Force acting by and through the Commander, 633d Air Base Wing, Joint Base Langley-Eustis, pursuant to the authority of 42 U.S.C. § 1856a and the City of Newport News Fire Department. Together the Air Force and City of Newport News 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 incidents 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 Title 15 United States Code Section 2210, the regulations implementing same at Title 44 Code of Federal Regulations Part 151 *Emergency Management and Assistance* and Air Force Instruction 32-2001, *Fire Emergency Services Program*.
- b. This Agreement will 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 Langley Air Force Base Fire Department and/or the Langley Air Force Base Medical Operations Squadron by a representative City of Newport News Fire Department, fire protection equipment and personnel of the Langley Air Force Base Fire Department and/or Langley Air Force Base Medical Operations Squadron will be dispatched to any point within the area for which the City of Newport News Fire Department normally

provides fire protection services as designated by the representatives of City of Newport News Fire Department.

d. On request to a representative of the City of Newport News Fire Department by a representative of the Langley Air Force Base Fire Department and/or Langley Air Force Base Medical Operations Squadron, fire protection equipment and personnel of the City of Newport News Fire Department will be dispatched to any point within the jurisdiction of the Langley Air Force Base Fire Department and/or Langley Air Force Base Medical Operations Squadron as designated by the representative of Langley Air Force Base 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 will include a statement of the amount and type of equipment and personnel requested and will 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 will be determined by the responding organization. The requesting organization will ensure access to site for the responding organization.

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

(3) The responding organization will 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 will 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 will be considered hazardous until proven otherwise by the requesting organization using all technical resources available. Cleanup and removal of contained hazardous materials will 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 Newport News Fire Department normally provides fire protection services, the chief of Langley Air Force Base 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 Langley Air Force Base 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 (44 CFR Part 151), City of Newport News 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.

i. All equipment used by City of Newport News 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 Newport News Fire Department under this Agreement will, at the time of such action, be an employee or volunteer member of City of Newport News Fire Department.

j. The rendering of assistance under the terms of this Agreement will not be mandatory; however, the Party receiving a request for assistance will 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 will 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 will 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 will 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 will be divided equally between the Parties, and the selection of any third party neutral will 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 will 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 will be in writing and will 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:

Langley Air Force Base
c/o Commander, 633d Air Base Wing
125 Mabry Avenue
Langley AFB, VA 23665

And:

For: Department of the Air Force
AFCEC/CXF
139 Barnes Dr, Suite 1
Tyndall AFB, FL 32403-5319

And:

For: Langley Air Force Base
c/o Fire Chief
87 Sweeney Blvd
Langley AFB, VA 23665

For: City of Newport News
City of Newport News Fire Department
"Attention to" Fire Chief Robert B. Alley., III.
2400 Washington Avenue, 6th floor
Newport News, VA 23607

TERMS OF THE AGREEMENT

n. This Agreement will become effective on the date of the last signature to the Agreement and will remain in effect for 5 years (2020) from that date (the "Term") and automatically renews annually for a term of 20 years. Either Party may unilaterally terminate this Agreement during the Term by sending notification of its intent to terminate to the other Party at least one hundred and eighty (180) days in advance of the proposed date of termination. Such notification will be in the form of a written submission to the other Party.

o. Upon becoming effective, this Agreement will 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, will not become effective unless executed in writing by both Parties.

q. This Agreement may be executed in one or more counterparts, each of which will 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:

FIRE DEPARTMENT
For Langley Fire Emergency Services

By: 
WAYNE MELLO SR., Civ, USAF
Fire Chief, Langley Fire Emergency Services

Date: 12 May 15

THE UNITED STATES OF AMERICA
by the Secretary of the Air Force

By: 
JOHN J. ALLEN, JR., Colonel, USAF
Commander, 633d Air Base Wing

Date: 5 JUNE 2015

FOR CITY OF NEWPORT NEWS

James M. Bourey
City Manager
City of Newport News, Va.

Date: _____

Approved as to legal sufficiency:

By: _____
City Attorney

Date: _____

Approved as to content:

By: _____
Robert B. Alley, III, Fire Chief

Date: _____