

FIRE AND RESCUE MUTUAL AID AGREEMENT

This Agreement is made and entered into by and between the City of Kodiak ("the City") and the Kodiak Island Borough, Fire Protection Area No. 1, Bayside Fire Station ("Bayside").

RECITALS

(a) The City and Bayside acknowledge the possibility that fires or other public emergencies may occur within their respective jurisdictions which could reach such proportions as to be impossible to control with their own local equipment, personnel, and resources and therefore find it appropriate that this Agreement be entered into for the mutual protection of life and property pursuant to AS 18.70.150-160 (relating to the adoption of mutual fire aid agreements), Article X, §13 of the Alaska Constitution (authorizing intergovernmental agreements for cooperative or joint administration of municipal functions or powers).

(b) The City and Bayside are desirous of entering into this Fire and Rescue Mutual Aid Agreement in order to memorialize their current understandings and expectations with regard to the furnishing of firefighting and emergency rescue services outside the normal and regular area of service by each party.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, terms and conditions herein contained the parties agree as follows:

1. Furnishing of Emergency Fire Fighting and Rescue Assistance

(a) Each party agrees to respond, to the extent it deems reasonably prudent and possible, to requests for assistance from the other and to furnish firefighting and emergency rescue services, utilizing paid and volunteer fire fighters, and firefighting apparatus and equipment owned and operated by each of the parties. The judgment as to whether or not it is reasonably prudent and possible to respond to a given request and, if so, to what extent and with what resources, shall rest exclusively with the party from whom such assistance is sought. Both parties hereby

formally disavow any intention to create, through the execution of this or any other agreement or through any course of past or future conduct, a binding contractual right to require the other to respond, or to respond at a particular level of resources, to requests for assistance.

(b) The term "request for assistance" shall mean a request for firefighting or emergency rescue aid made by the fire chief, or other personnel who have been authorized by the chief of the requesting fire department to make such a request.

2. Determination of Priority

It is mutually understood and agreed that the dispatch of any personnel or equipment in response to a request for assistance shall be subordinate to the needs and responsibilities of the responding fire department as determined by its fire chief and that his or her judgment as to the level of resources which should be withheld in order to respond to any actual or potential requests for assistance or public emergencies within the geographical area regularly served by the responding party shall be conclusive. No violation of this Agreement shall be considered to have occurred if, for any reason, in the judgment of the responding fire chief, a response to a request for assistance made by the other party to this Agreement might jeopardize the fire or other protection provided to the geographical area regularly served by the responding party.

3. Non-liability

Without limiting the generality of the foregoing it is explicitly agreed that a party to this Agreement shall not be responsible or liable for any loss or claims which may result from a failure to respond to a request for assistance received from the other party, or from an alleged failure to respond in a prompt or timely manner.

4. Operational Control

(a) Control of Fire Fighting

The fire chief of the party requesting assistance or authorized representative shall have the sole responsibility for conducting all firefighting or emergency rescue operations at the scene; however, such requesting fire chief may delegate management authority over all or any part of such operations to any responding fire chief as provided in (b).

(b) Emergency Scene Management

The requesting fire chief or authorized representative, may request that a responding fire chief or authorized representative, assume management authority over the control and direction of all or any part of the firefighting operations at the fire or rescue emergency; however, the requesting fire chief shall not, by relinquishing such control, be relieved of his overall control and responsibility for the operation.

(c) Control of Personnel

Notwithstanding any other provision herein, the officers, fire fighters and other personnel of each firefighting organization, both the responding or the requesting units, shall remain under the control and direction of their own fire chief authorized representative and shall not become the agent, employees, or representatives of any other party.

(d) Right to Protect Personnel and Equipment

Each fire chief, both responding and requesting, and their authorized representative, shall have and retain the right to refuse to commit their personnel or equipment to any position which is considered unreasonably dangerous to life of any of their personnel, another person, or to equipment. A fire chief, or his authorized representative, shall have the sole and exclusive right and discretion to determine the extent and imminence of any such danger.

5. Costs and Expense

Each party shall be responsible for all of its own costs or expense, incurred in maintaining its equipment, insurance coverage, apparatus, paying salaries, and any and all other items of cost or expense associated with providing services pursuant

to this Agreement; provided, however, that expendable fire fighting material used or expended by a responding party in its activities at the scene, such as fire fighting foam, shall be replaced by the party that issued the request for assistance if the responding party expending such materials serves a written claim therefore upon the requesting party not later than sixty (60) days after such materials were used or expended.

6. Damage and Loss

With the exception of replacement of expendable fire fighting materials as provided above, any loss or damage to fire apparatus or other equipment of the responding party incurred or arising out of activities in responding to a request for assistance pursuant to this Agreement, including any loss which may occur while the responding party is traveling to the scene, working at the scene, or returning therefrom, shall be the responsibility of, and shall be paid by, such party responding to the request for assistance.

7. Immunities to Continue

This Agreement is not intended to, and it shall not be construed to, waive, relinquish, alter, amend or vitiate in any manner whatsoever, the privileges or immunities otherwise provided by law to either of the parties hereto or to any of their officers, employees, volunteers or other agents, whether in the course of responding to a request for assistance under this Agreement or otherwise. Each party and all such individuals shall have and retain all privileges and immunities otherwise applicable to the performance of the same or similar functions within the party's own area.

8. Not Employees or Agents

Nothing in this Agreement shall be construed to render or establish any officer, employee or volunteer of any one of the parties the agent, employee, representative or volunteer of any of the other parties and all such personnel shall be and remain, for all purposes and at all times, the personnel of the party providing such personnel.

9. No Warranty

By entering into this Agreement, or taking any action pursuant to it, neither party is making any representation or warranty, whether express or implied, concerning the training or reliability of its personnel or that of the other party, or with respect to the safety, durability or reliability of its firefighting apparatus or equipment or that of the other party. Each party expressly disclaims any such express or implied approval or warranty.

10. No Duty to Inhabitants or Third Parties

This Agreement shall not be construed as creating or giving rise to any duties on the part of either party toward the inhabitants of the geographical area regularly served by the other or to the owners of property within such area. The parties hereby disclaim any intention of creating third party beneficiaries to this Agreement.

11. Procedures

The fire chiefs of the parties shall establish the manner and method of requesting assistance for fire or other emergency response under this Agreement. Each party shall develop and maintain a communication system, which will facilitate the procedures agreed upon.

12. Hazardous Materials

Assistance for any emergency involving hazardous materials or hazardous wastes in Fire Protection Area No. 1, or in the City will be in accordance with the Terms of this agreement.

13. Effective Date and Term

This term of this agreement shall become effective upon the date specified in Section 2 of City of Kodiak Ordinance No. 1327 and upon approval by the Kodiak Island Borough. This Agreement may be terminated by either party by providing written notice to the other party not less than thirty (30) days prior to the desired date of termination.

CITY OF KODIAK

KODIAK ISLAND BOROUGH

Recommended for Approval:

Recommended for Approval:





James R Mullican Jr
Fire Chief
Kodiak Fire Department

Howard S Rue III
Fire Chief
Bayside Fire Department

Dated: 12-4-2019

Dated: 12/4/19

Approved:

Approved:





Mike Tvenge
City Manager

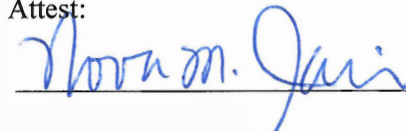
Michael Powers
Borough Manager

Dated: 12-13-2019

Dated: 12/5/19

Attest:

Attest:





Nova Javier
City Clerk

Tara Welinsky
Borough Clerk

Dated: 12-13-2019

Dated: 12/5/19