

AGREEMENT FOR MUTUAL AID IN EMERGENCY SERVICES

This Mutual Aid Agreement (the "Agreement"), is made and entered into this ____ day of July 2016, between the Secretary of the Air Force (the "Air Force") acting by and through the Commander of Ellsworth Air Force Base (EAFB) pursuant to the authority of 42 U.S.C. § 1856a and the Rapid City Fire Department. Together the Air Force and the Rapid City Fire Department are hereinafter referred to as the "Parties."

WITNESSETH:

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

WHEREAS, as set forth in 42 U.S.C. § 1856 the term "emergency services" includes 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 emergency services 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 emergency services as defined above.
- c. On request to a representative of EAFB by a representative of the Rapid City Fire Department, emergency services equipment and personnel of EAFB will be dispatched to any point within the area for which the Rapid City Fire Department normally provides emergency services as designated by the representatives of the Rapid City Fire Department.
- d. On request to a representative of the Rapid City Fire Department by a representative of EAFB, emergency services equipment and personnel of the Rapid City Fire Department will be dispatched to any point within the jurisdiction of EAFB as designated by the representative of EAFB.
- 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 emergency services.

(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 Rapid City Fire Department normally provides emergency services, the Incident Commander 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 EAFB to observe Air Force operations.

f. It is agreed that the Requesting Agency shall not be liable for payment of any salary, wages, or other compensation for any of the Answering Agency's personnel performing services under this Agreement. Each party covenants and agrees to pay any damages for personal injuries and for damages to real or personal property of its volunteers, servants, agents or employees in connection with its operations pursuant to this Agreement. Each party further covenants and agrees to indemnify, save and keep the other party harmless against all liabilities, judgments, costs, damages and expenses, including court costs and attorney's fees, of and from any and all claims of any kind or nature whatsoever which may in any way arise against the other party for or on account of personal injuries and damages to real or personal property or to the loss of any property caused or claimed to have been caused as a result of any act or deed or any failure to act of any volunteer, servant, agent, or employee of the party in connection with this Agreement. Nothing contained in this paragraph shall be construed as a waiver of South Dakota Codified Law § 20-9-4.1 General Immunity from liability for emergency care, and the parties reserve all of their rights under said Statute.

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 Rapid City Fire Department in carrying out this Agreement will, at the time of action hereunder, be owned by it; and all personnel acting for Rapid City Fire Department under this Agreement will, at the time of such action, be an employee or volunteer member of Rapid City 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:

Ellsworth Air Force Base

c/o 28 MDG Commander
2900 Doolittle Drive Ellsworth AFB, SD 57706

For Rapid City Fire Department:

Rapid City Fire Department
10 Main Street Rapid City, SD 57701

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 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 Rapid City Fire Department

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

MIKE MALTAVERNE
Fire Chief



GENTRY W. BOSWELL, Col, USAF
Commander, 28th Bomb Wing