



Request for Council Action

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: Andy Bohlen, Chief of Police
MEETING DATE: February 9, 2021
SUBJECT: Approve Mutual Aid Agreement with the St. Paul Police Department

Background:

As has been demonstrated in the recent past, there have been situations where one agency would have benefited from the assistance of another agency. These situations could include a large fire, flood, natural disaster, civil disturbance or any other type of emergency. As such, the Faribault Police Department and the St. Paul Police Department have agreed to provide mutual aid in times of need. The Faribault PD will provide members of its Dakota County SWAT and Mobile Field Force teams, when such aid is requested and approved by the Chief of Police. The mutual aid agreement is in place along with other supporting member agencies within Rice County and Dakota County in the event officers are sent to assist as assigned to a mobile field force or SWAT team. The mutual aid agreement allows for potential reimbursement under specific circumstances.

Recommendation:

Approve the Mutual Aid Agreement between the Faribault Police Department and the St. Paul Police Department

Attachments:

- Mutual Aid Agreement

MUTUAL AID AGREEMENT

THIS MUTUAL AID AGREEMENT (“Agreement”) is made effective as of January 1, 2021, by and among the City of Saint Paul and the City of Faribault, political subdivisions of the State of Minnesota, pursuant to the provisions of Minnesota Statutes §471.59, the Joint Powers Act (“Agreement”).

WHEREAS, The Parties (Saint Paul & Faribault) desire to be prepared to adequately address fire, flood, natural disaster, civil disturbance, or any other Emergency that may occur within the jurisdictions of the Parties; and

WHEREAS, In order to protect the public peace and safety, and to preserve the lives and property of people in each jurisdiction, the Parties (Saint Paul & Faribault) agree to furnish Assistance to one another in the event of said emergencies.

NOW, THEREFORE, The Parties (Saint Paul & Faribault) hereby agree to furnish Assistance to each other upon the terms and conditions set forth in this Agreement.

I. Purpose

The general purpose of this Agreement is to enable the Parties (Saint Paul & Faribault) and their respective law enforcement personnel to come to the aid of each party to this Agreement as permitted in Minnesota Statutes §471.59 and Minnesota Statutes §12.331. This Agreement is limited to the named Parties.

II. Definitions

The capitalized terms in this Agreement shall have the following meanings:

Assistance means the provision of law enforcement personnel, services, equipment, supplies and related resources.

Emergency means any disaster including, but not limited to, a multi-alarm fire; casualty involving the damage, collapse or destruction of private or public infrastructure; accident or occurrence involving one or more modes of transportation including, but not limited to air, rail, vehicular or watercraft; civil disorder or disturbance; release of contaminants or pollutants, hazardous substances or hazardous waste that necessitates the evacuation of occupants from structures or some defined geographic area; any quarantine or limitation on the movement of persons due to disease or threat to health and safety of the general population; any threat to national security; “Disaster” and “Emergency” as defined in Minnesota Statutes §12.03; and “Emergency” and “Major disaster” as defined in 44 CFR Sections 206.2(a)(9) and (17).

Incident Commander means the ranking peace officer designated by the Requesting Party to be responsible for overseeing the management of Emergency Responders and for the planning, logistics and finances at the field level during an Emergency.

Party means a governmental unit as defined by Minnesota Statutes, §471.59, Subdivision 1. “Parties” shall collectively mean more than one Party.

Providing Party means the entity that provides mutual aid Assistance to the Requesting Party.

Providing Official means the person designated by the Party who is responsible to determine whether and to what extent that Party should provide assistance to the Requesting Party.

Requesting Party means the entity that requests mutual aid Assistance under this Agreement.

Self-Deployment means deploying resources without a request for mutual aid Assistance from a Requesting Party.

State means the State of Minnesota.

III. Assistance

A participating political subdivision may request Assistance (a “Requesting Party”) from the other participating subdivision (a “Providing Party”) to respond to an Emergency or as a participant in drills or exercises authorized under legislation or this Mutual Aid Agreement. A request for Emergency Assistance shall be made by a Requesting Party to a Providing Party by contacting the Providing Official or his/her designee. Requests may either be verbal or in writing. Any verbal requests will be followed by a written request made by the Requesting Party to the Providing Official or his/her designee as soon as practical or within such period of time as provided by law.

Requests and responses to requests under this Agreement are limited to law enforcement personnel assistance services, equipment, supplies, and related resources.

In the case of an Emergency for which a Requesting Party will seek reimbursement of costs from the Federal Emergency Management Agency (FEMA) or the State of Minnesota, the Requesting Party shall make the request for Assistance to each Providing Party and the Incident Commander shall monitor and oversee the documentation of the performance of Emergency work and the documentation of reasonable and reimbursable costs of a Providing Party in accordance with the FEMA Disaster Assistance Policy and will disburse the federal share of funds owed to a Providing Party.

In response to a request for Assistance under this Agreement, a Providing Party may authorize and direct personnel to go to the aid of a Requesting Party. The Providing Party shall provide personnel who possess the required qualifications along with the equipment and supplies of the Providing Party to the Requesting Party at the discretion of the Providing Party within the scope of the aid deemed necessary by the Requesting Party and the Incident Commander.

IV. Limitations

A Party's decision to provide Assistance in response to, or recovery from, an Emergency, or in authorized drills or exercise is subject to the following conditions:

- A.) Party may withhold resources to the extent necessary to provide reasonable protection and services within its own jurisdiction.
- B.) Party may recall Assistance at any time in the best interests of that Party.
- C.) Emergency response personnel of a Providing Party shall follow the policies and procedures of the Providing Party and will be under the Providing Party's command and control but will follow the operational direction of the Incident Commander and be subject to the incident management system of the Requesting Party.
- D.) Assets and equipment of a Providing Party shall remain under the control of the Providing Party but shall be under the operational control of the Incident Commander within the incident management system of the Requesting Party.

V. Compensation

The Requesting Party and any Providing Party will each be responsible for its own costs and compensation for any Assistance arising from any Emergency that may occur during the Term of the Agreement.

Unless the Emergency is eligible for reimbursement by FEMA, a Providing Party shall be responsible for the costs and compensation of its personnel, equipment and supplies. The Providing Party shall make no demand to the Requesting Party for the reimbursement of the costs or expenses of the Providing Party for assistance rendered pursuant to the Mutual Aid Agreement. For an Emergency that is eligible for reimbursement of costs by FEMA, the labor force expenses of the Providing Party will be treated as contract labor, with regular time, overtime wages and certain benefits eligible for reimbursement.

Notwithstanding the above paragraphs in this Section, a Providing Party may charge a Requesting Party for Assistance rendered under the terms of this Mutual Aid Agreement by submitting to the Requesting Party an itemized bill for the actual cost of any Assistance provided. The charges for Assistance provided pursuant to this Agreement will be based upon the actual costs incurred by the Providing Party, including salaries or wages, overtime, materials, supplies and other necessary expenses, except that the Parties agree that the Federal Emergency Management Agency equipment rates will be used as the basis for equipment charges whenever possible.

If a local, State, or federal Emergency is declared, and applicable funds become available, a Providing Party may charge a Requesting Party for Assistance rendered under the terms of this Agreement. The Providing Parties will submit to the Requesting Party an itemized bill for the actual cost of any Assistance provided as described above. The Requesting Party is responsible to take all steps it deems necessary to seek reimbursement from the United States of America, the State of Minnesota or other sources, to the extent that such reimbursement is available, for expenses it incurs for services provided pursuant to this Agreement. Should funding become available, the Requesting Party may reimburse the Providing Party to the extent possible under the terms of this Agreement. Any claims for reimbursement by the Providing Party must be made to the Requesting Party within 90 days after the expense is sustained or incurred.

No Party will be responsible for the reimbursement of Self-Deployment costs.

VI. Workers' Compensation

Each Party will be responsible for injuries or death of its own personnel. Each Party will maintain workers' compensation insurance or a program of self-insurance covering its own personnel while they are providing Assistance pursuant to this Agreement. Each Party waives the right to sue any other Party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.

VII. Damage to Equipment

Each Party shall be responsible for damages to or loss of its own equipment used to respond to an Emergency under this Agreement. Each Party waives the right to sue any other Party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other Party or its officers, employees, or volunteers.

VIII. Term of Agreement

This Agreement shall be in full force and effect from January 1, 2021 through December 31, 2026, subject to Section XVI Withdrawal of Party/Termination of Agreement.

IX. Liability and Indemnification

For purposes of the Minnesota Municipal Tort Liability Act (Minnesota Statutes, §466), the employees and officers of a Providing Party are deemed to be employees (as defined in Minnesota Statutes, §466.01, Subdivision 6) of the Requesting Party.

The Requesting Party agrees to defend and indemnify the Providing Party against any claims brought or actions filed against the Providing Party or any officer, employee, or volunteer of the Providing Party for injury to, death of, or damage to the property of any third person or persons,

arising from the performance and provision of Assistance in responding to a request for Assistance by the Requesting Party pursuant to this Agreement.

Under no circumstances, however, shall a Party be required to pay on behalf of itself and the other Party, any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Party. The limits of liability for one or both of the Parties may not be added together to determine the maximum amount of liability for any Party.

The intent of this subdivision is to impose on each Requesting Party a limited duty to defend and indemnify the Providing Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under Minnesota Statutes §466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

Neither Party to this Agreement or any officer of any Party shall be liable to the other Party or to any other person for failure of any Party to furnish Assistance to the other Party, or for recalling Assistance, both as described in this Agreement.

Nothing in this Agreement is intended to prevent or hinder the pursuit of applicable State or federal benefits to personnel who respond or render Assistance pursuant to an Emergency request and sustain injury or death in the course of, and arising out of, their employment and response or Assistance under this Agreement.

Providing Party shall not be responsible for any injuries, damages or losses arising from the acts or omissions of personnel of the Requesting Party and its officers, employees, agents and assigns.

X. General Compliance

Both Parties agree to comply with all applicable federal, State and local laws and regulations governing any services provided under this Agreement.

XI. Accounting Standards and Retention of Records

A.) Accounting – Both Parties agree to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices and as required by FEMA to properly account for expenses incurred under this Agreement.

B.) Retention of Records - Both Parties will retain all records pertinent to expenditures incurred under this Agreement as required by the applicable records retention schedule.

XII. Data Practices

Both Parties agree to comply with the Minnesota Government Data Practices Act and all other applicable State and federal laws relating to data privacy or confidentiality. Each Party must immediately report to other Party any requests from third parties for information relating to activities performed pursuant to this Agreement. Each Party agrees to promptly respond to inquiries from the other Party concerning data requests. Each Party agrees to hold the other Party, their officers and employees harmless from any claims resulting from unlawful disclosure or use of data protected under state and federal laws by the disclosing Party.

XIII. Applicable Law

The laws of the State of Minnesota shall govern all interpretations of this Agreement and any litigation which may arise under this Agreement.

XIV. Non-Discrimination

All Parties agree to comply with the provisions of all applicable federal and State statutes and regulations pertaining to civil rights and nondiscrimination including, without limitation, Minnesota Statutes §181.59 and §363A.

XV. Withdrawal of Party/Termination of Agreement

A.) *Without Cause* - Either Party may withdraw from this Agreement without cause upon thirty (30) days written notice to the designated recipients for the other Party. If withdrawal is without cause, the Party shall pay the withdrawing Party all reimbursements and payments to which it is entitled under this Agreement, to the date of withdrawal. Any withdrawing Party must also pay all obligations owed to any other Party under this Agreement, to the date of withdrawal.

B.) *For Cause* - A Party may terminate this Agreement if another Party fails to perform in accordance with the provisions of this the Agreement in a proper and timely manner, or otherwise violates the terms of this Agreement. The non-defaulting Party shall have the right to terminate this Agreement, if the default has not been cured after ten (10) days written notice has been provided.

C.) This Agreement shall terminate upon expiration of the Term or by mutual written agreement of both Parties in the form of a resolution by the Party's governing body.

XVI. Severability

Should a court of competent jurisdiction rule any portion, section or subsection of this Agreement invalid or nullified, that fact shall not affect or invalidate any other portion, section or subsection; and all remaining portions, sections or subsections shall remain in full force and effect.

FOR THE CITY OF SAINT PAUL

Approved _____
Todd Axtell, Chief of Police

Approved _____
Melvin Carter, Mayor

Approved _____
John McCarthy, Director of Financial Services

Approved _____
Judy Hanson, Assistant City Attorney

Designee for purposes of receipt of Notice:

Title: Deputy Chief of Police, Community Engagement Division
Address: 367 Grove Street, Saint Paul Minnesota 55101

FOR THE CITY OF FARIBAULT

Approved _____
_____, Chief of Police

Approved _____
_____, Mayor

Approved _____
_____, City Administrator

Approved _____
_____, City Attorney

Designee for purposes of receipt of Notice:

Title: Chief of Police / Deputy Chief / etc, _____
Address: _____