

AGREEMENT FOR RECIPROCAL FIREFIGHTING ASSISTANCE, DEPARTMENT OF NATIONAL DEFENCE

This Agreement, made in duplicate, this ____ day of June, 2024.

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF CANADA, as represented by the Minister of National Defence (hereinafter referred to as “the Minister”).

AND:

THE CITY OF FREDERICTON, a local government incorporated under the laws of the Province of New Brunswick (hereinafter referred to as “the Local Government”).

(each a “Party” or collectively the “Parties”)

WHEREAS the Minister maintains a fire department for the protection of the defence establishment known as 5 CDSB Gagetown in the Province of New Brunswick;

AND WHEREAS the Local Government maintains a fire department for its protection;

AND WHEREAS the Parties wish to arrange for mutual assistance in fire emergencies;

AND WHEREAS mutual assistance under this Agreement refers to the exchange of fire fighting services on a reciprocal basis with no direct fees being charged or paid by the Parties with the exception of extinguishing agents and consumables;

NOW THEREFORE, the PARTIES HERETO AGREE as follows:

1. REQUESTS FOR ASSISTANCE

1.1 Subject to the availability of firefighters and equipment listed in Schedule “A”, each Party shall respond to a call for assistance, as requested by the other, with the exception of hazardous material calls. Nothing contained in this Agreement shall require a Party to provide personnel or equipment where firefighting resources are deemed unavailable or where the firefighters of either Party are involved in a labour strike or lock-out of any kind or nature, whether such strike or lock-out is lawful or unlawful. Points of contacts for assistance calls are identified in Schedule “B”.

1.2 The Senior Fire Officer of the Party receiving a request for assistance shall have sole discretion to determine what assistance can be given, what personnel and equipment is available, and shall have the right to withdraw such assistance when their judgement, circumstances and responsibilities require them to do so. In this Agreement “Senior Fire Officer” means, in the absence of such officer, the deputy or any other person discharging duties or responsibilities during the period of assistance as defined in Section 1.5.

- 1.3 Any call for assistance purporting to be made by the Senior Fire Officer of either Party shall constitute a request for such assistance pursuant to this Agreement.
- 1.4 At the emergency incident, the assisting fire department shall remain under the direction of its Senior Fire Officer at the scene and shall be available to the Senior Fire Officer of the Party requesting assistance.
- 1.5 For the purposes of this Agreement, the period of assistance shall be deemed to commence at the time the call for assistance is received by the assisting fire department and will end at the time the assisting fire department arrives at its home fire hall, excluding any period during which its equipment may be immobilized at the emergency incident scene by reason of accident or mechanical breakdown, or during which it may be prevented by mechanical defects or deficiencies in its equipment for useful employment in an emergency response.
- 1.6 The Parties agree that they will not use C8 Class B foam when answering a request for assistance.

2. DURATION AND TERMINATION

- 2.1 Notwithstanding the date signed, the Parties shall provide and deliver reciprocal fire-fighting assistance to each other in accordance with the terms and conditions of this Agreement, for a period of five (5) years commencing on July 1, 2024 and expiring on June 30, 2029 (the "Term"), unless terminated earlier or renewed in accordance with this Agreement.
- 2.2 The Parties may renew this Agreement for two (2) additional five (5) year terms (each a "Renewal Term"). The first Renewal Term's duration would commence on July 1, 2029 and would expire on June 30, 2034; the second Renewal Term's duration would commence on July 1, 2034, and would expire on June 30, 2039.
- 2.3 The Parties shall provide notice of and confirm any intention to renew this Agreement to each other not less than thirty (30) days prior to the end of the initial Term (ending June 30, 2029) for the first Renewal Term (commencing July 1, 2029) and not less than thirty (30) days prior to the end of the first Renewal Term (ending June 30, 2034) for the second Renewal Term (commencing July 1, 2034). The terms and conditions of this Agreement in effect at the end of the initial Term shall continue for any Renewal Term, in each case, subject to any amendment(s) completed in accordance with this Agreement.
- 2.4 Either Party may, at its sole discretion, at no cost, terminate this Agreement in its entirety without cause at any time prior to the expiration of the Term, or any Renewal Term, upon giving at least three (3) months prior written notice of termination to the other without prejudice to any right of either Party arising hereunder prior to termination.

3. FINANCIAL PROVISION

- 3.1 Both Parties agree that all costs resulting from responding to a Request for assistance will be paid by the responding Party and that no statement of account will be sent to the requesting Party.

4. LIMITATION OF LIABILITY

- 4.1 The Local Government acknowledges and accepts that, due to the previous use of C8 Class B foam on the Minister's firefighting vehicles, there may be trace amounts of C8 Class B foam mixed in with water used by the Minister when providing assistance to the Local Government pursuant to Section 1. In such case, the Local Government accepts all liability that may arise from the existence of any C8 Class B foam mixed in water that is used by the Minister.
- 4.2 Neither Party shall have nor assert any claim against the other Party for loss, damage or injury to persons or property attributable to the performance of this Agreement unless it was caused by the fault or negligence of an employee or agent in the performance of their duties.

5. INDEMNITY

- 5.1 The Party requesting assistance shall indemnify and save harmless the Party rendering assistance (and its employees, agents, contractors, subcontractors and officials) from and against any and every claim or demand by a person not a Party to this Agreement that:
- a. is based on an event that occurs during a period of assistance as defined in Section 1.5, and
 - b. is attributable to or in any way connected with the performance by either Party of its obligations under this Agreement, provided that the expression "claim or demand" shall not for purposes of this clause include an assessment by the Workers Compensation Board of the Province of New Brunswick.

Notwithstanding, any other provision of this Agreement to the contrary, the Party requesting assistance shall have no obligation to provide indemnification in respect to claims to the extent the same arise as a result of a breach of this Agreement by or on behalf of the Party rendering assistance or the negligence or willful act or omission of the Party rendering assistance. Such indemnity shall survive the termination or expiry of this Agreement for matters that occurred prior to the termination or expiry of this Agreement.

6. TRAINING ON EQUIPMENT

- 6.1 It is agreed that having personnel from both Parties trained on the other Parties' equipment and tactics is beneficial for personnel and efficient work during an emergency incident. The Fire Chiefs of both Parties may determine training requirements on an as needed basis

which may be completed on equipment at either Parties' location. The Parties to this Agreement assume all liability for their personnel and equipment during mutual training.

- 6.2 The Fire Chiefs of the Parties hereto shall be responsible for such mutual consultation and the adoption of such measures as they deem expedient in order to familiarize the firefighters of each Party with the fire risks and the fire protection facilities available to assist them in the area for which the other Parties hereto are responsible.

7. INSURANCE

- 7.1 The Local Government shall obtain and maintain for the Term (and any Renewal Term) a comprehensive general liability insurance policy with limits of not less than five million dollars (\$5,000,000.00) per occurrence for claims arising out of bodily injury (including death), personal injury, and damage to property of others. The Local Government shall also obtain automotive liability insurance for its owned and licensed vehicles and non-owned and rented vehicles and equipment used in connection with the provision of reciprocal firefighting assistance. The policies shall be obtained from an insurance company licensed to do business in the Province of New Brunswick.

- 7.2 The Parties acknowledge that the Minister does not carry commercial general liability insurance but underwrites its own risks and funds its own losses.

8. AMENDMENT AND REVIEW

- 8.1 This Agreement may be amended by mutual written consent of the Parties. To be valid, any amendments to this Agreement must be made in writing and be signed by the Parties.
- 8.2 This Agreement shall be reviewed every two (2) years from the date of signing by the Parties at a time of their choosing.

9. ENTIRE AGREEMENT

- 9.1 This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement and supersedes all previous negotiations, communications, and other agreements, whether written or verbal between the Parties.

10. ASSIGNMENT

- 10.1 The Parties may not assign or transfer this Agreement.

11. ACCESS TO INFORMATION AND PRIVACY

- 11.1 It is understood that the Minister is subject to the *Access to Information Act*, RSC, 1985, c. A-1, as amended and the *Privacy Act*, RSC, 1985, c. P-21, as amended and the Local Government is subject to the *Right to Information and Protection of Privacy Act*, SNB,

2009, c. R-10.6, as amended and as such, access, disclosure and confidentiality obligations are governed thereunder.

12. SEVERABILITY

- 12.1 If any term or provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, it shall be deemed to be severed from this Agreement, and the remaining terms and conditions shall nevertheless remain in full force and effect.

13. FORCE MAJEURE

- 13.1 The Parties shall not be liable for a failure or delay in performing any of their obligations hereunder that occurs without their fault or negligence and is attributable solely to a cause beyond its reasonable control ("Force Majeure Event"). For the purposes of this Agreement, the following shall be considered to be a Force Majeure Event: flood, fire, explosion, power failure, acts of God, war, terrorism, civil commotion, pandemic, epidemic, the enactment of any law, order, regulation or by-law, labour strikes or disputes, slowdowns, picketing, boycotts, stop-work order, injunction or other causes beyond their reasonable control excluding a non-performing party's lack of or insufficient financial resources to discharge its duties, liabilities or obligations hereunder.

14. CONTRA PROFERENTEM RULE NOT APPLICABLE

- 14.1 Should any provision of this Agreement require judicial interpretation, mediation or arbitration, it is agreed that the court, mediator or arbitrator interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agent prepared the same, it is agreed that both Parties, directly or through their agents, have participated in the preparation hereof.

15. DISPUTE RESOLUTION

- 15.1 If a dispute arises concerning the application or interpretation of this Agreement, the Parties shall attempt to resolve the matter through good faith negotiation, and may, if necessary and the Parties consent in writing, resolve the matter through mediation by a mutually acceptable mediator. It is further agreed by the Parties that they shall pay their own costs of any mediation.

16. SURVIVAL

- 16.1 Any provision of this Agreement which expressly or by implication from its nature is intended to survive the termination or extend beyond the completion of the Agreement shall survive any termination or completion of this Agreement.

17. SUCCESSORS AND ASSIGNS

17.1 This Agreement shall enure to the benefit of and be binding on the Parties and their respective representatives, successors and permitted assigns.

18. GOVERNING LAW

18.1 This Agreement shall be interpreted in accordance with the applicable federal laws and the laws of the Province of New Brunswick.

19. COUNTERPART SIGNATURE

19.1 This Agreement (and any amendments) may be signed by the Parties in one or more counterparts (in original or electronic form), each of which when signed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument; however, this Agreement shall be of no force or effect until executed by both Parties. Executed signature pages delivered by mail, courier, facsimile, PDF or electronic mail shall be deemed for all purposes to be original counterparts of this Agreement.

20. NOTICE

20.1 All notices to be given pursuant to this Agreement shall be sent in writing or by any method of telecommunication and, unless a notice to the contrary is given, shall be addressed to the Party concerned at the following address:

To the Minister:

5 CDSB Gagetown Fire Chief
5th Canadian Division Support Base
PO Box 17000 Station Forces
Oromocto, NB E2V 4J5
Email: Steve.Vollhoffer@forces.gc.ca

To the Local Government:

The Office of the City Clerk
397 Queen Street
Fredericton, NB E3B 1B5
E-mail: cityclerk@fredericton.ca

21. STATUTORY CONDITION

21.1 No bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of Canada or to a member of the family of such a person, with a view to influencing the entry into this Agreement.

22. CROWN LIABILITY AND PROCEEDINGS ACT

22.1 Notwithstanding any other provision of this Agreement, this Agreement is subject to the *Crown Liability and Proceedings Act*, RSC, 1985, c. C-50, as amended (“Act”). In no event shall the liability of His Majesty, His officers, employees, servants, and agents, including but not limited to all members of the Department of National Defence, exceed or conflict with the provisions of the Act. If there is conflict between this Agreement and the

provisions of the Act, the provisions of the Act shall prevail and the terms within this Agreement that are inconsistent with the Act shall be superseded or varied to the extent necessary to give full effect to such Act but otherwise consistent with the arrangement.

IN WITNESS THEREOF this Agreement has been executed

On behalf of **HIS MAJESTY THE KING IN RIGHT OF CANADA**, by

Commander 5th Canadian Division Support Base Gagetown
**I have authority to bind the Minister*

This ____ day of June, 2024.

On behalf of **THE CITY OF FREDERICTON**, by

Kate Rogers
Mayor

This ____ day of June, 2024.

Jennifer Lawson
City Clerk

This ____ day of June, 2024.

Schedule "A"

List of Resources Potentially Available – by Fire Department

5 CDSB Gagetown Fire Department

Truck Number and Function	Year	Make	Pump Capacity	Water Tank Size	Foam Tank Size
Engine 2	2009	Fort Garry	1250 GPM	4000 L	30 L
Ladder 4 (Aerial)	2018	Rosenbauer	7000 LPM 1550 GPM	1200 L	N/A
Rescue 5	2008	Fort Garry	N/A	N/A	N/A
R 8 (ARFF Vehicle)	2009	E-One	6000 LPM 1500 GPM	6000 L	860 L
R 9 (ARFF Vehicle)	2012	E-One	6000 LPM 1500 GPM	6000 L	860 L
Utility Vehicle	2020	Dodge (RAM 3500)	N/A	N/A	N/A

The City of Fredericton Fire Department

Truck Number and Function	Year	Make	Pump Capacity	Water Tank Size	Foam System
TRUCK 1	2015	SPARTAN - SMEAL - 3096	1050IGPM - 5000L/M	375 I Gal.- 1583L	FoamPro2002 Class A 50Usg-189L
TRUCK 2	2007	SPARTAN - SMEAL - 3082	1250IGPM - 6000L/M	420 I Gal.- 1900L	Foam Pro 2002 Class A 50USG-189L
ENGINE 1	1994	SPARTAN - METALFAB - 3039	1050IGPM - 5000L/M	500 I Gal.- 2270L	FoamPro2001 Class A & B 2X40Gal-150L
ENGINE 2	2000	FREIGHTLINER - METALFAB - 3059	1050IGPM - 5000L/M	1000 I Gal.- 4500L	FoamPro 2001 Class A 15USgal. 60L
ENGINE 3	2019	PIERCE - 3076	1024GM - 4800L/M	1010 I Gal. - 3823L	FoamPro
ENGINE 4	2013	FREIGHTLINER 4-door - 3009	1050IGPM - 5000L/M	1260 I Gal.- 5720L	Foam Pro 2002 Class A 50USG-189L
ENGINE 5	2008	FREIGHTLINER - METALFAB - 3080	1050IGPM - 5000L/M	1115 I Gal.- 5071L	FoamPro 2001 Class A
ENGINE 6	1991	SPARTAN - METALFAB - 3032	1050IGPM - 5000L/M	500 I Gal.- 2270L	Robwen 15 Usgal.-60L + 20L Bladder
Tower 1	1993	GRUMMAN - 3018	1500IGPM - 7200L/M	200 I Gal- 900L	
RESCUE 1	2012	Ford F550 - 3092	No Pump	No Tank	
SPECIAL OPS	2008	FREIGHTLINER -3079	No Pump	No Tank	
MARINE UNIT	2007	Dodge RAM - 3085	No Pump	No Tank	
SUPPORT 1	2014	FORD 550 - 3094	No Pump	No Tank	
MARINE UNIT		ZUMRO - 3072	No Pump	No Tank	

Truck Number and Function	Year	Make	Pump Capacity	Water Tank Size	Foam System
TRAILER 1	2002	DYNA MIC HAZ-MAT - 3061	No Pump	No Tank	Main Trailer
TRAILER 2	2002	DYNA MIC HAZ-MAT	No Pump	No Tank	Decon Trailer
Command Post	2001	PACE AMERICAN - 30-60	No Pump	No Tank	
UTV	2022	Polaris	No Pump	No Tank	

Schedule "B"

List of Fire Departments and Respective Points of Contact (POC)

5 CDSB Gagetown Fire Department

Title	Name	Business	Mobile	Email
Fire Chief	Steve Vollhoffer	(506) 422-2258	(506) 260-4710	Steve.Vollhoffer@forces.gc.ca
Deputy Fire Chief	Kevin Feeney	(506) 422-2781	(506) 261-5298	Kevin.Feeney@forces.gc.ca
Training Officer	Paul Ryan	(506) 422-2000 ext 3224	(506) 260-8669	Paul.Ryan3@forces.gc.ca
Emergency #			(506) 357-7141	

The City of Fredericton Fire Department

Title	Name	Business	Mobile	Email
Fire Chief	Dwayne Killingbeck	(506) 460-2020	(506) 461-9247	Dwayne.Killingbeck@fredericton.ca
Deputy Fire Chief	Nina McCarthy	(506) 460-2020	(506) 451-5586	Nina.Mccarthy@fredericton.ca
Platoon Captain	Varies by Platoon	(506) 460-2020	(506) 461-9569	platooncaptains@fredericton.ca

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Jennifer Lawson, of the City of Fredericton, in the County of York and Province of New Brunswick, **MAKE OATH AND SAY AS FOLLOWS:**

1. THAT I am the City Clerk of the City of Fredericton, one of the parties named in the foregoing instrument and as such I have personal knowledge of the matters herein deposed to.
2. THAT the seal affixed to the foregoing instrument purporting to be the seal of the City of Fredericton is the Corporate Seal of the City of Fredericton and was so affixed by order of the City Council.
3. THAT the signature "Kate Rogers" subscribed to the foregoing instrument is the signature of Kate Rogers, the Mayor of the City of Fredericton, and the signature "Jennifer Lawson" subscribed thereto is my signature.
4. THAT the Mayor and City Clerk are officers of the City of Fredericton duly authorized to execute the foregoing instrument.

SWORN TO BEFORE ME at the)
 City of Fredericton, in the County)
 of York and Province of New)
 Brunswick, this ___ day of)
 June, 2024.)

_____)
)
 A Commissioner of Oaths)
 Being a Solicitor)

_____)
 Jennifer Lawson