

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB21

ORDINANCE NUMBER: 2022-21

**TITLE: AN ORDINANCE APPROVING THE AMENDED AND RESTATED
MUTUAL AID AND AUTOMATIC AID AGREEMENT BETWEEN THE
CITY AND TIMBERLINE FIRE PROTECTION DISTRICT**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK,
GILPIN COUNTY:

Section 1. The Amended and Restated Mutual Aid and Automatic Aid Agreement between the City and the Timberline Fire Protection District, attached hereto as **Exhibit A**, is hereby approved and the Mayor is authorized to execute the same on behalf of the City.

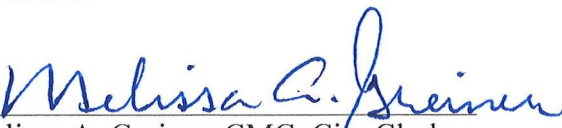
Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

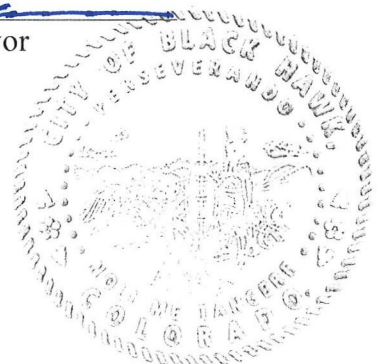
Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 24th day of August, 2022.

ATTEST:


Melissa A. Greiner, CMC, City Clerk


David D. Spellman, Mayor



AMENDED AND RESTATED MUTUAL AID AND AUTOMATIC AID AGREEMENT

THIS AMENDED AND RESTATED MUTUAL AID AND AUTOMATIC AID AGREEMENT (the "Restated Aid Agreement") is made as of the 16th day of August, 2022 by and between the City of Black Hawk, a Colorado home rule municipal corporation (the "City"), and Timberline Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado ("Timberline"). The City and Timberline may be collectively referred to as the "Parties."

RECITALS

A. On June 19, 2017, by Order of the Gilpin County District Court recorded on June 19, 2017 at Reception No. 159289 in the records of the Gilpin County Clerk and Recorder, all property not already located within a Fire Protection District or the municipal boundaries of the City of Central and Black Hawk, Golden Gate State Park, Ralston Creek State Wildlife Area or any land administered by the United States Department of Agriculture, Forest Service was included into the boundaries of Timberline, which includes the Highway 119 Corridor (the "Inclusion Order").

B. On July 12, 2017, the Parties entered into an Automatic Aid Agreement that incorporated previous agreements by the Parties (the "Original Mutual Aid Agreement").

C. In addition, on December 11, 2019, the Parties entered into that Intergovernmental Agreement authorizing the City to conduct certain fire inspections, plan reviews and life safety system testing on behalf of Timberline (the "Inspection IGA").

D. Since the adoption of the Original Mutual Aid Agreement and the Inspection IGA and issuance of the Inclusion Order, the City has annexed certain property into the City, which property was subsequently excluded from the jurisdictional boundaries of Timberline, and the parties desire to update the various intergovernmental agreements to better reflect the current boundaries of each entity, and further authorize mutual aid and automatic aid as described in this Restated Aid Agreement.

E. The parties to this Agreement recognize that in certain situations the ability of Firefighters to exercise powers outside of the territorial limits of the agency where such Firefighters are legally employed may be desirable and necessary in order to preserve and protect the lives, safety, and property of the public.

F. C.R.S. §§ 29-1-203, 29-5-105, 29-5-107 and 29-5-108 authorize cities and other governmental entities to enter into fire mutual aid agreements (the "Fire Mutual Aid Statutes").

G. Each of the parties to this Agreement have duly accepted the above provisions and desire to enter into the Agreement and set forth mutually agreeable terms and conditions for the furnishing of mutual aid for the exercise of authority by Firefighters as set forth herein.

NOW, THEREFORE, the parties to this Agreement agree as follows:

SECTION 1 – DEFINITIONS

"Automatic Aid" means the automatic, initial assistance provided by Black Hawk or Timberline to an actual or reported wildland fire or structure fire ("Emergency Incident") within the area more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference.

"Automatic Aid Incident" means an actual or reported Emergency Incident within the area described in Exhibit A, which requires the provision of apparatus, equipment or personnel from Black Hawk or Timberline.

"Commanding Officer" means the respective fire chief, or the respective fire chief's designee.

"Emergency Incident" means a wildland fire or structure fire requiring an emergency response by a Party.

"Equipment" means any tangible personal property used by firefighters pursuant to this Agreement.

"Firefighter" means any person appointed to be a member of a fire department of an Agency.

"Inspection IGA" means that Intergovernmental Agreement dated December 11, 2019, authorizing the City to conduct certain fire inspections, plan reviews and life safety system testing on behalf of the District.

"Mutual Aid" means the provision of firefighters and equipment by one agency to another pursuant to this Agreement, on a temporary basis.

"Requester" or "Requesting Agency" means the fire agency which requests firefighters pursuant to this Agreement.

"Responder" or "Responding Agency" means the fire agency which provides firefighters pursuant to this Agreement.

SECTION 2 – RESPONSE LEVELS

2.1 Automatic Aid. In the event of an Automatic Aid Incident, Black Hawk and Timberline shall provide the apparatus, equipment and personnel as deemed reasonably necessary and as deemed available within the area described in Exhibit A. Should either Party have personnel or resources already committed to an Emergency Incident, either within or outside of its jurisdiction, or otherwise unavailable, which in its sole discretion prevents it from providing Automatic Aid and also providing an adequate level of service and protection within its own jurisdiction, it shall promptly notify its dispatcher and the other Party and shall be released from all or a portion of its Automatic Aid responsibilities until its personnel and resources are adequate and available. When available personnel and equipment return to adequate levels, Black Hawk or Timberline, as applicable shall notify its dispatcher and the other Party to return to automatic aid dispatching.

2.2 Mutual Aid. A Requesting Agency may invoke the provisions of this Agreement for Mutual Aid whenever it determines, in its sole discretion, that it temporarily needs additional Firefighters from another Agency.

SECTION 3 – MUTUAL AND AUTOMATIC AID

3.1 Mutual Aid. A Requesting Agency may invoke the provisions of this Agreement for Mutual Aid whenever it determines, in its sole discretion, that it temporarily needs additional Firefighters from the other Party to this Agreement.

A. The provisions of this Agreement regarding Mutual Aid shall not be construed as imposing an obligation on either Party to respond to a request for Mutual Aid. The extent of assistance to be furnished under this Agreement shall be determined solely by the Party furnishing the assistance, and it is understood and agreed that the assistance furnished may be recalled at the sole discretion of the Responding Agency.

B. Additionally, this Agreement generally authorizes Firefighters of each Party to exercise full powers in each other's jurisdiction only when there is a specific request for mutual aid, except as provided in Section 5 of this Agreement.

3.2 Automatic Aid. The powers, rights, privileges and immunities of any firefighter or other personnel of either Party shall extend within the territorial limits of the other Party while such firefighters or other personnel are providing Automatic Aid, including while traveling directly to and from the respective jurisdictions of the Parties.

A. When providing Automatic Aid, firefighters or other personnel of each Party shall not be considered for any purpose to be an employee or volunteer of the other Party. All employment or volunteer rights, compensation and benefits shall be the responsibility of the Party employing their respective personnel.

B. The general command of an Automatic Aid Incident shall be vested in the Incident Commander in accordance with the current standards of practice of the National Incident Management System (NIMS), regardless of the home jurisdiction of the Incident Commander.

SECTION 4 – AUTHORITY OF OFFICERS

4.1 The powers, rights, privileges and immunities of any Firefighter employed by a party to this Agreement shall extend within the territorial limits of each party to this Agreement while such Firefighter is in the course of providing Mutual Aid or Automatic Aid, including while traveling directly to and from the jurisdiction of the Requesting Agency.

4.2 When providing Mutual Aid or Automatic Aid, a Firefighter shall not be considered for any purpose to be an employee of the Requesting Agency. All employment rights, compensation and benefits shall be the responsibility of the Agency by which the Firefighter is regularly employed, subject to the reimbursement provisions of Section 7 of this Agreement.

SECTION 5 – COMMAND AND CONTROL

5.1 Except as provided in Section 3 of this Agreement, upon entering the jurisdiction of the Requesting Agency, Firefighters of a Responding Agency shall report immediately to the Commanding Officer of the Requesting Agency and shall be under the direction and control of said Commanding Officer.

5.2 Nothing in this section shall prohibit or restrict the authority of superior officers from a Responding Agency to command their own subordinate officers, while remaining under the overall command of the Commanding Officer of the Requesting Agency.

SECTION 6 – REQUEST FOR SERVICE ALONG HIGHWAY 119 CORRIDOR IN ACCORDANCE WITH CONSENT JUDGMENT DATED DECEMBER 2002

6.1 The Parties acknowledge that the Highway 119 Corridor from Mile Marker 9.0 to the junction of Highway 119 and Highway 6 is within the jurisdictional boundaries of Timberline. With the sole exception of calls for wildfires, Black Hawk shall be dispatched and respond to calls within the 119 Corridor from Mile Marker 9.0 to the junction of Highway 119 and Highway 6 Black Hawk. For purposes of this Agreement, the Highway 119 Corridor shall be defined as that area outside of the corporate boundaries of Black Hawk that includes: all commercial areas immediately accessed from Highway 119, any other type of structure, including residential and industrial structures, accessed by Highway 119, and all other incidents, such as traffic accidents, where the course of conduct causing the incident begins on Highway 119. Any residential subdivision located within unincorporated Gilpin County, immediately accessed from Highway 119 and any individual commercial or residential structures not directly or immediately accessed from Highway 119 or a frontage road paralleling Highway 119 constructed during the term of this Agreement, shall be excluded from the Highway 119 Corridor as herein defined, and Timberline may request fire protection service from Black Hawk, as determined by Timberline.

6.2 Black Hawk shall respond to requests for fire protection service along the Highway 119 Corridor, except when Black Hawk does not have personnel readily available to respond to such request. Black Hawk agrees that it will have personnel readily available unless Black Hawk is providing fire protection services within the corporate limits of Black Hawk or providing mutual aid to another public entity at the time of the request.

6.3 Black Hawk and Timberline agree that this Agreement incorporates the provisions of the Consent Judgment above, as it relates to calls for service along the State Highway 119 Corridor as defined herein, and reflects that since the time of the entry of the Consent Judgment, the State Highway 119 Corridor is now within the jurisdictional boundaries of Timberline.

6.4 Black Hawk, upon any request for fire protection services by Timberline, shall advise Timberline if it does not have the personnel readily available to respond to the request, including the reasons why it cannot respond.

6.5 Black Hawk and Timberline further agree that the Inspection IGA is hereby restated and reaffirmed, and Timberline further acknowledges and agrees that Black Hawk shall continue

to inspect the Black Hawk-Central City Sanitation District property, which is located along the State Highway 119 Corridor.

SECTION 7 – COST AND EXPENSES

Each Responding Agency shall assume and be responsible for paying: (i) all of its own personnel costs, including, but not limited to, the salaries, overtime premiums, workers' compensation and disability benefits payable to its own Firefighters; and (ii) all its own Equipment costs, including, but not limited to, damage to or loss of its own Equipment, and use of fuel and other expendable supplies, provided, however, that the Requesting Agency shall reimburse the Responding Agency for such payments to the extent there is either insurance coverage available to do so or any Federal or State grant funds or emergency funds (*e.g.*, in the event of a natural disaster) available to do so.

SECTION 8 – INSURANCE

Each Agency shall maintain a liability policy for personal injury, including death, and for property damage, in amounts no less than the limits of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as the same may be amended from time to time, covering the actions of itself and its Firefighters while receiving or rendering Mutual Aid or Automatic Aid.

SECTION 9 – CERTIFICATIONS

Each Agency certifies to the others (i) that it has duly accepted the provisions of C.R.S. §§ 29-1-203, 29-5-105, 29-5-107 and 29-5-108; and (ii) that it is duly authorized to execute this Agreement.

SECTION 10 – TERMINATION

Each Party may withdraw from this Agreement at any time upon written notice to the other Party. Notice should be given to the governing body of each Party.

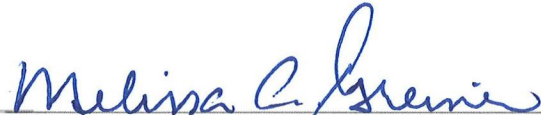
This Agreement constitutes the entire agreement of the parties and may be modified only by a separate written agreement.

WHEREFORE, the parties have executed this Agreement on the day and year first written above.

CITY OF BLACK HAWK


David D. Spellman
Mayor, City of Black Hawk

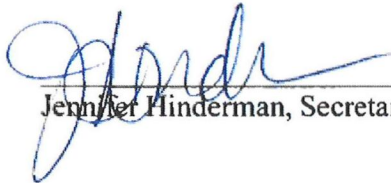
ATTEST:


Melissa A. Greiner, CMC, City Clerk

TIMBERLINE FIRE PROTECTION DISTRICT


Richard M. Wenzel, Chairman

ATTEST:


Jennifer Hinderman, Secretary