FS Agreement No. **10FI11050200017**

Cooperator Agreement No.

COOPERATIVE FIRE PROTECTION AGREEMENT
(For Incident Management Team Members & Miscellaneous Overhead Only)
Between The
ORANGE CITY FIRE DEPARTMENT
And The
U.S. Forest Service
CLEVELAND NATIONAL FOREST

This COOPERATIVE FIRE PROTECTION AGREEMENT is made and entered into by and between the Orange City Fire Department, hereinafter referred to as the Department, and the USDA, Forest Service Cleveland National Forest, hereinafter referred to as the "U.S. Forest Service," under the authority and provisions of: Reciprocal Fire Protection Act of May 27, 1955 (42 U.S.C. 1856a), Granger-Thye Act of April 24, 1950 (16 USC 572), and Cooperative Funds and Deposits Act of December 12, 1975, P. L. 94-148, (16 U.S.C. 565a1 – a3), as amended by the Consolidated Appropriations Act of 2008 P. L. 110-161 and the Omnibus Public Lands Act, P.L. 111-11, Sec 3001

I. PURPOSE

The purpose of this Agreement is to provide for joint participation in Incident Management Teams and to provide other miscellaneous overhead positions to support incidents

II. STATEMENT OF MUTUAL BENEFITS AND INTERESTS

The U.S. Forest Service has the responsibility for prevention, protection and suppression of wildland fires on National Forest administered lands, and on adjacent or intermingled State and private forested lands as identified through written agreement.

It is mutually advantageous, and in the public interest, for the Parties to coordinate their efforts through participation on Incident Management Teams. Familiarity gained with the Incident Command System (ICS) will institutionalize large incident management techniques across Federal, State and local municipalities so that there will be seamless transitioning between various entities providing emergency services management. It is also mutually advantageous for both Parties to provided support and participate in non-fire emergencies of national scope.

III. GENERAL PROVISIONS

1. **ANNUAL OPERATING PLANS** The Parities will meet annually, prior to the initiation of fire season, to review and update, the Annual Operating Plan (AOP). This AOP will specifically identify individuals assigned to Incident Management Teams. Other individuals and/or fire overhead positions may be identified as well for those who will be available for assignments to support incidents. Specific areas to be addressed in

the AOP are (1) current rates for use of Fire Department personnel, (2) lists of principal personnel, (3) dispatching procedures, and any other items identified in this Agreement as necessary for efficient implementation. This AOP shall become attached to and made a part of this Agreement.

2. **PROTECTING PARTY:** The party responsible for providing direct fire protection in a given area pursuant to this Agreement.

3. **SUPPORTING PARTY:** The party providing resources to the PROTECTING Party.

4. **REQUESTED ASSISTANCE** Outside initial attack areas, when requested by the Protecting Party, the Supporting Party will, within their capability, provide initial action or other support on wildland fires. Such requested assistance is reimbursable.

5. **ASSISTANCE BY HIRE** Assistance by Hire is the provision of fire suppression resources, by one to another, on a reimbursement basis. All requests to hire fire protection assistance must be clear and precise and shall be processed and recorded through the dispatching systems of the Parties. Requests not processed in this manner will not be reimbursable. Personnel, equipment, supplies or services provided by the SUPPORTING Party and essential to filling the resource order, which are necessary and reasonable, shall be considered as reimbursable as Assistance by Hire. The Department may provide out-of-state assistance to the U.S. Forest Service when requested. Such assistance will be Assistance-by-Hire unless otherwise specified as mutual aid in the AOP pursuant to this agreement.

6. **REPLACEMENT OF FIRE SUPPLIES** Replacement of Party-owned supplies that are lost, damaged, or expended may be re-supplied at the incident prior to demobilization and according to established procedures. Items not available at the incident will be documented and an "S" number will be issued to authorize replacement after the resource leaves the incident.

7. **EQUIPMENT** The SUPPORTING Party is responsible for the operation, service, and repair of their equipment. The PROTECTING Party shall pay or reimburse for damages in excess of normal wear and tear, and shall replace or reimburse items lost or destroyed, except for damages occurring as a result of negligence by the SUPPORTING Party.

8. **TRAINING** The Parties will cooperate to insure that jointly provided training will produce safe and effective fire and aviation programs. The intent is to provide high quality training that will minimize training costs by sharing of resources, standardization of courses, improve firefighting efficiency and safety. Training also includes participation of fire team members at annual Incident Management Team meetings so members can maintain competency for their specific positions. Each Party will bear the cost of training for their respective employees unless specifically addressed in the AOP.

9. **FIRE TRAINING CENTERS** The Parties agree to reimburse (or bill) for fire training rendered at training center(s). Billing and reimbursement procedures for this training will

use the process identified at the respective fire training facility. Reimbursement and billing arrangements for the rent of either Party's training facilities is also considered part of this Agreement and billings will also be processed as identified by each training facility.

10. **BILLING PROCEDURES** The SUPPORTING Party will bill the PROTECTING Party for actual costs incurred for assistance provided and identified as reimbursable. Reimbursements will be limited to the provisions of the Agreement and AOP, regardless of whether or not it is authorized on the Resource Order or other documentation produced by the incident.

    Reimbursable costs may include transportation, salary, overtime, and per diem of SUPPORTING agency personnel. Rates and conditions of use for the equipment and personnel will be mutually agreed to and documented in the AOP. The costs of "backfilling" employees are not reimbursable.

    Parties shall submit a bill within 90 days of the incident.

    Parties must use their own invoice for billing under this Agreement to avoid any confusion with other services that may have been ordered under other agreements(s). Invoices must identify SUPPORTING Party's name, address, and Taxpayer Identification Number (Department only), fire name, order and request number, and bill number and amount. Invoice supporting documentation must include description of services performed, period of services performed, and any applicable cost share agreements. Supporting documentation will itemize details of billing, listing personnel, equipment, travel and per diem, supplies and purchases as approved in the attached AOP. It will also include itemized deductions for maintenance and repair of equipment.

    Department invoices will include "Record of Activities" (FSLA-5).

    Invoices for services under this agreement must be sent to:

U.S. Forest Service
Name: **CARLTON JOSEPH** Address: 10845 Rancho Bernardo Rd., Suite 200 City, State, Zip: San Diego, CA 92127-2107 Telephone: 858-674-2948 FAX: 858-674-2999 Email: cjoseph@fs.fed.us

    Bills will have a payment due date 30 days upon receipt.

    Contested Billings: Written notice that a bill is contested will be mailed to the Party within 30 days of receipt of the invoice and will fully explain the contested items.

Contested items should be resolved no later than 60 days following receipt of the written notice. Parties are responsible for facilitating resolution of contested billings.

Billing requirements and rates are documented in the attached AOP.

11. **NATIONAL EMERGENCIES** The Parties to this Agreement may respond upon request to National declared emergencies providing there are no statutory prohibitions against such use.

12. **EMPLOYMENT POLICY** Employees of the Parties to this Agreement shall at all times be subject only to the laws, regulations, and rules governing their employment, regardless of incident location, and shall not be entitled to compensation or other benefits of any kind other than specifically provided by the terms of their employment.

13. **EXAMINATION OF RECORDS** Each Party shall give the other, or their authorized representative, access to, and the right to examine all records, books, papers and documents related to this Agreement as provided by the Freedom of Information Act (FOIA) and Privacy Act. Parties shall make supporting documents available for a period of 3 years after final payment.

14. **FUNDING LIMITATION** Nothing herein shall be considered as obligating either Party to expend, or as involving either in any contract or other obligation for the future payment of, money in excess of funding approved and made available for payment under this Agreement and any modification thereto.

15. **NATIONAL INTERAGENCY INCIDENT MANAGEMENT SYSTEM** The Parties to this Agreement will operate under the concepts defined in the National Interagency Incident Management System (NIMS) including: Incident Command System (ICS), qualifications system, certification system, training system, the management of publications, and participate in the review, exchange, and transfer of technology as appropriate for providing qualified resources, and for the management of incidents covered by this Agreement.

16. **FIREFIGHTER & OVERHEAD QUALIFICATIONS** U.S. Forest Service agrees to send qualified personnel who meet all the position requirements specified in FSH 5109.17 (meets or exceeds PMS 310-1) to any Department incident. The Department agrees to send qualified personnel who meet the training and qualification standards specified in National Wildfire Coordinating Group's (NWCG) PMS 310-1 to any U.S. Forest Service incident, IMT assignment or overhead request.

17. **PERSONAL PROTECTIVE EQUIPMENT** The Parties agree to provide their respective responding personnel with approved personal protective equipment (PPE) suitable for the assignment. In the case of U.S. Forest Service resources, NFPA standards apply in wildland fire situations. In the case of Department resources NFPA or CAL OSHA, title 8 specifications meet the requirement. At no time will personnel respond without the approved PPE.

18. **WAIVER OF CLAIMS AGAINST THE PARTIES** The Department and U.S. Forest Service hereby waive all claims between and against each other for compensation for loss, damage, and personal injury, including death, to each other's property, employees, agents, and contractors occurring in the performance of this agreement.

19. **NONDISCRIMINATION** The Parties shall comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other Federal laws, Executive orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitation Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program, or disability.

20. **FREEDOM OF INFORMATION ACT (FOIA)** Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

21. **DEBT COLLECTION IMPROVEMENT ACT** The Department shall furnish their tax identification number (TIN) upon execution of this Agreement. The Department may wish to enroll in the Automatic Deposit program. Information concerning this program can be found at: www.nfc.usda.gov/dcia/eftweb.htm.

22. **DUNS NUMBER** The cooperator shall furnish their DUNS number upon execution of this instrument. You may obtain a DUNS number by contacting Dun and Bradstreet at 800-234-3867 or 866-794-1580. A DUNS number will be provided immediately by telephone at no charge.

23. **ELECTRONIC FUNDS TRANSFER (EFT)** The recipient/cooperator shall designate a financial institution or an authorized payment agent through which a federal payment may be made in accordance with US Treasury Regulations, Money and Finance at 31 CFR 208, which requires that federal payments are to be made by EFT to the maximum extent possible. A waiver may be requested and payments received by check by certifying in writing that one of the following situations apply:

    1. The payment recipient does not have an account at a financial institution.
    2. EFT creates a financial hardship because direct deposit will cost the payment recipient more than receiving a check.
    3. The payment recipient has a physical or mental disability, or a geographic, language, or literacy barrier.

    In order to receive EFT payments the recipient/cooperator shall register in the Central Contractor Registry (CCR). You may register by going to www.ccr.gov and following the instructions provided online. For assistance, contact the CCR Assistance Center at 888-227-2423 or 269-961-4725

24. **PREVIOUS AGREEMENTS CANCELED** This Agreement supersedes and cancels any prior Cooperative Fire Protection Agreement between the Parties.

25. **TERMINATION** Both Parties retain the right to terminate their participation under this Agreement by providing 30 days written notice to the other Party.

26. **MODIFICATIONS** Modifications within the scope of the instrument must be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.

27. **COMMENCEMENT/EXPIRATION DATE** This instrument is executed as of the date of last signature and is effective for five years from that date, at which time it will expire unless extended.

28. **ALTERNATE DISPUTE RESOLUTION** In the event of any issue of controversy under this Agreement, the PARTIES may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to, conciliation, facilitation, mediation, and fact finding.

29. **PRINCIPAL CONTACTS**. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: D.C. Frank Eickhoff Address: 176 S. Grand St. City, State, Zip: Orange, Ca. 92866 Telephone: 714-742-5094 FAX: 714-744-6035 Email: feickhoff@cityoforange.org	Name: Capt. Doug Fackiner Address: 176 S. Grand St. City, State, Zip: 92866 Telephone: 714-288-2500 FAX: 714-744-6035 Email: dfackiner@cityoforange.org

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Contact	U.S. Forest Service Administrative Contact
Name: Carlton Joseph Address: 10845 Rancho Bernardo Rd., Suite 200 City, State, Zip: San Diego, CA 92127-2107 Telephone: 858-674-2948 FAX: 858-674-2999	Name: Bonnie Harris Address: 701 North Santa Anita Avenue City, State, Zip: Arcadia, CA 91006 Telephone: 626-574-5246 FAX: 626-574-5363 Email: bharris@fs.fed.us

Email: cjoseph@fs.fed.us	

30. **AUTHORIZED REPRESENTATIVES.** By signature below, each Party certifies that the individuals listed in this document as representatives of the individual Parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the Parties hereto have executed this instrument as of the last date written below.

BART LEWIS, Fire Chief Orange City Fire Department	8-18-10 Date
William Metz WILL METZ, Forest Supervisor U.S. Forest Service, Cleveland National Forest	8/24/10 Date

The authority and format of this instrument have been reviewed and approved for signature.

Bonnie Harris — 8/13/10

BONNIE HARRIS — Date

U.S. Forest Service Grants & Agreements Specialist

Burden Statement

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