COOPERATIVE FIRE PROTECTION AGREEMENT (FOR IMT MEMBERS & MISCELLANEOUS OVERHEAD) BETWEEN CLEVELAND NATIONAL FOREST AND NORTH COUNTY FPD FIRE DEPARTMENT

THIS COOPERATIVE FIRE PROTECTION AGREEMENT is made and entered into by and between the USDA Forest Service, Cleveland National Forest, hereinafter referred to as the FOREST SERVICE, and the North County FPD Fire Department, hereinafter referred to as the DEPARTMENT and jointly referred to as PARTIES under the authority and provisions of the Reciprocal Fire Protection Act of May 27, 1955 (42 USC 1856), the Stafford Act, Public Law 93-288 as amended (42 USC 5121 et. seq.), the Granger-Thye Act of April 24, 1950 (16 USC 572), and the Cooperative Funds and Deposits Act of Dec 12, 1975 (16 USC 565a1-3).

I. PURPOSE

The purpose of this Agreement is to provide for joint participation in Incident Management Teams and for cooperation in the suppression of wildland fires. This Agreement may also be used for the purposes of providing other miscellaneous overhead positions to support incidents.

II. STATEMENT OF MUTUAL BENEFITS AND INTERESTS

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

Therefore FOREST SERVICE and DEPARTMENT are jointly participating in area and national incident management teams with the goal of cross training, standardization and mutuality of interests that will ultimately benefit the public by increasing large incident management efficiency and effectiveness.

The FOREST SERVICE has the desire to increase total incident management capability by including and utilizing DEPARTMENT resources and skills. The continued encouragement of Local Government employees on IMTs helps to meet this goal.

III. GENERAL PROVISIONS

1. **ANNUAL OPERATING PLANS** The PARTIES will meet annually, prior to the initiation of fire season, to review and update, if necessary, 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. **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.

3. **ASSISTANCE BY HIRE** Assistance by Hire is the provision of fire suppression resources, by one PARTY 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 FOREST SERVICE when requested. Such assistance will be Assistance-by-Hire unless otherwise specified as mutual aid in the AOP pursuant to this agreement.

4. **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.

5. **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.

6. **FIRE TRAINING CENTERS** The PARTIES to this Agreement agree to reimburse (or bill) the other PARTY for fire training rendered at PARTY'S 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.

7. **BILLING PROCEDURES** 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.

The Supporting PARTY will bill the Protecting PARTY for costs incurred for assistance provided. Reimbursable costs may also include transportation, salary, benefits, 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 of either PARTY into local home unit positions for personnel that have been mobilized to incidents 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). **For the purpose of this Agreement, OES F-42 is <u>not</u> an acceptable support document.** Invoices must identify Supporting PARTY 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, aircraft, 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) and FOREST SERVICE invoices will include transaction register.

Invoices for services under this agreement must be sent to:

Address of Forest Service:

Cleveland National Forest
10845 Rancho Bernardo Rd. Suite 200
San Diego, CA 92127-2107

Address of Fire Department:

North County FPD Fire Department
North County FPD (San Diego County)
330 S. Main Ave.
Fallbrook, CA 92028-2138

All bills will have a payment due date 60 days upon receipt by the FIRE DEPARTMENT or FOREST SERVICE.

Contested Billings: Written notice that a bill is contested will be mailed to the PARTY within 60 days of receipt of the invoice and will fully explain the contested items. Contested items will 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.

8. **NATIONAL EMERGENCIES** The PARTIES to this Agreement may respond upon request to Nationally declared emergencies providing there are no statutory prohibitions against such use.

9. **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.

10. **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.

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

12. **FUNDING LIMITATION** Nothing herein shall be considered as obligating either PARTY to expend, or as involving either PARTY 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.

13. **NATIONAL INTERAGENCY INCIDENT MANAGEMENT SYSTEM** The PARTIES to this Agreement will operate under the concepts defined in the National Interagency Incident Management System (NIIMS) 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.

14. **FIREFIGHTER & OVERHEAD QUALIFICATIONS** 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 FOREST SERVICE incident, IMT assignment or overhead request.

15. **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 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.

16. **WAIVER OF CLAIMS AGAINST THE PARTIES** The PARTIES signatory to this Agreement hereby waive all claims against each other for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of this agreement.

17. **NONDISCRIMINATION AND CIVIL RIGHTS** The PARTIES shall comply with all Federal statutes relating to nondiscrimination and all applicable requirements of all other State and Federal laws, Executive orders, regulations, and policies. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, 2000e-16), which prohibits discrimination on the basis of race, color, disability, or national origin; (b) Title IX of the Education amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; and Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794) which prohibits discrimination on the basis of disabilities.

18. **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.

19. **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.

20. **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

21. **TERMINATION** Both PARTIES retain the right to terminate their participation under this Agreement by providing 30 days written notice to the other PARTY.

22. **MODIFICATIONS** Modifications to this Agreement shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by both parties, prior to any changes being made.

23. **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.

24. **EXTENSION OF PERFORMANCE PERIOD** The Forest Service, by written modification may extend the performance period of this instrument for a total duration not to exceed 5 years from its original date of execution.

25. **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.

26. **AUTHORIZED REPRESENTATIVES** By signature below, the cooperator certifies that the individuals listed in this document as representatives of the cooperator are authorized to act in their respective areas for matters related to this agreement.

27. **PRINCIPAL CONTACTS** The principal contacts for this instrument are:

FOREST SERVICE CONTACT

Carlton Joseph
Fire Management Officer
(858) 674-2948
Fax: (858) 674-2999
cjoseph@fs.fed.us

DEPARTMENT CONTACT

John Torchia
Fire Chief (Deputy)
(760) 723-2014
Fax: (760) 723-2011

FOREST SERVICE GRANTS AND AGREEMENTS SPECIALIST

Bonnie Harris
Grants and Agreements
(626) 574-5246

FIRE DEPARTMENT ADMINISTRATIVE CONTACT

Becky ~~Tembers~~ Timmers
Administrative Assistant
(760) 723-2011

DEPARTMENT TAXPAYER IDENTIFICATION NUMBER: [redacted]

REVIEW:

Bonnie Harris 09/25/09
Bonnie Harris Date
FOREST SERVICE GRANTS AND AGREEMENTS SPECIALIST

Becky Timmers
Becky ~~Tembers~~ Timmers Date 11-10-09
DEPARTMENT REVIEWER (Optional)

APPROVAL:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date written below:

William Metz 11/18/09
Will Metz Date
FOREST SUPERVISOR

11-5-09
~~John Torchia~~ William Metcalf Date
DEPARTMENT CHIEF

Exhibit A, Definitions
Exhibit B, Annual Operating Plan
Exhibit C, Form FSLA-5 Record of Activity
Exhibit D - reserved

COOPERATIVE FIRE PROTECTION AGREEMENT
EXHIBIT A
DEFINITIONS

ADMINISTRATIVE RATE: That pre-established percentage charge that will be applied by the billing PARTY.

AIRCRAFT: Any firefighting fixed or rotary-winged aircraft owned or contracted exclusively to the DEPARTMENT or FOREST SERVICE.

ASSISTANCE BY HIRE: Fire suppression resources and associated support resources needed to fill the incident order that are to be paid for by the Protecting PARTY. Reimbursement may be actual cost or according to pre-established rates.

AVAILABLE: Following the Incident Command System protocols, the status of a fire fighting resource that indicates its availability for assignment on an incident.

BACKFILLING: The act of providing cover staffing at the station or administrative site that has been vacated by the resources provided to the incident

BOUNDARY FIRE: A fire burning on or directly adjacent to the Direct Protection Boundary between the DEPARTMENT and the FOREST SERVICE.

CLOSEST FORCES CONCEPT: The philosophy of committing the closest available appropriate resources, regardless of ownership, as described in the Annual Operating Plan, to a wildfire for initial attack or for critical need.

COOPERATIVE FIRE PROTECTION: Specific fire protection services furnished by one party to the other on a reimbursable basis pursuant to the Annual Operation Plan.

COST SHARE AGREEMENT: An interagency agreement describing the conditions and/or percentage of DEPARTMENT and FOREST SERVICE financial responsibility for costs incurred as a result of jointly approved operations pursuant to the terms of this agreement.

DETECTION: The act or system of discovering and locating a fire.

DIRECT PROTECTION AREA (DPA): That area which, by law or pursuant to the terms of this agreement, is provided wildland fire protection by the DEPARTMENT or by the FOREST SERVICE. DPAs may include a mixture of DEPARTMENT and FOREST SERVICE responsibility areas.

DIRECT PROTECTION AREA MAPS: Official maps which identify areas of direct wildland fire protection for each PARTY.

FEDERAL EXCESS PERSONAL PROPERTY (FEPP) PROGRAM: A program in which Federal property originally purchased for use by a Federal agency, but no longer needed by that entity, is acquired by the USDA Forest Service for loan to one of the 50 States or the Territories for use in the State's rural or wildland fire protection program. As a result, the equipment stays in service to America, protecting lives and property across the nation. The term "personal" simply refers to any tangible property that is not real estate. This can include trucks, aircraft, personal protective equipment, fire hose, et cetera, but not buildings.

FIRE HELICOPTER: A rotary wing aircraft provided by the DEPARTMENT or the FOREST SERVICE for planned availability and initial attack fire response.

FIRE PREVENTION: Activities directed at reducing the number of fires that start, including public education, law enforcement, dissemination of information and the reduction of hazards through engineering methods.

FIRESCOPE (Firefighting Resources of California for Potential Emergencies): A cooperative effort involving all agencies with fire fighting responsibilities in California. Organized to create and implement new applications in fire service management, technology and coordination, with an emphasis on incident command and multi-agency coordination.

HANDCREW: A wildland fire suppression crew consisting of approximately 15 to 20 persons.

HELITACK: A fire fighting module consisting of a "fire helicopter", helitender, and fire fighting crew. The number of personnel in the crew may vary.

HOSTING UNIT: The organization or area responsible for the incident or the area where the incident occurs.

INCIDENT: An occurrence or event, either human-caused or natural phenomenon, that requires action by emergency service personnel to prevent or minimize loss of life or damage to property and/or natural resources.

INITIAL ATTACK: Resources initially committed to an incident.

JURISDICTIONAL PARTY: The party which has overall land and resource management and/or protection responsibility as provided by law.

LINE OFFICER/AGENCY REPRESENTATIVE: A Supporting PARTY employee with full authority to make decisions on all matters affecting that PARTY'S participation at the incident.

MOVE-UP AND COVER: Identifies a relocation of fire suppression resources from their established location to a temporary location to provide fire protection coverage for an initial attack response area.

MUTUAL AID: Automatic initial attack response by suppression resources (excluding aircraft and pilot[s]) as specified in the Operating Plan for specific pre-planned initial attack response areas and provided at no cost to the Protecting PARTY for the first specified hours from the time of initial report. Mutual Aid is limited to those Initial Attack resources or move-up and cover assignments that have been determined to be appropriate in the annual Operating Plans. Aircraft (fixed and rotary-winged, including pilot[s]) shall always be Assistance by Hire, EXCEPT when the response is under a unified command and the fire threatens both local and federal jurisdictions.

PRESCRIBED FIRE: The planned use of fire on wildlands to accomplish specific objectives including reducing fire hazard, providing flood protection, enhancing wildlife and fisheries, or improving water yields and/or air quality.

PROTECTING PARTY: The PARTY responsible for providing direct wildland fire protection to a given area pursuant to this agreement.

RECIPROCAL FIRE PROTECTION (MUTUAL AID): Automatic initial attack response by suppression resources as specified in the Annual Operating Plan for specific pre-planned initial attack response areas and provided at no cost to the PROTECTING PARTY for the specified mutual aid period. Aid is limited to those resources or move-up and cover assignments that have been determined to be appropriate in the Annual Operation Plan.

REIMBURSABLE WORK: Reinforcements exceeding reciprocal fire protection services furnished by either PARTY, at the request of the other, or fire protection furnished as a chargeable cooperative fire protection service

REPAIR OF SUPPRESSION ACTIVITY DAMAGE: Those activities undertaken by fire suppression forces during or immediately after the control of a wildfire to insure the prevention of erosion or to repair other damages resulting from fire suppression activities.

SUPPORTING PARTY: The PARTY directly contributing suppression, rescue, support or service resources to the PARTY possessing direct fire protection responsibility for the area upon which an incident is located.

SUPPRESSION: All the work of confining and extinguishing a fire beginning with its discovery.

UNIFIED COMMAND: The organizational structure implemented on multi-jurisdictional incidents. The PARTIES' Incident Commanders will jointly determine incident objectives.

WILDFIRE: An unwanted fire burning uncontrolled on wildland.

WILDLAND: Lands covered wholly or in part by timber, brush, grass, grain, or other flammable vegetation.