INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting By and Through Its

Department of Conservation and Natural Resources
Nevada Division of Forestry
2478 Fairview Drive, Carson City, Nevada 89701
Phone (775) 684-2500 – Fax (775) 684-2570

RECEIVED FORESTRY
APRIL 27, 2021
STATE OFFICE

And

Mason Valley Fire Protection District
118 S Main Street
Yerington, NV 89447
Phone 775-463-2261

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services of Nevada Division of Forestry hereinafter set forth are both necessary to FPA and in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.

2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.

3. CONTRACT TERM. This Contract shall be effective July 1, 2021 to June 30, 2023, unless sooner terminated by either party as set forth in this Contract.

4. TERMINATION. This Contract may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 60 days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Contract is withdrawn, limited, or impaired.

5. NOTICE. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.

6. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: WILDLAND FIRE PROTECTION PROGRAM (WFPP) SCOPE OF WORK

7. CONSIDERATION. Nevada Division of Forestry agrees to provide the services set forth in paragraph (6) at a cost of $7,157.00 for State Fiscal Year 2022 and $7,157.00 for State Fiscal Year 2023, not to exceed $14,314.00 with quarterly installments payable in advance on the first of each quarter, starting July 1 of each fiscal year. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the results of legislative appropriation may require.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.

9. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum of three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation $150 per hour for State employed attorneys and County employed attorneys.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

13. INDEMNIFICATION. Neither party waives any right or defense to indemnification that may exist in law or equity.

14. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

16. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

17. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.

18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.

19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in paragraph (6).

22. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the 1st Judicial Court, Carson City, NV for enforcement of this Contract.

23. ENTIRE AGREEMENT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

FOR FPA

N/A
, Chair, Board of Fire Commissioners Date

4-27-2021
Scott Draper, Fire Chief Date

Attest:

N/A
, County Clerk Date

Approved as to form by:

N/A
, FPA Attorney Date

FOR DCNR and DIVISION (STATE)

John Christopherson Digitally signed by John Christopherson Date: 2021.09.02 10:01:52 -07'00'
Kacey KC, State Forester/Firewarden Date

Dominique Etchegoyhen Digitally signed by Dominique Etchegoyhen Date: 2021.09.02 13:22:05 -07'00'
Bradley Crowell, Director, DCNR Date

Approved as to form by:

Anthony J. Walsh Digitally signed by Anthony J. Walsh Date: 2021.09.02 13:55:53 -07'00'
Anthony Walsh, Deputy Attorney General for Attorney General, State of Nevada Date

APPROVED BY BOARD OF EXAMINERS:

for Susan Brown
Signature – Nevada State Board of Examiners Date 9/9/21

Attachment A
WILDLAND FIRE PROTECTION PROGRAM
SCOPE of WORK

I. IDENTIFICATION OF ENTITIES

A. The State of Nevada Department of Conservation and Natural Resources (hereinafter "DCNR") which exists pursuant to NRS 232.010(1), and the Nevada Division of Forestry (hereinafter "DIVISION") which exists pursuant to NRS 232.090(c), are both agencies of the State of Nevada (and are from time to time collectively referred to as "STATE" in this Agreement);

B. Fire Protection Agency Name, is a political subdivision of the State of Nevada (hereinafter "FPA")

II. RECITALS

WHEREAS, all signatories to this Agreement are public agencies authorized by Chapter 277 of the Nevada Revised Statutes to enter into interlocal and cooperative agreements with each other for the performance of governmental functions; and;

WHEREAS, the FPA has jurisdictional responsibility for serving its community in many different ways, including wildland fire response, prevention and mitigation.

WHEREAS, the Division and FPAs are required to adhere to NRS 477.030 1a, 477.0306, NAC 477.281(c).

WHEREAS, the Division and the FPA mutually agree to reduce risk from wildland fire to include, but not limited to, fuel reduction, NNFAC Nevada Network of Fire Adapted Communities support, apparatus, training and supplies.

WHEREAS, the DIVISION has responsibility to supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons and;

WHEREAS, the DIVISION may maintain or have access to additional specialized wildfire expertise and suppression resources and;

WHEREAS, wildland fires are defined as unplanned, unwanted wildland fire including unauthorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to put the fire out;

WHEREAS, it is to the mutual advantage of the DIVISION and the FPA to work closely together to maintain effective wildfire management without duplication, and to coordinate efforts with federal cooperators and;

WHEREAS, the DIVISION and the FPA desire to define their roles, responsibilities and relationships to achieve the most effective protection of forest, range, and watershed lands and;

WHEREAS, the DIVISION and the FPA recognize that safe, aggressive initial attack is the best suppression strategy to keep wildland fires small and costs down and;

WHEREAS, the DIVISION recognizes the FPA as the Agency having primary jurisdiction, the DIVISION will participate at an Incident Command Post (ICP) in a primary Wildland Fire Protection Program (WFPP) fiscal role. The Division remains available to assist in other Incident Command System (ICS) roles upon request

WHEREAS, it is understood that the mission and intent of all parties is to quickly suppress wildland fires regardless of jurisdiction and/or ownership, it is mutually beneficial to all parties to jointly take action as necessary to safely and effectively contain all wildland fires and;

WHEREAS, the FPA has requested to participate in the DIVISION Wildland Fire Protection Program (hereinafter WFPP), and the DIVISION is authorized to render wildland fire protection services, including cost reimbursement, to the FPA;

WHEREAS, all terminology herein shall be defined by the National Wildfire Coordinating Group (NWCG) Glossary of Wildland Fire Terminology (hereinafter "NWCG Glossary);

WHEREAS, all incident business shall be conducted in accordance with the NWCG Standards for Interagency Incident Business Management (hereinafter "SIIBM");

NOW THEREFORE, in consideration of the above premises, it is agreed between the parties as follows:

III. TERMS

A. Location

The FPA will provide the DIVISION an accurate map of the current jurisdictional boundaries the FPA enrolled in the WFPP.

B. Payment

The DIVISION will assume incident costs consistent with the terms of the Master Cooperative Wildland Fire Management and Stafford Act Response Agreement, unless deviations from these agreements are authorized by the DIVISION Agency Representative due to the accelerated complexity of the incident. The DIVISION will not pay wildland fire suppression expenses to (or for) the participating FPA jurisdiction in the WFPP without appropriate authorization from the Division and adherence to the agreement herein.

1. Qualifying Expenses

Reasonable and prudent expenses (actual costs, based on established rates on file with the DIVISION by December 31st each year, of the jurisdiction) commensurate with values at risk, for wildland fire suppression and support resources engaged in wildland fire suppression within the FPA jurisdiction, or through a cost-share agreement with Federal Agencies on adjacent or comingled jurisdiction and billed in accordance with the SIIBM. All qualifying expenses must be accompanied by a resource order or WildCAD document.

- The FPA and the DIVISION agree to a 24 hour mutual aid initial attack period (time of incident dispatch) with no cost incurred to either party.
- Assistance By Hire (ABH) resources; aviation, hand crew resources, and contracted equipment.
- The FPA is required to deploy all initial attack suppression forces in their purview prior to requesting Assistance by Hire. For NDF ABH resources within the first 24 hours, ABH resources may be charged to the FPA, as agreed by the FPA and the DIVISION representatives. All requests must be processed and recorded through the dispatching systems of the participating agencies on Resource Orders. Except for mutual aid, all requests for fire suppression assistance in an agency's direct protection area shall be Assistance By Hire.
- Mobilization of state and local government task force which is ordered by NDF on high fire danger threat periods for quick initial attack. The daily actual cost for the apparatus and crew will be covered. There will be no backfill or administrative costs associated with the request or in billing documentation.
- Agency Overhead personnel not specifically assigned to the incident.
- Only one position will be paid at the FPA discretion, either the assigned position or the backfill.
- Extended Attack resources (Assistance By Hire), services and supplies with a Resource Order number.
- Vehicles, equipment and apparatus utilizing established Rates based on actual operating costs.
- Fire Base Camp – Incident Command Post set-up and operational costs.
- Food services for Incident personnel.
- Transportation to/from Incident.
- Repair/replacement of uninsured items and small equipment damaged or destroyed during fire suppression (with IC approval and completed OF-289, Property Loss or Damage Report).
- Use of Aircraft services.
- Personnel costs utilizing established Rates based on actual operating costs.
- Incident Management Team, mobilization and support.
- FPA's liability for Cost Share percentages.
- Dispatch personnel and services
- Fire suppression damage repair.
- FPA and DIVISION may jointly conduct cooperative projects and/or share resources to carry out non-suppression activities in support of interagency fire management.

These joint projects or activities may involve sharing of costs and/or a transfer of funds between the Parties involved, at which time a separate, local agreement, procurement, or other appropriate written document will be required.

2. Excluded Expenses

- Costs incurred following the initial dispatch of any ground resources to the fire for the duration of the initial 24-hour mutual aid period.
- FPA equipment and repair/maintenance costs associated with wildland fire response and normal wear and tear.
- Individuals and agencies when in "mutual aid" to FPA.
- "Profit" and Administrative fees.
- Non-expendable (non-consumable) accountable property, i.e. Chainsaws, FAX Machines, and Mobile Air Conditioners.
- Claims and award payments.
- Interest and indemnities payments.
- FPA Burned Area Emergency Rehabilitation (BAER) beyond suppression damage repair.
- Resources demobilized before the end of the mutual aid period.
- Escaped Prescribed Burns FPA.

3. Negotiable Expenses

Costs not outlined above may be subject to negotiation between the parties for payment.

The FPA should notify the DIVISION of any questions, issues or situations regarding qualifying expenses that are not clear or require negotiation. The DIVISION will set a meeting to discuss and/or resolve. If the parties are unable to reach a mutually agreeable resolution, either party may refer the matter to the Review Committee (Section K) for further action.

C. Annual Planning Meeting

Annually, representatives of the DIVISION, the FPA, and others deemed necessary, shall meet and jointly discuss, review, and update as necessary the WFPP, develop an operating plan (OP), and set the FPA's rates for personnel and equipment. The OP will identify, among other things, prioritized hazardous fuel treatment areas, training needs, equipment needs, defensible space activities and personnel responsible for representing the WFPP program interests for cost containment, FMAG data, and cost recovery. All OP's will be signed by March of each year.

The DIVISION will arrange the date and location for the meeting each year.

D. Delegation of Authority

The FPA extends a "blanket" delegation of authority to the DIVISION as the DIVISION performs pre-fire activities in the FPA's jurisdiction as agreed to in the OP. For emergency

activities, a formal delegation of authority by the FPA may be created and administered to the DIVISION at the discretion of the FPA.

E. Use of Incident Management Teams

The FPA will notify the DIVISION Regional/State Duty Officer of any wildland fire in their jurisdiction that may require mobilization of an Incident Management Team. The DIVISION, together with the FPA when possible, will participate in unified command role and actively participate as an Agency Administrator/Agency Representative on any Type III, Type II or Type I wildland incident in a WFPP jurisdiction.

F. Organizing, Equipping, and Training

The FPA will cooperate in the training, equipping and maintaining of wildland firefighting forces in the FPA.

The DIVISION will assist the FPA in the organizing, equipping and training of FPA and cooperator forces to detect, contain and extinguish wildland fires, as agreed to in the AOP.

G. Wildfire Pre-Suppression

The FPA will provide a list of prioritized hazardous fuel reduction projects to the DIVISION for inclusion in the WFPP partner's OP. The Division will assist with hazardous fuels reduction, including treatment plans; State Historic Preservation Office (SHPO) pre-project reviews for potential impacts upon historic properties; Threatened and Endangered (T&E) species occurrences; and other technical services as requested and available. The DIVISION will provide, at the FPA'S request, subject to availability, personnel and apparatus to assist in Public Wildfire Education Programs, and the DIVISION and the FPA will collaborate on a wildland fire prevention program that includes a common message.

The FPA will provide the DIVISION with a list of subdivisions, infrastructure, businesses, and other critically important community attributes within their jurisdiction for use in development of Fire Management Assistance Grant (FMAG) applications should the need arise.

H. Wildfire Suppression

The DIVISION will provide dispatching/mobilization services and support to local government FPA for mutual aid and wildfire response both state and federal. All hazard and EMAC requests will remain with Department of Emergency Management.

The FPA under this contract and as identified in the Master Cooperative Wildland Fire Management And Stafford Act Response Agreement Operating Plan Pg. 38 IV Preparedness section 2 Nevada Division of Forestry, has authority to respond Out of Local Jurisdiction within Nevada and Out of State for federal wildland fire response mobilization requests.

The DIVISION and the FPA will utilize the "closest forces" concept for all wildland fire responses. This concept dictates that the closest available, appropriate resources respond to initial attack fires, regardless of jurisdiction, whenever there is a critical and immediate need for the protection of life and property. Beyond initial attack, the "closest forces" concept is modified and the respective agencies will request the most appropriate resource to aid in the suppression of a wildfire. In lieu of established rates, the DIVISION will pay FPA volunteer fire departments $20 per hour (with a two-hour minimum) per fire engine/tender for wildland fire suppression responses in the FPA.

I. Reporting/Notification

The FPA will notify the DIVISION Regional Duty Officer of any wildland fire in their jurisdiction at time of size up or as soon as reasonably possible.

The FPA will request an FMAG at the earliest sign the incident will grow to a qualifying event and/or into a major disaster. The FMAG request will contain a detailed list of all threatened resources prompting the request.

The FPA will submit a report to DIVISION annually which includes:

- A list of all wildland fires with a duration less than 24 hours that occurred within their jurisdiction for use in annual reporting.
- All hazardous fuel reduction treatments/efforts undertaken in their jurisdiction
- Any enhancements made to FPA wildland fire suppression capabilities

J. Prescribed Burning

The DIVISION and the FPA will coordinate technical assistance for prescribed fires and fuels reduction projects. The DIVISION will provide burn resources at the discretion and amount requested of the FPA based upon availability. The DIVISION will only participate on FPA prescribed fires that have approved burn plans per NWCG standards. Prescribed burning costs are not eligible for reimbursement under the WFPP.

K. Review Committee

The STATE will establish a review committee to adjudicate issues or questions between the DIVISION and the FPA which cannot be resolved informally through the parties. The Director of the Department of Conservation and Natural Resources (DCNR) will request one STATE representative and two individuals from jurisdictions other than where the dispute is occurring to serve on the Committee. The FPA involved must agree to the selected committee. The Committee will meet and discuss the issue and make a non-binding recommendation to the Director of DCNR for a final decision. The use of a Review Committee, however, is not intended to alter or supplant any other remedy either party may have at law.

L. Reimbursement/Payment

The DIVISION will provide reimbursement to the FPA or provide for direct payment of approved costs to Federal Agencies and other vendors.

FPA

1. Billing invoice requirements:
    a. One incident per invoice;
    b. Incident name;
    c. Incident start date;
    d. Incident number (State and Federal);
    e. Contact point for questions;
    f. Standard billing documentation: Dispatch Resource Orders, Cost Share Agreements, Transaction Registers and backup documentation (Resource Order Numbers for all Supplies, Incident Dispatch Log).

The FPA will also develop a Fire Rate Agreement (FRA). The FRA is within the Fire Business System (FBS) and shall be entered and maintained by the DIVISION. The DIVISION office can and will guide you through the process using FBS. The FRA will identify all equipment available for fire assignments, set hourly rates, and identify minimum and standard staffing levels for each piece of equipment. Minimum staffing levels are defined by National Wildfire Coordinating Group (NWCG) standards and National Fire Protection Association standards and the FPA's policies and procedures on initial attack.

All fire bills are consolidated in the Fire Business System (FBS) database for all agencies. Fires are tracked individually per agency and tracked by using fire reports, fire codes, fire names and function codes. For those unique incidents that occur on lands within Nevada some of them may have an out of state designator. (Border fires) These incidents will be addressed individually and may be included in the State consolidation process.
The state is responsible for managing consolidated billing in the FBS that includes all agencies and cost share information. Actual costs are tracked by each agency for each incident and added to FBS as costs become available to the respective agencies. Agency costs are subject to audit. The consolidated billing database is verified but may be disputed based on the cost share allocation, severability of costs and actual costs submitted for each fire. FBS will generate a final balance for all parties in the State/Federal Reconciliation Report, thus requiring only one transfer of funds to reconcile the fire season. Any discrepancies or concerns pertaining to individual fires recorded in FBS will be identified, resolved and handled on a per case basis, beginning with a cost adjudication meeting. During the adjudication meeting, entities that are party to the billing process will meet to discuss the discrepancies or concerns. After resolution of costs, a bill will be issued to the owing party. Post reconciliation adjustments will be resolved, agreed to and pursued by all agencies involved, on a case-by-case basis.

The FPA will prepare and submit in the Fire Billing System (FBS) incident billing packages no later than six (6) months from the date the incident is declared out, with the exception of certain FEMA, Civil Cost Recovery and other incidents that warrant specific time tables. The DIVISION reserves the right to return billing packages not meeting the billing invoice requirements outlined above, for correction. Failure to meet these timelines shall not be construed as a release or waiver of claims for reimbursement against the other party. If the six (6)-month timeframe cannot be met, immediate written notification shall be made to the DIVISION Deputy Administrator.

For Federal Emergency Management Agency (FEMA) billings, the DIVISION will be the lead agency for all bills to be submitted for the Fire Management Assistance Grant Program (FMAG). The DIVISION requires estimated bills from the FPA within 30 days of the fire being declared out. The FPA will track resources and costs associated with wildland fires.

M. Cost Share Agreements

The FPA will notify the DIVISION Regional/State Duty Officer, in a timely manner, of any wildland fire in their jurisdiction that may require a cost share agreement. The DIVISION and the FPA will assume an active role in the development of the cost share agreement and must ratify the agreement in order for any expenses incurred through the agreement to qualify under the WFPP.

N. Fire Investigations

PARTIES shall render mutual assistance in investigation and law enforcement activities, and in court prosecutions, to the fullest extent possible. The FPA will request a wildland fire investigator through the resource ordering system for all fires which may warrant cost recovery actions, or is suspicious in nature. The FPA shall be responsible for fire-related law enforcement activities on wildfires that originate on their respective lands.

O. Cost Recovery

The FPA is responsible to file cost recovery actions on trespass fires when feasible, or the DIVISION may not cover the cost of the fire for the FPA. The DIVISION has the ability to seek cost recovery actions on known human caused fires, if the FPA has filed for cost recovery. To the extent permitted by State law, the FPA will provide investigation files relative to the fire to the DIVISION.

Third Party Cost Recovery: In responding to and suppressing a wildland fire, the agency that has the land management jurisdiction/administration role (i.e., the agency that administers the lands where the fire ignited) is considered the "lead" agency. Other agencies, which provide fire

protection or perform other fire related services, are considered "cooperating agencies." The lead agency is responsible for determining the fire origin and cause of ignition and the suspected person who or entity that negligently or intentionally ignited the fire. The cooperating agency law enforcement and/or fire investigation personnel will assist the lead agency in making those assessments. Consequently, at the outset of the investigation, the lead agency must invite federal enforcement personnel or other appropriate fire investigation personnel to work jointly with the lead agency to determine the fire cause and origin and determine whether the fire was human and negligently caused. Should the lead agency choose not to investigate, and/or the fire originates on private lands, the lead agency must invite federal law enforcement officers to investigate the fire.

Cost Recovery: Authority to recover suppression costs and damages from individuals causing a fire varies depending on contracts, agreements, permits and applicable laws. The Authorized Representatives of affected agencies will attempt to reach mutual agreement as soon as possible after a fire on the strategy that will be used to recover suppression costs and damages from the individuals liable for such costs and damages. Such strategy may alter interagency billing procedures, timing and content as otherwise provided in this Agreement. Any Agency may independently pursue civil actions against individuals to recover suppression costs and damages. In the cases where costs have been recovered from an individual, reimbursement of initial attack, as well as suppression costs to the extent included in the recovery, will be made to the Agency taking reciprocal action.