

**City of Palmer
Action Memorandum No. 18-031**

Subject: Authorizing the City Manager to Negotiate and Execute a Five-Year Agreement with the State of Alaska to Provide Fire Suppression Response and Assistance to the Division of Forestry with Regards to Wildland Firefighting Emergencies

Agenda of: March 13, 2018

Council Action: **Approved** **Amended:** _____
 Defeated


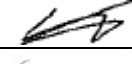
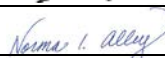
Originator Information:

Originator: City Manager

Department Review:

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
<u> √ </u>	Finance		<u>2/22/2018</u>
<u> X </u>	Fire		<u>2/21/18</u>
_____	Police	_____	_____
_____	Public Works	_____	_____

Approved for Presentation By:

	Signature:	Remarks:
City Manager		_____
City Attorney		_____
City Clerk		_____

Certification of Funds:


Total amount of funds listed in this legislation: \$ _____

This legislation (√):

- Creates revenue in the amount of: \$ _____
- Creates expenditure in the amount of: \$ _____
- Creates a saving in the amount of: \$ _____
- Has no fiscal impact

Funds are (√):

- Budgeted Line item(s): _____
- Not budgeted _____

Director of Finance Signature: 

Attachment(s):

- Cooperative Fire Protection Agreement

Summary Statement/Background:

Alaska Statute 41.15.010 states the State of Alaska Division of Forestry (Forestry) will provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on land that is owned privately, by the state, or by a municipality. Palmer Fire & Rescue also has an obligation to provide protection to the City of Palmer and The Greater Palmer Fire Service Area, through contract, for life and property from wildland fires within their area, subject to available resources, funding, and personnel. It is to the mutual advantage of Palmer Fire & Rescue and Forestry to enter into an agreement for the operation and reimbursement of Palmer Fire & Rescue from Forestry in the event of a major wildland fire incident.

Should the request from Forestry for assistance with a wildland fire response occur, whether an extended response within Palmer Fire & Rescue boundaries or an area outside these boundaries, the Cooperative Fire Protection Agreement and the Annual Operating Plan will detail the policy and procedures for activation, response and reimbursement of this assistance.

Administration's Recommendation:

To approve Action Memorandum No. 18-031 to enter into a Five-Year Agreement, with the Option to Extend Five Years, with the State of Alaska, Department of Natural Resources, Division of Forestry to Provide Fire Suppression Response and Assistance to the Division of Forestry with Regards to Wildland Firefighting Emergencies.

**Cooperative Fire Protection Agreement
State of Alaska Division of Forestry
City of Palmer Fire Department**

This Agreement is dated the day _____, and is between the City of Palmer (Cooperator) with an address of 231 W. Evergreen Ave. Palmer AK 99645 and the State of Alaska, Department of Natural Resources, Division of Forestry (“State”) with an address of _____

Components

- 1. Recitals**
- 2. Definitions**
- 3. Command of Incident**
- 4. Reimbursement and Status of Employees and Apparatus**
- 5. Worker’s Compensation**
- 6. Liability Insurance**
- 7. Fire Equipment Use**
- 8. Training and Prevention**
- 9. Investigation**
- 10. Annual Operating Plan**
- 11. Notification**
- 12. Parties responsible for their own Acts**
- 13. Permits and Laws**
- 14. Non Waiver**
- 15. Review and Modifications**
- 16. Fair Intent**
- 17. Agreement Effective Date and Termination**

1. Recitals

It is the intent of AS 41.15.010 that the State provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on land that is own privately, by the state, or by a municipality. It is also recognized by the Cooperator that an obligation exists to provide protection to life and property from wildland fires within their area of responsibility, subject to available resources, funding, and personnel. Therefore, it is to the mutual advantage of the Cooperator and the State to coordinate efforts in the prevention, detection, and suppression of wildland fires. It is in the best interest of both the Cooperator and the State that wildland fires be suppressed quickly and efficiently to minimize the destruction of natural resources and the threat to life, property, and communities.

2. Definitions

Annual Operating Plan (AOP): Negotiated annually between the Cooperator and the State to define operational details.

Back Fill: When the Cooperator is required to supply a firefighter at their station due to a documented

Fire Department policy, municipal ordinance and or union contract. the State only pays for the difference in the overtime above what the regular salary would be for the backfilling employee.

Discretionary Response: A response outside of the Fire Response Area within which the Cooperator may choose to respond, or assist the State, to suppress a wildland fire. Discretionary response may also be a request to respond to a wildland fire “out-of-area (outside the local dispatch zone).

EERA Equipment: Emergency Equipment Rental Agreement Equipment includes equipment rented to the State that is not fire apparatus as defined below. The EERA equipment is registered in OLAS using established rates.

Extended Attack: When wildland fire suppression activity goes beyond the first shift. The fire may be within Division of Forestry and Cooperator’s agreed fire response area or may be considered “out-of-area” (outside the local dispatch zone).

Fire Apparatus: Fire engine, pumper, tender, tanker, brush rig, fire command vehicle, maintenance truck or such other rolling stock as is typically used by fire departments for fire suppression purposes.

Fire Response Area/ Mutual Aid/ Automatic Aid: An area which may include the Cooperator Service Area and areas of mutual aid response, within which the Cooperator agrees, within its ability, to promptly respond and act to suppress any wildland fire.

- Fire Response /Service Area: Geographic designated area where the Cooperator has fire responsibility. The Fire Response Area may or may not include all of the Service Area.
- Mutual Aid: An agreement where the Fire Department(s) has agreed to assist another department when requested
- Automatic Aid: An agreement for assistance. Assistance is dispatched automatically by contractual agreement between two fire departments, communities, or fire district.

Fire Stores: Items as needed to complete required minimum equipment inventory as specified in State’s Cooperator Conditions of Hire, Chapter 7 of the Alaska Incident Business Management handbook (AIBMH).

Incident Command System: An emergency response management system defined by the National Incident Management System (NIMS), and endorsed by the Governor of Alaska via administrative Order 170.

OLAS: On-line Application System is used to register, hire, and track Cooperator Fire Apparatus and EERA Equipment. OLAS will be used in the future for the entering and tracking the Cooperative Agreements and AOPs submitted by Cooperators.

Rehab/ Refurb: Fire department is allowed up to 4 hours with Fire Manager Officer’s approval for refurbishing and rehab of their equipment only for extended attack and or discretionary response wildland

fires.

Shift: Note this definition is a change from last year's definition. When responding to an initial attack wildland fire, the first shift for the fire department is shift after the first calendar day unless mutually decided by the State and fire department. One decision is when there is a break from unified command and the State has single command and the State is fiscally responsible. When requested by the State for a discretionary response outside of the fire departments service area or requested for an extended attack fire, the first shift begins at notification and or determined time. (If the State requests the fire department for the next day, the first shift starts the following day).

- Single shift: is when the apparatus has only one operator or crew members that work between 12 and 16 hours as noted in the Incident Action Plan.
- Double shift: Double Shift needs to be approved by the State of Alaska Fire Management Officer; the fire department supplies an apparatus with two separate operators or crew.

Unified Command: a method for all agencies or individuals who have jurisdictional responsibility and in some cases those who have functional responsibility at an incident to contribute to:

- Determining overall objectives for the incident
- Selection of a strategy to achieve the objectives
- Joint command of the incident for the first shift during initial attack

Wildland Fire: The uncontrolled burning of grass, brush, timber and other natural vegetative material.

3. Command of Incident

There is a presumption of Unified Command, by mutual consent pursuant to this Agreement for the first shift during initial attack, for the management of wildland fire incidents. The first responder on-scene shall assume functional command of the incident until the arrival of the other responder, after which a Unified Command will normally be established.

The Cooperator or State may, by mutual agreement, solely assume command of the incident, and shall be in command of personnel, fire apparatus and all other aspects of the fire suppression effort for the duration of the incident or until such resources are released.

4. Reimbursement and Status of Employees and Apparatus

The Cooperator may be reimbursed for performance under this Cooperative Fire Protection Agreement.

The methods of reimbursement are:

- Cooperator Reimbursement: where actual costs of personnel and apparatus are reimbursed to the Cooperator.
- Combined Personnel and Apparatus Reimbursement (Lump Sum): where combined rate per daily and or double crew daily rate includes the established rate for both the personnel and apparatus.
- Direct Payment: where Cooperator personnel, as mutually agreed to by both the Cooperator and the State, are hired as Emergency Firefighters (EFF) by the State and paid directly; and apparatus is rented and paid directly to the Cooperator.

- All Cooperator apparatus and Emergency Equipment Rental Agreement (EERA) equipment must be registered in the Online Application System (OLAS) using established rates listed in OLAS, and the appropriate Conditions of Hire. Rates and Conditions of Hire forms are also included in the Alaska Incident Business Management Handbook.

In order to use the Cooperator Reimbursement method the Cooperator is responsible to payroll their personnel and provide Worker's Compensation insurance as defined below. The pay scale of each of their employees along with the billing addresses and contacts must be provided in in the AOP.

In the event an AOP has not been signed by the State, rates paid for apparatus will not exceed the latest version of the rates listed in the Online Application System (OLAS) (See Cooperator Conditions of Hire for Wildland Fire Suppression Activities). For other Fire Department equipment not listed under Chapter 7 of the Alaska Incident Business Management Handbook see Chapter 6 Emergency Equipment Hiring. This equipment should be listed in OLAS.

State Division of Forestry employees remain employees of the State whether they work under the Cooperator or State command. Cooperator personnel may remain the responsibility of the Cooperator, or may become employees of the State through the Emergency Firefighter program, with the attendant pay and benefits, depending on which payment methods the Cooperator chooses.

A. Cooperator Reimbursement and Combined Reimbursement:

1. Cooperator Reimbursement: The Cooperator shall be responsible for payment of salary to Cooperator's personnel, including all lawful deductions, taxes, and insurance. The incident will post all equipment time on Emergency Equipment Use Invoices and personnel time on OF-288s that will be used as backup for the Cooperator invoice presented to the State for reimbursement. The cooperators shall be responsible for payment of all expenses related to operation of the apparatus. Upon receipt of an itemized bill the State shall reimburse the Cooperator, within 30 days, for actual costs of personnel, apparatus, and other reasonable and necessary expenses as allowed that are directly related to wildland fire suppression. Rates of reimbursement for personnel shall be documented by the Cooperator as an addendum to the AOP and/or itemized on invoices submitted to the State. Cooperator apparatus and EERA equipment reimbursement rates shall not exceed the rates listed in OLAS. Forestry will not pay administrative fees for personnel in excess of **13.5 %** nor pay for backfill positions unless required by municipal ordinance, union contract, and/or written department policy. These costs will be billed as outlined above, and segregated from the deployed personnel. The Cooperator's request for reimbursement for each employee assigned to the deployment, the reimbursement request shall include:

- i. The request is on Cooperator's letterhead
- ii. Tax identification number.
- iii. The request should include the Cooperator's Benefits by percentages i.e. PERS, workers compensation, health insurance, etc. The Cooperator may waive some of the benefits associated costs if desired.

1. The name, rank and applicable pay rate
2. The number of base hours and overtime worked.
3. Employer's costs and benefits paid on base wages
4. The total charges to reimbursement.

Backfill reimbursement (see definition): The incident will reimburse all backfill overtime costs. The State only pays for the difference in the overtime above what the regular salary would be for the backfilling employee associated with the deployed employee(s). A requirement by municipal ordinance, union contract and or written department policy, the backfilled person is needed to maintain adequate staffing for the department.

5. These costs will be billed as outlined above, and segregated from the deployed personnel.
6. Rates should be attached as an addendum to this document.

2. Combined Reimbursement: The Cooperator submits an invoice. This invoice lists one cost. This cost is for the pre-established combined apparatus and the personnel hourly, daily or double crewed rate. (This is similar to Contractor/ Vendor billing). As of January 2016, the State has not established a combined rate for Fire Departments.

B. Direct Payment: The State shall be responsible for payment of salary directly to Cooperator's personnel hired as qualified EFF, including all lawful deduction, taxes, and insurance. Rates of pay and levels of classification shall be documented in the AOP. The State shall be responsible for payment to the Cooperator for apparatus and EERA equipment rental. Cooperator apparatus and EERA equipment reimbursement rates shall not exceed the rates listed in OLAS. Notice of employment as EFF, and hiring of apparatus and equipment will be affected by completion of appropriate hiring documents, or, if the emergency situation demands, notification of the responsible State Dispatch office that Cooperator employment and / or hiring has occurred. In the latter case, official documentation will be completed as soon as practical.

C. Travel, Meals, and Lodging: Travel time between the duty station, or fire station, and the incident is also reimbursable. Meals and lodging will be provided by the State for employees on assignment away from their Area.

- Refurb/Rehab: Fire department is allowed up to 4 hours with the Fire Management Officer's approval for refurbishing and rehab of their equipment only for extended attack and or discretionary response wildland fires. No other travel costs will be reimbursed.

5. Worker's Compensation

The Cooperator and the State are responsible for their own personnel Worker's Compensation. EFF are considered State employees.

6. Liability Insurance

The State is responsible for its own liability insurance and coverage.

The Cooperator is responsible for its own liability insurance and coverage, for work performed under this Agreement, and for work performed when no reimbursement or payment by the State under this Agreement is applicable.

State apparatus, including FEPP, loaned to a Contractor is covered by State liability insurance and coverage, regardless of whether or not the operator is State employee, provided the apparatus is utilized in the scope of permissive use. Permissive use is described as response to and operation on a wildland fire.

Liability is not covered for non-wildland fire use.

7. Fire Equipment Use

Upon discretionary assignment outside the Fire Response Area, the State will issue to the Cooperator fire stores as needed to complete the required minimum equipment inventory as specified in Cooperator Conditions of Hire: The Cooperator will maintain the fire equipment issued under this Agreement in an operable conditions. Issued equipment will be returned to the issuing Forestry Office upon completion of the assignment. The State will not hold the Cooperator accountable for consumable fire supplies.

If non-consumable fire stores become broken, or otherwise unusable, the Cooperator will return the damaged item, along with a statement of how the item was damaged, to the State for repair or replacement. If an item becomes lost or damaged as a result of negligence by the Cooperator, the Cooperator will be liable for replacement.

8. Training and Prevention

All Cooperator employees will be NWCG certified at a minimum of Wildland Firefighter 2, which includes an annual Fire line refresher Training and Work Capacity Test, when responding outside the Response Area. All personnel hired as EFF by Forestry must meet established NWCG physical fitness and training standard for the position hired. The state will provide wildfire training and prevention material to the Cooperator upon request.

9. Investigation

See Annual Operating Plan for investigation procedures.

10. Annual Operating Plan

As soon as practical after this Agreement is executed and annually thereafter prior to March 15 of each year, the Cooperator and the state Forester or his designee shall meet to negotiate an AOP. The subject matter of the AOP shall include what is needed to help define the operational details. At minimum the AOP should include mobilization procedures, a map or description of response area, training and qualifications, personnel rosters, contact information, education/ prevention/ investigation coordination procedures and radio frequencies (communication coordination).

11. Notification

The notification procedures are outlined in the Annual Operating Plan.

12. Parties Responsible for their own Acts

Each party agrees that it will be responsible for its own acts and the results thereof and each party shall not be responsible for the acts of the other party; and each party agrees will assume to itself risk and liability resulting from their own acts under this Agreement.

13. Permits and Laws

The parties shall acquire and maintain in good standing all permits, licenses and other entitlement necessary to the performance under this Agreement. All actions taken by the parties under this Agreement shall comply with all applicable laws, statues, ordinances, rules and regulations.

14. Non-Waiver

The failure of the Cooperator or the State at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof to enforce each and every protection hereof.

15. Review and Modifications

The parties agree to review this Agreement every Five (5) years maximum. From time to time, the parties may agree to modifications in the scope of services to be performed under this agreement. All modifications to the Agreement shall be incorporated by written amendments to this Agreement and approved by all signatories prior to effect.

16. Fair Intent

This Agreement has been jointly drafted by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party.

17. Agreement Effective Date and Termination

This Agreement supersedes all other versions of this document and is effective as the date of last signature of the parties and remains in effect indefinitely unless terminated. Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date, thereof, at least thirty (30) days before the effective date of such termination.

Cooperative Fire Protection Agreement Signatures

For the State

Area Forester Date

State Forester Date

DNR Procurement Officer Date

For the Cooperator

Date

Date

Date