



WASHINGTON STATE DEPT OF
**NATURAL
RESOURCES**

PETER GOLDMARK
COMMISSIONER OF PUBLIC LANDS

**INTERAGENCY AGREEMENT WITH WALLA WALLA COUNTY FIRE
PROTECTION DISTRICT #5**

Agreement No. IAA 16-448

This Agreement is between the Walla Walla County Fire Protection District #5, referred to as WWFDD5 and the Washington State Department of Natural Resources, Southeast Region, referred to as DNR.

DNR falls under authority of RCW Chapter 43.30 of Washington State, Department of Natural Resources. DNR and WWFDD5 enter into this agreement under Chapter 39.34, Interlocal Cooperation Act.

The purpose of this Agreement is for WWFDD5 to make available WWFDD5 employees as listed in Attachment B, referred to as employee, as single resources for wildfire or emergency response, and for DNR to reimburse WWFDD5 for the costs associated with their time.

IT IS MUTUALLY AGREED THAT:

1.01 Statement of Work. WWFDD5 shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to performing work set forth in the Attachment "A".

2.01 Period of Performance. The period of performance of this Agreement shall begin on the date WWFDD5 furnishes DNR with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, or a letter of self-insurance as referenced in section 16.01 and the date of the last signature to this agreement, and end on December 31, 2017, unless terminated sooner as provided herein.

3.01 Payment. Pay for the work provided is established under RCW 39.34.130. Payment for satisfactory performance of work shall be based on the rates and terms described in Attachment "B".

4.01 Billing Procedures. DNR shall reimburse WWFDD5 upon the receipt of properly executed claim forms submitted by WWFDD5 according to Attachment A. Any costs, which are to be billed as allowed by this Agreement, must be invoiced within sixty (60) business days of the last date of demobilization. Payment to WWFDD5 for approved and completed work will be made by warrant or account transfer within 30 days of receiving the invoice. When the contract expires, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

5.01 Records Maintenance. WWFDD5 shall maintain books, records, documents and other evidence, to sufficiently document all direct and indirect costs incurred by WWFDD5 in providing the services. These records shall be available for inspection, review, or audit by personnel of the DNR, other personnel authorized by the DNR, the Office of the State Auditor, and federal officials as authorized by law. WWFDD5 shall keep all books, records, documents, and other material relevant to this Agreement for six years after agreement expiration. The Office of the State Auditor, federal auditors, and any persons authorized by the parties shall have full access to and the right to examine any of these materials during this period.

Records and other documents in any medium furnished by one party to this agreement to the other party will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose this material to any third parties without first notifying the furnishing party and giving it a reasonable opportunity to respond. If the furnishing party receives a Public Records Request, any records that must be disclosed for that Public Records Request would be excluded. Each party will use reasonable security procedures and protections to assure that records and documents provided by other party are not erroneously disclosed to third parties.

6.01 Rights to Data. Unless otherwise agreed, data originating from this Agreement shall be “works for hire” as defined by the U.S. Copyright Act of 1976 and shall be owned by the DNR. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to use, copyright, patent, register and the ability to transfer these rights.

7.01 Independent Capacity. The employees or agents of each party who are engaged in performing this agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

8.01 Amendments. This Agreement may be amended by mutual agreement of the parties. Amendments shall be in writing and signed by personnel authorized to bind each of the parties.

9.01 Termination. Either party may terminate this Agreement by giving the other party 30 days prior written notice. If this Agreement is terminated, the terminating party shall be liable to pay only for those services provided or costs incurred prior to the termination date according to the terms of this Agreement.

10.01 Termination for Cause. If for any cause either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of the terms and conditions, the aggrieved party will give the other party written notice of the failure or violation. The aggrieved party will give the other party 15 working days to correct the violation or failure. If the failure or violation is not corrected within 15 days, the aggrieved party may immediately terminate this Agreement by notifying the other party in writing.

11.01 Disputes. If a dispute arises, a dispute board shall resolve the dispute like this: Each party to this agreement shall appoint a member to the dispute board. These board members shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms, applicable statutes and rules, then determine a resolution. The dispute board's determination shall be final and binding on the parties. As an alternative to the dispute board, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330. In this case, the Governor's process will control the dispute resolution.

12.01 Governance. This contract is entered into the authority granted by the laws of the State of Washington and any applicable federal laws. The provisions of this agreement shall be construed to conform to those laws.

If there is an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- (1) Applicable State and federal statutes and rules;
- (2) Statement of Work; and
- (3) Any other provisions of the agreement, including materials incorporated by reference.

13.01 Assignment. The work to be provided under this Agreement and any claim arising from this agreement cannot be assigned or delegated in whole or in part by either party, without the express prior written consent of the other party. Neither party shall unreasonably withhold consent.

14.01. Waiver. A party that fails to exercise its rights under this agreement is not precluded from subsequently exercising its rights. A party's rights may only be waived through a written amendment to his agreement.

15.01 Severability. The provisions of this agreement are severable. If any provision of this Agreement or any provision of any document incorporated by reference should be held invalid, the other provisions of this Agreement without the invalid provision remain valid.

16.01 Insurances.

At all times during the term of this agreement, WWFDD5 shall, at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of the agreement at DNR's option.

All insurance shall be issued by companies admitted to do business in the State of Washington

and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports unless otherwise approved by DNR. Any exception must be reviewed and approved by the DNR Risk Manager or in the absence of, the DNR Contracts Manager, before the contract is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

Before this agreement is effective, WWFDD5 shall furnish DNR, with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Agreement. Said certificate(s) shall contain the Agreement number IAA 16-448, name of DNR Project Manager, and include the State of Washington, DNR, its elected and appointed officials, agents, and employees as additional insured on all general liability, excess, umbrella insurance policies.

WWFDD5 shall include all subcontractors as insureds under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of subcontractor(s) to comply with insurance requirements does not limit WWFDD5 liability or responsibility.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by DNR. WWFDD5 waives all rights against DNR for recovery of damages to the extent these damages are covered by general liability, employer's liability, business auto, or excess/umbrella insurance maintained pursuant to this Agreement.

DNR shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications.

- (1). Insurers subject to Chapter 48.18 RCW (Admitted and Regulated by the Insurance Commissioner): The insurer shall give DNR 45 days advance notice of cancellation or non-renewal. If cancellation is due to nonpayment of premium, DNR shall be given 10 days advance notice of cancellation.
- (2). Insurers subject to Chapter 48.15 RCW (Surplus lines): DNR shall be given 20 days advance notice of cancellation. If cancellation is due to nonpayment of premium, DNR shall be given 10 days advance notice of cancellation.

By requiring insurance herein, DNR does not represent that coverage and limits will be adequate to protect WWFDD5, and such coverage and limits shall not limit WWFDD5 liability under the indemnities and reimbursements granted to DNR in this contract.

The limits of insurance, which may be increased by DNR, as deemed necessary, shall not be less than as follows:

- (1) Commercial General Liability (CGL) Insurance: WWFDD5 shall maintain general liability (CGL) insurance, and, if deemed necessary as determined by DNR, commercial umbrella insurance with a limit of not less than \$1,000,000 per

each occurrence and \$2,000,000 for a general aggregate limit. The products-completed operations aggregate limit shall be \$2,000,000.

CGL insurance shall be written on ISO occurrence form CG 00 01 (or substitute form providing equivalent coverage). All insurance shall cover liability arising out of premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insureds (cross liability) conditions.

- (2) Employers Liability (Stop Gap) Insurance: If WWFDD5 shall use employees to perform this contract, WWFDD5 shall buy employers liability insurance, and, if deemed necessary as determined by DNR, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
- (3) Business Auto Policy (BAP) Insurance: WWFDD5 shall maintain business auto liability and, if deemed necessary as determined by DNR, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "any Auto." Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense" as provided in the 1990 or later editions of CA 00 01.
- (4) Workers' Compensation Insurance: WWFDD5 shall comply with all State of Washington workers' compensation statutes and regulations. Workers' compensation coverage shall be provided for all employees of WWFDD5 and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this contract. Except as prohibited by law, WWFDD5 waives all rights of subrogation against DNR for recovery of damages to the extent they are covered by workers' compensation, employer's liability, commercial general liability or commercial umbrella liability insurance.

WWFDD5 shall indemnify DNR for all claims arising out of WWFDD5, its subcontractor's, or sub-subcontractor's failure to comply with any State of Washington workers' compensation laws where DNR incurs fines or is required by law to provide benefits to or obtain coverage for such employees. Indemnity shall include all fines, payment of benefits to WWFDD5 or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to DNR by WWFDD5 pursuant to the indemnity may be deducted from any payments owed by DNR to WWFDD5 for performance of this Contract.

In lieu of the coverages required under this section, DNR at its sole discretion may accept

evidence of self-insurance by WWFDD5, provided WWFDD5 provides the following:

WWFDD5 shall provide a statement by a CPA or actuary, satisfactory to DNR that demonstrates WWFDD5 financial condition is satisfactory to self-insure any of the required insurance coverages.

DNR may require WWFDD5 to provide the above from time to time to ensure WWFDD5 continuing ability to self-insure. If at any time WWFDD5 does not satisfy the self-insurance requirement, WWFDD5 shall immediately purchase insurance as set forth under this section.

- (5) To the fullest extent permitted by law, WWFDD5 shall indemnify, defend and hold harmless DNR, its officials, agents and employees, from and against all claims arising out of or resulting from WWFDD5 or WWFDD5's employees' or agents' performance of the Agreement. "Claim" as used in this agreement means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. WWFDD5 obligation to indemnify, defend, and hold harmless includes any claim by WWFDD5 agents, employees, representatives, or any subcontractor or its employees. WWFDD5 expressly agrees to indemnify, defend, and hold harmless DNR for any claim arising out of or incident to WWFDD5 or any subcontractor's performances or failure to perform the Agreement. WWFDD5 obligation to indemnify, defend, and hold harmless DNR shall not be eliminated or reduced by any actual or alleged concurrent negligence of DNR or its agents, agencies, employees and officials. WWFDD5 waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless DNR and its agencies, officials, agents or employees.

17.01 Complete Agreement in Writing. This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

18.01 Contract Management. The Project Coordinator for each of the parties shall be the contact person for this agreement. All communications and billings will be sent to the project coordinator.

19.01 Project Coordinators.

(1) The Project Coordinator for WWFDD5 is Mike Wickstrom, Telephone Number 509-547-8341

(2) The Project Manager for DNR is Wyatt Leighton. Telephone Number 509-925-0959

IN WITNESS WHEREOF, the parties have executed this Agreement.

WALLA WALLA COUTNY FIRE PROTECTION DISTRICT #5

Dated: _____, 20__

By: _____

Mike Wickstrom

Title: _____

Fire Chief

Address: 460 W Humorist Road
Burbank, WA 99323

Phone: 509-547-8341

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: _____, 20__

By: _____

Todd Welker

Title: Regional Manager

Address: 713 Bowers Rd
Ellensburg, WA 98926

Interagency Agreement
Approved as to Form 9/29/97
By the Assistant Attorney General
State of Washington

STATEMENT OF WORK:

This agreement is to allow WWFDD5 to provide Overhead and Resources to DNR for wildland fires within the State of Washington. This agreement will not be an avenue for dispatches to fires outside of the State of Washington with the exception of Type 1 and 2 IMT members and alternates dispatched as part of a team order.

COST REIMBURSEMENT PROCEDURES

The Washington State DNR will reimburse WWFDD5 for the eligible costs incurred while dispatched to incidents.

Resource Order Authority

A resource order number is required for all resources. Central Washington Interagency Dispatch (CWICC) office will issue all resource request numbers. This service is limited to fires in Washington, except for type 1 and 2 IMT members when dispatched with their teams.

A resource order number shall be assigned to each dispatched overhead resource. The resource order number is the authority reference for all claims, including those of the personnel assigned to the units but it is not, per se, an authorization for payment.

Travel Time

Travel time will be paid as documented on a Crew Time Report (CTR) signed by timekeeper at the fire.

DNR will estimate the travel time to and from the incident. Travel time via ground transportation shall be calculated by dividing distance (from point of hire to incident, or incident to incident or incident to point of hire) by average travel speed of 45 mph, plus applicable rest time.

Staging Hours

When resources are assigned to staging for initial attack or emergency deployment to the field, all hours will be reimbursable. This condition requires documentation on a CTR and signature of the Division Supervisor on the CTR.

Compensable Time

DNR does not compensate employees on a portal-to-portal basis

Career Employees

Regular Hours: All hours regularly scheduled at WWFDD5 for personnel assigned to an incident. These hours will be calculated the same as WWFDD5 calculates their regular hours for days scheduled at their regular hourly rate. (Example: 8, 10, 12, or 24 hours scheduled duty days.) Hours worked while on paid leave will be paid at the regular hourly rate.

Overtime Hours: Overtime hourly rates for personnel assigned to an incident for overtime hours worked. Overtime hours are those hours not regularly scheduled to work at WWFDD5 and are assigned on the incident action plan. Hours worked while on a Kelly day will be paid at the overtime rate.

FD Volunteers

DNR agrees to pay FD Volunteers directly when requested by the Chief. Volunteers will be paid for hours worked at DNR Wage and Equipment Rates for the position held on the incident.

FD Volunteers paid directly by DNR will need to come to the incident with all documentation needed to complete I-9 and W-4 forms. This process is identical to that of State Mobilization.

Non-Compensable Time

Time when an individual is not on assigned duty and is free to leave the area.

1. Unscheduled hours for meals.
2. Sleeping periods.
3. Time required for vehicle/equipment servicing or maintenance.
4. Crew change travel time (either direction)
5. Out-of-service time (i.e., unit decommissioned or broken down). If crew was reassigned, it must be documented on the CTR.

Crew Change

When accepting a dispatch to an incident, resources are required to stay until demobilized. If WWFDD5 wishes to replace a crew they may do so, however, with the crew change is WWFDD5 responsibility along with all expenses associated.

Personnel Compensated By

Personnel compensated by WWFDD5 who are dispatched will continue to be employees of WWFDD5 at all times. WWFDD5 reimbursement of personnel costs includes the following:

Backfill

WWFDD5 will be reimbursed the overtime premium differential for positions that require replacement staff. Only regularly scheduled hours are eligible for backfill consideration.

When WWFDD5 sends personnel who were scheduled to work, it may have a need to replace those personnel in order to provide support for those it protects. The term Backfill Personnel applies to those persons who come in on a non-scheduled work day and replace the person assigned to the incident.

Returning Mobilized Firefighter who has been “Backfilled”: When required to comply with local minimum staffing requirements, the overtime premium costs of a replacement firefighter filling in for a firefighter dispatched to an incident are reimbursable. When the firefighter arrives back home, eligibility ends for any cost reimbursement (1) for that firefighter and (2) for the backfilling replacement firefighter.

If the dispatched firefighter arrives home during his/her regular work shift, the expectation is that he/she will report for and return to work. If the WWFDD5 chooses to allow the returning firefighter to go home (i.e., to his/her personal residence), rather than to return to work, it does so at its own expense and is not reimbursable.

How Backfill Works		
1. Agency has firefighter scheduled to work.	2. Agency allows firefighter to respond to an Incident at beginning of shift.	3. Agency calls in a firefighter who is not scheduled to work.
Agency has funds allotted for Shift to be worked.	Incident covers cost of Firefighter who left. Agency Still has funds allotted for Shift to be worked.	Since agency hasn't Expended the allotted funding Incident will pick up 1/3 of The cost for the Backfill.
Firefighter who goes to Incident is paid \$10/hr. The Agency has set aside \$240 for the 24 hour shift.	Firefighters cost to agency of \$240 is reimbursed by incident.	When the firefighter is called in, he is paid at overtime rate. If this firefighter is paid \$10 an hour for regular time, Then he/she is compensated at \$15 for overtime.
Cost to Agency: \$240	Cost to Agency: \$0 Cost to Incident: \$240	Cost to Agency: \$360: Agency reimbursed 1/3 of \$360 = \$120 for overtime. \$240 for regular shift. Scheduled Cost to agency: \$240 Backfill cost to Incident: \$120
Total cost to agency for scheduled firefighter = \$240 Total cost to agency to send firefighter to incident = \$0 Total cost to incident for firefighter sent to incident = \$360 (\$240 regular shift + \$120 backfill. Total cost to agency for backfill firefighter = \$240		

Total Cost of Compensation (TCC)

All personnel claims submitted (except for contractors) are required to utilize the TCC method. TCC compensates for a regular hourly wage plus benefits.

Life insurance, Medical, Dental, Employee Assistance Programs and Disability insurance is all included in the Medical/Dental Section and is applied only to the regular hour rate. While the overtime base rate may be 1.5 times more than the regular time, once benefits are added, this is no longer a true statement Overtime TCC should always be less than 1.5 times the regular TCC rate.

Time Keeping

Equipment use shall be recorded by time unit personnel as follows:

Hourly Rate – to the nearest quarter-hour

Mileage Rate – nearest mile

Wet Rate

All apparatus and equipment are paid at “wet rate” as listed in the DNR Wage and Equipment Rates.

Paid as Ordered

Resources are paid based on the resource order.

Out of Service Units

Out of service apparatus are not eligible for any incident assignments or payment until repaired and accepted by the Ground Support Unit.

Mechanical Failure – The cost of mechanical or other physical damage repair is deemed to be included within the cost of the “wet rate” paid for apparatus. There is no reimbursement for these costs.

Examples:

- Mechanical breakdowns, including major items (e.g., motor, transmission, differential).
- Body damage, minor (e.g., scratched paint from brush and trees, or damage sustained running through fences) or major (e.g., body and fender damage).
- Cost incurred due to incidental loss or damage to apparatus, equipment, or personal property are not reimbursable.
- Cost of temporary replacement for lost or damaged apparatus, equipment, or personal property (e.g., rental expense) while permanent repairs or replacement are being pursued is not reimbursable.

Travel

Time spent traveling from home agency to an event and back is considered compensable time. Costs incurred while traveling may also be compensable. These are:

- Per Diem

Resources are expected to be self-sufficient for up to 24 hours depending on the conditions of the incident. Per diem cannot be claimed during this initial 24 hour time period unless:

- Travel will be in excess of 6 hours and out of your home jurisdiction, or
- Otherwise approved by the Incident Commander

After 24 hours, resources may submit per diem claims only for those meals that are not available at camp. The following guidelines apply:

- Paid in accordance with Washington State Office of Financial Management (OFM) rates
- Reimbursed for actual per diem expenses (receipts required). May not exceed OFM rates. Receipts must be itemized showing what was purchased, not just the total. If purchasing for a group, must have each individual sign receipt.
- For travel home in excess of 6 hours, if sack lunches are provided, per diem claims will not be allowed.

- Personnel Accommodations

- Established camp accommodations for housing, feeding, and support of mobilized personnel shall be used when provided.
- Alternate accommodations may be utilized at the expense of the user. The costs for alternative accommodations are not reimbursable.

DNR agrees to the following:

1. Record Employee's time spent in performance of this Agreement. A copy of the time record shall be provided to Employee who will provide a copy to WWFDD5.

WWFDD5 agrees to the following:

1. Employee will be available and ready to respond when called by DNR. DNR may request additional standby time during emergency situations.
2. A final billing on WWFDD5 letterhead will be sent to the address below within 60 days of demobilization. Billing should contain Employee's regular, and overtime hours along with other reimbursable expenses incurred in the fulfillment of this agreement, and each correlating DNR incident identifier. Must submit original

OF288's and OF 286's, any shift tickets, copy of resource order, original receipts, and copy of shift schedule for career firefighters.

Bills shall be sent to:
DNR Southeast Region
Attn: Finance
713 Bowers Rd
Ellensburg, WA 98926