

CON/19/316



INTERAGENCY AGREEMENT
DEPARTMENT OF NATURAL RESOURCES (DNR)
NO. 93-098981

This Agreement is made and entered into between the Washington State Department of Natural Resources, hereinafter referred to as DNR, and the below named firm, hereinafter referred to as CONTRACTOR.

DNR and Kirkland Fire Department enter into this agreement under Chapter 39.34, Interlocal Cooperation Act.

Kirkland Fire Department
123 5th Ave
Kirkland, WA. 98033
Phone: 425-587-3650
Fax: 425-587-3651
Email: jsanford@kirklandwa.gov

IT IS MUTUALLY AGREED THAT:

1.0 Purpose. The purpose of this Agreement is to provide a mechanism to enable the CONTRACTOR to provide wildland firefighters and staff listed in Attachment B, and engines/tenders for response to wildland fire incidents when requested by DNR South Puget Sound Region Dispatch Center through Resource Order. This agreement is limited to forestland incidents. The responsibility for protection and suppression of structure and non-wildland fires remain the responsibility of the local fire protection districts.

2.0 Scope of Work. The CONTRACTOR 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 – Scope of Work.

3.0 Period of Performance. The period of performance of this Agreement shall begin on **June 11, 2019**, and end on **June 11, 2024**, unless terminated sooner as provided herein.

4.0 Payment. Pay for services shall be based on the rates and terms described in Attachment A – Scope of Work and Attachment B – District/Department Resource List, Overhead and Equipment Addendum.

5.0 Billing Procedures. The CONTRACTOR shall submit invoices (monthly, quarterly, etc.). Payment for approved goods and/or services will be made by check, warrant or account transfer within 30 days of receipt of the invoice. Upon expiration of the Agreement, invoices shall be paid, if received within 30 days after the expiration date. However, invoices for all work done within a fiscal year must be submitted within 30 days after the end of the fiscal year.

Each invoice submitted to DNR shall include information needed by DNR to determine the exact nature of all expenditures and completed work. At a minimum, each invoice shall specify the following:

- A. Agreement number
- B. The total number of hours worked for each employee
- C. Any other relevant information.
- D. The total invoice charge.

6.0 Records Maintenance. The CONTRACTOR shall maintain books, records, documents and other evidence, to sufficiently document all direct and indirect costs incurred by CONTRACTOR 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. The CONTRACTOR 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. Each party will use reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

7.0 Rights to Data. Unless otherwise agreed, data originating from this Agreement shall be ‘works for hire’ as defined by as defined by Title 17 U.S.C., Section 101 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.

8.0 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.

9.0 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.

10.0 Termination for Convenience. Either party may terminate this Agreement upon 30 calendar days' prior written notice to the other party. If this Agreement is terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

11.0 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.

12.0 Disputes. If a dispute arises, each party will make a good faith effort to resolve issues at the lowest possible level in their respective agencies. If they cannot resolve an issue, they will elevate the issue within their respective chains of command to resolve it.

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the facts, Agreement terms, applicable statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both parties. The cost of resolution will be borne as allocated by the Dispute Board. Alternatively, the parties may pursue a third party dispute resolution as the parties mutually agree to in writing.

13.0 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) Scope of Work; and
- (3) Any other provisions of the agreement, including materials incorporated by reference.

14.0 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.

15.0 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 this agreement.

16.0 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.

17.0 Responsibilities of the Parties/Indemnification. To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend (with counsel acceptable to DNR), and hold harmless DNR, its officials, agents, and employees, from and against all claims arising out of or resulting from the 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. The CONTRACTOR obligation to indemnify, defend, and hold harmless includes any claim by the CONTRACTOR'S agents, employees, representatives, any subcontractor or its employees, or any third party.

However, the CONTRACTOR shall not indemnify, defend, or hold harmless DNR, its officials, agents, and employees for claims caused by or resulting from the sole negligence of DNR, its officials, agents, and employees and in the event of concurrent negligence by (1) the CONTRACTOR its agents, employees, representatives, any subcontractor or its employees, or any third party and (2) DNR, its officials, agents, and employees, then the CONTRACTOR obligation to indemnify, defend, and hold harmless DNR, its officials, agents, and employees shall be valid and enforceable only to the extent of the CONTRACTOR its agents, employees, representatives, any subcontractor or its employees, or any third party's share of any concurrent negligence.

The CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless DNR and its officials, agents or employees.

18.0 Insurance. Before using any of said rights granted herein and its own expense, the CONTRACTOR shall purchase and maintain, or require its agent(s)/subcontractor to purchase and maintain, the insurance described below for the entire duration of this Agreement. Failure to purchase and maintain the required insurance may result in the termination of the Agreement at DNR's option.

All insurance provided in compliance with this Agreement shall be primary as to any other insurance or self-insurance programs afforded to, or maintained by, the State of Washington, Department of Natural Resources.

The CONTRACTOR shall provide DNR with certificates of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Agreement before using any of said rights granted herein. The description section of the certificate shall contain the Contract Number and the name of the DNR Project Manager. CONTRACTOR shall also provide renewal certificates as appropriate during the term of this Agreement.

The CONTRACTOR shall include all subcontractors and agents as insured under all required insurance policies or shall provide separate certificates of insurance for each subcontractor or agent. Failure of the CONTRACTOR to have its subcontractors and agents comply with the insurance requirements contained herein does not limit the CONTRACTOR's liability or responsibility.

INSURANCE TYPES & LIMITS: The limits of insurance, which may be increased by State, as deemed necessary, shall not be less than as follows:

Commercial General Liability (CGL) Insurance: The CONTRACTOR shall purchase and maintain commercial general liability insurance with a limit of not less than \$1,000,000 per each occurrence. If such CGL insurance contains aggregate limits, the general aggregate limits shall be at least twice the "each occurrence" limit, and the products-completed operations aggregate limit shall be at least twice the "each occurrence" limit. All insurance must 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 party assumed in a business contract) and contain separation of insured (cross-liability) condition.

Employer's liability ("Stop Gap") Insurance: The CONTRACTOR shall purchase and maintain employer's liability insurance and if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident and \$1,000,000 each employee for bodily injury by disease.

Business Auto Policy (BAP) Insurance: The CONTRACTOR shall purchase and maintain business auto insurance and if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 per accident, with such insurance covering liability arising out of "Any Auto". The policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense." The CONTRACTOR waives all rights of subrogation against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

Industrial Insurance (Workers Compensation): The CONTRACTOR shall comply with Title 51 RCW by maintaining workers compensation insurance for its employees. The CONTRACTOR waives all rights of subrogation against State for recovery of damages to the extent they are covered by Industrial Insurance, employer's liability, general liability, excess, or umbrella insurance. The CONTRACTOR waives its Title 51 RCW immunity to the extent it is required by its indemnity obligation under this Agreement.

ADDITIONAL PROVISIONS:

Additional Insured: The State of Washington, Department of Natural Resources, its officials, agents, and employees shall be named as additional insured by endorsement on all general liability, excess, and umbrella insurance policies.

Cancellation: 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 the State 45 days advance notice of cancellation or nonrenewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.
2. Insurers subject to Chapter 48.15 RCW (Surplus Lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

Insurance Carrier Rating: 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. Any exception must be reviewed and approved by the DNR Risk Manager or the DNR Contracts Manager, in the Risk Manager's absence. If an insurer is not admitted to do business in the State of Washington, all insurance policies and procedures for issuing the insurance policies must comply with Chapters 48.15 RCW and 284-15 WAC.

Self-Insurance: If the CONTRACTOR of this Agreement to the satisfaction of State including the description of the funding mechanism and its financial condition. If the funding mechanism or financial condition of the self-insurance program of the CONTRACTOR is inadequate, then State may require the purchase of additional commercial insurance to comply with this Agreement.

Waiver: The CONTRACTOR waives all rights of subrogation against State for recovery of damages to the extent these damages are covered by general liability, excess, or umbrella insurance maintained pursuant to this Agreement.

19.0 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.

20.0 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.

21.0 Project Coordinators.

(1) The Project Coordinator for the Agency is Chief Joe Sanford, Telephone Number 425-587-3650.

(2) The Project Manager for DNR is Jane Potter. Telephone Number 360-802-7030.

By signature below, the Parties certify that the individuals listed in this document, as representatives of the Parties, are authorized to act in their respective areas for matters related to this instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

KIRKLAND FIRE DEPARTMENT

**STATE OF WASHINGTON
DEPARTMENT OF NATURAL
RESOURCES (DNR)**

Tracy Dunlap 6/20/19
Signature Date
Tracy Dunlap
Name
Deputy City Manager
Title

Scott Sargent 7/19/19
Signature Date
Scott Sargent
Name
South Puget Sound Region Manager
Title

123 Fifth Ave, Kirkland, WA 98033
Address
425-587-3001
Telephone

950 Farman Ave No
Enumclaw, WA 98022
Address
360-825-1631
Telephone

SCOPE OF WORK

Resources ordered through the DNR Region or Division for dispatch outside of District/Department jurisdictional boundaries

Department of Natural Resources (DNR) agrees to dispatch District/Department resources to incidents outside of the Districts/Department jurisdictional boundaries as needed to meet DNR responsibilities and as approved by the District/Department. Dispatches can include out of the state of Washington. Participation by a District/Department with incidents outside its jurisdiction is voluntary and separate from involvement in State Fire Mobilization.

This Agreement extends to all District/Department members:

- Washington Fire Service (WFS) paid members which District/Department allow to participate will be paid by the District/Department. DNR will reimburse district/department costs as outlined in this agreement
- Members of Washington Fire Service who are volunteers will need to be hired by the DNR via the DNR casual hire process and paid directly by DNR. This may be completed pre-season or at the time of the incident. Your local DNR Region office will handle the casual hire process.

District/Department agrees:

- 1) All personnel dispatched outside of their jurisdictional boundaries will have a valid Incident Qualification Card (red card) stating current qualifications; and will adhere to qualifications and standards described in PMS 310-1;
- 2) To provide a copy of the Master IQS Record for each participating employee (needed to update status in the Resource Ordering Status System (ROSS));
- 3) To keep equipment and personnel status current in ROSS by selecting option a. or b. below as the preferred option. List available resources on the following resource list addendum. (Check one):
 - a. DNR Region will give Web-Status rights to ROSS for district employees. It is the employee's responsibility to ensure that their status is accurate.
 - b. DNR Region will status your employees. For this option, you would need to provide your local DNR Region Dispatch with the status of your employees every Monday by 1200 hours. Dispatch would then update their status in ROSS for that week (0800 Tuesday to 0800 Tuesday).

For dispatches outside of the DNR region, approval from DNR host region fire staff is required. Host region fire staff will coordinate with Wildfire Division in order to ensure statewide readiness.

- 4) To notify your local DNR Region of any changes in status of personnel/equipment (i.e.; dispatched/demob under State Fire Mobilization, demob & ETA home from incidents dispatched thru DNR, etc.);
- 5) All personnel and equipment dispatched will be paid by the District/Department; (except volunteers will follow payment procedures outlined in their individual agreement and be paid directly by DNR);
- 6) All Equipment and Personnel dispatched under this agreement will arrive at each incident with a copy of their current Interagency Agreement.
- 7) Invoice for personnel and equipment costs billed to DNR will include:
 - a. Original Emergency Fire Time Report (OF-288); hourly wage rate (regular and OT) for personnel hours on the OF-288. This applies to paid district/department staff. Volunteers will be paid directly by DNR.
 - b. Original Emergency Equipment Use Invoice (OF-286) and original shift tickets documenting mileage to/from incident as well as mileage incurred on the incident signed by the incident supervisor.
 - c. Copy of Resource Order card.
- 8) Invoices requesting payment for equipment (engines/tenders) will be submitted to DNR within sixty (60) business days of the last date of the incurred expense for the incident and shall include Original Emergency Equipment Use Invoice Form (OF-286) and shift tickets (OF-297); and
- 9) Invoices requesting payment for per diem and other travel costs (meals, lodging not provided by the incident) must be submitted to DNR within sixty (60) business days of the last date of the incurred expense for the incident.
 - a. Travel time must be documented on a Crew Time Report (CTR) signed by the timekeeper at the fire.
 - b. Per diem during travel will be paid when resource is in travel status for more than 6 hours and will be paid in accordance with the Washington State Office of Financial Management (OFM) rates.
 - c. After arrival at the incident it is expected all meals and camp facilities will be provided. If the incident is not providing meals and lodging, this must be noted on the original CTR and signed by the incident supervisor.
 - (1) If meals cannot be provided by the fire at the camp, actual per diem expenses may be submitted (receipts required). Expenses may not exceed OFM rates. Receipts must be itemized showing what was purchased, not just the total. If purchasing for a group, each individual must sign the receipt.
 - (2) For travel home in excess of 6 hours, if sack lunches are provided, per diem claims will not be allowed.
 - d. Personnel Accommodations

- (1) Established camp accommodations for housing, feeding, and support of mobilized personnel shall be used when provided.
- (2) Alternate accommodations may be utilized at the expense of the user. The costs for alternative accommodation are not reimbursable.
- (3) Any exception to this must be approved and justified in writing by the Incident Commander.

e. Return travel and mileage

- (1) Drivers will follow the driving policies set forth by their home agency.
- (2) All reasonable efforts to return to home unit will be made taking the most direct route with shortest travel times.
- (3) According to Wage and Equipment Rates, travel will be based on Google Maps mileage home, calculated at 45 miles per hour. Reimbursement for mileage and time will be based on these calculations.
- (4) Deviation from this must include written approval and justification from the incident commander.

10) Only utilize agency owned vehicles or procured rental vehicles on the fire line or off-road.

DNR agrees to:

- 1) Assist the District/Department with updating status' in ROSS;
- 2) Maintain IQS records for District/Department personnel with wildland fire qualifications, if red carded through the DNR;
- 3) Reimburse District/Department within 30 days of invoice receipt and documentation as required above;
- 4) Reimburse the Fire Service District/Department at the Total Cost of personnel. This includes, regular time, overtime, and District/Department backfill for that position as outlined in the State Mobilization Plan. The DNR will not pay for muster time, wildland premium pay, or other unspecified pay provisions.

****Rental vehicles must be procured consistent with the R6 USFS rental vehicle agreement. <https://sites.google.com/a/firenet.gov/nerv/>. Rental vehicle authorization must be documented on the resource order. Please speak with your local DNR Region for more specific information. In order to provide audit tracking for all rental vehicles, rentals ordered for overhead resources with ROSS O # Resource Orders, will have a support request ROSS order attached to that O# resource, with an E# assigned to the vehicle. The overhead resource and Dispatch will ensure that if that person is re-assigned or released, the supporting vehicle order will also be re-assigned or released.**

ATTACHMENT B

**DISTRICT/DEPARTMENT RESOURCE LIST
OVERHEAD AND EQUIPMENT ADDENDUM**

DNR will dispatch and process invoices for the following fire district members and equipment when dispatched by DNR outside of their fire district.

Overhead Resources

Name	Career or Volunteer	Backfill Required	Position/Qualifications	Team Affiliation or Single Resource
PLEASE SEE ATTACHED				

	EQUIPMENT (Make, Model, Type, Year, License and VIN)	RATE/NEGOTIATED RATE *
	NONE.	

* The negotiated rate must be agreed upon between the signing parties prior to dispatch.

EXHIBIT B**OVERHEAD RESOURCES**

NAME	CAREER OR VOLUNTEER	BACKFILL REQUIRED	POSITION/ QUALIFICATIONS	TEAM AFFILIATION OR SINGLE RESOURCE
Greg Picinich	Career	Yes	Firefighter 2/Line EMT	Single
Ken Henderson	Career	Yes	Firefighter 2/Line EMT	Single
Ivan Huld	Career	Yes	Firefighter 2/Line EMT	Single
Shawn McDougall	Career	Yes	Firefighter 2/Line EMT	Single
Ken Weihs	Career	Yes	Firefighter 2/Line EMT	Single
Travis Braddock	Career	Yes	Firefighter 2/Line EMT	Single
Bill Barnes	Career	Yes	Firefighter 2/Line EMT	Single
David Nelson	Career	Yes	Firefighter 2/Line EMT	Single
Ryan Riedl	Career	Yes	Firefighter 2/Line EMT	Single
Kyle Higgins	Career	Yes	Firefighter 2/Line EMT	Single
Joel Bodenman	Career	Yes	Firefighter 2/Line EMT	Single
Kyle Jacobson	Career	Yes	Firefighter 2/Line EMT	Single
Jeff Endsley	Career	Yes	Firefighter 2/Line EMT	Single
Kevin Colombana	Career	Yes	Firefighter 2/Line EMT	Single
Kent Moffitt	Career	Yes	Firefighter 2/Line EMT	Single
Robert Holmes, Jr.	Career	Yes	Firefighter 2/Line EMT	Single
Jon Hernandez	Career	Yes	Firefighter 2/Line EMT	Single
Michael Boyer	Career	Yes	Firefighter 2/Line EMT	Single
Darren DeBoer	Career	Yes	Firefighter 2/Line EMT	Single
Doug Tomczak	Career	Yes	Firefighter 2/Line EMT	Single
Brett Christiansen	Career	Yes	Firefighter 2/Line EMT	Single
Tyrel Koistinen	Career	Yes	Firefighter 2/Line EMT	Single
Kevin Grimstad	Career	Yes	Firefighter 2/Line EMT	Single
Tim Zapel	Career	Yes	Firefighter 2/Line EMT	Single
James Anderson	Career	Yes	Firefighter 2/Line EMT	Single
Mario Magnotti	Career	Yes	Firefighter 2/Line EMT	Single
Peter Fletcher	Career	Yes	Firefighter 2/Line EMT	Single
Keelin Pattillo	Career	Yes	Firefighter 2/Line EMT	Single
Nathan Schaeffer	Career	Yes	Firefighter 2/Line EMT	Single
Corey Hall	Career	Yes	Firefighter 2/Line EMT	Single