

**REPORT/RECOMMENDATION TO THE BOARD OF DIRECTORS
OF SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT
AND RECORD OF ACTION**

September 10, 2024

FROM

DAN MUNSEY, Fire Chief/Fire Warden, San Bernardino County Fire Protection District

SUBJECT

Cooperative Fire Protection Agreement with the United States Department of Interior, Bureau of Land Management, California Desert District, National Park Service, Death Valley National Park, Joshua Tree National Park, Mojave Preserve and Castle Mountain National Monument

RECOMMENDATION(S)

Acting as the governing body of the San Bernardino County Fire Protection District:

1. Approve a Cooperative Fire Protection **Agreement No. 24-880**, including non-standard terms, with the United States Department of Interior, Bureau of Land Management, California Desert District, National Park Service, Death Valley National Park, Joshua Tree National Park, Mojave Preserve, and Castle Mountain National Monument, to provide for cooperation in the prevention, detection, and suppression of wildland fires on property within the protection areas or jurisdiction of the parties for a term of five years, effective upon signature by both parties.
2. Authorize the Fire Chief/Fire Warden to execute any non-substantive modifications to the Operating Plan, Exhibit A of the Cooperative Fire Protection Agreement, as needed, subject to review by County Counsel.
3. Direct the Fire Chief/Fire Warden to transmit any non-substantive modifications to the Operating Plan described in Recommendation No. 2 to the Secretary of the Board of Directors within 30 days of execution.

(Presenter: Dan Munsey, Fire Chief/Fire Warden, 387-5779)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this agreement will not result in the use of Discretionary General Funding (Net County Cost). In accordance with this Cooperative Fire Protection Agreement (Agreement), San Bernardino County Fire Protection District (SBCFPD) and the United States Department of Interior, Bureau of Land Management, California Desert District, National Park Service, Death Valley National Park, Joshua Tree National Park, Mojave Preserve and Castle Mountain National Monument (BLM) will provide services on a mutual aid basis. For incidents that exceed the first 24 hours following initial dispatch of mutual aid, SBCFPD and BLM will enter into an Assistance by Hire Agreement.

BACKGROUND INFORMATION

**Cooperative Fire Protection Agreement with the United States
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SBCFPD has numerous mutual aid/cooperative agreements with local, state and federal agencies. These agreements allow one party to assist the other party by providing personnel, equipment, materials/supplies, and other services, as needed, for fire and other emergency incidents.

SBCFPD and the BLM desire to enter into the recommended mutually beneficial Agreement for the prevention, detection, and suppression of wildland fires in and adjacent to their areas of responsibility. Reciprocal/Mutual Aid responses from either party shall include equipment, material, and supplies such as are usually and customarily used within the sending party's jurisdiction. The guiding principle for dispatch of initial attack suppression resources is to use the closest available and appropriate resource regardless of which party owns or controls the resources, and regardless of which party has protection responsibility or jurisdiction.

Initial attack is the immediate dispatch of a fire unit within the jurisdictional boundary set forth under the terms and conditions of the Agreement. Mutual Aid/Initial Attack response will be initiated by each agency's primary dispatch facility. The Agreement outlines response criteria to include the pre-identified emergency equipment to be used for each emergency incident. The Agreement allows for the most expeditious and cost-effective response to suppress fires and other emergency services.

The Agreement is authorized by the Reciprocal Fire Protection Act of May 27, 1955 (42 USC § 1856a). BLM and SBCFPD will mutually benefit from this arrangement by allowing resources to cross jurisdictional boundaries and providing equipment and apparatus that are unavailable from within the jurisdiction. The service to the communities will be enhanced by decreasing response times to emergencies, allocating specialized equipment to incidents and developing partnerships and a spirit of cooperation among agencies.

The Agreement also includes, but is not limited to, the following non-standard contract terms:

1. Insurance
 - The Agreement does not include any of SBCFPD's standard insurance terms.
 - Potential Impact: SBCFPD will not benefit from its standard insurance terms that include the types and amounts of insurance coverage required by its vendors, including provisions governing additional insured coverage and waiver of subrogation rights. Because the Agreement is with the BLM, the impacts are not as significant, as the BLM has sufficient resources to address any of its legal or contractual obligations.
2. Indemnity
 - The Agreement does not include SBCFPD's standard indemnification provision.
 - Potential Impact: There is no contractual indemnity provision in favor of SBCFPD associated with third party claims. In the event of a lawsuit that names both the BLM and SBCFPD, SBCFPD will be responsible for its own defense costs even if the negligence was due to the BLM.
3. Waiver of Claims
 - Pursuant to 42 U.S.C. § 1856a et seq., each party to the Agreement waives any claim against any other party for loss or damage of its property and/or personal injury or death of its employees or agents occurring as a consequence of the performance of the Agreement; provided, this provision does not relieve any party from responsibility for claims from third parties for losses for which the party is otherwise legally liable.

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- Potential Impact: SBCFPD and the BLM each waives any claim against each other for loss or damage of its property and/or personal injury or death of its employees or agents occurring as a consequence of the performance of the Agreement.
4. Governing Law and Venue
- The Agreement is silent on which law governs the Agreement and which court venue applies to the Agreement.
 - Potential Impact: Because the Agreement is with the BLM, San Bernardino National Forest, there are no significant impacts associated with the lack of SBCFPD's standard governing law and venue terms.

Notwithstanding the non-standard provisions, SBCFPD is recommending that the Board approve the Agreement with the BLM given the benefits provided to SBCFPD and its residents associated with this Agreement.

Exhibit "A," is the Agreement's Operating Plan and identifies the protection area maps, rates, personnel, dispatching procedures, and other items necessary for implementation. Approval of delegation of authority is necessary to ensure operational plan changes may be made to Exhibit "A" to support emergency operations, as needed.

The term of the Agreement is for five years, effective from the date it is signed by both parties, but may be terminated by either party with 90 days written notice. If the Agreement expires during an incident, the terms of the Agreement will apply until the end of the incident.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Rick Luczak, Deputy County Counsel, 387-5455) on August 7, 2024; Risk Management (Victor Tordesillas, Deputy Executive Officer, 386-8621) on, August 13, 2024; Finance (Ivan Ramirez, Administrative Analyst, 387-4020) on August 20, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on August 20, 2024.


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Record of Action of the Board of Directors
San Bernardino County Fire Protection District

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, SECRETARY

BY  _____
DATED: September 10, 2024



cc: SBCFPD - Munsey w/agree for sign
 Contractor - c/o SBCFPD w/agree
 File - w/agree
CCM 09/16/2024