# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**AgendaTitle:**
Agreement for Cooperative Wildfire Protection; State of Colorado Department of Public Safety

**Action Requested:** Board of County Commissioners' Signature

**Parties to the Agreement:**

**Term Begins:** **Term Ends:** **Grant Contract #:**

**Summary:**
This agreement governs the relationship between DFPC and the County on preparedness, planning, and prevention of wild land fires. It also covers roles and responsibilities when a county has a wild land fire that exceeds its capabilities and requests assistance from the Division.

**Fiscal Impact:**

**Submitted by:** Bre Shelton **Submitter's Email Address:** bshelton@gunnisoncounty.org

**Finance Review:** (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 3/11/2015

**County Attorney Review:** (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 3/11/2015 Certificate of Insurance Required Yes ( ) No (●)

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 3/12/2015

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: 5

Agenda Date: 3/17/2015 Follow Up Agenda Date:

*Revised April 2013*

**AGREEMENT**
**FOR**
**COOPERATIVE WILDFIRE PROTECTION**

This Agreement is made by and between _____, Colorado acting through its Board of County Commissioners and _____, the Sheriff of the County and the State of Colorado acting by and through the Department of Public Safety for the benefit of the Division of Fire Prevention and Control.

## A. AUTHORITIES

| | |
|---|---|
| C.R.S. § 24-33.5-707. | Local and Interjurisdictional Disaster Agencies and Services |
| C.R.S. § 24-33.5-709 | Local Disaster Emergencies |
| C.R.S. § 24-33.5-1201. | Division of Fire Prevention and Control |
| C.R.S. § 24-33.5-1202. | Definitions |
| C.R.S. § 24-33.5-1203. | Duties of Division |
| C.R.S. § 24-33.5-1217.3. | Authority to Permit Controlled Burns During Drought Conditions |
| C.R.S. § 24-33.5-1217.5. | Minimum Prescribed Burning Standards |
| C.R.S. § 24-33.5-1218. | Cooperation with Governmental Units |
| C.R.S. § 24-33.5-1219. | Wildland Fires – Duty of Sheriff to Report |
| C.R.S. § 24-33.5-1220. | Funds Available – Emergency Fire Fund |
| C.R.S. § 24-33.5-1221. | State Responsibility Determined |
| C.R.S. § 24-33.5-1222. | Cooperation by Counties |
| C.R.S. § 24-33.5-1223. | Sheriffs to Enforce |
| C.R.S. § 24-33.5-1224. | Limitation of State Responsibility |
| C.R.S. § 24-33.5-1225. | Emergencies |
| C.R.S. § 24-33.5-1226. | Wildfire Emergency Response Fund |
| C.R.S. § 24-33.5-1228. | Colorado Firefighting Air Corps |
| C.R.S. § 29-1-101, *et seq.* | Local Government Budget Law |
| C.R.S. § 29-22.5-101, *et seq.* | Wildland Fire Planning |
| C.R.S. § 30-10-512. | Sheriff to Act as Fire Warden |
| C.R.S. § 30-10-513. | Duties of Sheriff – Coordination of Fire Suppression Efforts for Forest, Prairie, or Wildland fire - expenses |
| C.R.S. § 30-10-516. | Sheriffs to Preserve Peace – Command Aid |
| C.R.S. § 30-11-107(1) (o). | Powers of the Board of County Commissioners |

## B. RECITALS

**1.** In accordance with C.R.S. § 29-22.5-103(3)(a), the DFPC is designated the lead Colorado State Agency for Wildland Fire suppression as identified in the Colorado State emergency operations plan.

**2.** In accordance with C.R.S. § 24-33.5-1203(1)(h), the DFPC provides technical assistance, upon request, to the County, the Sheriff, and Fire Departments on local fire safety

matters such as fire prevention, fire protection, fire investigation, and emergency medical services.

**3.** In accordance with C.R.S. § 24-33.5-1203(1)(k) and (m), the DFPC, upon request, assists the County, the Sheriff, and Fire Departments' efforts to procure, inspect, and maintain Wildland Fire resources and equipment, and the County, the Sheriffs and Fire Departments' efforts to organize, train, and equip personnel to detect, contain, and extinguish Wildland Fires.

**4.** In accordance with the *Statewide Cooperative Wildland Fire Management and Stafford Act Response Agreement for the State of Colorado*, as amended, the DFPC facilitates input of eligible Fire Department, County, Sheriff and State Wildfire resources into the ROSS, from which those resources can be ordered when needed. DFPC also administers and manages the IQS program, which is used to track NWCG qualifications for Fire Department, County, Sheriff, and State personnel and enters such personnel into the ROSS.

**5.** In accordance with C.R.S. §§ 24-33.5-1203(1)(m), 24-33.5-1231, and other applicable statutes, the DFPC administers certain State and Federal programs related to the County, the Sheriff, and Fire Departments' Wildland Fire duties and responsibilities such as the FEPP Program, DFPC engine program, and other grant programs.

**6.** In accordance with C.R.S. § 24-33.5-1228, the DFPC manages the Colorado firefighting air corps.

**7.** In accordance with C.R.S. § 29-22.5-103(1)(a), the chief of the fire department in each fire protection district in the state is responsible for the management of Wildland Fires that occur within the boundaries of his or her district and that are within the capability of the fire district to control or extinguish.

**8.** In accordance with C.R.S. § 29-22.5-103(2)(a), the Sheriff is the fire warden of the county and is responsible for the planning for, and the coordination of, efforts to suppress County Responsibility Fires. Further, pursuant to C.R.S. § 29-22.5-103(2)(b), the Sheriff is responsible for appointing a Local Incident Management Team to provide the command and control infrastructure required to manage a County Responsibility Fire, and for assuming financial responsibility for the Wildland Firefighting efforts on behalf of the County in compliance with the terms of the Local Government Budget Law of Colorado, C.R.S. § 29-1-101, *et seq*.

**9.** In accordance with C.R.S. § 29-22.5-104(1), the Sheriff may develop and update as necessary a wildfire preparedness plan for the unincorporated areas of the county in cooperation with any fire district with jurisdiction over such unincorporated areas.

**10.** In accordance with C.R.S. § 24-33.5-707(10)(a), the Sheriff is responsible for coordination of all search and rescue operations within the Sheriff's jurisdiction.

**11.** In accordance with C.R.S. § 30-10-516, the Sheriff is responsible for preserving the peace within the county.

**12.** In accordance with C.R.S. § 30-10-513(2), with the Sheriff's concurrence, the DFPC may assume any of the Sheriff's Wildland Fire duties or responsibilities.

**13.** In accordance with C.R.S. §§ 29-22.5-103(2)(c) and 30-10-513(1)(d), in the case of a State Responsibility Fire, the Sheriff and the DFPC are required to enter into an agreement concerning the transfer of authority and responsibility for fire suppression and the retention of responsibilities under a Unified Command Structure.

**14.** In accordance with C.R.S. §§ 24-33.5-707(2) and 24-33.5-709, the County is responsible for declaring a local disaster emergency as well as maintaining a disaster agency or participating in a local or interjurisdictional disaster agency.

## C. PURPOSE

The purpose of this Agreement is to improve efficiency by facilitating the coordination and exchange of personnel, equipment, supplies, services, and funds among the Parties in sustaining and implementing Wildland Fire management activities, such as prevention, preparedness, communication and education, hazard mitigation, fire planning, response strategies, tactics and alternatives, suppression and consideration of post-fire rehabilitation and restoration. It is the Parties' intent that this Agreement addresses both Wildland Fires in Wildland Areas and Wildland Fires in Wildland-Urban Interface areas.

## D. DEFINITIONS

"Agency Administrator." Pursuant to the May 2008 *ICS Glossary*,[1] the chief executive officer (or designee) of the agency or jurisdiction that has responsibility for the incident.

"Agency Representative." Pursuant to the May 2008 *ICS Glossary* an individual assigned to an incident from an assisting or cooperating agency who has been delegated authority to make decisions on matters affecting that agency's participation at the incident.

"Agreement." This *Agreement for Cooperative Wildfire Protection*.

"Assumption of Fire Control Duty Agreement." A written agreement between the County, the Sheriff, and the DFPC concerning the scope of the transfer of responsibility and control over a Wildland Fire from the County and the Sheriff to the DFPC in the case of a State Responsibility Fire. The Assumption of Fire Control Duty Agreement may allocate costs and shall articulate any authority delegated to the DFPC by the Sheriff and any authority and duties retained by the Sheriff.

"Colorado Emergency Operations Line." The Colorado Division of Homeland Security and Emergency Management's point of contact for the County and the Sheriff to report

[1] http://www.training.fema.gov/emiweb/is/icsresource/glossary.htm.

Wildland Fires or to request any all-hazard assistance. This number will connect emergency managers with the on-duty communications personnel of the Colorado Department of Public Safety who will then notify the appropriate DFPC Fire Management Officer.

"Colorado Prescribed Fire Planning and Implementation Policy Guide." The DFPC's annual guide that provides standardized procedures specifically associated with the planning and implementation of prescribed fire, accessible via the *Wildland Fire Management* page of DFPC's website.

"County." _____, Colorado acting through its Board of County Commissioners.

"County AOP." The *County Annual Operating Plan* is an aspirational planning document between the County, the Sheriff, the DFPC, Federal land agencies, and other possible participants, adopted on an annual basis. The County AOP documents how interagency cooperation is to be implemented within the county on an annual basis. The template is attached as Exhibit A.

"County Responsibility Fire." A Wildland Fire occurring in the unincorporated area of the county outside the boundaries of a fire protection district or a Wildland Fire that exceeds the capabilities of a fire protection district to control or extinguish.

"DFPC" or "Division." The Colorado Division of Fire Prevention and Control.

"DFPC Analysis Form." The analysis form used by the DFPC and the Sheriff to determine whether a Wildland Fire meets the criteria to be elevated to a State Responsibility Fire or may otherwise qualify for State coordinated financial assistance. The form is attached hereto as Exhibit B. The Parties agree that changes or amendments to the DFPC Analysis Form as currently attached to this Agreement will be made through the rule making process described in C.R.S. § 24-4-103, by January 31, 2016, and will be incorporated in this Agreement after promulgation.

"Disaster." Pursuant to C.R.S. § 24-33.5-703(3), the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to a Wildland Fire, existing in the state or in any county, city, town, or district in the state.

"EFF." Means the Emergency Fire Fund as defined in C.R.S. § 24-33.5-1202(3.8) and § 24-33.5-1220, *et seq*.

"FEPP Program." The Federal Excess Personal Property Program enacted by Congress under the Federal Property and Administrative Services Act of 1949 (June 30, 1949, Pub. L. 152, Ch. 288, 63 Stat. 377) and the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. § 2101 *et seq.*) through which DFPC is responsible for building and maintaining fire equipment in the State of Colorado.

"Fire Department." Pursuant to C.R.S. § 24-33.5-1202(3.9), the duly authorized fire protection organization of a town, city, county, or city and county, a fire protection district, or a metropolitan district or county improvement district that provides fire protection.

"Incident Commander." Pursuant to C.R.S. § 29-22.5-102(2), the individual responsible for the overall management of the incident including developing incident objectives and managing all incident operations, by virtue of explicit legal, agency, or delegated authority.

"IQS." The Incident Qualification System developed by the National Association of State Foresters. IQS is a software program that allows the user to track incident qualifications, experience, tasks books and fitness levels for organization/agency personnel.

"Local Incident Management Team." Pursuant to C.R.S. § 29-22.5-102(4), a single or multi-agency team of capable individuals formed and managed at the local or county level and created or activated when necessary to provide the command and control infrastructure required to manage a major or complex incident requiring a significant number of local and mutual aid resources.

"Mutual Aid Agreement." Pursuant to C.R.S. § 29-22.5-102(5), a written agreement between or among federal, state, and local agencies in which the agencies agree to assist one another upon request by furnishing such resources as personnel and equipment.

"NFIRS." The National Fire Incident Reporting System or its successor system.

"NIMS." Pursuant to C.R.S. § 29-22.5-102(6), the National Incident Management System is the national command and management system developed by the U.S. Department of Homeland Security to provide a unified approach to incident management.

"NWCG." The National Wildfire Coordinating Group.

"Party" or "Parties." "Party" means the County, or the Sheriff, or the DFPC and "Parties" means the County, the Sheriff and the DFPC.

"Prescribed Burning." Pursuant to C.R.S. § 24-33.5-1202(8.3), the application of fire, in accordance with a written prescription for vegetative fuels, under specified environmental conditions while following appropriate precautionary measures that ensure public safety and that is confined to a predetermined areas to accomplish public safety or land management objectives. The term excludes controlled agricultural burns and controlled ditch burns.

"ROSS." The Resource Ordering and Status System chartered by the National Wildfire Coordinating Group and managed by the U.S. Forest Service. ROSS is a nationwide,

web-based database system that tracks all tactical, logistical, service and support resources mobilized by the incident dispatch community.

"Sheriff." The Sheriff of the county.

"State." The State of Colorado.

"State Responsibility Fire." A County Responsibility Fire that exceeds the County and the Sheriff's capability to control or extinguish as exhibited by the DFPC Analysis Form and for which DFPC has assumed fire control duty as provided in the Assumption of Fire Control Duty Agreement and determined that the fire meets the criteria for EFF, or for State-coordinated financial assistance.

"Unified Command" or "Unified Command Structure." Pursuant to C.R.S. § 29-22.5-102(8), the incident commanders representing agencies or jurisdictions that share responsibility for the incident manage the response from a single incident command post, allowing agencies with different legal, geographic, and functional authorities and responsibilities to work together effectively without affecting individual agency authority, responsibility, or accountability.

"Wildland Area." Pursuant to C.R.S. § 29-22.5-102(9), an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar infrastructure, and in which structures, if present, are widely scattered.

"Wildland Fire." Pursuant to C.R.S. § 29-22.5-102(10), an unplanned or unwanted fire in a Wildland Area, including unauthorized human-caused fires, out-of-control prescribed fires, and all other fires in Wildland Areas where the objective is to extinguish the fire. For purposes of this Agreement, Wildland Fire also includes fires in the Wildland Urban Interface area.

"Wildland Urban Interface" or "WUI." The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels. Describes an area within or adjacent to private and public property where mitigation actions can prevent damage or loss from wildfire. *See* NWCG Glossary of Wildland Fire Terminology – PMS-205, October 2014.

"Wildland-Urban Interface Fire" or "WUI Fire." An unplanned or unwanted fire involving vegetative fuels in the Wildland Urban Interface, including unauthorized human-caused fires, out-of-control prescribed burning, and all other fires involving vegetative fuels in the WUI where the objective is to extinguish the fire. *See* FEMA 2010 National Fire Incident Reporting System Complete Reference Guide.

"Wildfire." For purposes of this Agreement, either a Wildland Fire in a Wildland Area or a Wildland-Urban Interface Fire in a Wildland-Urban Interface area.

## E. ACKNOWLEDGEMENT OF SUPPLEMENTS TO THIS AGREEMENT

County AOPs, Assumption of Fire Control Duty Agreements, Cost Share Agreements, or other supplements to this Agreement further describe the working relationships, financial arrangements and joint activities not otherwise specified under the terms of this Agreement.

## F. HIERARCHY AND PRECEDENCE FOR AGREEMENTS AND EXHIBITS

The provisions of this Agreement shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Agreement and its exhibits and attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. The Colorado Special Provisions;
2. The provisions of the main body of this Agreement, and any amendments thereto;
3. Executed EFF Agreement for EFF Counties;
4. Executed Cost Share Agreements;
5. Executed Assumption of Fire Control Duty Agreements;
6. Executed County AOPs;
7. Executed DFPC Analysis Forms.

The Parties to this Agreement hereby acknowledge and agree that any changes the DFPC Analysis Form made by DFPC pursuant to its power to promulgate rules and regulations set forth in C.R.S. § 24-4-103, *et seq.* may result in an updated version of such document and shall be incorporated into this contract. If such document has been updated after the effective date of this Agreement, the DFPC will provide the Parties with such updated document.

## G. AGREEMENT

### Section 1. PLANNING

**1.1** ***County AOP.*** Prior to April 1 of each year, the Parties, along with other agencies having Wildland Fire responsibilities within the county, shall jointly prepare, review, update, execute, and distribute a County AOP. The DFPC shall arrange the date and location of the County AOP meeting(s), and shall be the lead coordinator and facilitator of the County AOP. The Parties acknowledge and agree that with the Sheriff's consent, Fire Departments may participate in County AOP meeting(s) and negotiations and may execute the County AOP as a party. The County AOP shall be in the format of the template attached hereto as Exhibit A, *County Annual Operating Plan Template*. However, the Parties may revise the County AOP to comport with the County's emergency operations plan, Mutual Aid Agreements, community wildfire protection plans, county wildfire preparedness plan, or any other agreements with Fire Departments or other governmental entities. Further, the Parties acknowledge and agree that the County AOP is an aspirational plan documenting how Wildland Fire cooperation is implemented within the county.

**1.2** ***Execution of the County AOP.*** All Parties recognize the importance of clear plans in the event of a Wildland Fire. For this reason, all Parties will make a good faith effort to execute a County AOP by April 1 of each year. Failure to execute a County AOP by the April 1 deadline will not result in a penalty to any Party pursuant to this Agreement. The Parties may jointly extend the April 1 deadline upon the written mutual consent of all Parties and the provision of written notice of the same being sent to all the participants in the prior year's County AOP.

**1.3** ***Intergovernmental Agreements Concerning State Owned Lands.*** The Parties acknowledge that pursuant to C.R.S. § 24-33.5-1221(2), the County may be required to enter into intergovernmental agreements prior to January 1, 2017, with certain state agencies that own lands within the county.

## Section 2. ROLES AND RESPONSIBILITIES IN A COUNTY RESPONSIBILITY FIRE

**2.1** ***County and Sheriff Responsibilities.*** The County and Sheriff are fiscally and operationally responsible, respectively, for a County Responsibility Fire as described in C.R.S. §§ 29-22.5-103 (2)(b) and 30-11-107(1)(o). Thereby, for the duration of a County Responsibility Fire and pursuant to any applicable emergency operations plan, Mutual Aid Agreements, community wildfire protection plans, county wildfire preparedness plans, cost share agreement, or other agreements between the County and Fire Departments or other governmental entities, the Sheriff shall appoint a Local Incident Management Team to provide the command and control infrastructure necessary to manage a County Responsibility Fire. The Local Incident Management Team may consist of a single individual serving as Incident Commander. On behalf of the County, the Sheriff shall assume financial responsibility for Wildland Fire suppression efforts and the authority for the ordering and monitoring of resources subject to compliance with State law.

**2.2** ***DFPC Responsibilities.*** The State's principal role during a County Responsibility Fire is to support the County and the Sheriff in their response to the Wildland Fire. Thereby, for the duration of a County Responsibility Fire, the DFPC shall administer certain State programs related to the County and Sheriff's Wildland Fire duties and responsibilities, such as the Wildfire Emergency Response Fund program set forth in C.R.S. § 24-33.5-1226 and the Colorado Firefighting Air Corps program created pursuant to C.R.S. § 24-33.5-1228. If requested by the Sheriff, the DFPC shall appoint an Agency Representative who shall provide technical assistance to the Sheriff and the appointed Local Incident Management Team. Further, the DFPC shall reply to all requests for State personnel, resources, and equipment from the County, Sheriff, or the Local Incident Management Team, even if the DFPC cannot provide the requested personnel, resources, and/or equipment. Finally, the DFPC may enter into separate agreements with the County and the Sheriff to provide the requested personnel, resources, and/or equipment.

## Section 3. ROLES AND RESPONSIBILITIES IN A STATE RESPONSIBILITY FIRE

**3.1** ***Procedure for Elevating a County Responsibility Fire to a State Responsibility Fire.*** Pursuant to C.R.S. § 29-22.5-103(2)(c), when the Sheriff determines that a County

Responsibility Fire exceeds the County's capability to control or extinguish the Wildland Fire, the Sheriff shall request assistance from DFPC through the Colorado Emergency Operations Line and, in addition, by any other available means of communication the Sheriff so chooses. Following such a request for assistance, the DFPC and the Sheriff will assess the severity of the fire utilizing the *DFPC Analysis Form*. The Wildland Fire shall be elevated to a State Responsibility Fire when the DFPC Analysis threshold has been met and the Parties enter into an Assumption of Fire Control Duty Agreement whereby the Parties will allocate responsibilities related to fire suppression responsibilities and financial responsibilities.

If the County participates in the Emergency Fire Fund program, the DFPC shall assess whether a Wildland Fire qualifies for Emergency Fire Fund assistance by following the procedures outlined in the County's Memorandum of Understanding: For Participation in the Colorado Emergency Fire Fund.

**3.2** ***County and Sheriff Responsibilities.*** For the duration of a State Responsibility Fire, the Sheriff, at the Sheriff's discretion, may serve or appoint someone to serve within the Unified Command Structure as an Agency Administrator. The Sheriff's Agency Administrator shall, at the Sheriff's discretion, in consultation and cooperation with DFPC's Agency Administrator, appoint an Incident Commander. The Sheriff's Agency Administrator shall work collaboratively with DFPC's Agency Administrator to identify objectives and concerns to share with the Incident Commander within the Unified Command Structure. If the Sheriff elects to not serve as or appoint an Agency Administrator, the Sheriff shall serve as or appoint an Agency Representative.

**3.3** ***DFPC Responsibilities.*** For the duration of a State Responsibility Fire, the DFPC shall administer EFF and/or State funds for fire management costs and appoint an Agency Administrator who shall represent the State in accordance with the delegation of authority contained in an Assumption of Fire Control Duty Agreement. DFPC's Agency Administrator shall, in consultation and cooperation with any appointed Sheriff's Agency Administrator, appoint an Incident Commander. The DFPC Agency Administrator shall work collaboratively with any appointed Sheriff Agency Administrator to identify objectives and concerns to share with the Incident Commander within the Unified Command Structure.

**3.4** ***Parties' Mutual Responsibilities.*** In the case of a State Responsibility Fire, the Parties shall enter into the following separate agreements specifically addressing, at a minimum, the bulleted subjects:

<u>Assumption of Fire Control Duty Agreement:</u>

- Transfer of authority and responsibility for fire suppression to DFPC;
- Specific limitations to the fire control duty assumed by DFPC;
- Description of the powers and responsibilities retained by the County and Sheriff and those delegated to the DFPC;

<u>Cost Share Agreements:</u>

- Outline of the Parties' various financial responsibilities and the authority for the ordering and monitoring of resources; and

Return of Authority Agreement:

- Criteria and procedures to be utilized by the Parties to determine when the County and the Sheriff will again be capable of controlling or extinguishing the Wildfire allowing the State Responsibility Fire to be lowered to a County Responsibility Fire.

Because the Parties may maintain separate legal and functional authority and responsibility related to a State Responsibility Fire, responsibility for tasks beyond fire suppression may be included or excluded from the agreements described above upon agreement of the Parties.

**3.5** ***All Parties Agree.*** No Party shall delay suppression efforts while deciding jurisdictional responsibilities for fires in which suppression is the appropriate management response.

**3.6** ***Appeal of Determination of State Responsibility Fire.*** Review of the DFPC's use of the *DFPC Analysis Form* in analyzing a potential State Responsibility Fire that will be in accordance with the provisions of C.R.S. § 24-4-106.

## Section 4. WILDFIRE PREPAREDNESS

**4.1** ***County and Sheriff Responsibilities.*** The County and the Sheriff shall comply with the Wildland fire planning responsibilities as set forth in C.R.S. § 29-22.5-101, *et seq.* and the provisions of C.R.S. §§ 30-10-513 and 30-10-513.5. The County and the Sheriff agree to identify for DFPC any designated individuals other than the Sheriff with the authority to make wildfire preparedness decisions. The County and Sheriff agree to work collaboratively with the DFPC's Regional Fire Management Officer in the coordination of the State-owned engine program and training. The County and Sheriff agree to cooperate in organizing, training, equipping, and maintaining of Wildland firefighting forces within the county. The County and Sheriff agree to communicate with local Fire Departments, as needed, to ensure relevant information is available to the County, the Sheriff, and local Fire Departments. The County and Sheriff may enter into agreements with local Fire Departments that identify the procedures necessary to transition financial and overall management of a Wildland Fire from the local Fire Department to the Sheriff, define control capabilities, and establish cost-share principles.

**4.2** ***DFPC Responsibilities.*** The DFPC shall assist the County and the Sheriff, upon request, in organizing and training County, Sheriff, and cooperator forces to detect, contain, and extinguish Wildland Fires. Through administration of the FEPP program, the DFPC shall assist the County and the Sheriff in the procurement, inspection, and arrangement for maintenance of major Wildland Fire equipment. To the extent grant programs are available, the DFPC shall also administer grant programs to assist the County and the Sheriff in acquiring Wildland Fire equipment, training, and suppression support. The DFPC shall encourage and provide assistance in the development of County Wildland Fire plans pursuant to C.R.S. § 29-22.5-101(1)(d). The DFPC shall work with the County and the Sheriff in the coordination of the DFPC engine program and training. The DFPC shall also manage and administer the IQS program and provide the County, the Sheriff, and Fire Departments with IQS access, training, program guidelines, and

terms of use. The DFPC may inspect records for the purposes of verifying NWCG qualifications for Fire Department, County, and State personnel.

## Section 5. WILDFIRE PREVENTION

**5.1** ***County Responsibilities.*** Pursuant to C.R.S. § 30-15-401(1)(n.5)(I), the County may ban open fires within the county. In considering multi-county or statewide open burning restrictions that impact other counties pursuant to C.R.S. § 24-33.5-1225, the County will inform the DFPC so that the DFPC may aid the counties in advising the Governor in issuing a proclamation against open burning and/or public movements in any area of the State spanning multiple counties to avoid overbroad burn bans. The County shall, to the extent possible, include and follow the public use restrictions outlined in the County AOP. The County agrees to work cooperatively with the DFPC to coordinate public fire prevention messages provided to the media as outlined in the County AOP.

**5.2** ***DFPC Responsibilities.*** The DFPC shall confer with the County about the need for fire restrictions, and upon determining the need for restrictions on open burning and/or public movements affecting more than one county, recommend to the Governor the imposing or lifting of restrictions for burning and/or public movements, and inform affected counties of the Governor's decision. The DFPC, in cooperation with the County, shall coordinate public fire prevention messages provided to the media as outlined in the County AOP.

## Section 6. WILDFIRE DETECTION AND NOTIFICATION

**6.1** ***Sheriff Responsibilities***. The Sheriff shall comply with the reporting provisions set forth in C.R.S. § 24-33.5-1219, via the Colorado Emergency Operations Line and its notification responsibilities as outlined in the County AOP.

**6.2** ***DFPC Responsibilities***. The DFPC shall immediately forward all notifications it receives of possible Wildland Fire within the county to the Sheriff, or the Sheriff's designee, for further action as outlined in the County AOP.

## Section 7. INVESTIGATIONS

The Sheriff shall conduct, or cause to be conducted, an investigation as to the cause of all State Responsibility Fires suspected to be human-caused in order for the DFPC to facilitate reimbursement of costs expended in fire suppression efforts. The Sheriff shall endeavor to provide the DFPC with a copy of a preliminary investigation report concerning the cause and origin of the fire within thirty (30) calendar days after the Wildland Fire is controlled, or as soon as practicable thereafter. The Sheriff shall provide a final report upon the conclusion of the investigation but not later than nine (9) months after the date the Wildland Fire is declared contained to aid the DFPC in meeting the one year reporting deadline for recovering federal grant monies or other reimbursements. If the Sheriff cannot provide the final report within nine (9) months, the Sheriff shall provide a written notice to the DFPC no later than nine (9) months after the date the Wildland Fire is declared contained regarding: 1) the status of the investigation; 2) when the final report will be complete; and 3) whether charges have been filed

or an arrest has been made. The Sheriff shall also provide periodic updates to the DFPC, on the status of the investigation until the final report is provided if requested by the DFPC. If the Sheriff does not provide the final report or written notice to the DFPC as described above, the DFPC may not be able to recover grant monies or other reimbursements. Notwithstanding the foregoing, the Sheriff shall not be responsible for conducting investigations on any federally owned or managed lands.

## Section 8. REPORTING

**8.1** ***All Parties Agree.*** The Parties recognize that Wildland fire management funding is tied to accurate and complete statistical reporting, and will work together to encourage fire response agencies within the County to report statistical wildfire data to the DFPC via NFIRS.

**8.2** ***Sheriff Responsibilities.*** The Sheriff shall report, or cause to be reported, to the DFPC all County Responsibility Fires utilizing the NFIRS or its successor system.

**8.3** ***DFPC Responsibilities.*** The DFPC shall use the data obtained pursuant to Section 8.1 and 8.2 for required federal reporting and to apply for grant funding as available, and the DFPC shall maintain such data for at least two (2) years. Further, the DFPC shall assist the County and Sheriff with training regarding the NFIRS.

## Section 9. PRESCRIBED BURNING

Prior to performing any Prescribed Burning in the county, the Party undertaking such Prescribed Burning shall develop a prescribed fire plan. The Parties shall inform one another prior to performing Prescribed Burning. The Parties shall follow the *Colorado Prescribed Fire Planning and Implementation Policy Guide* for any Prescribed Burning in the county, unless the County has adopted guidelines or standards meeting or exceeding the standards enumerated in C.R.S. § 24-33.5-1217.5. The DFPC may enter into an agreement with the County and/or the Sheriff to provide Prescribed Burning services pursuant to C.R.S. § 24-33.5-1217(6)(a).

All notices of Prescribed Burning shall be addressed to the respective Parties as follows:

DFPC: DFPC Regional Fire Management Officer
_____
_____
_____
_____
(address/phone/email)

County and Sheriff: _____
_____
_____
_____
_____
(name/title/address/phone/email)

## Section 10. BILLING AND PAYMENT

**10.1** ***General Provisions.*** The Parties shall ensure that the County and/or the Sheriff are parties to any Mutual Aid Agreements, cost share agreements, or other agreements that apportion any Wildland Fire expenses to the County and/or the Sheriff and those agreements shall comply with State law. Any invoice from the DFPC to the County and/or the Sheriff for any expense incurred by any agency for a Wildland Fire occurring in the county shall include a copy of a written and executed Mutual Aid Agreement, cost share agreement, or other appropriate agreement apportioning such expense to the County and/or the Sheriff. DFPC serves as the coordinator for all inter-jurisdictional Wildland fire billing in Colorado.

In that capacity, the DFPC may charge the County and the Sheriff a *Cost of Overhead* fee not to exceed thirteen percent (13%) of the total amount billed to the County at a rate that adequately offsets the cost of providing the billing services.

**10.2** ***Procedure to Invoice the County and the Sheriff.*** Following any Wildland Fire that may incur a cost to County or the Sheriff, the DFPC shall assist the County and the Sheriff by requesting cost reports from assisting agencies and producing invoices payable by the County. To start the process, within thirty (30) days after declared containment of the Wildland Fire, the County and/or the Sheriff shall submit to the DFPC a written request for cost reports from assisting agencies. Following receipt of the County and/or the Sheriff's written request, the DFPC shall request cost reports from assisting agencies for review and validation by the County and/or the Sheriff. Following the County and/or the Sheriff's review and validation, the DFPC shall make reasonable efforts to submit written invoices, along with adequate supporting documentation, to the County and/or the Sheriff within one hundred and twenty (120) days after the date the Wildland Fire is declared contained. If the DFPC cannot submit written invoices within one hundred and twenty (120) days, the DFPC shall at a minimum submit a written estimate of the anticipated expenses by November 15$^{th}$ of the year in which the Wildland Fire occurred.

## Section 11. GENERAL PROVISIONS

**11.1** ***Term.*** The Term of this Agreement shall commence on the date the last Party signs and shall remain in effect for five (5) years from that date. Any Party shall have the right to terminate its participation under this Agreement by providing one-year advance written notice to the other Parties to this Agreement.

**11.2** ***Repeal of Prior Agreements.*** This Agreement, upon full execution, shall repeal and replace any other prior agreements between the Parties relating to cooperative Wildfire protection within the county.

**11.3** ***Amendments or Extensions***. Amendments or extensions, save any subject to rulemaking, within the scope of this Agreement shall only be made by mutual consent of the Parties to this Agreement by issuance of a written modification, signed and dated by all Parties to this Agreement, prior to any changes taking effect. No Party is obligated to fund any changes

not properly approved in advance.

**11.4** ***Notices*****.** All notices, requests, demands, or other communications under this Agreement shall be in writing and shall be deemed effective upon delivery, if delivered personally, or three (3) calendar days after mailing if deposited in the U.S. Mail, postage prepaid, and addressed to the respective parties as follows:

DFPC: Division Director
690 Kipling Street, #2000
Lakewood, Colorado 80215

County: _____
_____
_____

Sheriff: _____
_____
_____

**11.5** ***Captions, Construction and Severability*****.** The captions and headings used in this Agreement are for identification only, and will be disregarded in any construction of the Agreement provisions. To the extent that this Agreement may be executed and performance of the obligations of the Parties may be accomplished within the intent of the Agreement, the terms of this Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

**11.6** ***Ability to Contract*****.** Each Party represents that it is not subject to any restrictive obligations imposed by any other agreement that would impair its ability to perform its obligations hereunder. The individual or individuals signing on behalf of each Party represent that they are fully authorized by law, statute, delegation, or otherwise to execute this Agreement and make it binding and enforceable against the Party on whose behalf the individual or individuals is or are signing.

**11.7** ***Signatures.*** This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which shall together constitute one and the same document. Facsimile machine copies or scanned versions of an original signature by any Party shall be binding as if they were original signatures.

**11.8** ***Appropriations.*** Because this Agreement involves the expenditure of public funds, all obligations under this Agreement are contingent upon appropriation and continued availability of funds for such obligations. The obligations described herein shall not constitute a general obligation, indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or the laws of the State of Colorado.

**11.9** ***Colorado Special Provisions.*** The following Special Provisions are required by law to be contained in every agreement of the State of Colorado. Any conflict between the Special Provisions and any other provision of this Agreement shall be resolved in favor of the applicable Special Provision:

**(a) Controller's Approval; C.R.S. § 24-30-202(1).** This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee.

**(b) Fund Availability; C.R.S. § 24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

**(c) Governmental Immunity.** No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq*., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 *et seq*., as applicable now or hereafter amended.

**(d) Independent Contractor.** The County and the Sheriff shall perform their duties hereunder as independent contractors and not as employees. Neither the County nor the Sheriff nor any agent or employee of either of them shall be deemed to be an agent or employee of the State. The County and the Sheriff and their employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for the County or the Sheriff or any of their agents or employees. Unemployment insurance benefits will be available to the County and the Sheriff and their employees and agents only if such coverage is made available by the County or Sheriff or a third party. The County and the Sheriff shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. The County and the Sheriff shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. The County and the Sheriff shall (a) keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for their acts and those of its employees and agents.

**(e) Compliance with Law.** The County and the Sheriff shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**(f) Choice of Law.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of

complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Agreement, to the extent capable of execution.

**(g) Binding Arbitration Prohibited**. The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Agreement or incorporated herein by reference shall be null and void.

**(h) Software Piracy Prohibition; Governor's Executive Order D 002 00.** State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. The County and the Sheriff hereby certify and warrant that, during the term of this Agreement and any extensions, the County and the Sheriff have and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the County or the Sheriff, or both, are in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**(i) Employee Financial Interest/Conflict of Interest; C.R.S. §§ 24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. The County and the Sheriff have no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the County's or Sheriff's services and the County and the Sheriff shall not employ any person having such known interests.

**(j) Public Contracts with Natural Persons; C.R.S. § 24-76.5-101.** The County and the Sheriff, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of C.R.S. § 24-76.5-101 *et seq*., and (c) if requested by the State, has produced one form of identification required by C.R.S. § 24-76.5-103 prior to the effective date of this Contract.

**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

**_____ COUNTY, COLORADO:**

**Board of County Commissioners:**

**By:**_____
Chair

_____
Print Name & Title of
Authorized Officer

ATTEST:
(SEAL)

_____
**County Clerk**

**County Sheriff:**

**By:**_____
Sheriff

**STATE OF COLORADO:**
**John W. Hickenlooper, GOVERNOR**

**Department of Public Safety, Division of Fire Prevention and Control**

**By:_____**
Paul L. Cooke
Director

APPROVED:

LEGAL SUFFICIENCY:
DEPARTMENT OF LAW
Cynthia H. Coffman
Attorney General

**By: _____**

**ALL CONTRACTS MUST BE APPROVED**
**BY THE STATE CONTROLLER**
C.R.S. § 24-30-202 requires that the State Controller approve all state contracts. This Agreement is not valid until the State Controller, or such assistant as he may delegate, has signed it.

**STATE CONTROLLER:**
**ROBERT JAROS, CPA, MBA, JD**

**By:_____**
**Date:_____**

**Exhibit A:** ***County Annual Operating Plan Template***

# 2015 Click here to enter text.COUNTY ANNUAL OPERATING PLAN

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## PREAMBLE

Click here to enter text.

## PURPOSE

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## AUTHORITIES

- Colorado Statewide Cooperative Wildland Fire Management and Stafford Act Response Agreement Between:
    - BUREAU OF LAND MANAGEMENT – COLORADO Agreement Number BLM-MOU-CO-538
    - NATIONAL PARK SERVICE – INTERMOUNTAIN REGION Agreement Number F1249110016
    - BUREAU OF INDIAN AFFAIRS – SOUTHWEST REGION (no agreement number)
    - UNITED STATES FISH AND WILDLIFE SERVICE – MOUNTAIN PRAIRIE REGION
    - UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE – ROCKY MOUNTAIN REGION Agreement Number 11-FI-11020000-017
- Click here to enter text.County, Intergovernmental Agreement for Participation in the Colorado Emergency Fire Fund, CSFS #108
- Agreement for Cooperative Wildfire Protection in Click here to enter text.County, CSFS #109

## RECITALS

Click here to enter text.

## INTERAGENCY COOPERATION

### Interagency Dispatch Centers

Click here to enter text.

### Interagency Resources

Click here to enter text.

### Standards

Click here to enter text.

# PREPAREDNESS

## Protection Planning
Click here to enter text.

## Protection Areas and Boundaries
Click here to enter text.

## Methods of Fire Protection and Suppression
Click here to enter text.

### Reciprocal (Mutual Aid) Fire Assistance
Click here to enter text.

### Acquisition of Services
Click here to enter text.

## Joint Projects and Project Plans
Click here to enter text.

## Fire Prevention
Click here to enter text.

## Public Use Restrictions
Click here to enter text.

## Burning Permits
Click here to enter text.

## Prescribed Fire (Planned Ignitions) and Fuels Management
Click here to enter text.

## Smoke Management
Click here to enter text.

# OPERATIONS

## Fire Notifications
Click here to enter text.

## Boundary Line Fires
Click here to enter text.

## Response to Wildland Fire
Click here to enter text.

#### Special Management Considerations

Click here to enter text.

#### Decision Process

Click here to enter text.

#### Cooperation

Click here to enter text.

#### Communication

Click here to enter text.

### Cost efficiency

Click here to enter text.

### Delegation of Authority

Click here to enter text.

### Preservation of Evidence

Click here to enter text.

## STATE EMERGENCY FIRE FUND (EFF)

Click here to enter text.

## USE AND REIMBURSEMENT OF INTERAGENCY FIRE RESOURCES

### Cost Share Agreement (Cost Share Methodologies)

Click here to enter text.

### Training

Click here to enter text.

### Communication Systems

Click here to enter text.

### Fire Weather Systems

Click here to enter text.

### Aviation Operations

Click here to enter text.

### Billing Procedures

Click here to enter text.

### Cost Recovery

Click here to enter text.

## GENERAL PROVISIONS

Click here to enter text.

### Personnel Policy

Click here to enter text.

### Modification

Click here to enter text.

### Annual Review

Click here to enter text.

### Duration of Agreement

Click here to enter text.

### Previous Agreements Superseded

Click here to enter text.

## SIGNATURES

Authorized Representatives

### Click here to enter text.COUNTY SIGNATURES

| | |
|---|---|
| _____ | _____ |
| *Signature* | *Date* |
| Click here to enter text. | County Sheriff |
| *Printed Name* | *Title* |
| _____ | _____ |
| *Signature* | *Date* |
| Click here to enter text. | County Commissioner |
| *Printed Name* | *Title* |

### COLORADO DIVISION OF FIRE PREVENTION & CONTROL SIGNATURE

| | |
|---|---|
| _____ | _____ |
| *Signature* | *Date* |
| Click here to enter text. | Regional Fire Management Officer |
| *Printed Name* | *Title* |

## FEDERAL LAND MANAGEMENT AGENCY SIGNATURES

_____ _____

*Signature* *Date*

Click here to enter text. Click here to enter text.

*Printed Name* *Title*

Click here to enter text.

*Federal Agency, Unit*

_____ _____

*Signature* *Date*

Click here to enter text. Click here to enter text.

*Printed Name* *Title*

Click here to enter text.

*Federal Agency, Unit*

_____ _____

*Signature* *Date*

Click here to enter text. Click here to enter text.

*Printed Name* *Title*

Click here to enter text.

*Federal Agency, Unit*

_____ _____

*Signature* *Date*

Click here to enter text. Click here to enter text.

*Printed Name* *Title*

Click here to enter text.

*Federal Agency, Unit*

**Exhibit B:** ***DFPC Analysis Form***

**EXHIBIT B**

# DFPC ANALYSIS FORM

(Complete this form daily, as appropriate, based on the fire situation)

Date: _____ Time: _____ County: _____ Fire Name: _____

Location: Lat/Long _____Legal: T__ R__ Section(s) _____

| | Current | | Predicted | |
|---|---|---|---|---|
| | Yes | No | Yes | No |
| **I. Resources** | | | | |
| a. Has the normal mutual aid network been fully implemented? | | | | |
| b. Has the County committed all of its wildland resources defined in the County operating plan? | | | | |
| c. Have aviation resources been ordered? | | | | |
| d. Is the fire beyond the capability of local management team? | | | | |
| e. Is water supply limiting suppression efforts? | | | | |
| f. Is there a need for Interagency Regional or National resources? | | | | |
| g. Is the availability of additional resources hampering suppression efforts? | | | | |
| **II. Values at Risk** | | | | |
| a. Is the general public threatened? | | | | |
| b. Are structures threatened? | | | | |
| c. Are there unusually hazardous firefighting conditions? | | | | |
| d. Are historical values at risk? | | | | |
| e. Does the fire involve mixed land ownership? | | | | |
| f. Is critical infrastructure threatened? | | | | |
| **III. Fire Behavior** | | | | |
| a. Is fire behavior dictating an indirect control strategy? | | | | |
| b. Is extreme fire behavior present? | | | | |
| c. Is the 1000 hour fuel moisture below 12%? | | | | |
| d. Is the fuel type and condition conducive to rapid | | | | |

| | Current | | Predicted | |
|---|---|---|---|---|
| | Yes | No | Yes | No |
| spread? | | | | |
| e. Is accessibility limiting suppression efforts? | | | | |
| f. Is the rate of spread beyond the suppression capability of local resources? | | | | |
| g. Is fire burning on slope greater than 30%? | | | | |
| **IV. Fire Weather** | | | | |
| a. Are wind speeds greater than 20 mph? | | | | |
| b. Is the temperature above seasonal average for fire location? | | | | |
| c. Is the RH below 15%? | | | | |
| d. Are there any critical fire weather events? | | | | |
| **V. Other Considerations** | | | | |
| a. Are there political or economic concerns? | | | | |
| b. Are non-fire incidents occurring which have an impact on fire operations? | | | | |
| c. Is additional aviation management or oversight needed? | | | | |
| d. | | | | |
| e. | | | | |
| **VI. Totals** | A | B | C | D |
| | | | | |

Current (A) ___ + Predicted (C) ___ = _____
Current (B) ___ + Predicted (D) ___ = _____

To qualify for EFF or State financial assistance, answers must reflect a total local level commitment to the fire.

To qualify for EFF, total of Columns A + C must be equal to or greater than 35. If the incident does not qualify for EFF, DFPC may assist the County in seeking State financial assistance if available.

_____ _____
Sheriff or Designee's Signature DFPC Director or Designee's Signature

DFPC DIRECTOR RESPONSE: