



CITY OF NOVI CITY COUNCIL
SEPTEMBER 28, 2020

SUBJECT: Approval of Cooperative Mutual Aid and Fire Control Agreement between the Michigan Department of Natural Resources - Forest, Mineral and Fire Management, and the City of Novi.

SUBMITTING DEPARTMENT: Public Safety, Fire Department

BACKGROUND INFORMATION: The Michigan Department of Natural Resources (MDNR) offers fire organizations the opportunity to participate in a cooperative Mutual Aid Fire Control Agreement. The agreement's purpose is to provide fire departments with Federal Excess Personal Property as well as Department of Defense (DOD) Firefighter Program Property, to provide cooperation on mutual objectives, lending effective support to each other as well as proposes and responsibilities of the respective organization and allowing Fire Departments purchasing authority through a Federal GSA Fire Equipment catalog. Currently, the following neighboring communities in Oakland County participate in the program: Commerce Township, North Oakland, Oxford, Auburn Hills, Springfield Township, White Lake, and Holly.

The MDNR also agrees to provide assistance for basic protection from uncontrolled fires occurring in natural cover fuels (grass, brush, wooded and outdoor areas) and to conduct a prevention program to reduce the number of such fires, when requested and will dispatch equipment to fires when available.

In return, the Novi Fire Department agrees when available, to respond with equipment to any fire on State (ex. Island and Proud Lake) and sometimes private land within the protected areas that encompass Oakland and bordering Counties, according to the MDNR representative. Novi would likely already be called to these fires through our existing Mutual Aid Agreements. The City would be responsible for all purchases and payments for any equipment ordered from the GSA, providing liability and property damage insurance for any vehicle on loan, and to make the vehicle and equipment available for inspection by the MDNR. The City of Novi will have the opportunity to request surplus equipment or vehicles, if available, through this program.

As with other agreements, the City of Novi will need a resolution authorizing the Mayor to enter into the agreement with the Michigan Department of Natural Resources. The City of Novi's legal counsel has reviewed this matter and opines there is no legal impediment which precludes the City of Novi from executing this agreement.

RECOMMENDED ACTION: Approval of Cooperative Mutual Aid and Fire Control Agreement between the Michigan Department of Natural Resources – Forest, Mineral and Fire Management, and the City of Novi.



COOPERATIVE MUTUAL AID FIRE CONTROL AGREEMENT

This Agreement is authorized 1967 PA 7, and Part 515 of Act 451 of 1994, as amended

Name of Fire Organization

Federal ID #

Address

Governing Unit or Board

City, State and Zip Code

Telephone

County

Fire Department Number

E-mail Address

This Cooperative Agreement made this _____ day of _____ by and between

_____. (Governing Agency Unit or Board),

hereinafter referred to as the Cooperator; and the Michigan Department of Natural Resources (DNR), Forest Resources Division (FRD), hereinafter referred to as the DNR, is entered into for the purpose of:

- (1) Placing Federal Excess Personal Property (FEPP) for local fire department's use.
- (2) Placing Department of Defense (DoD) Firefighter Program Property for local fire department's use.
- (3) Providing the closest possible cooperation on mutual objectives.
- (4) Lending effective support when either organization is committed to or beyond its capacity.
- (5) Defining purposes and responsibilities of the respective organization.
- (6) Providing purchase authority to the Cooperator through the Federal Defense Logistics Agency (DLA) Fire Equipment catalog.

WITNESSETH:

WHEREAS: The control of timber, grass, and wildland fires is essential to an effective wildland fire control program.

WHEREAS: The Cooperator is actively engaged in the prevention and suppression of all fires.

WHEREAS: It has been determined to be advantageous to the DNR, in the proper discharge of its responsibilities, to make certain equipment available to the Cooperator for rural fire control.

PART I – FEDERAL EXCESS PERSONNEL PROPERTY

NOW THEREFORE, the parties to this Agreement do hereby agree as follows:

THE DNR AGREES:

- (1) To assist the Cooperator in providing reasonable basic protection from uncontrolled fires occurring in natural cover fuels and to conduct a prevention program to reduce the number of such fires.
- (2) To dispatch equipment and personnel to fires when available, and upon request from the Cooperator.
- (3) To immediately advise the Cooperator when the DNR becomes aware of any burning or threatened structure within the Cooperator's protection area.
- (4) The title to all accessories, tools, equipment, and sirens provided by the Cooperator which are added to FEPP equipment provided by the DNR will remain with the Cooperator and the Cooperator may remove same prior to returning the equipment to the DNR.
- (5) To extend benefits of the Federal-State "Cooperative Fire Control Agreement" to enable the Cooperator to purchase firefighting equipment and supplies through the DLA Fire Equipment Catalog.

THE COOPERATOR AGREES:

- (1) To dispatch a crew with equipment when available, and upon request of the DNR, to any fire within their protection area, defined as the area within which the Cooperator is responsible for providing fire protection services, not to include mutual aid response to other fire departments.
- (2) Pay all invoices for equipment purchased through DLA. The DNR may require the Cooperator to send a copy of purchase orders for audit purposes.

- (3) The Cooperator, having equipment under the Federal Excess Personnel Property Program, must provide **personal liability and property damage insurance covering vehicles on loan to the Cooperator (required under the agreement with the federal government)**. Insurance coverage by the Cooperator will begin on the date the vehicle is received by the Cooperator. A copy of the current insurance certificate must be kept in the vehicle for inspection purposes. The Cooperator must notify the DNR immediately, in writing, of all damages, vandalism or theft of the federal excess property vehicle on loan under this agreement. The Cooperator must also report stolen federal excess property upon discovery to the DNR in writing and to local Law Enforcement authorities. If the Cooperator does not provide insurance on the vehicle, the vehicle **MUST** be returned to the DNR within thirty (30) days.
- (4) To make the equipment available for inspection, when requested, by a representative of the DNR.
- (5) The Cooperator cannot remove parts without written permission from the DNR.
- (6) The equipment may not be sold, junked, traded, or otherwise disposed of, but must be returned BY THE COOPERATOR to one of the DNR, FRD Repair Shops (Marquette in the Upper Peninsula, Gaylord in the Northern Lower Peninsula, or Rose Lake in the Southern Lower Peninsula), when a vehicle becomes surplus to the fire department's needs. Written notice is to be given to the local forest fire officer before the vehicle is returned.
- (7) Any vehicle provided will not be loaded beyond the manufacturer's recommended load capacity, and comply with the Michigan vehicle code.
- (8) All vehicles provided will be equipped and operated in compliance with the Michigan Vehicle Code and Occupational Standards applicable to their use.
- (9) All vehicles provided will be housed and under the direct control of the fire department, and used for rural and wildland fire protection.
- (10) The Cooperator will notify the DNR immediately in writing in the event of an accident or death involving a vehicle on loan to the Cooperator.
- (11) A State of Michigan license plate will continue to be used on the equipment requiring a license.
- (12) The equipment will be painted DNR red to correspond with the Cooperator's fire equipment and marked with both the Cooperator's identifying decals, and a decal furnished by the DNR.
- (13) The equipment must be converted for use for fire control and placed in fire service within twelve (12) months from date of issue to the Cooperator.
- (14) To train their personnel in proper operation of any equipment provided.

IT IS MUTUALLY AGREED:

- (1) **Suppression.** When both agencies are represented at the same fire, the over-all supervisory responsibility shall lie with the agency concerned most directly with the object **actually on fire**. If both types of objects, i.e., structures and vegetation, are on fire simultaneously, each agency shall attend its normal responsibility, and/or play a supporting role to the other, based on a judgment decision as to the values involved or threatened. If immediate action is required, neither agency shall be limited because of the type of object which is burning.
- (2) **Training.** Each agency agrees to attend/participate/assist. in those portions of the other agency's training programs which have a bearing on the individual agency's efficiency to the extent personnel are available.
- (3) **Personal Protection.** DNR employees are not trained nor certified to wear self-contained breathing apparatus. DNR personnel must be advised by the Cooperator when atmospheric conditions are unsafe. DNR employees may work in support of the Cooperator under restricted conditions such as, but not limited to, up wind from the incident or in supply and transport.
- (4) DNR tractors are not intended to be used for purposes other than wildland fire suppressions.
- (5) **Other.** Each agency agrees to lend its support to programs of the other agency which will increase the public awareness of the hazard and destruction of fire and/or make the objectives of this Agreement possible.
- (6) **Employee Compensation.** Each entity is responsible for the compensation of its own employees.
- (7) This agreement constitutes the complete and exclusive agreement and understanding of the parties as it relates to this transaction. This agreement supersedes all other prior agreements, and all other communications between the parties relating to this transaction.
- (8) Each provision of this agreement is severable from all other provisions of this agreement and if one or more provisions of this agreement are declared invalid, the remaining provisions of this agreement remain in full force and effect.

Failure to comply with any part of the Agreement will result in the forfeiture of said equipment.

This Agreement is authorized under 1967 PA 7, Part 515 of Act 451 of 1994, as amended; the Federal Cooperative Forestry Assistance Act of 1978; and the Federal Property and Administrative Services Act of 1949.

PART II – DEPARTMENT of DEFENSE FIREFIGHTER PROGRAM PROPERTY

NOW THEREFORE, the parties to this agreement, in reference to DEPARTMENT of DEFENSE FIREFIGHTER PROGRAM PROPERTY TRANSFERRED UNDER 10 U.S.C §2576(b), ADMINISTERED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) - FOREST SERVICE.

THE COOPERATOR AGREES TO:

- (1) Request for transfer only DoD firefighting property that can be effectively made usable and put into service for fire fighting or emergency services.
- (2) Convert the equipment into acceptable fire control or emergency response unit within twelve (12) months from the time of acquisition.
- (3) Use the aforementioned equipment only for the suppression of wildfire and/or for other emergencies which threaten the loss of life or property.
- (4) Provide adequate storage and maintenance for the equipment and responsible for all operational cost and repairs.
- (5) Provide access to and the right to examine all records, books papers, or documents relating to the DoD Firefighting Property to the Forest Service, DoD Office of Inspector General, the Comptroller General of the United States, or his authorized representative, and the USDA, including its Office of Inspector General, or authorized representatives.
- (6) Maintain the equipment in the Cooperator's inventory, as well as maintain property records on the equipment for a minimum of five (5) years after acquisition of said property (i.e. registration, insurance, final disposal). Written permission from the DNR is required to dispose of property retained for less than five (5) years.
- (7) Make available the said equipment for periodic inspection by a duly authorized representative of the DNR until title has been transferred to the Cooperator.
- (8) Maintain the equipment in full readiness at all times.
- (9) Obtain and maintain liability insurance coverage for any vehicles in this agreement.
- (10) The equipment will be painted DNR Red, or to correspond with the Cooperator's fire equipment, and will have all of the Cooperator's identifying decals.
- (11) All vehicles must comply with all State and Federal regulations, as well as vehicle manufacturers loading restrictions.
- (12) Owners of Firefighter Program property will cooperate with Federal and State parties to ensure compliance in State and Federal regulations and program and property management requirements.
- (13) Accept title of said property in the Agency name, not an individual member of the agency.
- (14) Properly register the vehicle to the Cooperator, and provide appropriate license plate, once title has been transferred to the Cooperator.

THE DNR AGREES TO:

The State of Michigan will provide the Cooperator with documentation to transfer title of the above equipment, upon completion of conversion, with proof that the equipment has been placed into emergency service, and is properly insured.

This Agreement will be effective from the date of execution by the DNR – FRD, and will continue in force unless terminated by either party by thirty days (30) written notice to the other, provided, however, all of the provisions herein are complied with.

IN WITNESS WHEREOF, the parties by and through their duly qualified and acting officials have hereunto set their hands.

Cooperator – Governing Unit Signature

Date

Cooperator – Governing Unit (Print Name)

Fire Chief Signature

Date

Fire Chief (Print Name)

Michigan Department of Natural Resources Forest Resources Division

Date

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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

September 8, 2020

**CONFIDENTIAL COMMUNICATION
ATTORNEY-CLIENT PRIVILEGE**

Jeff Johnson, Fire Chief
Novi Fire Department
City of Novi
45175 Ten Mile Road
Novi, MI 48375

Re: Cooperative Mutual Aid Fire Control Agreement

Dear Chief Johnson:

The City asked our office to review the Cooperative Mutual Aid Fire Control Agreement between the City and the Michigan Department of Natural Resources (DNR). The purpose of this agreement is to provide support to the City's Fire Department with proper equipment to control rural fires.

Under the Agreement, the DNR will assist the Fire Department by providing reasonable basic protection from uncontrolled fires, and dispatching equipment and personnel to fires when available. The Fire Department in return agrees to dispatch a crew with equipment, when available, upon the request of the DNR, to any fire within its protection area.

Important for the City to note, is that it is required to provide personal liability and property damage insurance covering vehicles loaned to the Department from the Program. The Agreement does not specify a minimum coverage limit that must be held for these vehicles. The insurance must begin on the date the vehicle is received, and continue throughout the loan. The City should confirm with the MMRMA that it can meet these insurance requirements in the event a vehicle is loaned through the program.

The Agreement also details certain inspection and care requirements the City needs to abide by when using any equipment and vehicles through the Program. This also includes the requirement that the City immediately notify the DNR, in writing, of any accident or death caused by the use of a DNR loaned vehicle. Finally, it is the City's responsibility to properly train its personnel in the proper operation of any equipment provided through the Program.

Next, the Agreement states that if both the City and DNR are represented at the same fire, "the over-all supervisory responsibility shall lie with the agency concerned most directly with the object **actually on fire.**" This could change depending on the specific fire. However, as a general

principal, the Agreement states that any structure fires would likely be of most concern to the Fire Department, while vegetation fires of most concern to the DNR. If a fire occurs to both types of objects, each agency shall attend its normal responsibilities and play a supporting role to the other.

Finally, the Agreement also details requirements under the Department of Defense (DoD) Firefighter Program. Under this Program, the Fire Department can request from the DoD certain property that can be effectively made usable and put into service for firefighting or emergency services. Important to note, however, is that written permission is required from the DNR if the Fire Department intends to dispose of property retained for less than five years. Additionally, the City is also required to obtain and maintain liability insurance coverage for any vehicles received through this DoD Program.

In short, this Agreement is a standard mutual aid agreement that appears to provide valuable resources to the Fire Department. Once you and other appropriate City personnel have an opportunity to review and fully understand the requirements under this Agreement, we have no legal objections to the City entering into this Agreement. If you have any questions or would like to discuss this Agreement further, please let us know.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Michael D. Hanchett

MDH/

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION

At a meeting of the City Council of the City of Novi, Oakland County, Michigan, held on _____, 2020, at the City Hall, 45175 Ten Mile Road, Novi, Michigan 48375-3024.

The following resolution was offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, the control of timber, grass, and wildland fires is essential to an effective fire control program; and

WHEREAS, the City of Novi Fire Department is actively engaged in the prevention and suppression of all fires; and

WHEREAS, it has been determined to be advantageous to the City of Novi Fire Department, in the proper discharge of its responsibilities, to make certain equipment available to the department for timber, grass, and wildland fire control;

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. That in order to maximize the prompt, full and effective use of resources of all participating governments in providing reasonable protection from uncontrolled fires occurring in natural cover fuels, the City Council of the City of Novi hereby adopts and approves the Cooperative Mutual Aid Fire Control Agreement which is attached hereto and fully incorporated herein by reference; and
2. That the Director of Public Safety, or his designee, shall be the authorized representative of the City of Novi of the Cooperative Mutual Aid Fire Control Agreement.

AYES:
NAYES:
ABSTENTIONS:
ABSENT:

STATE OF MICHIGAN)
)ss.
COUNTY OF OAKLAND)

I, CORTNEY HANSON, the duly-qualified Clerk of the City of Novi, Oakland County, Michigan, do hereby certify that the foregoing is a resolution adopted by the

City Council of the City of Novi, at a duly-called meeting held on _____, 2020, a copy of which is on file in my office.

Cortney Hanson, City Clerk
City of Novi

This Resolution was signed and acknowledged before me on _____, 2020, by CORTNEY HANSON, the duly-authorized Clerk for the City of Novi, a Michigan municipal corporation.

Notary Public
Oakland County, Michigan
My Commission Expires: _____