

12030043

STATE OF SOUTH DAKOTA
FIRE SUPPRESSION ADDENDUM
WITH THE CITY OF MITCHELL

Parties: State of South Dakota by and through the South Dakota Department of Agriculture, Wildland Fire Suppression Division, herein after referred to as the STATE or Division, and the City of Mitchell, South Dakota, through its Fire Division, herein after referred to as the CITY.

WHEREAS, the State may enter into cooperative agreements with other agencies for the provision of assistance in fire prevention and suppression efforts, pursuant to the provisions of SDCL 41-20 and SDCL 1-24, and

WHEREAS, the CITY may cooperate with the STATE in fire prevention and suppression, pursuant to the provisions of SDCL 1-24,

NOW, THEREFORE, in consideration of the mutual promises contained in an existing fire suppression agreement effective December 01, 2011, the STATE and CITY hereby agree that the prior fire suppression agreement between the parties hereto is extended until and will terminate upon the 31st day of August 2012.

IN WITNESS WHEREOF, the parties hereto cause this agreement to be signed on the dates indicated below.

STATE OF SOUTH DAKOTA

BY: Walt Bones, Deputy Secretary
Walt Bones, Secretary of Agriculture
State of South Dakota

Signed this 2 Day of July 2012.

CITY OF MITCHELL

BY: Louis Sebert
Louis Sebert, Mayor

Signed this 25 Day of June 2012.

STATE OF SOUTH DAKOTA FIRE SUPPRESSION AGREEMENT
For large municipalities demanding backfill wages

PARTIES: State of South Dakota by and through the South Dakota Department of Agriculture, Wildland Fire Division, (hereafter STATE) and the City of Mitchell, a South Dakota municipality, 612 North Main, Mitchell, SD 57301 (hereafter CONTRACTOR).

THIS AGREEMENT supersedes all prior forest fire suppression agreements which are hereby revoked between these parties and will become effective on the First day of May, 2006, and continue until November 30, 2011, by and between South Dakota Department of Agriculture, hereinafter referred to as the STATE, and the Fire Department, a South Dakota legal entity, hereinafter referred to as the CONTRACTOR.

WHEREAS, the STATE may enter into cooperative agreements with other agencies for the provision of assistance in fire prevention and suppression efforts, pursuant to the provisions of SDCL 41-20, and SDCL 1-24, and

WHEREAS, the CONTRACTOR may cooperate with the STATE in fire prevention and suppression, pursuant to the provisions of SDCL 1-24,

WHEREAS, City/CONTRACTOR must be reimbursed for all wage expenses it incurs (including all overtime and backfill wages) in order to address city budgetary concerns (resulting from city's independent contractual obligations to its firefighters) and has determined that it will not provide personnel unless this agreement for payment is in effect. State agrees to pay such sums solely as a result of city's demand for such payments and is not a party to any union contract or other employment arrangements between city and its employees

NOW, THEREFORE, in consideration of the above, the STATE agrees to provide wildland fire technical assistance to the CONTRACTOR, and the CONTRACTOR agrees to provide fire suppression assistance to the STATE upon the following terms and conditions:

I.

FIRE SUPPRESSION

A. The STATE agrees:

1. To compensate the CONTRACTOR for personnel and equipment provided to the Wildland Fire Coordinator at his request, in efforts to suppress wildland fires, at the rates set forth in Appendix A, attached hereto and incorporated herein.

B. The CONTRACTOR agrees:

1. To designate a person as the CONTRACTOR'S Fire Coordinator, who has the authority to serve as a specified point of contact regarding cooperative efforts under this agreement.

2. To inform the STATE of any changes in the authority of persons designated as the specified point of contact on behalf of the CONTRACTOR.

3. To all terms and conditions set forth in Appendix A, and to guarantee to the State of South Dakota that all liability insurance and workmen's compensation benefits available to firefighters and equipment of the CONTRACTOR, is in full force and provides coverage to the persons and equipment provided to the STATE under the terms of this agreement.

4. To send all communications regarding this agreement to:

State Wildland Fire Coordinator
South Dakota Department of Agriculture
Division of Wildland Fire Suppression
4250 Fire Station Road, Suite #2
Rapid City, SD. 57703-8714
(605) 393-8011

II.
JOINT POWERS

A. The STATE and CONTRACTOR mutually agree that:

1. This Agreement does not establish a separate legal entity as contemplated by SDCL 1-24-5. The cooperative undertaking described herein will be financed and conducted under the provisions of this agreement by the STATE and CONTRACTOR respectively. Each party has responsibilities under the terms of this Agreement and no joint board or joint administrator will be used. Purchase and maintenance of equipment used to fulfill the agreement will be undertaken by the respective agencies as described herein. No real property will be purchased to use for this Agreement.

2. A copy of this Agreement will be filed, with the Attorney General and the Legislative Research Council not more than 14 days after execution as required by SDCL 1-24-6.1.

3. Financing required by this agreement will come from regular department budgets and the state fire suppression fund. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

4. This agreement may be terminated by either party upon sixty (60) days written notice without cause.

5. All parties must comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. 2000d) and, in accordance with Title VI of that act, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

6. This agreement represents the entire agreements of the parties, and all prior negotiations and agreements on this subject are merged herein.

B. The CONTRACTOR agrees that:

1. The CONTRACTOR will furnish if requested a cost statement within 30 working days for all fire related expenditures incurred by the CONTRACTOR relating to damages or expenses associated with fire suppression activities within the State to the fire business accountant at the following address:

Fire Business Accountant
South Dakota Division of Wildland Fire Suppression
4250 Fire Station Road, Suite #2
Rapid City, SD. 57703

2. The CONTRACTOR agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the CONTRACTOR to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
3. The CONTRACTOR shall comply with all South Dakota laws and regulations pertaining to Workman's Compensation Insurance for contract personnel (including the requisite approval and training required for state coverage under SDCL 62-1-5.2).
4. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
5. *Certificate of Insurance* – Contractor will provide proof of insurance coverage outside the Contractor's area of responsibility. A valid "Certificate of Insurance" form must be filed with the Division before the State will sign an agreement with the contractor. Proof of insurance certificates will be provided for vehicle coverage, general liability, and workman's compensation to the division. No contractor will be dispatched to a fire outside the boundaries of South Dakota without having annual proofs of insurance on file with the State.
6. *Liability and Vehicle Insurance* - The Contractor will have liability insurance and coverage for all fire vehicles listed on the state resource list with a limit of not less than \$1,000,000.00 per claim and any aggregate limit will be not less than twice that amount. If contractor does not carry insurance on any vehicles, the Contractor assumes all risk of loss and agrees to hold the State harmless for all losses related thereto.
7. *Workman's Compensation Insurance* - The Contractor shall comply with all state laws and regulations pertaining to Workman's Compensation Insurance for contract personnel and provide proof of coverage to the Secretary or Wildland Fire Coordinator.
8. *Vehicle Damage Reports* – Any vehicle with damage sustained on an incident will be reported promptly to the State or appropriate jurisdictional agency.
9. *Poof Of Authority To Sign*: If the contracting party is not a natural person, evidence of authority granted by the legal entity to the natural person who signs this agreement on behalf of the legal entity must be attached hereto as a condition precedent to any obligation by the State of South Dakota under the agreement. A copy of a resolution of the governing body or minutes of a regular meeting showing approval of the agreement or an ordinance approving the agreement and authorizing a named person to sign the agreement may be used as adequate proof of authority.

IN WITNESS WHEREOF, the parties hereto cause this agreement to be signed as follows:

CONTRACTOR'S LEGAL NAME: City of Mitchell

SIGNATURE OF CONTRACTOR: Louis Select Mayor

on this 6th Day of November, 2006.

Title of person signing for the legal entity: Mayor

STATE OF SOUTH DAKOTA

BY: _____
Wildland Fire Coordinator or his designee

on this ___ Day of _____, 20__.

APPROVED BY:
Larry Gabriel

Larry Gabriel, Secretary
South Dakota Department of Agriculture
State of South Dakota

On this 14 Day of Nov, 2006.
-State Agency Coding (MSA Center) _____.
- State Agency MSA Company for which contract will be paid _____.
-Object/subobject MSA account to which voucher will be coded _____.
-Name and phone number of contact person in State Agency who can provide additional information regarding this contract _____.

APPENDIX A

WORK AND PAYMENT PLAN
FOR
FIRE SUPPRESSION FORCES

I. DEFINITIONS

A. All words are intended to represent their common meanings unless otherwise identified or defined in the "State of South Dakota Fire Incident Handbook".

II. MINIMUM REQUIREMENTS FOR FIREFIGHTERS

Contractor agrees to adopt and follow the minimum standards, policies and procedures set forth in the current edition of the South Dakota State Fire Incident Handbook to the extent that its provisions are not inconsistent with the specific requirements set forth in this agreement.

A. Qualifications

Federal Responsibility areas – No compensation for non-red-carded individuals or the equipment they utilize. All individuals must be certified under the other requirements in this section to be assigned to a fire under state or federal jurisdiction.

B. Incident Qualification Card (IQC). Except for initial response and the initial attack phases of a fire, as outlined in section III A, State of South Dakota Fire Incident Handbook, all personnel must have a valid IQC listing their current physical fitness score and qualifications.

1. Records -Individual qualification records of fire experience, physical fitness, and training shall be filed with the Division by May 1st of each year.

2. Issuance - The Division upon submittal, proper documentation, and evaluation of each individual's records and physical fitness scores will issue IQC within 28 days of receipt of said fitness and training records.

3. Expiration – IQC's will expire on June 1 of the year following issuance.

4. Responsibilities:

Division: The Division will be responsible for issuing all IQCs to firefighters for the Contractors except those who are FF1, FF2, and EMTs. The Division will issue IQCs within 28 days of receipt of fire qualifications records and physical fitness scores. The appropriate information, qualifications, and status will be entered into the Northern Great Plains Dispatch Centers Resource Order Status System (ROSS) within (15) working days of receipt of IQC for any firefighter qualified as single resource/overhead position. The Division may issue IQCs, if requested in writing by the Contractor.

Contractor: Contractors will be responsible for issuing IQCs to firefighters that work for them, that are FF1, FF2, and EMTs. The Division will issue the blank IQC card stock to the fire chief for card issuance. After the fire chief issues the IQC, a copy of said records will be forwarded to the Division Training Officer within seven days.

C. Clothing and Safety Equipment - The Contractor shall ensure that all firefighters have the following fire safety clothing and personal fire fighting equipment when responding to a fire:

1. A fire resistant shirt that meets NFPA 1977 requirements for wildland fire suppression;
2. Fire resistant pants or coveralls that meets NFPA 1977 requirements for wildland fire suppression;
3. Leather lace-up boots (8" high) with lug soles;
4. A helmet or hard hat that meets ANSI (Z89.1-1986 Class A & B) specifications and NFPA 1977 requirements for wildland fire suppression;
5. Leather gloves that meet NFPA 1977 requirements for wildland fire suppression;
6. A fire shelter that meets NFPA 1977 requirements for wildland fire suppression;
7. Goggles or other proper eye protection;
8. Two quarts of drinking water;
9. One pair of earplugs or other hearing protection;
10. Headlamp that attaches to the helmet or hardhat.

D. Personnel Classifications - The Contractor shall be compensated for personnel according to the function they fill on an incident. The Contractor will provide the Wildland Fire Coordinator with a list of employees holding current red cards and will specify the base hourly rate of salary for each of such employees. This list will be kept current by the Contractor. If filling a function

for which they are not fully qualified, as per training and experience required under PMS 310-1, the individual will be paid one classification lower except in those instances where an Overhead trainee is not working under direction of a fully qualified individual in that position, in which case the trainee is entitled to the identified full rate. Individuals filling positions will be compensated according to the rates established in the "Interagency Incident Business Management Handbook", current effective supplement, but excluding any federal references to guaranteed minimum sums, hours or days. Refer to the handbook for these definitions.

III. MINIMUM ENGINE AND TENDER STANDARDS

Specifications are set forth in the State of South Dakota Fire Incident Handbook.

IV. COMPENSATION PLAN

SUPERSEDES OR REPLACES: This agreement supersedes any previous contract, addendum, letter, or other correspondence concerning compensation rates for contract firefighters except rangeland fire suppression agreements between the STATE and county governments of South Dakota.

When the Wildland Fire Coordinator directs forces dispatched under this agreement to a fire, the contractor responding shall be compensated from the time and point of dispatch at the rates set forth in the Interagency Incident Business Management Handbook for the Rocky Mountain/Great Basin Coordinating Groups as amended by Interim Directive No. 5109.34-2005-1 and any subsequent amendments thereto until the time of release from services to the Wildland Fire Coordinator. The STATE will apply the version of regional rates which are in effect at the time of dispatch except that all guaranteed minimums in the Handbook are excluded from application to this agreement and specific rates set forth herein supersede regional rates. However, The CONTRACTOR will be fully reimbursed for all wage expenses it actually incurs as a result of its personnel assisting the Wildland Fire Coordinator including all overtime and backfill wages. In computing the total costs of personnel wages owed to the city, the State will receive credit for any wages paid in conjunction with equipment rates. Hourly compensation for CONTRACTOR'S personnel assigned to a fire in conjunction with equipment will be deducted from the equipment rate to prevent duplicate compensation for personnel, when equipment rates include a specified number of personnel.

1. Reimbursement for Meals and Lodging. Compensation for meals and lodging is at the discretion of the incident commander. (See State of South Dakota Fire Incident Handbook, Page 14 Section V, Compensation) The contractor shall provide the first meal. Reimbursement of lodging and meals for Contractor personnel will be based on per-diem rates and rules established for the State of South Dakota.

a. Lodging

Reimbursement for lodging will be based on receipts and will not exceed current state rate per night per individual. Receipts for multiple occupancy must show the single rate and the multiple occupancy rates. Individual reimbursement will be based on the total room rate (plus tax) divided by the number of occupants. (This rate is subject to change.)

b. Meals

Reimbursement for meals will be based on and cannot exceed current State per diem rates established for state employees. Tips are not reimbursable. State rates are subject to change.

2. Compensation Rates for Contractor Personnel. The Contractor will receive compensation for personnel at the rates for South Dakota set forth in Region 2, Supplement RM/GBCG, Incident Business Management Handbook, Chapter 10–Personnel, Interim Supplement Directive No. 5109.34-2006-1, or subsequent amendments thereto, except that all guaranteed minimums therein are excluded from application to this agreement. Note: AD-5 rates are variable according to position filled as specified in the handbook.

3. Compensation Rates for Fire Engines and Tenders. The Contractor will be compensated for engines and tenders based on the rates set forth in this contract, and for any items not specified in this contract, then at the rates set forth in Region 2, Supplement RM/GBCG, Incident Business Management Handbook, Chapter 20-Acquisitions, Interim Supplement Directive No. 5109.34-2006-1 or subsequent amendments thereto, except that all guaranteed minimums therein are excluded from application to this agreement.

Compressed Air Foam: Add \$20.00/Hr to the rates listed for any engine equipped with a Compressed Air Foam System (CAFS) meeting the minimum capacity: 40 CFM @ 100 PSI, to cover the cost of foam based on an application rate of three tenths of one percent @ 25 gpm and additional equipment.

Fire Gel or Class A Foam: Fire Gel or Class A Foam used on wildfires will be replaced on the fire. If the supply unit does not stock gel or class A foam, then the contractor can request replacement through the state supply cache or bill the State for the gel or class A foam used. Requests for replacement of gel supplies will be accompanied by supporting documentation, such as an ICS 214 or Crew Time Report (CTR), which notes where the supplies were used and the quantity.

Prescribed Fire: The fire engine and tender rates will be reduced by 25% on prescribed burns and/or severity patrol.

Personnel Reduction: The rates will be adjusted as provided in Interagency Incident Business Management Handbook if the number of personnel are fewer than specified. The 2006 rate is \$25.00 per person per hour.

3. The Contractor will be compensated for the use of specialized equipment based on the following rates:

Equipment	Payment Rate	Restrictions
Type I Engines (structural)**	\$165.00/hr	w/4 personnel
Type 2 Engines (structural) **	\$145.00/hr	w/3 personnel
Type 7 Engine **	\$82.80/hr	w/3 personnel
Type 9 Engine **	\$67.80/hr	w/3 personnel
Type 4 Tactical Water Tender**	\$53.28/hr	w/2 person ****
Type 5 Tactical Water Tender**	\$37.68/hr	w/2 person ****

**When transported by lowboy truck engines may be compensated at a daily rate of \$200.00 in lieu of the hourly rates specified above.

Power Saws –
All Chain Saws ** \$5.00/hour for first two hours by request only
Then flat rate of \$35.00 max until end of shift

*Portable Pumps: ** 24 Hour Day Only**
0 to 200 GPM \$30.00/day
200 + GPM \$40.00/day

Portable Tanks: ** 24 Hour Day Only**
Under 1500 Gal. \$20.00/day
1500 + Gal. \$25.00/day

Strike Team Leader, Division/Group Supervisor, or any vehicle assigned to line duty (Radio Equipped) \$57.00/day plus \$0.485/mile 24 Hour Day Only***

Portable foam injection equipment ** \$5.00/hour for first two hours by request only. Then flat rate of \$35.00 max. until end of shift

Crew Rotation Vehicle ** \$0.485/mile. Mileage to and from fire only.

****If the water tender is used in a non-tactical role, rates will decrease by \$25.00 per hour. The minimum manning level is 1 person.

*The daily rate includes use of suction hose, screen, 100-foot hose and a nozzle. If this equipment is not available with the pump, the rate shall be adjusted accordingly.

V. DIVISION OBLIGATIONS

A. Liaison with Other Agencies - The Division shall act as liaison between the Contractor and other governmental agencies on matters pertaining to fire suppression efforts and large fire mobilization efforts.

B. Training - The Division shall assist the Contractor in obtaining fire training that will help them with wildfire suppression efforts. A fee may be charged for some training classes.

C. Notification - The Division shall notify the dispatching agency and/or the Contractor of any reported wildfires within the CONTRACTOR's Protection Area.

D. Available Funds - Nothing in this agreement shall be construed as binding either party to expend any sum in excess of the governmental appropriations available.

E. Order Requests - It is recognized that the Division is not to search for requests for resources. However, the Division will make reasonable attempts to fill all requests received, whether they are single or multi resources requests.

VI. DISPATCHING

The Division and the Contractor agree to follow the procedures listed in this section when dispatching fire units to fires.

A. Northern Great Plains Interagency Dispatch Center - The Division shall maintain a dispatch center for reporting and dispatching fire suppression resources. It will be operated according to the following guidelines:

1. The Northern Great Plains Interagency Dispatch Center in Rapid City will serve as the contact point for reporting fires.
2. The Northern Great Plains Interagency Dispatch Center will normally be manned Monday through Friday from 8:00 AM to 5:00 PM. The Division may change this schedule at its discretion.
3. Radio call sign is "Northern Great Plains Dispatch" or "Great Plains Dispatch".
4. Telephone number is (605) 393-8017 or 1-800-275-4955.
5. State Radio may be contacted @ 393-8121 when the State Dispatch is not manned.

B. Resource Ordering Status System - The Contractor will ensure that their resources status is properly updated in ROSS in order for the Northern Great Plains Interagency Dispatch Center to consider them for fire assignments outside their jurisdictional boundaries. Northern Great Plains Interagency Dispatch Center will assign resources to incidents within the Black Hills Forest Fire Protection District and the Northern Great Plains Zone, using the "Closest Forces" concept. Resources listed in ROSS as available will be utilized as needed by the incidents. For additional ROSS information – see State of South Dakota Fire Incident Handbook. However, the Secretary of the South Dakota Department of Agriculture reserves the right to not assign forces to a particular fire under this contract according to his discretionary assessment of the need for forces to remain at particular locations at particular times or based upon the costs of service.

C. Reporting Fires - The contractors local dispatch center will report all wildland fires to the Northern Great Plain Interagency Dispatch Center.

D. Mutual Aid Agreement – Contractors with mutual aid agreements in place may request resources for others who are signatories on the agreement. Northern Great Plains Interagency Dispatch will then be notified in a timely manner of the filled request. However, when a contractor responds to a local fire on private property within the contractor's area of primary responsibility or an adjacent area of mutual aid, the State will not pay for such fire suppression unless the Wildland Fire Coordinator or another state officer acting in that capacity assumes incident command of the fire, or the initial attack effort extends for more than three hours. When initial attack becomes compensable, payment is from the time of dispatch to the time of release from the incident as noted by times on the crew time report.

E. Ordering Fire Suppression Resources - State and local fire engines, tenders, air tankers, helicopters, other fire fighting resources, and manpower needed for fire suppression efforts shall be ordered for any incident through the Northern Great Plains Interagency Dispatch Center when a State or Federal officer or their designee assumes incident command.

F. Federal Resources - Federal fire suppression resources shall be ordered through the Northern Great Plains Interagency Dispatch Center. However, these orders will be routed through proper channels to a zone dispatch center for processing.

G. Alternate Contact - State radio is an alternate contact point for the Northern Great Plains Interagency Dispatch Center. Contact state radio if neither the local office nor the Northern Great Plains Interagency Dispatch Center can be reached. Phone # 393-8121.

H. Alternate Sources - The Contractor may request reinforcements through other contacts if Division personnel cannot be reached by any of the methods listed above.

VII. MISCELLANEOUS PROVISIONS

A. Meetings - The parties of this agreement shall meet annually to discuss training and prevention needs, operating procedures and any problems that affect both parties.

B. Discrimination - Neither party shall discriminate against any employee or applicant for employment because of race, religion, color, national origin, or sex, and shall include similar provisions in all subcontracts for such work. The aforesaid provisions shall include but are not limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation and selection for training including apprenticeship.

C. Political Official Benefits - The parties agree that no member or delegate to Congress, State Legislator, or resident Commissioner, after his election or appointment, and either before or after he has qualified and during his continuance in office; and no officer or agent or employee of federal, state, or local government shall be admitted to any share or part of this contract or agreement or to any benefit therefrom, unless it is made with a corporation for its general benefit and is consistent with constitutional, statutory, and regulatory requirements for such federal, state, or local government entities.

D. Other Agreements - Nothing in this agreement shall prohibit the parties from entering into other agreements or contracts with any private agency, or any other local, township, county, city, state, or federal agency.

E. Bills: All fire suppression bills or billing questions should be sent/directed to:

Fire Business Accountant
South Dakota Division of Wildland Fire Suppression
4250 Fire Station Road, Suite #2
Rapid City, SD. 57703-8714
605-393-8011

Saturday, September 22, 2012

Exhibit A Resource Work Plan

Resource = Mitchell Fire Division

Resource	Mitchell Fire Division	Address	201 W 1st	Phone	605-995-8400	Agreement Date	12/01/2011 to 08/31/2012
Contact	Lyndon Overweg		Mitchell SD 57301-2512	Fax	605-995-8486	Agreement #	3V024
Position	Chief		Davison County			Type	FD

Equipment	Kind - Type	Unit #	Make	Billing Rate	Cost	Guarantee	Unit	Misc Info
Engine - 6X	Engine - 6X	Engine 3	Ford F550	\$82.00	\$82.00	\$0.00	Hour	
Engine - 1	Engine - 1	Engine 3	Ford	\$95.00	\$95.00	\$0.00	Hour	800' of 5" Hose, 250' of 3" Supply Line, Roof Ladder, 24' Extension Ladder