RESOLUTION - ACTION REQUESTED 2017-11

MEETING: January 10, 2017

TO: The Board of Supervisors

FROM: Doug Binnewies, Sheriff-Coroner-Public Administrator

RE: Approve Reciprocal Fire Protection Agreement with USDI, Yosemite National Park and Mariposa County

RECOMMENDATION AND JUSTIFICATION:
Approve the Renewal of the Reciprocal Fire Protection Agreement Between the United States Department of Interior National Park Service and the County of Mariposa in the Not-to-Exceed Amount of $30,000 Per Year; and Authorize the Board of Supervisors Chair to Sign the Agreement.

The current agreement expired on November 1, 2016. This renewal is a five year agreement, effective November 1, 2016 and will terminate on November 1, 2021. It has been in effect for twenty years and provides for first response fire protection and dispatch service for County residents and property in the communities of El Portal, Foresta, Yosemite West and Wawona. In addition, it provides for automatic aid to incidents in Fish Camp and the Merced River Canyon from the Park boundary to Briceburg.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
Board has approved similar agreements in the past.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Cancel Agreement for first response of fire and rescue and transfer service to County responsibility that interface with Yosemite National Park. This action would be detrimental to these communities because of the availability and response time of other fire, medical and emergency services.

FINANCIAL IMPACT:
An amount of $30,000 for this agreement has been included in the adopted 2016-2017 Mariposa County Fire budget.

ATTACHMENTS:
Reciprocal Fire Protection Agreement Number G8803170001  (PDF)

CAO RECOMMENDATION
RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Menetrey, Smallcombe, Jones, Long, Cann
RECIPIROCAL FIRE PROTECTION AGREEMENT G8803170001
BETWEEN THE
UNITED STATES DEPARTMENT OF INTERIOR
NATIONAL PARK SERVICE
YOSEMITE NATIONAL PARK
AND THE
COUNTY OF MARIPOSA

This Agreement is entered into by and between the United States Department of the Interior, National Park Service (hereinafter “NPS”), acting through the Superintendent of Yosemite National Park (hereinafter “Park”), and the County of Mariposa (hereinafter “County”) acting through its Chair of the Board of Supervisors. Throughout this Agreement, both the NPS and the County may be jointly referred to as the “parties.”

ARTICLE I — BACKGROUND AND OBJECTIVES

The objective of this Agreement is to establish the terms and conditions under which the parties will provide mutual assistance in preventing, detecting, and suppressing structural fires and wildfires on lands within the Park’s boundaries, including El Portal, within the County of Mariposa, and in the immediate surrounding area.

Currently, the NPS is primarily responsible for providing fire prevention, detection, and suppression on federally owned land within the Park. The Mariposa County Fire Department is primarily responsible for providing fire prevention, detection, and suppression within the County of Mariposa and in the immediate surrounding area (including non-federally owned land within the Park’s boundaries).

ARTICLE II — AUTHORITY

This Agreement is entered into under the authority of 42 U.S.C. § 1856a.

ARTICLE III — STATEMENT OF WORK

A. The NPS agrees to:

1. Provide initial attack on structural fires in Yosemite West, with up to three Type I engines.

2. Provide initial attack on structural fires in Foresta, with up to three Type I engines.

3. Provide automatic aid to Fish Camp in cases of structural fires or other emergencies with up to two Type I, II, or III engines.

4. Provide one Type I structural fire engine in Wawona and one Type I or II engines in El Portal for protection of County residents.

5. Provide a rescue vehicle or fire engine with auto extrication equipment in Wawona and El Portal for dispatch to vehicle accidents when requested by the county.

6. Provide command, control, and leadership for Engine Company #2 in Wawona and Engine Company #1 in El Portal.

7. Strive to provide a minimum of seven persons qualified as firefighters residing in El Portal, and a minimum of seven such persons residing in Wawona.

8. Provide structural fire dispatching for El Portal, Foresta, Wawona, Yosemite West and the rest of the Park.
9. Provide structural fire response and extrication and rescue response for motor vehicle accidents in the El Portal area along the Merced River Corridor as far as Briceburg.

10. Furnish automatic emergency assistance in the Merced River corridor as far west as Briceburg for structural fires and motor vehicle accidents. Provide emergency assistance beyond Briceburg at the county's request. The Park will determine the appropriate equipment to dispatch.

11. Provide command for structural fires and motor vehicle accidents in Foresta, Wawona, Yosemite West, El Portal, and the Merced River Corridor as far as 11 miles west of El Portal (Old Richardson's Hotel), and the rest of the Park.

12. Furnish a firehouse, including utilities, for the El Portal and Wawona fire and rescue response vehicles.

13. Provide assistance and cooperation with fire training for county firefighters.

B. The County agrees to:

1. Furnish structural fire suppression resources for Yosemite West, if required, beyond the engines provided by the Park.

2. Provide fire cause investigation and scene security of structural fires occurring in non-NPS owned buildings inside the Park, including El Portal.

3. Provide evacuation measures, if required, at Yosemite West and El Portal.

4. Provide engine coverage for Wawona when the Park engine is dispatched to an incident in Yosemite West, as requested.

5. Provide emergency assistance to the Park, Wawona, El Portal and the Merced River Corridor, Foresta, and Yosemite Valley, as requested by the Park.

6. Provide assistance and cooperation with fire training for Park firefighters.

7. Strive to provide for a minimum of seven County volunteer firefighters signed on by the County and covered by the County's worker's compensation program, to serve with the Park's Wawona Engine Company #2.

8. Strive to provide for a minimum of seven County volunteer firefighters signed on by the County and covered by the County's worker's compensation program, to serve with the Park's El Portal Engine Company #1.

9. Furnish turnout gear and other required personal protective equipment meeting Federal and State OSHA requirements, including helmets, turnouts, boots, shrouds, and gloves for county firefighters.

C. The parties further agree as follows:

1. Each party shall provide to the other party a list of responsible persons, with telephone numbers, to be contacted in an emergency. At least once a year, or more often if necessary, each party shall provide the other party with an updated list of such persons and telephone numbers.

2. The parties shall provide mutual assistance to each other in cases of major emergencies beyond that provided for above, when critical needs arise and the response capability is available. The NPS and the County shall bear their own expenses in such circumstances.
3. After notifying the other party of a fire's discovery, either party may take immediate action to suppress a fire in the other party's area of primary responsibility in order to save life or property.

4. The County will provide resources to the Park, if requested and available, for Prescribed Fire Projects at the base rates established in the California Fire Assistance Agreement for actual hours worked. The county will provide a billing invoice no later than 30 days after the demobilization of county resources.

5. Pursuant to the requirements of 43 USC §1856a, each party to this Agreement waives all claims against the other party for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of this Agreement.

6. Nothing in this Agreement shall be construed as obligating the NPS to expend in any one fiscal year any sum in excess of the monies appropriated by Congress and allocated by the NPS for the performance of this Agreement.

ARTICLE IV — TERM OF AGREEMENT

A. This Agreement shall supersede any existing fire related Agreements between the Park and the County.

B. This Agreement shall be effective as of November 1, 2016, and shall continue in effect until November 1, 2021, unless it is terminated pursuant to the provisions of Article IX.

C. This Agreement will be reviewed annually, prior to the start of the County's fiscal year, to determine if modifications are needed, and funding is available. The Park's obligations under this Agreement shall be subject to the availability of funds. This Agreement may be amended by the mutual written consent of the parties.

ARTICLE V — KEY OFFICIALS

All communications and notices regarding the implementation of this Agreement shall be directed to the following key officials for each party:

A. For the NPS:

   Chief Fire Management Officer
   Yosemite National Park
   P.O. Box 577
   Yosemite N.P., CA 95389

B. For the County:

   Fire Chief
   Mariposa County
   P.O. Box 784
   Mariposa, CA 95338

ARTICLE VI — PAYMENT

A. Each year between July 1 and October 1 during the term of this Agreement, the County shall pay to the Park an amount to cover the costs of providing the services described in this Agreement to Fish Camp, Wawona, Yosemite West, Foresta and El Portal including the Merced River Corridor as far as Bryceburg.

B. It is agreed that for the five (5) years of this Agreement, the amount will be $30,000.00, per year.
C. Payment shall be made by the County to the National Park Service, P.O. Box 100000, Herndon, VA 20171-9998. Payment shall be made (preferably by ACH) on or before October 1 of each year that this Agreement is in effect. Payments shall be credited to the Park's Fire Reimbursable account (currently structured as follows: cost center PPPWYOSEF0; functional area PF69090R9.W00000; fund XXXP1125R8).

ARTICLE VII — REPORTS AND/OR OTHER DELIVERABLES

Upon request and to the full extent permitted by applicable law, the parties shall share with each other final reports of incidents involving both parties.

ARTICLE VIII — PROPERTY UTILIZATION

Unless otherwise agreed to in writing by the parties, any property furnished by one party to the other shall remain the property of the furnishing party. Any property furnished by the NPS to the County of Mariposa during the performance of this Agreement shall be used and disposed of as set forth in the NPS Property Management Regulations.

ARTICLE IX — MODIFICATION AND TERMINATION

A. This Agreement may be modified only by a written instrument executed by the parties.

B. Either party may terminate this Agreement by providing the other party with thirty (30) days advance written notice. In the event that one party provides the other party with notice of its intention to terminate, the parties shall meet promptly to discuss the reasons for the notice and to try to resolve their differences amicably. The parties commit to using every reasonable means available, including the use of a neutral mediator if necessary, to try to avoid terminating this Agreement.

C. In the event that the County terminates this Agreement in mid-year, the County shall pay the Park a prorated portion of the current Agreement year amount after receipt from the Park of a bill of collection.

ARTICLE X — STANDARD CLAUSES

A. Civil Rights

All activities pursuant to this Agreement shall be in compliance with the requirements of Executive Order 11246; Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. Paragraphs 2000 det seq.); Title V, Section 504 of the Rehabilitation Act of 1973, as amended, (87 Stat. 394; 29 U.S.C. Paragraphs 2000 f et seq.); the Age Discrimination Act of 1975 (8d9 Stat. 728; 42 U.S.C. Paragraphs 6101 et seq.); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

B. Promotions

The County of Mariposa shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) which states or implies Governmental, Departmental, bureau, or Government employee endorsement of a product, service, or position which the County of Mariposa represents. No release of information relating to this Agreement may state or imply that the Government approves of the County of Mariposa's work product or considers the County of Mariposa's work product to be superior to other products or services.

C. Public Information Release
The County of Mariposa must obtain prior Government approval from the Superintendent of Yosemite National Park for any public information release which refers to the Department of the Interior, any bureau, park unit, or employee (by name or title), or to this Agreement. The specific text, layout, photographs, etc. of the proposed release must be submitted with the request for approval.

E. Assignment

No part of this Agreement shall be assigned to any other party without prior written approval of the NPS and the Assignee.

F. Officials Not to Benefit

Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.

G. Non-Exclusive Agreement

This Agreement in no way restricts the parties from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.

H. Survival

Any and all provisions which, by themselves or their nature, are reasonably expected to be performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement, shall survive expiration or termination of this Agreement.

I. Partial Invalidity

If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
ARTICLE XI — SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

FOR THE NATIONAL PARK SERVICE:

Signature: Woody Smell
Name: Woody Smell
Title: Acting Superintendent
       Yosemite National Park
Date: 12.14.16

FOR THE COUNTY OF MARIPOSA, CALIFORNIA:

Signature: Marshall Long
Name: Marshall Long
Title: Chair, Board of Supervisors
       Mariposa County
Date: 1/10/17

Approved as to Form:

Steve Dahlem
County Counsel