

COOPERATIVE FIRE PROTECTION AGREEMENT

Between

COUNTY OF TULARE

and

TULE RIVER INDIAN TRIBE

for

**USE OF RADIO FREQUENCIES,
EMERGENCY DISPATCH- COMMUNICATION SERVICES and
MUTUAL AID FIRE PROTECTION**

This is a COOPERATIVE FIRE PROTECTION AGREEMENT between TULARE COUNTY, hereinafter referred to as "COUNTY", and TULE RIVER INDIAN TRIBE, hereinafter referred to as "THE TRIBE OR TIA", and is entered into this _____ day of _____, 20_____.

WHEREAS, pursuant to Federal Communications Commission Rules and Regulations section 90.179, the sharing of radio frequencies is authorized; and

WHEREAS, pursuant to Government Code section 54981.7, the COUNTY and the TRIBE may enter into agreements for emergency dispatch and communication services; and

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. IDENTIFICATION

This Agreement is between the County of Tulare and the Tule River Indian Tribe, concerning fire protection on or near the Reservation.

2. AUTHORITY

This Agreement is prepared under the authority of the Cooperative Fire Protection Agreement (hereinafter called the Agreement) between the County and the Tule River Indian Tribe. This Agreement shall become the Understanding upon signature of all parties, and shall be reviewed and updated annually no later than May 1.

3. PURPOSE

This Agreement provides Emergency Responders of Interagency guidelines and information necessary to properly execute the terms of this Agreement.

4. DEFINITIONS

Unless the particular provisions or context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words used in this Agreement.

- (a) "Fire Protection Services" shall mean fire-fighting capability to contain, control, and extinguish fires and shall include first aid and rescue services.
- (b) "Requesting Party" shall mean any party to this Agreement that requests fire protection within the Agency Having Jurisdiction (AHJ) from the other party to this Agreement.
- (c) "Responding Party" shall mean any party to this Agreement that receives a request for fire protection within the jurisdiction of the requesting party.
- (d) "Unit" shall mean an engine company including apparatus, equipment and personnel.
- (e) "Dispatch" shall mean any radio traffic activity or request that causes the COUNTY Emergency Communications Center to engage on the behalf of the TIA.
- (f) "Closest available resources" shall mean any participating Mutual Aid fire agency's firefighting apparatus that is nearest in proximity to the location of the emergency activity.
- (g) "Mutual Aid" is defined as the provision of resources (personnel, apparatus and equipment) to a requesting party already engaged in emergency operations, which have exhausted or will shortly exhaust the local jurisdiction resources.
- (h) "Industrial Response" is an Interagency Incident Management Response to support Industrial Structure and Natural Disaster incidents.

- 5. GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County California.

- 6. DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through direct negotiation, the parties agree to try in good faith to settle the dispute by non-binding mediation, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties; otherwise each party shall bear its own costs of mediation. Nothing herein shall be construed as conferring any rights on third parties.
- 7. CONSTRUCTION:** This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.
- 8. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.
- 9. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.
- 10. ASSURANCES OF NON-DISCRIMINATION:** The COUNTY and THE TRIBE shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.
- 11. MUTUAL AID FIRE PROTECTION:** The COUNTY and THE TRIBE agree to furnish fire protection personnel, equipment, materials and supplies, and to render such fire protection services to each other as may be necessary to suppress fire that develops, or appears likely to develop, beyond the control of either of the parties and therefore requires assistance from the other, in accordance with this Agreement and Exhibit "A" which is attached hereto and incorporated herein by reference.

12. FURNISHING OF FIRE PROTECTION SERVICES: The responding party shall furnish fire protection services within the jurisdiction of the party requesting such service pursuant to the following provisions:

- a. The specific details of providing the services under the terms as specified in this agreement shall be determined by the Tulare County Fire Chief (or designee) and the Tule River Fire Chief (or designee) of the parties.
- b. The territories covered by this Agreement are the Reservation limits of Tule River Reservation including (Eagle Feather Trading Post properties), and the territory of the COUNTY (not to exceed Reservation Road and Road 296, or Success Valley Drive and Sunshine Drive) as identified in Exhibit C.
- c. As requested by the COUNTY, and upon receiving dispatch information, the TULE RIVER FIRE DEPARTMENT (TIA) will respond one (1) Unit into the COUNTY Area on any emergency related Incident.
- d. As requested by TIA, and upon receiving dispatch information, the COUNTY will respond two (2) Units into the Reservation Area on any fire or rescue related emergency dispatch, excluding emergency medical aid, as defined by the Tulare County Fire Department Standard Response Plan (Exhibit A-1).

EXCEPTION: When requested by TIA to respond, a COUNTY Water Tender (1 only), when available, will be dispatched for a free period not to exceed 12 hours from the time of dispatch. Additional Water Tender resources will be charged to the nearest one-half hour from time of dispatch. Rates are defined in Exhibit B.

- e. COUNTY, as the Operational Area Fire and Rescue (OES) Coordination Communication Center, shall assist TIA with additional emergency equipment requests by placing requests with the Operational Area Fire Department Mutual Aid participating agencies.
- f. When TIA makes a request of the COUNTY to dispatch the COUNTY's "closest available resources", then, TIA shall reimburse COUNTY for its apparatus and personnel related cost of the COUNTY response to the TIA emergency as outlined in Exhibit B. The County will invoice THE TRIBE for costs on reimbursable incidents on The Reservation.
- g. The responding party is not obligated to furnish any service if apparatus, equipment, personnel, or any combination thereof is not available as determined by the Fire Chief or his/her designated representative.

13. The first unit to arrive at the scene of the incident shall initiate appropriate action. The officer-in-charge of the first unit to arrive shall cause to be reported to the requesting party all pertinent information about the conditions encountered at the scene of the incident. In the case of TIA emergency calls, TIA staff shall maintain sole command as the AHJ.

14. **RADIO COMMUNICATIONS:** THE TRIBE agrees to acquire and maintain at its own expense radio communications equipment meeting Federal Communications Commission specifications to operate on the following frequencies. Said equipment shall be compatible with COUNTY Fire Operations.

Tulare County Fire (TLC) - 1
Transmit: 155.895, 154.010 Megahertz
Receive: 154.010, 154.010 Megahertz

TLC-2
Transmit: 158.925
Receive: 153.905

TLC-3
Transmit: 153.830
Receive: 153.830

OES Fire and Rescue
White Fire 1: 154.280, White Fire 2: 154.265 , and White Fire 3:
154.295

TIA agrees to the use of its assigned radio frequency as a tactical channel/frequency for those TIA incidents requiring expanded communications for emergency incident operations.

15. **RADIO EQUIPMENT:** With regards to equipment referred to in paragraph 14 of this Agreement, TIA shall be the licensee pursuant to Federal Communications Commission Rules and Regulations. The applications for authority to add to or modify station licenses shall be made by and in the name of the TULE RIVER TRIBAL COUNCIL.

- a. COUNTY authorizes the TIA to operate said equipment for test purposes and operational use.
- b. TIA agrees to operate and maintain said equipment in accordance with the rules and regulations of the Federal Communications Commission and the operations procedures established by the COUNTY. In the event of any violation by THE TRIBE of such rules and regulations or of any other law concerning the operation of said equipment, COUNTY may terminate this Agreement at any time.

16. EMERGENCY DISPATCH SERVICES: The COUNTY agrees to provide emergency dispatch and communications services, as the **sole provider** of said fire department dispatching service for non-wildland (forest/watershed fire) calls to THE TRIBE in accordance with this Agreement and Exhibit "B" which is attached hereto and incorporated herein by reference.

- a. For the purpose of consistent automated reporting and organization of emergency incident data, THE TRIBE must subscribe to the web based Emergency Reporting System (ERS).
- b. The COUNTY will provide dispatch services on all Wildland Fire Incidents until relieved by the Central California Interagency Communications Center (CCICC).

17. COST OF EMERGENCY DISPATCH SERVICES: In providing services pursuant to paragraph 12 of this Agreement, payment for services rendered shall be as follows:

- c. THE TRIBE agrees to pay the COUNTY for the cost of providing emergency dispatch and communication services to any TIA fire personnel or equipment.
- d. Costs for emergency dispatch and communication services shall be charged on a "per call" basis for each emergency incident handled within the boundaries of the TIA. Such cost shall be calculated by using the averaged cost of all COUNTY classifications of Emergency Dispatcher and the Supervising Dispatcher salaries, benefits, and budgeted overtime and budgeted extra-help values. The current "per dispatch" charge will be \$27.85. This charge is based upon averaging the employee hourly rate and multiplying by the 250 call minimum. The minimum amount THE TRIBE would pay to the COUNTY for emergency dispatch and communication services shall be \$6,961 a year for the first 250 dispatches. Any dispatches over 250 will be on the identified per dispatch basis. The rate per dispatch shall be periodically reviewed by the County Fire Chief. Any rate adjustment, as indicated by that review, shall be applied to the current service period beginning the 1st day of the following month. Notice of any rate changes shall be made in writing at the time of the change.

18. BILLING: For services provided in accordance with paragraph 12 ____ of this Agreement, the COUNTY shall bill THE TRIBE annually no later than July 21st of each year for the proceeding 12 month period (July1-June30) THE TRIBE shall pay the COUNTY no later than thirty (30) days from the date of the billing.

- 19. COUNTY STANDARDS:** In rendering of fire protection services, emergency dispatch and communication services by the COUNTY, the standards of performance including all work, the assignment and discipline of personnel, and other matters incidental to the performance of such services and the control of personnel so employed, shall remain with the County Fire Chief. In the event of a dispute between the parties concerning the extent of the duties and functions to be rendered under this Agreement or the level or manner of performance of such services, the determination made by the County Fire Chief shall be final and conclusive.
- 20. THE TRIBE STANDARDS:** In rendering of fire protection services by THE TRIBE, the standards of performance including all work, the assignment and discipline of personnel, and other matters incidental to the performance of such services and the control of personnel so employed, shall remain with the Tule River Fire Chief. In the event of a dispute between the parties concerning the extent of the duties and functions to be rendered under this agreement or the level or manner of performance of such services, the determination made by the TULE RIVER TRIBAL COUNCIL shall be final and conclusive.
- 21. EMPLOYEE STATUS:** No officers, agents, employees or volunteers of the Tulare County Fire Department shall be deemed to be TRIBAL COUNCIL employees or have any TRIBAL COUNCIL pension, civil service, or any status or right with regard to the TRIBAL COUNCIL. No officers, agents, employees or volunteers of the TRIBAL COUNCIL and TIA shall be deemed to be Tulare County employees or have any COUNTY pension, civil service, or any status or right with regard to the COUNTY.
- 22. TERMINATION:** Each party shall have the right to terminate this Agreement upon the default of the other party, such termination to be effective upon ninety (90) days written notice of termination to the defaulting party. Default occurs upon the failure of a party to remedy a default under the terms of this agreement within ninety (90) days after the non-defaulting party has given the other party written notice of a failure to comply and the nature thereof. Either party shall have the right to terminate this Agreement without cause upon 90 days prior written notice to the other party.
- 23. INDEMNIFICATION:** THE TRIBE shall hold harmless, defend and indemnify the COUNTY from any liability, claims, actions, costs, damages or losses, including those brought by a "third party", for injury, including death, to any person or damage to any property arising out of any activities by THE TRIBE or its employees, officers, agents and volunteers up to the limits of the TRIBE'S liability insurance policy, a certificate of which insurance is attached hereto. These obligations shall continue beyond the term of this Agreement as to any act which occurred during this Agreement.

The COUNTY shall hold harmless, defend and indemnify THE TRIBE from any liability, claims, actions, costs, damages or losses, including those brought by a "third party", for injury, including death, to any person or damage to any property arising out of any activities by COUNTY or its employees, officers, agents and volunteers. These obligations shall continue beyond the term of this Agreement as to any act which occurred during this Agreement.

24. AMENDMENT: This Agreement may be amended only by the mutual written consent of both parties.

25. INTEGRATION: This Agreement, upon its effective date, will supersede and replace any existing agreements between the parties with respect to emergency dispatch and communication services. Both parties acknowledge that the headings used herein are for reference only, and that the terms of the Agreement are set out in the text under such headings.

26. TERM OF AGREEMENT: This Agreement shall become effective on the 1st. day of July, 2009, and shall terminate on the 30th day of June, 2010, provided, however, such Agreement shall be extended for one or more consecutive terms of one (1) year each, upon the same terms and conditions which are applicable to the original term of the Agreement.


27. NOTICE: Any notice to be given hereunder shall be written and served either by personal delivery or by first-class mail, postage prepaid and properly addressed, as follows:

COUNTY: Board of Supervisors
County of Tulare
Administration Building
County Civic Center
2800 West Burrel
Visalia, CA 93291


TRIBAL COUNCIL: Chairman
Tule River Tribal Council
P.O. Box 589
Porterville, CA 93258

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

Approved as to Form:


 12/22/09

County Counsel 26641248
Approved as to Form

 01/06/2010

Tule River Tribal Council
Office of General Counsel
Approved as to Form

Board of Supervisors, Chairperson
County of Tulare



Tribal Chairman
Tule River Tribal Council

EXHIBIT "A"

MUTUAL AID FIRE PROTECTION

1. Mutual Aid fire protection shall be provided within the limits of the County of Tulare. However, neither party shall be required to reduce its own fire protection resources, personnel, services, and facilities to the detriment of its normal fire protection capability.
2. No response to a mutual aid request will be made by either the COUNTY or the TIA unless such request is received through the established communications channels common to each party and made by a responsible fire official of the party requesting such aid.
3. Mutual aid covers day-to-day operations only and shall not be in force and effect when a state of extreme emergency has been proclaimed and when the California Disaster and Civil Defense Master Mutual Aid Agreement becomes operative.
4. Specifically, Hazardous Materials incidents **are not covered** by this Agreement. THE TRIBE will be responsible for identifying the responding and reporting agency to all hazardous materials incidents within the Reservation Area. Any commitment of COUNTY Fire Department resources to this type of incident shall be approved by the on duty Tulare County Fire Department Duty Chief, and shall be reimbursable from time of dispatch. It is recommended that, Hazardous Materials First Responder Operational resources should be requested as outlined in the Tulare County Operational Area Hazardous Material Response Plan.

EXHIBIT A-1

Tulare County Fire Department Standard Response Plan

	<u>Abbreviation</u>	<u>Description</u>	<u>Response order</u>
	MEDICAL		
1	MED	Basic medical aids	1 P or 1 E
2	MVA	Traffic accident	1 E, 1 P or 2 E
3	MVAP	Traffic accident with pin-in	2 E, 1 BC
4	MIA	Industrial accident	2 E,
5	MOA	Assist other agency	Special Call
6	MNS	Unsecure scene - suicide attempt	1 P, if no Patrol in Station 1 E
7	MRES	Medical rescue - rescue, entrapment	1 E, 1 TRK, 1 BC
	SERVICE CALLS		
8	SMKCH	Smoke check	1 E
9	BURN	Burn /citizen complaint	1 P, if no Patrol in Station 1 E
10	HELP	Assist the public - pick up/put back, lockout	1 P, if no Patrol in Station 1 E
11	ALRM	Alarm sounding	1 E
12	DETEC	Check smoke detector	1 P, if no Patrol in Station 1 E
13	ANIMAL	Animal	1 P, if no Patrol in Station 1 E
14	FLOOD	Flooding	1 P, if no Patrol in Station 1 E
15	MISC	Miscellaneous calls	1 E
16	BRKHYD	Broken Hydrant	1 P, if no Patrol in Station 1 E
	FIRES		
17	FAGR	Agriculture fire - haystack, cotton module	3 E, 1 WT, 1 BC
18	FVEH	Vehicle fire	1 E, 1 P, or 2 E
19	FCOMV	Commercial vehicle - big rig, tractor	2 E
20	FSTR	Structure - shed, pole barn	3 E, 1 WT, 1 BC
21	FRES	Residence	3 E, 1 WT, 1 BC
22	FIND	Industrial/Commercial structure	3 E, 1 TRK, 1 BC
23	FGRS	Grass	1 E, 1 P or 2 E
24	FWLD	Wildland	1 E, 1 P, 1 WT, 1 BC or 2E, 1WT, 1BC
25	FAUTO	Auto aid	1 E
26	FMA	Mutual aid, assist other agencies	1 E
27	FDEB	Debris, trash	1 E
28	FOTR	Other - power pole, fence	1 E
29	EXPL	Explosion	2 E
	HAZARDS		
30	GAS	Flammable gas leak - propane, natural gas	1 E
31	PWR	Power lines down	1 E
32	FWORK	Fireworks	1 E
33	CHEM	Chemical spill/toxic leak - hazmat,	2 E, 1 BC
34	FLAM	Flammable liquids - gasoline, diesel	1 E,
35	ARCPWR	Arcing power lines	1 E,

EXHIBIT "B"

EMERGENCY DISPATCH AND COMMUNICATION SERVICES

COUNTY agrees to provide emergency dispatch and communication services, as the sole service provider, THE TRIBE as follows:

- a. Answer and interrogate emergency calls and callers 24 hours per day, 7 days per week, year round;
- b. Alert appropriate personnel, as designated by TIA, for emergency response.
- c. Monitor response and dispatch additional personnel and/or equipment as requested by the Incident Commander.

COUNTY BILLING RATES FOR PERSONNEL AND EQUIPMENT

Personnel:

All TULARE County Fire Department staff assigned under the terms and conditions of this agreement will have their time invoiced with the equipment they responded with.

Classification	Hourly Rate	Overtime Rate
Firefighter	\$ 8.50	N/A
Engineer	\$ 9.50	N/A
Fire Lieutenant	\$ 20.68	\$ 31.03
Fire Captain	\$ 24.93	\$ 37.39
Fire Battalion Chief	\$ 28.89	\$ 43.34
Fire Division Chief	\$ 47.38	\$ 71.08

Equipment:

Fire Engine

Less than 1,000 gpm pump	\$75.00 per hour
1000-1250 gpm pump	\$90.00 per hour
1251-1500 gpm pump	\$95.00 per hour
1501-2000+ gpm pump	\$105.00 per hour

Water Tender \$80.00 per hour: plus Operator time

Light Utility \$77.00 per day
(Sedan, PU, SUV, Van)

[illegible]

☐ Tribal Trust Land
☐ Tribal Land - Not in Trust





TULE RIVER TRIBAL COUNCIL TULE RIVER INDIAN RESERVATION

IN THE MATTER OF:

**To approve the Cooperative Fire Protection)
Agreement Between the County of Tulare and)
Tule River Indian Tribe for use of radio) RESOLUTION NO. FY2009-97
frequencies, emergency dispatch Communication)
Services and Mutual Aid Fire Protection)**

BE IT RESOLVED BY THE COUNCIL OF THE TULE RIVER INDIAN TRIBE:

WHEREAS, the Tule River Tribe is governed under a Constitution and Bylaws duly adopted and approved by the Secretary of the Interior on January 15, 1936; and

WHEREAS, the Tule River Tribal Council is empowered to exercise its inherent tribal sovereignty, except as limited by its Constitution and Bylaws; and

WHEREAS, Article VI, Section 1 (a) of the Tribal Constitution authorizes the governing body to enter into the negotiations with federal, state or local agencies on behalf of the Tribe; and

WHEREAS, pursuant to Government Code sections 6502 and 55632, and Health and Safety Code section 13050 et. Seq., the County of Tulare has power to provide fire protection services and desires to jointly exercise said power through an agreement with the Tule River Indian Tribe which would allow assistance on a "fee for hire" basis; and

WHEREAS, pursuant to Federal Communications Commission Rules and Regulations section 90.179, the sharing of radio frequencies is authorized; and

WHEREAS, pursuant to Government Code sections 51300 et. seq., and 6500 et. seq., the COUNTY may enter into agreements for emergency dispatch and communication services; and

NOW THEREFORE BE IT RESOLVED that the Tribe approves the COOPERATIVE FIRE PROTECTION AGREEMENT BETWEEN THE COUNTY OF TULARE AND TULE RIVER INDIAN TRIBE FOR USE OF RADIO FREQUENCIES, EMERGENCY DISPATCH-COMMUNICATION SERVICES AND MUTUAL AID FIRE PROTECTION (the "AGREEMENT") and authorizes the Tribal Chairman, or the Vice-Chairman if the Chairman is unavailable, to execute such AGREEMENT on behalf of the Tribe; and

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Resolution No. FY2009-97

NOW THEREFORE BE IT FURTHER RESOLVED that the territories covered by this Agreement are the Reservation limits of Tule River Reservation including (Eagle Feather Trading Post properties), and the territory of the COUNTY (not to exceed Reservation Road and Road 296, or Success Valley Drive and Sunshine Street); and

BE IT FURTHER RESOLVED that this resolution has not been amended or rescinded in any way.

CERTIFICATION

UPON MOTION OF COUNCIL MEMBER **Duane M. Garfield, Sr.**, SECONDED BY COUNCIL MEMBER **Amanda Sierra**, THE FOREGOING WAS ADOPTED BY THE TULE RIVER TRIBAL COUNCIL AT A DULY CALLED MEETING HELD ON **Thursday, August 13, 2009**, AT WHICH A QUORUM WAS PRESENT BY THE FOLLOWING VOTES:


AYES: 4

NOES: 0

ABSTAIN: 2



RYAN GARFIELD, CHAIRMAN
TULE RIVER TRIBAL COUNCIL

 (for)

AMANDA SIERRA, SECRETARY
TULE RIVER TRIBAL COUNCIL

ATTEST TO:



RECORDING SECRETARY