INTERAGENCY AGREEMENT

1. PARTIES

The Montana Department of Corrections (CORRECTIONS) and the **Montana Department of Natural Resources and Conservation, (DNRC)** enter into this Agreement (**IA-02-001-DNRC**). The parties name, address, and telephone number are as follows:

Montana Department of Corrections
Montana State Prison
1539 11th Avenue
PO Box 201301
Helena, Montana 59620-1301
(406) 444-3930

Montana Department of Natural Resources and Conservation
1627 11th Avenue
PO Box 201603
Helena, MT 59620-1603
(406) 444-2074

CORRECTIONS AND DNRC, AS PARTIES TO THIS AGREEMENT AND FOR THE CONSIDERATION SET FORTH BELOW, AGREE AS FOLLOWS:

2. DUTIES/RESPONSIBILITIES OF THE PARTIES

A. CORRECTIONS agrees to:

1. Provide a ten-member inmate fire crew (herein "inmate crew") and ten-member inmate back-up crew from Montana State Prison (MSP) to fight fires in the state of Montana for a period not to exceed fourteen (14) days per dispatch – excluding travel time. Only one, ten-member inmate crew will be dispatched at any given time. The dispatch may entail assignments to different locations, subject to the prior approval of the MSP fire crew coordinator or, in his absence, the Shift Commander. Upon completion of a 14-day dispatch, the inmate crew will receive a rest period of no less than 24 hours.

2. Provide three MSP staff members (herein, "security staff") to supervise the inmates and provide 24-hour security while on a fire assignment. The security staff shall receive training in fire safety and suppression, but will not engage in fire suppression activities. The sole function of the security staff is to provide supervision and control of the inmate crew.

3. Provide an inmate fire crew coordinator (herein, "MSP Coordinator"). The MSP Coordinator shall:

    a. Screen inmates for acceptability on the inmate crew in accordance with Department of Corrections Policy 5.1.3 – Adult Offender Participation in a Community Work Program, with exceptions as noted herein (copy attached). Screening shall include a physical assessment and medical clearance. Inmates convicted of arson, kidnapping, or a sexual offense will not be placed on the inmate crew.

    b. Coordinate training efforts with DNRC to ensure successful completion of all required DNRC training.

    c. Ensure preparedness of the inmate crew and security staff to dispatch, upon request, in a reasonable period of time.

d. Maintain a roster of eligible inmates and staff and request/arrange additional training from DNRC, as needed.

e. Prior to dispatch or repositioning of the fire crew, notify county law enforcement in the county where the crew will be located.

f. Be responsible for personal gear bag inventory at MSP.

4. Provide general and routine maintenance (i.e., chassis lubrication, oil changes, tire alignment and rotation, etc.) at its cost and expense, of the fire vehicles provided by DNRC. In addition, MSP will provide storage for the vehicles and one security staff to transport the inmate crew.

5. To perform further as set forth in this Agreement.

B. **DNRC agrees to:**

1. Provide fire suppression and safety training to the inmate crew and security staff prior to any request for dispatch. The training will be held on MSP property at least annually, prior to June 1, and will require a minimum of three days to complete. Completion of the required training will qualify an individual as a Firefighter under the guidelines of the National Wildfire Coordination Group (NWCG). Further, DNRC shall determine the necessity of conducting additional training sessions, requested by MSP, based on projected fire suppression needs.

2. Provide an appropriately trained and qualified crew boss (herein, "crew boss") to supervise all fire suppression activities of the inmate crew. The crew boss shall report to the prison to dispatch and return the inmate crew. The crew boss shall act as the official spokesperson for the inmate crew while on a fire assignment and assist the security staff to ensure the security of inmates and maintenance of public safety.

3. Provide all personal protective equipment (hardhats, nomex clothing, gloves, goggles, etc.) and fire suppression tools (shovels, pulaskis, etc.) necessary to properly equip the inmate crew and security staff for fire suppression duties; and three (3) handheld radios for fire crew communications.

   a. Each inmate crewmember shall be responsible for his work boots. A leather boot with a Vibram lug sole, or equivalent, and 8-inch top is required for fire suppression work. **Steel-toed work boots are not acceptable and shall not be worn.**

   b. DNRC will provide the inmate crew with uniquely colored hardhats that will specifically identify them as member of the MSP fire crew. The inmate crew will wear MSP-issued "blue" clothing while in camp.

4. Provide personal gear bags for all inmate crewmembers.

   a. These bags will be maintained and supplied by MSP with a fourteen-day supply of the necessary personal items and clothing. Personal gear bags will be stored in a designated secure storage area at MSP with the MSP Coordinator being responsible for inventory. The personal gear bags will contain the following items. 2 pairs of blue jeans, 2 blue shirts, 14 pairs of socks, 14 T-shirts, 14 briefs, 2 towels, 2 washcloths, 3 sets of thermal

underwear, 1 stocking hat, 1 prison parka, and/or 1 light weight prison jacket, 1 toothbrush, 1 toothpaste, 1 comb, 2 bars of soap, 1 bottle of shampoo, and 1 deodorant.

5. Provide vehicles and one person for transportation of the fire crew to and from the assigned fire location. Drivers must possess current and valid driver's licenses necessary for transporting the inmate crew in the vehicle. All costs for transportation of the fire crew will be borne by DNRC.

6. Provide all meals for the inmate crew and security staff while on a fire assignment.

7. Perform further as set forth in this Agreement.

C. The Parties further agree to the following:

1. **Security**

a. The security staff will make all security decisions concerning the inmate crew and that whether a decision impacts security rests in the sole discretion of the security staff. The security staff reserves the right to order the return of the inmate crew to the prison at any time. The occurrence of serious disciplinary infractions or security issues will result in the immediate termination of the fire assignment and the immediate return of the inmates to the institution.

b. Security staff will provide supervision of the inmates at all times.

c. DNRC will provide adequate segregation of the inmate crew and their belongings from all other fire fighters on the fire line and in fire camp. Whether segregation is adequate or necessary, in any context, rests in the sole discretion of the security staff.

d. Contact between inmates and members of the public, including other fire crews or staff members, within reason, is prohibited at the discretion of the security staff. This includes travel to and from the fire location and while at the fire location and in camp.

e. The inmate crew shall be kept together in close, physical proximity at all times.

f. The crew boss will distribute personal protective equipment and fire suppression tools. All tools and equipment given to inmates will be accounted for at the beginning and end of each day. In addition, the crew boss and security staff will account for all personal protective equipment and fire suppression tools upon return to the institution and prior to the inmates release back into the institution.

g. All inmate-required medications will be controlled and dispersed by security staffs.

2. **Training/Physical/Screening Requirements**

a. MSP will appropriately screen inmates and MSP staff prior to consideration for membership on the inmate fire crew.

b. As a prerequisite to receiving fire suppression and safety training, all inmates must receive medical clearance prior to engagement in any physical testing or training.

c. After receipt of proper medical clearance, each inmate and staff member must successfully complete NWCG training and the DNRC Pack Test to become eligible for the MSP fire crew.

d. All DNRC personnel assigned as a crew boss shall receive appropriate training by MSP relative to working with inmates. Training will take approximately four hours to complete and must be received prior to assignment to supervision of the inmate crew.

3. **Fire Dispatch and Notification Procedures**

a. All requests to dispatch the inmate crew shall initiate from the Southwest Montana Coordination Center (SMCC) to the Shift Commander at MSP. The Shift Commander will then notify the MSP Coordinator. If the coordinator cannot be reached, the Shift Commander will prepare the fire crew for dispatch and contact the designated security staff.

b. Personnel from SMCC will notify the Command Post of the County the fire is in and the approximate pick-up time of the fire crew, subject to modification by the Command Post.

3. COMPENSATION/BILLING

DNRC shall compensate CORRECTIONS for the services of the fire crew provided pursuant to Section [2]. Compensation will be paid in the following manner:

A. DNRC shall pay CORRECTIONS $5.15/hour for each inmate on the fire crew and $28.04/hour for all overtime hours (hours worked in excess of 40/week) earned by MSP security staff while on a fire assignment. DNRC shall also pay fire crewmembers for travel time to and from the assignment location.

i. CORRECTIONS will be responsible for payment of regular time (work hours up to 40 hours/week) wages of MSP security staff.

ii. DNRC shall pay CORRECTIONS for actual overtime costs incurred by replacement officers on POST due to a fire assignment.

B. The DNRC crew boss will be responsible for timekeeping of the security staff and inmates. This will be accomplished by using Crew Time Reports and, if necessary, individual Emergency Firefighter Time Reports. Overtime hours for security staff will be clearly delineated on the time reports. The crew boss and appropriate security staff will sign the time reports to verify their accuracy. A copy will be retained by the security staff for use by CORRECTIONS in developing the invoice that shall be submitted to the DNRC liaison listed in Section 5 of this Agreement. The original time report will be retained by the crew boss for use in auditing the invoice once submitted to DNRC. All invoices from CORRECTIONS to DNRC must itemize charges for individual security staff members and individual replacement officers. Charges for inmates will not normally need to be itemized by individual. All charges must also be itemized by calendar day and include the fire name and fire number - as shown on the time reports.

C. DNRC agrees to reimburse CORRECTIONS within 30 business days after receipt of invoice.

D. The Agreement number must be referenced on all invoices and correspondence pertaining to this Agreement.

4. TIME OF PERFORMANCE

This Agreement shall take effect upon receipt of the final signature and shall remain in effect until terminated by either party.

5. LIAISON AND NOTICE

A. Charlie Strong (846-1320 ext. 2484 or 2262) or successor serves as CORRECTIONS liaison. The mailing address is: MSP Fire Crew Coordinator, 400 Conley Lake Road, Deer Lodge, MT 59722.

The MSP Shift Commander can be reached at 846-1320 ext. 2250.

B. Terry Vaughn (563-6078) or successor serves as DNRC liaison. The mailing address is: Anaconda Unit – DNRC, 7916 Highway 1 West, Anaconda, MT 59711.

Outside of normal office hours the Anaconda Unit Fire Duty Officer can be reached by calling the Anaconda-Deer Lodge County 911 Center at 563-5241 and asking to have DNRC paged.

SMCC can be reached 24 hours/day at (406) 542-4280.

C. All notices and invoices required in this Agreement shall be in writing, properly addressed to the liaison in (A) and (B) above, mailed first-class, postage prepaid. All notices sent via U.S. Postal Service are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

6. HOLD HARMLESS AND INDEMNIFICATION

A. The parties agree that they are financially responsible (liable) for any audit exception or other financial loss due to the negligence, intentional acts, or failure for any reason to comply with the terms of this Agreement.

B. The parties agree to protect, defend, and save each party, its elected and appointed officials, agents and employees, while acting with the scope of their duties as such, harmless from and against all claims, and causes of action of any kind of character, including the cost of defense thereof, arising in favor of their employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of either party and/or its agents, employees, subcontractors, or representatives. Nothing herein shall be construed as an agreement by the parties to release, indemnify and hold harmless the parties, their officials, agents, or employees from liability for damage or injury to persons or property caused by the negligence, carelessness, or intentional acts of their officials, agents, or employees, unless said officials, agents, or employees are acting under the direction or control of a respective party.

7. ACCESS AND RETENTION OF RECORDS

A. The parties are required to maintain reasonable records of performance of duties pursuant to this Agreement.

B. The parties agree to provide the other party, the Legislative Auditor, or their authorized agent with access to records concerning this Agreement.

C. The parties agree to create and retain all records supporting the services rendered for a period of three years after completion of this Agreement or the conclusion of any claim, litigation, or exception relating to this Agreement taken by the State of Montana or a third party.

8. PUBLIC INFORMATION

The parties recognize that this Agreement may be subject to public inspection pursuant to Article 2, § 9 of the Montana Constitution. The parties have a limited ability to assert a privacy interest in the subject matter of the Agreement particularly with respect to information, which is in the nature of a "trade secret" as the phrase is defined in federal law. The parties agree to hold each other harmless from any injury caused, in whole or in part, by the review of this Agreement by an entity authorized to do so pursuant to Article 2, § 9 of the Montana Constitution.

9. AMENDMENTS

All amendments to this Agreement shall be in writing and signed by the parties.

10. COMPLIANCE WITH LAWS

The parties must comply with all applicable federal and state law including, but not limited to the prevailing wage laws, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, the Section 504 of the Rehabilitation Act of 1973.

11. TERMINATION

This Agreement may be terminated with 30 days written notice from either party to the other.

12. CHOICE OF LAW AND VENUE

This Agreement is governed by the laws of Montana. The parties agree that any mediation, arbitration or litigation concerning this Agreement must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana.

13. FREEDOM FROM DISCRIMINATION

All parties of this Agreement agree that all hiring must be done on the basis of merit and qualifications. There may be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the person or persons performing the Agreement.

14. LICENSURE

Each party agrees to be financially responsible for licenses, permits, and certifications necessary to operate under this Agreement.

15. INTEGRATION

This Agreement contains the entire agreement between the parties and no statement, promises, or inducements made by either party or agents thereof, which are not contained in the written Agreement, shall be binding or valid. This Agreement shall not be enlarged, modified, or altered except upon written agreement signed by all parties to the Agreement.

16. SEVERABILITY

If any single part, or parts, of this Agreement are determined void, the remaining parts remain valid and operative.

17. NON-WAIVER

The waiver of failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision.

IN WITNESS THEREOF, the parties have entered into and executed this Agreement:

SIGNATURES

CORRECTIONS

Bill Slaughter

Bill Slaughter, Director

4/8/02

Date

Mike Mahoney

Mike Mahoney, Warden
Montana State Prison

4/10/02

Date

DNRC

Bud Clinch

Bud Clinch, Director

5-25-02

Date

Don Artley

Don Artley, Administrator
Forestry Division

5/14/02

Date