

SUBJECT: AUTOMATIC AID COOPERATIVE FIRE PROTECTION AGREEMENT

SOURCE: FIRE DEPARTMENT

COMMENT: In May of 2004, the Porterville Fire Department entered into an agreement with the Tulare County Fire Department for the provision of fire and rescue automatic aid. The initial one-year term was automatically extended for an additional ten years. The 2015 proposed cooperative fire protection agreement has an initial term of two years, with automatic extension for one or more consecutive terms of one year each, upon the same terms and conditions.

The revised cooperative fire protection agreement includes general housekeeping related to definitions, descriptions, and headings. It addresses expansion of the city limit boundary during the previous ten years and it provides for automatic fire and rescue assistance on major transportation corridors between the City of Porterville and the Tule River Reservation. This enables the Porterville Fire Department to respond with its specialized heavy rescue unit to any incident involving mass transit vehicles along the transportation corridors to and from the Tule River Reservation.

RECOMMENDATIONS: That the City Council

- 1) Approve the Cooperative Fire Protection Agreement; and
- 2) Authorize the Mayor and City Attorney to sign six copies of the agreement and forward to the County Fire Chief for Tulare County Board of Supervisors signature.

ATTACHMENTS: 1) Cooperative Fire Protection Agreement between the County of Tulare and the City of Porterville.

Dir. 

Approp./ Funded n/a

CM 

Item No. 10

COOPERATIVE FIRE PROTECTION AGREEMENT
Between
COUNTY OF TULARE
And
CITY OF PORTERVILLE

This is an AUTOMATIC AID COOPERATIVE FIRE PROTECTION AGREEMENT between TULARE COUNTY, hereinafter referred to as COUNTY, and the CITY OF PORTERVILLE, hereinafter referred to as CITY, and is entered into this 1st day of April, 2015.

WHEREAS, pursuant to Government Code section 6500 et seq., and Health and Safety Code section 13050, the COUNTY and CITY desire to render aid to each other in combating fires when such aid is necessary; and

WHEREAS, pursuant to Government Code sections 6502 and 55632, and Health and Safety Code section 13050 et seq., the parties have the common power to provide fire protection services and desire to jointly exercise said power through an agreement which would allow assistance; and

WHEREAS, the purpose of this Agreement is to provide for the rendering of assistance whenever fires or emergency incidents may occur within certain areas of the jurisdictions of the parties which, due to the location, or size of the fires, or other emergency incidents, such fires or emergency incidents cannot be adequately responded to and handled by the fire department of the party having jurisdiction without additional assistance; and

NOW, THEREFORE, BE IT AGREED as follows:

1. **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 the Agreement.
 - a. "Fire protection services" shall mean fire fighting capacity to contain, control, and extinguish fires, and shall include rescue calls.
 - b. "Rescue calls" shall mean, but are not limited to, traffic accidents, high angle rescue, low angle rescue, building collapse, etc., and shall specifically exclude emergency medical aid calls.
 - c. "Requesting party" shall mean any party to this Agreement that requests fire protection services within its jurisdiction from the other party to this Agreement.
 - d. "Responding party" shall mean any party to this Agreement that receives a request for fire protection within the jurisdiction of the requesting party.
 - e. "Unit" shall mean an engine, rescue vehicle or truck company including apparatus, equipment, and personnel.

- 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. "Automatic Aid" shall mean that the CITY and COUNTY agree to furnish fire protection personnel, equipment, materials and supplies and to render such fire protection services to each other as may be necessary in accordance with this Agreement and Exhibit "A" which is attached hereto and incorporated herein by reference.
 - h. "Agency Having Jurisdiction" shall mean the Agency with Jurisdiction over the territory where the fire or incident occurs.
- 2. **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.
- 3. **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 negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, 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. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.
- 4. **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.
- 5. **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.
- 6. **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.

7. **ASSURANCES OF NON-DISCRIMINATION:** CITY/COUNTY 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.
8. **FURNISHING OF FIRE PROTECTION SERVICES:** The responding party shall furnish fire protection services within the jurisdiction of the party requesting such services pursuant to the following provisions:
- a. The CITY and COUNTY agree to furnish fire protection personnel, equipment, materials, supplies, and to render such fire protection services to each other as may be necessary to suppress fire of a size and or complexity beyond the control of either party hereto acting without the assistance of the other, and the control of which therefore requires the assistance from the other as displayed in Exhibit "A".
 - b. The specific details of providing the services under the term as specified in this Agreement shall be determined by each respective Fire Chief.
 - c. The territories covered by this Agreement are the city limits of the City of Porterville, the major transportation routes between the city of Porterville and the Tule River Indian Reservation and the territory of the County of Tulare as defined in Exhibit "B."
 - d. 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.
 - e. 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. The first unit to arrive at the scene from the appropriate jurisdiction will become the Incident Commander. Requests for additional equipment over and above the initial County/City response shall be made by the fire officer-in-charge until the arrival of the Incident Commander who shall then make such requests. Such equipment shall be furnished pursuant to the Countywide Master Mutual Aid Agreement.
 - f. Except as may be provided by separate written agreement between the parties hereto, the assurance of mutual aid set forth herein shall constitute the sole consideration for the performance hereof, and neither party shall be obligated to reimburse hereunder, or for any use of material, damage to equipment, or liability incurred which may occur in the course of rendering the fire fighting assistance herein provided for.
 - g. Nothing contained herein shall be construed as a contract in law or equity for the benefit of any third party, which may be affected by the Agreement.

- h. Nothing contained herein shall affect either party's responsibility to provide worker's compensation insurance or protection for its employees.
 - i. This Agreement shall subrogate all previous fire protection service agreements made between CITY and COUNTY. This is a furtherance of the "California Disaster and Civil Defense Master Mutual Aid Agreement."
- 9. **COUNTY STANDARDS:** In rendering the fire protection services and/or rescue 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 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 of County employees, the determination made by the County Fire Chief shall be final and conclusive.
- 10. **CITY STANDARDS:** In rendering the fire protection services and/or rescue services by the City, the standards of performance including all work, the assignment and discipline of personnel, and other matters incidental to the performance of such personnel so employed shall remain with the City 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 of City employees, the determination made by the City Fire Chief shall be final and conclusive.
- 11. **EMPLOYEE STATUS:** No officers, agents, employees of the County Fire Chief or County Extra-Help Firefighters shall be deemed to be City employees or have any City pension, civil service, or any status or right with regard to the City of Porterville. No officers, agents or employees of the City of Porterville Fire Department or City reserve firefighters shall be deemed to be County employees or have any County pension, civil service, or any status or right with regard to the County of Tulare.
- 12. **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.
- 13. **INDEMNIFICATION:** To the fullest extent permitted by law, the CITY 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 CITY 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. To the fullest extent permitted by law, the County shall hold harmless, defend and indemnify the CITY 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 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.

14. **AMENDMENT:** The Agreement may only be amended by mutual written consent of both parties.

15. **TERM OF AGREEMENT:** This Agreement shall become effective on the 1st day of April 2015 and shall terminate on the 1st day of April of 2017, provided, however, such Agreement shall automatically be extended for one or more consecutive terms of one year each, upon same terms and conditions which are applicable to the original terms of the Agreement.

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

COUNTY: Tulare County Fire Chief
907 W. Visalia Road
Farmersville, CA 93223

CITY: City Manager
City of Porterville
291 N. Main Street
Porterville, CA 93257

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

APPROVED AS TO FORM:

County Counsel
County of Tulare

City Attorney
City of Porterville

Board of Supervisors, Chairperson
County of Tulare

City Council, Mayor
City of Porterville

EXHIBIT "A"

1. The intent of this agreement is to allow both the Tulare County Fire Department and the City of Porterville Fire Department to achieve an effective and immediate initial fire attack. This automatic fire protection agreement is not intended to relieve the Authority Having Jurisdiction from responding to an incident. In its simplest terms, the "closest two fire engines" will be dispatched to the fire or rescue call.
2. For all intents and purposes, the Agreement is intended to be an "Automatic Aid" and does not impact the terms or conditions of the Master Mutual Aid Agreement.
3. Fire protection personnel, furnished by one party to the other party, will work as far as possible, under their own supervisors. Equipment furnished by one party to the other party will ordinarily be operated by personnel of the party furnishing the equipment. General directions relative to the work will be given by the Incident Commander or his/her designee.
4. The geographical area applicable to this Agreement is Avenue 182 to the North, Road 272 to the East, Avenue 128 to the South and Road 216 to the West. This in effect, squares off the city of Porterville and the surrounding County Area. That area is outlined on Exhibit B as attached hereto.
5. Automatic aid will be dispatched to fire calls, and rescue calls, but not to emergency medical calls.
6. Automatic aid will consist of the two closest fire engines, one from the CITY, and one from the COUNTY.
7. The CITY engine will be staffed with three fire fighters while the COUNTY engine will be staffed according to the COUNTY staffing policy and their Extra-Help Firefighters will be dispatched to assure sufficient parity in personnel.
8. Should a "major" incident occur in the jurisdiction of the engines responding to render aid to the other jurisdiction, the responding unit may return to their jurisdiction after notifying the other party of their inability to respond.
9. Both parties agree to schedule quarterly training drills for the firefighters affected by this Agreement. Each party shall be responsible for providing the quarterly training for their own personnel.

EXHIBIT B

Response Area

TCFD/Porterville Automatic Aid Boundaries

