

**A COOPERATIVE AGREEMENT
TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE, FIRE MARSHAL
AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF LAKE ELSINORE**

THIS AGREEMENT, made and entered into this ____ day of _____, 2023, by and between the County of Riverside, a political subdivision of the State of California, on behalf of the Fire Department (hereinafter referred to as "COUNTY"), and the City of Lake Elsinore a municipal corporation (hereinafter referred to as "CITY"), whereby it is agreed as follows:

SECTION I: PURPOSE

A. The purpose of this Agreement is to arrange for COUNTY, through its Cooperative Fire Programs Fire Protection Reimbursement Agreement ("CAL FIRE Agreement") with the California Department of Forestry and Fire Protection ("CAL FIRE"), to provide CITY with fire protection, hazardous materials mitigation, technical rescue response, fire marshal, medical emergency services, and public service assists (hereinafter referred to as "Fire Services"). This Agreement is entered into pursuant to the authority granted by Government Code sections §55600 et seq., and will provide a unified, integrated, cooperative, regional fire protection system. COUNTY's ability to perform under this Agreement is subject to the terms and conditions of the CAL FIRE Agreement.

B. As part of the negotiations and in consideration of the cost for providing Fire Services in both the City and the County, the CITY and COUNTY desire to share costs related to the staffing of Station #97. Station #97 will provide services to the City of Lake Elsinore as well as to the unincorporated territory in the County of Riverside.

C. For the purpose of the staffing, the Parties agree as follow:

1. The CITY will pay for the cost of three (3) Fire Apparatus Engineers, three (3) Firefighter II's and three (3) Medic Firefighter II's at the rate specified in the "Exhibit A".
2. The COUNTY will pay for the cost of three (3) Fire Captains at the rate specified in the "Exhibit A".

SECTION II: DESIGNATION OF FIRE CHIEF

A. The County Fire Chief appointed by the Board of Supervisors, or his/her designee (hereinafter referred to as "Chief") shall represent COUNTY and CITY during the period of this Agreement, and Chief shall, under the supervision and direction of the County Board of Supervisors, have charge of the organization described in Exhibit "A", attached hereto and made a part hereof, for the purpose of providing Fire Services as deemed necessary to satisfy the needs of both the COUNTY and CITY, except upon

those lands wherein other agencies of government have responsibility for the same or similar Fire Services.

B. The COUNTY will assign an existing Chief Officer as the Fire Department Liaison (hereinafter referred to as "Fire Liaison"). The Chief may delegate certain authority to the Fire Liaison, as the Chief's duly authorized designee and the Fire Liaison shall be responsible for directing the Fire Services provided to CITY as set forth in Exhibit "A".

C. COUNTY will be allowed flexibility in the assignment of available personnel and equipment in order to provide the Fire Services as agreed upon herein.

SECTION III: PAYMENT FOR SERVICES

A. CITY shall annually appropriate a fiscal year budget to support the Fire Services designated at a level of service mutually agreed upon by both parties and as set forth in Exhibit "A" for the term of this Agreement. This Exhibit may be amended in writing by mutual agreement by both parties or when a CITY-requested increase or reduction in services is approved by COUNTY.

B. COUNTY provides fire personnel and services through its CAL FIRE Agreement. In the event CITY desires an increase or decrease in CAL FIRE or COUNTY civil service employees or services assigned to CITY as provided for in Exhibit "A," CITY shall provide one hundred twenty (120) days written notice of the proposed requested increase or decrease. Proper notification shall include the following: (1) The total amount of increase or decrease; (2) The effective date of the increase or decrease; and (3) The number of employees, by classification, affected by the proposed increase or decrease. If such notice is not provided, CITY shall reimburse COUNTY for relocation costs incurred by COUNTY because of the increase or decrease, in addition to any other remedies available resulting from the increase or decrease in services. COUNTY is under no obligation to approve any requested increase or decrease, and it is expressly understood by the parties that in no event will COUNTY authorize or approve CITY's request to reduce services below the COUNTY Board of Supervisors-approved staffing level for any fire station, or to reduce services to the extent that the services provided under this Agreement are borne by other jurisdictions. COUNTY shall render a written decision on whether to allow or deny the increase or decrease within thirty (30) days of the notice provided pursuant to this section.

C. CITY shall pay COUNTY actual costs for Fire Services pursuant to this Agreement. COUNTY shall make a claim to CITY for the actual cost of contracted services, pursuant to Exhibit "A," on a quarterly basis. The COUNTY is mandated per Government Code section §51350 for full cost recovery. CITY shall pay each claim, in full, within thirty (30) days after receipt thereof.

D. Any changes to the salaries or expenses set forth in Exhibit "A" made necessary by action of the Legislature, CAL FIRE, or any other public agency with

authority to direct changes in the level of salaries or expenses, shall be paid from the funds represented as set forth in Exhibit "A." The CITY is obligated to expend or appropriate any sum in excess of Exhibit "A" increased by action of the Legislature, CAL FIRE, or any other public agency with authority to direct changes. If within thirty (30) days after notice, in writing, from COUNTY to CITY that the actual cost of maintaining the services specified in Exhibit "A" as a result of action by the Legislature, CAL FIRE, or other public agency will exceed the total amount specified therein, and CITY has not agreed to make available the necessary additional funds, COUNTY shall have the right to unilaterally reduce the services furnished under this Agreement by an appropriate amount and shall promptly notify CITY, in writing, specifying the services to be reduced. Any COUNTY or CAL FIRE personnel reduction resulting solely due to an increase in employee salaries or expenses occurring after signing this Agreement and set forth in Exhibit "A" that CITY does not agree to fund, as described above, shall not be subject to relocation expense reimbursement by CITY. If CITY desires to add funds to the total included herein to cover the cost of increased salaries or services necessitated by actions described in this paragraph, such increase shall be accomplished by an additional appropriation by the City Council of CITY, and an amendment to Exhibit "A" approved by the parties hereto.

E. Chief may be authorized to negotiate and execute any amendments to Exhibit "A" or Exhibit "C" of this Agreement on behalf of COUNTY as authorized by the Board of Supervisors. CITY shall designate a "Contract Administrator" who shall, under the supervision and direction of CITY, be authorized to execute amendments to Exhibits "A" or "C" on behalf of CITY.

F. _____ [X] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "B" are incorporated herein and shall additionally apply to this agreement regarding payment of services.

G. _____ [X] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "C" are incorporated herein and shall additionally apply to this agreement regarding payment for the Fire Engine Use Agreement.

H. _____ [X] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "D" are incorporated herein and shall additionally apply to this agreement regarding payment for Fire Marshall Services.

I. Notwithstanding Paragraph G, as it relates to the Fire Engine Use Agreement herein if applicable, additional terms as set forth are incorporated herein and shall additionally apply to this Agreement regarding payment of services. In the event that a fire engine, owned and maintained by the CITY has a catastrophic failure, the COUNTY Fire Chief may allow use of a COUNTY fire engine, free of charge, up to one hundred twenty (120) days. After the initial one hundred twenty (120) days, a rental fee will be applied to the CITY invoice for use of said COUNTY fire engine. The rental fee shall be Two Thousand Fifty-Five Dollars (\$2,055) per day; or Fourteen Thousand Three Hundred Eighty-Four Dollars (\$14,384) per week.

J. Notwithstanding Paragraph H, as it relates to Fire Marshal services herein, if applicable, additional terms as set forth are incorporated herein and shall additionally apply to this agreement regarding Fire Marshal services. In the event the CITY elects not to use Fire Marshal services outlined in Paragraph H (Exhibit D), the services must be provided by the COUNTY Office of the Fire Marshal pursuant to Health and Safety Code sections 13145 and 13146 at a cost to the owner as outlined in COUNTY Ordinance No. 671 (Establishing Consolidated Fees for Land Use and Related Functions).

SECTION IV: INITIAL TERM AND AMENDMENT

A. The term of this Agreement shall be from July 1, 2023, to June 30, 2026.

B. One (1) year prior to the date of expiration of this Agreement, CITY shall give COUNTY written notice of whether CITY intends to enter into a new Agreement with COUNTY for Fire Services and, if so, whether CITY intends to request a change in the level of Fire Services provided under this Agreement.

SECTION V: TERMINATION

During the term of this Agreement, this Agreement may only be terminated by the voters of either the COUNTY or the CITY pursuant to Government Code §55603.5.

SECTION VI: COOPERATIVE OPERATIONS

All Fire Services contemplated under this Agreement shall be performed by both parties to this Agreement working as one unit; therefore, personnel and/or equipment belonging to either CITY or COUNTY may be temporarily dispatched elsewhere from time to time for mutual aid.

SECTION VII: MUTUAL AID

Pursuant to Health and Safety Code sections 13050 et seq., when rendering mutual aid or assistance, COUNTY may, at the request of CITY, demand payment of charges and seek reimbursement of CITY costs for personnel, equipment use, and operating expenses as funded herein, under authority given by Health and Safety Code sections 13051 and 13054. COUNTY, in seeking said reimbursement pursuant to such request of CITY, shall represent the CITY by following the procedures set forth in Health and Safety Code section 13052. Any recovery of CITY costs, less actual expenses, shall be paid or credited to the CITY, as directed by CITY.

In all such instances, COUNTY shall give timely notice of the possible application of Health and Safety Code sections 13051 and 13054 to the officer designated by CITY.

SECTION VIII: SUPPRESSION COST RECOVERY

As provided in Health and Safety Code section 13009, Riverside County Ordinance No. 787, section 5.E.2., and California Fire Code, COUNTY may bring an action for collection of suppression costs of any fire caused by negligence, violation of law, or failure to correct noticed fire safety violations. Additionally, COUNTY may bring action for collection to any person who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code section 53150, et seq., as may be amended from time to time. When using CITY equipment and personnel under the terms of this Agreement, COUNTY may bring such actions for collection of costs incurred by CITY and the COUNTY. In such a case, CITY appoints and designates COUNTY as its agent in said collection proceedings. In the event of recovery, COUNTY shall apportion the recovered amount via the annual Cost Allocation Plan. This recovery does not include CITY resources outside of this Cooperative Agreement. Those resources would require the CITY to obtain cost recovery directly.

In all such instances, COUNTY shall give timely notice of the possible application of Health and Safety Code section 13009 to the officer designated by CITY.

SECTION IX: PROPERTY ACCOUNTING

All personal property provided by CITY and by COUNTY for the purpose of providing Fire Services under the terms of this Agreement shall be marked and accounted for in such a manner as to conform to the standard operating procedure established by the COUNTY for the segregation, care, and use of the respective property of each.

SECTION X: FACILITY

CITY shall provide Fire Station(s), strategically located to provide standard response time within the City of Lake Elsinore from which fire operations shall be conducted. If the Fire Station(s) are owned by the CITY, the CITY shall maintain the facilities at CITY's cost and expense. In the event CITY requests COUNTY to undertake repairs or maintenance costs or services, the costs and expenses of such repairs or maintenance shall be reimbursed to COUNTY through the Support Services Cost Allocation, or as a direct Invoice to the CITY.

SECTION XI: INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by applicable law, COUNTY shall and does agree to indemnify, protect, defend and hold harmless CITY, its agencies, districts, special districts and departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives (collectively, "**Indemnitees**") for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or

otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (1) the Services performed hereunder by COUNTY, or any part thereof, (2) the Agreement, including any approved amendments or modifications, or (3) any negligent act or omission of COUNTY, its officers, employees, subcontractors, agents, or representatives (collectively, "**Liabilities**"). Notwithstanding the foregoing, the only Liabilities with respect to which COUNTY's obligation to indemnify, including the cost to defend, the Indemnitees does not apply is with respect to Liabilities resulting from the negligence or willful misconduct of an Indemnitee, or to the extent such claims do not arise out of, pertain to or relate to the Scope of Work in the Agreement.

To the fullest extent permitted by applicable law, CITY shall and does agree to indemnify, protect, defend and hold harmless COUNTY, its agencies, departments, directors, officers, agents, Board of Supervisors, elected and appointed officials and representatives (collectively, "**Indemnitees**") for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (1) the services performed hereunder, by CITY, or any part thereof, (2) the Agreement, including any approved amendments or modifications, or (3) any negligent act or omission of CITY its officers, employees, subcontractors, agents, or representatives (collectively, "**Liabilities**"). Notwithstanding the foregoing, the only Liabilities with respect to which CITY's obligation to indemnify, including the cost to defend, the Indemnitees does not apply is with respect to Liabilities resulting from the negligence or willful misconduct of an Indemnitee, or to the extent such claims do not arise out of, pertain to or relate to the Scope of Work in the Agreement.

SECTION XII: AUDIT

A. COUNTY and CITY agree that their designated representative shall have the right to review and to copy any records and supporting documentation of the other party hereto pertaining to the performance of this Agreement. COUNTY and CITY agree to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated or as required by law, and to allow the auditor(s) of the other party access to such records during normal business hours. COUNTY and CITY agree to a similar right to audit records in any subcontract related to performance of this Agreement. (E.g., Gov. Code, §8546.7).

B. Each party shall bear its own costs in performing a requested audit.

SECTION XIII: DISPUTES

CITY shall select and appoint a "Contract Administrator" who shall, under the supervision and direction of CITY, be available for contract resolution or policy intervention with COUNTY, when, upon determination by the Chief that a situation exists under this Agreement in which a decision to serve the interest of CITY has the potential to conflict with COUNTY interest or policy. Any dispute concerning a question of fact

arising under the terms of this Agreement which is not disposed of within a reasonable period of time by the CITY and COUNTY employees normally responsible for the administration of this Agreement shall be brought to the attention of the Chief Executive Officer (or designated representative) of each organization for joint resolution. For purposes of this provision, a "reasonable period of time" shall be ten (10) calendar days or less. CITY and COUNTY agree to continue with the responsibilities under this Agreement during any dispute. Disputes that are not resolved informally by and between CITY and COUNTY representatives may be resolved, by mutual agreement of the parties, through mediation. Such mediator will be jointly selected by the parties. The costs associated with mediator shall be shared equally among the participating parties. If the mediation does not resolve the issue(s), or if the parties cannot agree to mediation, the parties reserve the right to seek remedies as provided by law or in equity. The parties agree, pursuant to *Battaglia Enterprises v. Superior Court* (2013) 215 Cal.App.4th 309, that each of the parties are sophisticated and negotiated this agreement and this venue at arm's length. Pursuant to this Agreement, the parties agree that venue for litigation shall be in the Superior Court of Riverside County. Should any party attempt to defeat this section and challenge venue in Superior Court, the party challenging venue stipulates to request the Court change venue to San Bernardino County and shall not ask for venue in any other County.

Any claims or causes of actions, whether they arise out of unresolved disputes as specified in this section or claims by third parties that are made against the COUNTY, shall be submitted to the Office of the Clerk of the Board for the County of Riverside in a timely manner. For claims made against the COUNTY that involve CAL FIRE employees, to the extent permissible under the COUNTY's contract with CAL FIRE, the claims will be forwarded on to CAL FIRE for processing.

SECTION XIV: ATTORNEYS' FEES

If CITY fails to remit payments for services rendered pursuant to any provision of this Agreement, COUNTY may seek recovery of fees through litigation, in addition to all other remedies available.

In the event of litigation between COUNTY and CITY to enforce any of the provisions of this Agreement or any right of either party hereto, the unsuccessful party to such litigation agrees to pay the prevailing party's costs and expenses, including reasonable attorneys' fees, all of which shall be included in and as a part of the judgment rendered in such litigation.

SECTION XV: DELIVERY OF NOTICES

Any notices to be served pursuant to this Agreement shall be considered delivered when deposited in the United States mail and addressed to:

COUNTY OF RIVERSIDE
Riverside County Fire Chief
210 West San Jacinto Avenue
Perris, CA 92570

CITY OF LAKE ELSINORE
City Manager
City of Lake Elsinore
130 South Main Street
Lake Elsinore, CA 92530

Provisions of this section do not preclude any notices being delivered in person to the addresses shown above. Delivery in person shall constitute service hereunder, effective when such service is made.

SECTION XVI: ELECTRONIC SIGNATURE

This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code, §§ 1633.1 to 1633.17), for executing this Agreement. The Parties further agree that the electronic signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

SECTION XVII: ENTIRE CONTRACT

This Agreement contains the whole contract between the parties for the provision of Fire Services. It may be amended or modified upon the mutual written consent of the parties hereto where in accordance with applicable state law. This Agreement does NOT supplement other specific agreements entered into by both parties for equipment or facilities, and excepting those equipment or facilities agreements, this Agreement cancels and supersedes any previous agreement for the same or similar services.

[Signature Provisions on following page]

IN WITNESS, WHEREOF, the duly authorized officials of the parties hereto have, in their respective capacities, set their hands as of the date first hereinabove written.

CITY OF LAKE ELSINORE

Dated: _____

By: _____
Natasha Johnson, City Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Candice Alvarez, City Clerk

By: _____
Barbara Leibold, City Attorney

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

KIMBERLY RECTOR
Clerk of the Board

MINH C. TRAN,
County Counsel

By: _____
Deputy

By: _____
MELISSA R. CUSHMAN
Deputy County Counsel