

AGREEMENT BETWEEN THE COUNTY OF SAN DIEGO AND JULIAN CUYAMACA
FIRE PROTECTION DISTRICT

County Contract NO:

This Agreement is entered into on December 16, 2015 by and between the County of San Diego (COUNTY), a political subdivision of the State of California with its administrative headquarters at 1600 Pacific Highway, San Diego, California 92101, and Julian Cuyamaca Fire Protection District (DISTRICT), with headquarters located at 2645 Farmer Road, Post Office Box 33, Julian, CA 92036-0033.

RECITALS:

A. WHEREAS, the fire protection DISTRICT provides fire protection, prevention and important health and safety services to the residents and their property in certain unincorporated areas of San Diego County; and

B. WHEREAS, the COUNTY, by action of the Board of Supervisors on June 18, 2013, Minute Order No. 4, authorized the Clerk of the Board of Supervisors to negotiate new contracts and amend existing contracts with Fire Protection Districts to improve fire protection, prevention and emergency response services in their areas; and

C. WHEREAS, the COUNTY and its San Diego County Fire Authority (SDCFA), are authorized to support DISTRICT'S efforts in providing fire protection and prevention services; and

D. WHEREAS, COUNTY has entered into an Agreement for fire protection service with California State Department of Forestry and Fire Protection (CAL FIRE) to provide fire protection services within certain unincorporated areas; and

E. WHEREAS, COUNTY and DISTRICT will mutually benefit from sharing the resources and expertise related to fire protection and prevention services; and

F. WHEREAS, COUNTY and DISTRICT seek to enter into an Agreement in which sets forth the terms and conditions on which COUNTY and DISTRICT will share fire protection and prevention resources and exchange of funding; and

G. WHEREAS, this Agreement shall consist of the Agreement and Exhibit A, Statement of Work.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. COUNTY PROVIDED SERVICES FOR DISTRICT: During the term of this agreement COUNTY shall provide additional fire protection and emergency medical services, as described in the Exhibit A, Statement of Work, within the DISTRICT.
2. DISTRICT OPERATION: During the term of this agreement DISTRICT will:

- A. Provide fire and emergency medical services, as described in the Exhibit A, Statement of Work, following the State Incident Command System, as dispatched.
 - B. Pay all ongoing DISTRICT operating costs,
 - C. Pay all equipment/apparatus replacement, and fleet maintenance costs for DISTRICT owned apparatus.
3. AVAILABILITY OF FUNDS: COUNTY'S obligation for continuation of the CAL FIRE Schedule A 4142 Contract beyond the current fiscal year is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of the calendar year unless funds are designated by the COUNTY and are made available for such performance. COUNTY shall have the right to terminate this Agreement or reduce compensation and service levels proportionately upon one- hundred-twenty (120) days' written notice to DISTRICT in the event that Federal, State or County funding for this Agreement ceases or is reduced prior to the ordinary expiration of the term of this Agreement. In the event of reduction of funding for the CAL FIRE Schedule A 4142 Contract, COUNTY and DISTRICT shall meet within ten (10) days of written notice to renegotiate this Agreement based upon the modified level of funding. In this case if no agreement is reached between COUNTY and DISTRICT within 10 days of the first meeting, either party shall have the right to terminate this Agreement within ten (10) days written notice of termination.
4. COMPLIANCE WITH ALL LAWS AND REGULATIONS. DISTRICT shall comply with all applicable federal, state and local laws and regulations including, but not limited to, the California Environmental Quality Act (CEQA).
5. TERM. This Agreement shall begin on December 31, 2015 and expire on December 31, 2017 unless extended as provided herein.
- A. By December 31, 2016, a coordinated service review must be initiated and shall include, but will not be limited to:
 - 1. Cost effectiveness of program
 - 2. District and County support levels
 - 3. Community support
 - 4. Ability of District to provide adequate fire and EMS services
 - 5. Duplication and overlap of service provided by the County and District
 - B. Provided that the County delivers the statement of work included in this agreement, the District will enter into discussions with the County about consolidation of the two agencies by June 30, 2017. If an application for agency consolidation is filed by December 31, 2017, the term of this agreement shall be extended to December 31, 2018.
 - C. The County shall have the option to extend this agreement on an annual basis on the same terms.

6. TERMINATION FOR CAUSE. Upon DISTRICT'S breach of this Agreement, COUNTY may terminate this Agreement by giving DISTRICT written notice of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In no event shall DISTRICT be entitled to any loss of profits on the portion of this Agreement so terminated, or to any other consequential damages, compensation, benefits, reimbursements or ancillary services other than as herein expressly provided.
7. TERMINATION FOR CONVENIENCE. Either party may terminate this Agreement by giving 120 days written notice to the other party.
8. PARAGRAPHS THAT SURVIVE TERMINATION. If this Agreement is terminated for any reason pursuant to Paragraphs 6 or 7 or after the Term expires, the following Paragraphs shall survive and remain in effect: 10, 11 and 12.
9. AUDIT AND INSPECTION OF RECORDS. DISTRICT shall maintain such records and make such reports as required by COUNTY'S Contract Administrator to enable COUNTY to determine whether DISTRICT is performing as required under this agreement. At any time during normal business hours and as often as COUNTY may deem necessary, DISTRICT shall make available to COUNTY for examination all of its records with respect to all matters related to this Agreement and shall permit COUNTY to audit, examine, copy and make excerpts or transcripts from such records, and make audits of all invoices, materials, payrolls, records of personnel and other data regarding all matters related to this Agreement. Unless otherwise specified by COUNTY, DISTRICT'S records shall be made available for examination in San Diego County. DISTRICT shall maintain such records in an accessible location and condition for a period of not less than four years following receipt of County commitment under this Agreement unless COUNTY agrees in writing to an earlier disposition. The State of California and any federal District having an interest in the use of County Funds shall have the same rights as those conferred on COUNTY by this Agreement.
10. INDEPENDENT CONTRACTOR. DISTRICT'S performance under this Agreement shall be as an independent contractor with sole control of the means and manner for using County Services and funding provided under this Agreement. DISTRICT shall complete this Agreement according to DISTRICT'S own means and methods of work which shall be in the exclusive charge and control of DISTRICT and shall not be subject to control or supervision of COUNTY. DISTRICT is, for all purposes arising out of this Agreement, an independent contractor, and neither DISTRICT nor DISTRICT'S employees shall be deemed to be COUNTY employees. In no event shall DISTRICT or DISTRICT'S employees be entitled to any benefits to which COUNTY employees are entitled, including but not limited to, overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits.

11. INSURANCE. Within 10 working days prior to the inception of the Agreement DISTRICT shall submit to County certificates of insurance and appropriate separate endorsements to the actual insurance policy, evidencing that the DISTRICT has obtained for the period of the Agreement, at its sole expense insurance in the following forms of coverage and minimum amounts specified from insurance carriers with a Best's Rating of not less than A-, VII.

- A. An occurrence policy of Commercial General Liability insurance insuring District against liability for bodily injury, personal injury or property damage arising out of or in connection with the District's performance of work or service under this Agreement of not less than \$1,000,000 per occurrence and \$1,000,000 general aggregate.
- B. DISTRICT shall provide statutory workers' compensation to District's employees, as required by State of California and Employer's Liability at \$1,000,000 each accident for bodily injury or disease.
- C. Comprehensive Automobile Liability covering all owned, non-owned and hired vehicles for bodily injury and property damage of not less than \$2,000,000 each accident.
- D. Professional Liability applies if professional services provided, providing \$1,000,000 per occurrence \$1,000,000 aggregate.
- E. Certificates of insurance provided by DISTRICT must evidence that the insurer providing the policy will give County 30 days' written notice, at the address shown in the section of the Agreement entitled "Notices," in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.
- F. Additional Insured Endorsement- The Commercial General Liability and Comprehensive Auto Liability policy provided by DISTRICT shall contain an additional insured endorsement applying coverage to the State of California CAL FIRE and the officers, agents and employees; and the County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively.
- G. The County of San Diego shall retain the right to review the coverage form and amount of insurance required herein and may require DISTRICT to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required. County requirements shall be reasonable. County retains the right to demand a certified copy of any insurance policy required herein after 15 days' notice.

12. INDEMNITY

- A. Claims Arising from Sole Acts or Omissions of COUNTY. The County hereby agrees to defend and indemnify DISTRICT, its agents, officers and employees, from any claim, action or proceeding against DISTRICT, arising solely out of the acts or omissions of County in the performance of the Agreement. At its sole discretion, DISTRICT may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve County of any obligation imposed by the Agreement. DISTRICT shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense.

- B. Claims Arising From Sole Acts or Omissions of DISTRICT. DISTRICT hereby agrees to defend and indemnify County, its agents officers and employees from any claim, action or proceeding against County, arising solely out of the acts or omissions of DISTRICT in the performance of the Agreement. At its sole discretion, County may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve DISTRICT of any obligation imposed by the Agreement. County shall notify DISTRICT promptly of any claim, action or proceeding and cooperate fully in the defense.
- C. Claims Arising from Concurrent Acts or Omissions: County hereby agrees to defend itself, and DISTRICT hereby agrees to defend itself, from any claim, action or proceeding arising out of the concurrent acts or omissions of County and DISTRICT. In such cases, County and DISTRICT agree to retain their own legal counsel, bear their own defense costs, and waive their right to seek reimbursement of such costs, except as provided in paragraph 4.E of the Agreement.
- D. Joint Defense: Notwithstanding paragraph C above, in cases where County and DISTRICT agree in writing to a joint defense, County and DISTRICT may appoint joint defense counsel to defend the claim, action or proceeding arising out of the concurrent acts or omissions of DISTRICT and County. Joint defense counsel shall be selected by mutual agreement of County and DISTRICT. County and DISTRICT agree to share the costs of such joint defense and any agreed settlement in equal amounts, except as provided in paragraph 4.E of the Agreement. County and DISTRICT further agree that neither party may bind the other to a settlement agreement without the written consent of both County and DISTRICT.
- E. Reimbursement and/or Reallocation: Where a trial verdict or arbitration award allocates or determines the comparative fault of the parties, County and DISTRICT may seek reimbursement and/or reallocation of defense costs, settlement payments, judgments and awards, consistent with such comparative fault.
13. GOVERNING LAW. This Agreement shall be construed and interpreted according to the laws of the State of California.
14. AUDIT COSTS. DISTRICT shall reimburse COUNTY for all costs incurred to investigate and audit DISTRICT'S performance under this Agreement if DISTRICT is subsequently found to have violated the terms of this Agreement. Reimbursement shall include all direct and indirect expenditures to conduct the investigation or audit. COUNTY may deduct all such costs from any amounts not yet paid DISTRICT under this Agreement.
15. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and supersedes all previous oral or written understandings, representations or agreements related to the subject matter of this Agreement. This Agreement may not be changed except by written amendment signed by both parties.
16. CONTRACT ADMINISTRATION. The San Diego County Fire Authority Group Program Manager shall administer this Agreement on behalf of COUNTY. The Board President shall administer this Agreement on behalf of DISTRICT. The parties may

change their contract administrator by giving prior written notice to the other party of the name and address of the new contract administrator.

17. NO WAIVER. No failure, inaction, neglect or delay by COUNTY in exercising any of its rights under this Agreement shall operate as a waiver, forfeiture or abandonment of such rights or any other rights under this Agreement.
18. NOTICE. Any notice or notices required or permitted to be given pursuant to this Agreement shall be personally served by the party giving notice or shall be served by U.S. mail. Notices shall be sufficient if personally served on or if sent by U.S. mail, postage prepaid, addressed to:

JULIAN CUYAMACA FPD:

Board President
2645 Farmer Road,
Post Office Box 33,
Julian, CA 92036-0033

COUNTY:

Herman Reddick
San Diego County Fire Authority
5510 Overland Avenue, Suite 250
San Diego CA 92123
Tel: (858) 974-5999

19. ACKNOWLEDGEMENT OF FUNDING. DISTRICT shall identify the COUNTY as the source of funding or, if applicable, one of the sources of funding in any public announcements that are made regarding DISTRICT'S efforts in providing fire protection services. Acknowledgement of COUNTY'S funding role, for example, should be included in publicity materials related to the fire protection services. In addition, DISTRICT shall apprise COUNTY of any future special events related to fire protection service for which County Funds were used under this Agreement so that COUNTY can determine what, if any, role it should play in the special event.
20. COUNTY EMPLOYEES. DISTRICT shall not hire any COUNTY employee to implement any part of the project for which COUNTY is providing funds without the prior written approval of COUNTY.


IN WITNESS HEREOF, the parties have executed this Agreement on the date first written above.

JULIAN CUYAMACA FPD

By: 
Rick Marinelli, Chief
Julian Cuyamaca Fire Protection District

Date: 12-16-15

COUNTY OF SAN DIEGO

By: 
Herman Reddick, San Diego County Fire Authority

Date: 12/16/2015

EXHIBIT A

STATEMENT OF WORK

COUNTY PROVIDED SERVICES

Fire Protection and Emergency Medical Services- COUNTY shall:

- Fund and assign a Paramedic Engine, under the terms of its CAL FIRE Schedule A 4142 Agreement, to respond 7/24 to provide fire protection and emergency medical services within the DISTRICT out of the CAL FIRE Julian Station 50.
- Fund and provide Chief Officer coverage for the DISTRICT to assist the DISTRICT Chief when needed.
- Continue to fund and provide Dispatch Services to DISTRICT through the CAL FIRE Monte Vista Command Center.
- Provide (as available) Volunteer Reserve Firefighter staffing at CAL FIRE Julian Station 50 and CAL FIRE Cuyamaca Station 51.
- If the County determines it is feasible, County shall commit to keeping the CAL FIRE Cuyamaca Station 51 open as part of the COUNTY Amador Program.

Fire Prevention Services- COUNTY shall:

- Conduct residential plan reviews and inspections for the DISTRICT including automatic residential fire sprinkler system plan review and inspection.
- Conduct commercial plan reviews and inspections for the DISTRICT. (Complex fire suppression systems may be reviewed by an outside firm and returned to the COUNTY for approval as per current practices.)
- Review all new and existing discretionary projects within the DISTRICT, including site inspections and project meeting associated with the project.
- Review and accept technical reports submitted by an applicant related to any residential, commercial or discretionary project.
- Implement the “Public Nuisance Abatement Procedures” in accordance with County Code Sections 16.201 - 16.218 for those parcels that the County determines are an imminent Fire Hazard.
- Assist the DISTRICT in the code adoption process and with participation in the Consolidated Fire Code.
- Assess and collect fees as authorized in the San Diego County Code of Administrative Ordinances Section 362.5.

Apparatus Resources- COUNTY shall:

- Provide COUNTY owned fire apparatus resources, as available, for use by the DISTRICT. The COUNTY reserves the right to move or deploy these resources at any time.

DISTRICT PROVIDED SERVICES:

Administrative Services- DISTRICT shall:

- Retain a Fire Chief to serve as District Administrator and provide leadership and management of District Incidents.
- Retain administration, oversight and financial responsibility for their facilities, ambulance program and volunteer firefighter program.

Fire Protection and Emergency Medical Services- DISTRICT shall:

- Participate in the San Diego County master mutual aid program.
- Work under the Incident Command System for all responses by CAL FIRE resources within the DISTRICT

Fire Prevention Services- DISTRICT shall:

- Maintain adoption of the County of San Diego's Defensible Space Ordinance 10147 by reference and maintain this agreement with the COUNTY for said services.

Apparatus Resources- DISTRICT shall:

- Ensure all COUNTY provided equipment and apparatus is in proper working condition and report any problems to COUNTY.
- Store all COUNTY provided apparatus indoors.
- Keep exterior and interior of all COUNTY provided equipment clean and free of debris.
- Ensure all drivers assigned and utilizing COUNTY-owned apparatus meet all training and certification requirements of the COUNTY and provide training records upon request by the COUNTY or CAL FIRE as our operational partner.