

# COOPERATIVE FIRE PROTECTION AGREEMENT

Between

COUNTY OF TULARE

And

CITY OF DINUBA

This is a COOPERATIVE FIRE PROTECTION AGREEMENT between TULARE COUNTY, hereinafter referred to as COUNTY, and the CITY OF DINUBA, hereinafter referred to as CITY, and is entered into this 1<sup>st</sup> day of January, 2017.

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, the parties hereto mutually agree 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 this Agreement.
  - a. "Fire Protection Services" shall mean fire-fighting capacity 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. "Closest available resources" shall mean any participating Auto Aid fire agency's firefighting apparatus that is nearest in proximity to the location of the emergency activity.
  - f. "Auto 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.

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 service 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 within the defined service area displayed as per Exhibit A.
  - (b) The territories covered by this agreement are the City limits of Dinuba and the territory of the County of Tulare as defined in Exhibit B.
  - (c) The party which has primary jurisdiction for fire protection in the area involved will direct all operations and support activities and request additional assistance as is needed; however, it is provided that the first arriving unit from either Agency Having Jurisdiction (AHJ) will take initial action to protect life and property.
  - (d) When either party hereto responds to incidents outside its jurisdiction, the agency with primary responsibility will provide an officer of its Department who will

supervise and direct activities and assume responsibility for releasing any fire company from the scene.

- (e) Except as may be provided by separate written agreement between the parties hereto, the assurance of Auto 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 rendering the fire fighting assistance herein provided for.
  - (f) Nothing contained herein shall be construed as a contract law or equity for the benefit of any third party, which may be affected by the Agreement.
  - (g) Nothing contained herein shall affect either party's responsibility to provide worker's compensation insurance or protection for its employees.
  - (h) 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 of fire protection 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.
10. **CITY STANDARDS:** In rendering of fire protection 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 services and the control of personnel so employed, shall remain with the CITY. 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 of manner of performance of such services, the determination made by the CITY shall be final and conclusive.
11. **EMPLOYEE STATUS:** No officers, agents, employees or volunteers of the Tulare County Fire Chief shall be deemed to be CITY employees or have any CITY pension, civil service, or any status or right with regard to the CITY. No officers, agents, employees or volunteers of the CITY Fire Department 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.
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.

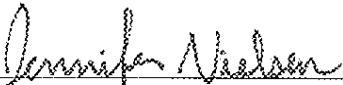
14. **AMENDMENT:** This Agreement may be amended only by the mutual written consent of both parties.
15. **TERM OF AGREEMENT:** This Agreement shall become effective on the 1<sup>st</sup> day of January 2017, and shall remain in full force and effect until canceled by mutual agreement of the parties hereto or by written notice by one party to the other parties giving 180 days' notice of cancellation.
16. **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:

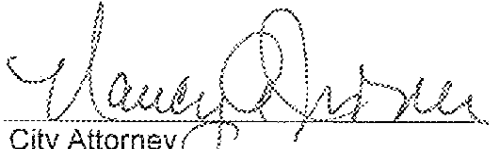
**COUNTY:** Tulare County Fire Chief  
907 W. Visalia Rd.  
Farmersville, CA 93223

**CITY:** City Manager  
City of Dinuba  
405 E. El Monte Way  
Dinuba, CA 93618

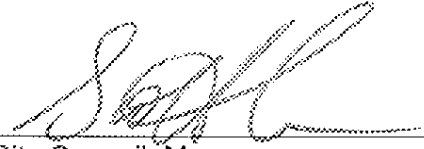
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
County Counsel  
County of Tulare  
#2017508

  
\_\_\_\_\_  
City Attorney  
City of Dinuba

\_\_\_\_\_  
Board of Supervisors, Chairperson  
County of Tulare

  
\_\_\_\_\_  
City Council, Mayor  
City of Dinuba

## EXHIBIT A

### AUTO AID FIRE PROTECTION

1. Auto aid shall be provided within the limits of the County of Tulare subject to Exhibit B. 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 an Auto aid request will be made by either the County or the City unless such request is received through the established communications channel common to each party and made by a responsible fire official of the party requesting such aid.
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. Neither party shall be obligated to reimburse the other for any use of material, damage to equipment, or liability incurred which may occur in the course of rendering fire fighting assistance, other than as may be expressly provided elsewhere in this Agreement.
5. Auto 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.
6. 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 Areas

